

Attachment 3

**Community Submissions - Final Summary and
Recommendations**

Draft Ballina LEP 2011 Re-exhibition General Submissions - INDEX

Related		No	Submission	Date	Name	Consultant/ Company
1				28/4/11	Beare Investments Pty Ltd c/- Mr Paul Snellgrove	Ardill Payne & Partners
2				10/5/11	Mr Ross Edols	
2a				23/8/11	Mr Ross Edols	
2b				8/10/11	Mr Ross Edols	
3				12/5/11	Mr John Hayter	
3a				16/10/11	Mr John Hayter	
4				13/5/11	Ms Tracy Chambers	
5	65			13/5/11	Mrs C Y Deaves	
5a	65			18/10/11	Mrs C Y Deaves	
6				16/5/11	Mr Tony Gilding	The Macadamia Castle
7				16/5/11	Aspen Funds Management Limited c/- Mr Scott Marchant	King & Campbell Pty Ltd
7a				26/10/11	Aspen Funds Management Limited c/- King & Campbell	King & Campbell
8				17/5/11	Roman Catholic Church and Vixsun c/- Mr Paul Snellgrove	Ardill Payne & Partners
8a				19/10/11	Roman Catholic Church and Vixsun Pty Ltd c/- Mr Paul Snellgrove	Ardill Payne and Partners
9				17/5/11	Ballina Coastcare Inc	
10				17/5/11	Mr Brett Lacey	House With No Steps
11				17/5/11	Mr Glenn Charleston	
12				17/5/11	Ms Lyn Walker	Ballina Environment Society Inc.
12a				19/10/11	Ballina Environment Society Inc	
13				17/5/11	Bernard & Rikki Grinberg	Merkat Investments Pty Ltd
13a				21/8/11	B & R Grinberg c/- Mr Chris Lonergan	East Coast Planning Consultants - Design Evolutions
14				18/5/11	Mr Simon Kalinowski	
15				18/5/11	Mr Simon Prendergast	
15a				18/10/11	T & S Prendergast	
16				15/6/11	Mr Matthew Freeburn	Ballina Waterways Pty Ltd
16a				19/10/11	Ballina Waterways Pty Ltd c/- Mr Stephen Connelly	sj connelly pty ltd
17				6/9/11	Petrac Lennox Head Pty Ltd (Receivers and Managers Appointed) c/- Ms Megan Jamieson	GeoLINK
18				23/9/11	Ms Clarissa Huegill (Anderson Cumbalum)	Clarissa Huegill & Associates Pty Ltd
19				26/9/11	Mr Dennis McCarthy	
20	33, 67			26/9/11	Ms Jane Gardiner	
21				27/9/11	P & J Swan	
22				5/10/11	B & C Kemp	
23	25, 42			5/10/11	Mr Paul Earner	
24				5/10/11	Mr Warren Cubitt	
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26				8/10/11	Ms Rosie Lee	
27				10/10/11	A & K Steele	
28				10/10/11	G & M Couch	
29				11/10/11	Ms Karina Vikstrom (Elevation Estate)	Newton Denny Chapelle
30	45			12/10/11	K & D Johnston	
31				12/10/11	M & M Veronesi	
32				14/10/11	D & R Dossor (Amber Drive) c/- Ms Sarah Kelly	SAKE Development

Related				
No	Submission	Date	Name	Consultant/ Company
33	20, 67	16/10/11	Ms Annette Potts	
34		16/10/11	R & C Watson	
35		17/10/11	D & R Dossor (Blue Seas Parade) c/- Ms Sarah Kelly	SAKE Development
36		17/10/11	Dr C McKenzie	Family Medical Centre
37	51	17/10/11	Mr Graeme Fleming	
38		17/10/11	Mt Moriah Pty Ltd c/- Mr Paul Snellgrove	Ardill Payne and Partners
39		17/10/11	Porter Family c/- Mr Paul Snellgrove	Ardill Payne and Partners
40		17/10/11	United Protestant Association c/- Mr Paul Snellgrove	Ardill Payne and Partners
41		18/10/11	Boral Resources NSW c/- Ms Clare Brown	APP Corporation Pty Limited
42	23, 25	18/10/11	Mr Barry Campey	
43		18/10/11	Mr Barry Clifford	
44		18/10/11	Mr Colin Skennar	
45	30	18/10/11	Mr D Bouren and P & K Wood	
46	62	18/10/11	Mr David Dodgson c/- Mr Stephen Fletcher	Stephen Fletcher & Associates
47		18/10/11	Mr David Kitson	
48		18/10/11	Mr David Lewis-Hughes	
49		18/10/11	Mr Michael Hickey	
49a		20/10/11	Mr Michael Hickey c/- Mr Stephen Connelly	sj connelly pty ltd
50		18/10/11	Mr Neil Weatherson c/- Mr Paul Snellgrove	Ardill Payne and Partners
51	37	18/10/11	Mr Tim Reilly	
52		17/5/11	Mr Lester Ailsop c/- Mr Stephen Connelly	sj connelly pty ltd
53		18/10/11	Ms Pamela Dunn	
54		18/10/11	North Coast Holiday Parks	
55		18/10/11	R & M Bennett	
56		19/10/11	Ballina HSC (Lot 1 DA 2010/92) c/- Mr Stephen Connelly	sj connelly pty ltd
57		19/10/11	Ballina Investments c/- Ms Paola Rickard	EAL Consulting Services
58		19/10/11	C & J Elliot and D & C Westaway c/- Ms Karina Vikstrom	Newton Denny Chapelle
59		19/10/11	Lennox Head Residents Association Inc	
60		19/10/11	Lennox Palm Estates Pty Ltd c/- Mr Stephen Connelly	sj connelly pty ltd
61		19/10/11	M & B Jukes	
62	46	19/10/11	Mr David Dodgson	Polid Pty Ltd
63		19/10/11	Mr Kevin Woods	Tekcadl Investments
64		19/10/11	Mr Loosemore and Ms McGarry c/- Mr Stephen Connelly	sj connelly pty ltd
65	5, 5a	18/10/11	Mrs M Eaton	
66		19/10/11	Ms Karina Vikstrom (Boundary Adjustments)	Newton Denny Chapelle
67	20, 33	19/10/11	Ms Marelle Lee	
68		19/10/11	North Angels Beach Development (Ballina) Pty Ltd c/- Mr Stephen Connelly	sj connelly pty ltd
69		19/10/11	P & R Stewart	
70		19/10/11	River Bend Village Pty Ltd and Supbrook Pty Ltd c/- Mr Stephen Connelly	sj connelly pty ltd
71		19/10/11	W and B Grace	
72		20/10/11	Ballina HSC Pty Ltd (Lot 2 DA 2010/962) c/- Mr Stephen Connelly	sj connelly pty ltd
73		20/10/11	Live International c/- Mr Stephen Connelly	sj connelly pty ltd
74		20/10/11	The Trustees of the Roman Catholic Church Diocese of Lismore Parish of Ballina (Greenwood Place) c/- Mr Stephen Connelly	sj connelly pty ltd

Related				
No	Submission	Date	Name	Consultant/ Company
75		20/10/11	The Trustees of the Roman Catholic Church Diocese of Lismore Parish of Ballina (Old Kirklands Depot) c/- Mr Stephen Connelly	sj connelly pty ltd
76		23/10/11	Mr Bill Harries	
76a		23/10/11	Mr Brett Harries	
77		24/10/11	Mr Troy Outerbridge	North Coast Commercial Real Estate
78		28/10/11	Ms Karina Vikstrom (Dwelling Entitlements Lots 133 and 203 DP 755626)	Newton Denny Chapelle

Author	Ardill Payne and Partners on behalf of Beare Investments
Issue Category	Site specific 369 River Street, Ballina (Ballina Motel)
Submission No.	01
Issue Summary	<p>Submission lodged prior to Council's May 2011 consideration of its draft LEP but after submissions analysis completed.</p> <p>Considers that the then proposed E3 Environmental Management zone over the land was inappropriate given the site is currently occupied by a motel.</p> <p>The submission seeks an R3 Medium Density Residential zone on the basis of the current use and that tourist and visitor accommodation and hotel or motel accommodation are permitted with consent in that zone.</p> <p>Importantly, amendment was made under the draft Ballina LEP 2011 with the site identified as being subject to an R2 Low Density Residential zone given the nature of the site, including its proximity to sensitive environmental areas.</p>

Assessment

The subject land is currently zoned 2(a) Living Area Zone under the Ballina LEP 1987 and is nominated as T1 - Tourism Accommodation under Council's Combined Development Control Plan. Although the site is currently occupied by a motel, it is considered that redevelopment of the land in a manner consistent with lower density outcomes would be compatible with the characteristics of the land and the immediate locality. The existing motel operation may continue on the land where zoned R2, under the terms of the EP&A Act.

Recommendation	No change.
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Author	Mr Ross Edols
Issue Category	Site specific 259 Keith Hall Lane, South Ballina
Submission No.	02, 02a and 02b
Issue Summary	Objection to the application of an E2 Environmental Conservation zone to part of the subject land. A key basis for the objection is a view that the land has limited ecological value.

Assessment

Council's Environmental Scientist has advised that the subject land includes Heathland, Swamp Sclerophyll Forest and Littoral Rainforest and that these areas are of conservation value. Notwithstanding this, the land the subject of the proposed E2 zone comprises part of the coastal dunal system in the locality. This is the predominant reason for the allocation of the E2 zone to the land.

The proposed E2 zone has been applied to the subject land consistent with the application of the E2 zone to the coastal corridor at South Ballina.

Recommendation	No change.
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Author	Mr John Hayter
Issue Category	Site specific Old Bangalow Road, Tintenbar
Submission No.	03, 03a
Issue Summary	Concern regarding the implications of the LEP in relation to adverse flood impacts.

Assessment

The draft LEP 2011 is based primarily on established policy in relation to future development in the floodplain and is designed to be responsive to changes in floodplain management policy over time. The draft LEP 2011 also incorporates a local provision requiring consideration of flood related impacts in relation to proposed development for which Council's consent is required.

Significantly, Council currently manages floodplain planning via its development control plan and the current floodplain risk management planning process advocates continued use of the DCP in this regard.

Therefore, it is intended that Council's new LEP will include a provision requiring the consideration of flood related issues in development assessment and this will be supplemented by more detailed and specific development control plan based provisions.

Recommendation	No change.
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Author	Ms Tracy Chambers
Issue Category	Site specific 31 Tara Downs, Lennox Head
Submission No.	04
Issue Summary	Seeking application of a residential zone to land currently zoned rural in the Tara Downs residential area at Lennox Head.

Assessment

Council previously considered this request in May 2011 and resolved to engage the adjoining landholder (who is subject to the same zoning circumstances) in relation to the proposed amendment prior to taking further action. This engagement has not occurred to date but it is intended that it will take place in conjunction with consideration of other similar scale requests. This is likely to occur after the completion of the new LEP (if adopted by Council), but can be addressed via a future amendment to the plan.

Recommendation	No change to existing resolution of Council.
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Author	Ms C Deaves Mrs M Eaton
Issue Category	Site specific 372 South Ballina Beach Road, South Ballina
Submission No.	05, 05a, 65
Issue Summary	Seeking opportunity for subdivision of the subject rural land. Objection to RU2 and E2 zoning of the land. Objection to the RU2 zone on the basis that the land is too small in area to be agriculturally viable, and objection to the E2 zoning on the basis of the lack of a detailed flora and fauna assessment. Indicates general acknowledgement that the land contains vegetation worthy of conservation but concern is raised in relation to the extent of the application of the E2 zone. Suggests dedication of the environmentally significant portion of the land to Council where subdivision is enabled.

Assessment

A key principle of the draft LEP has been that it does not provide for any additional rural residential type subdivision in the shire. The subdivision of the rural portion of the subject land is inconsistent with this principle and the provisions of the Far North Coast Regional Strategy.

Council's Environmental Scientist has reviewed the submission and commented that the site contains Heathland and Swamp Sclerophyll Forest. It is also noted that the subject vegetation communities provide an extremely important landscape linkage and threatened species are expected to occur on the site. The proposed E2 zone has been applied based on the characteristics of the land and is considered to meet the criteria used by Council in the identification of the E2 zone.

Recommendation	No change.
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Author	Mr Tony Gilding, Macadamia Castle, Knockrow
Issue Category	Site specific 1699 Pacific Highway, Knockrow (Macadamia Castle)
Submission No.	06
Issue Summary	Indicates concern over the prohibition of markets in the E3 Environmental Management zone that is applicable to the subject land. The submission recognises that this is a Standard Instrument mandated outcome and that there is an alternate approach available through the Temporary Use of Land clause in the draft LEP 2011. However, the submission seeks alteration to the draft clause to permit up to 52 days of activity per annum rather than the 30 currently provided for.

Assessment

The 2010 version of Council's draft LEP included markets as a land use permitted with development consent in the E3 zone. However, a subsequent amendment to the Standard Instrument now requires that markets are listed as prohibited development in this zone.

Markets are not considered to be an unreasonable use for which to seek development consent in the E3 zone as applied by Council. In this regard, a person may make application to conduct a market on E3 zoned land via the Temporary Use of Land provision which allows for temporary uses subject to conformity with certain criteria. The draft LEP 2011 as exhibited limits such activities to up to 30 days per annum. The logic behind this approach is to limit the scope for the use of the provision for land uses not permitted in the applicable zone whilst still enabling infrequent activities such as concerts, circuses, monthly markets and the like to be considered by Council. It was also considered important in framing the provision not to allow temporary uses to occur on consecutive days for prolonged periods of time given they are intended to be limited in their duration and may occur in sensitive areas such as residential or environmental protection zones.

Recommendation	No change.
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Author	King & Campbell on behalf of Aspen Funds Management Limited
Issue Category	Site specific Lots 1 & 2 DP 1155600 North Creek Road and Corks Lane, Ballina (Aspen Aged Care Facility)
Submission No.	07, 07a
Issue Summary	Indicates support for application of a residential zone to the area of the subject land approved for seniors housing. However, the submission seeks application of the R3 Medium Density Residential zone rather than the currently proposed R2 Low Density Residential zone. The request is made on the basis of a view that the R3 zone is more compatible with the approved uses on the land and the type of development, being seniors housing.

Assessment

The R2 Low Density Residential zone has been applied to the subject land in recognition of the approval for a seniors housing development on the site. The R2 zone was applied to recognise the approved seniors housing use but at the same time, limit the potential for other forms of residential use given that the land was zoned for rural purposes and outside Council's urban planning footprint prior to approval of the current facility under State planning policy.

The R3 Medium Density Residential zone includes a greater range of permitted land uses compared to the R2 zone, including different types of residential housing, medical uses and neighbourhood shops. The R3 Medium Density zone is also intended as a zone that encourages facilities for the ageing population as set out in the zone objectives. On this basis, the R3 zone may be more suited to the subject land given the current development approval.

However, there is a concern that the R3 zone may provide a greater incentive to seek approval for general medium density residential use of the land which would be counter to the objective of providing facilities for the ageing population and this outcome has not been envisaged in Council's urban planning policy for the locality. There is also potential for those within existing stages of the facility to be concerned about different types of housing such as residential flat buildings and attached dwellings within the facility which could arise under the R3 zone.

Having regard for the above, it is suggested that the application of a mixed R2 and R3 zone to the area of the site subject to seniors housing approval is appropriate subject to the following:

- Application of a 40ha minimum lot size to discourage a shift away from the provision of seniors housing and prevent Torrens Title subdivision of the land into conventional residential allotments in the absence of a planning process (this is consistent with the draft LEP 2011 as exhibited and subdivision standards utilised in relation to similar circumstances within the shire); and
- Retention of existing residential stages of the development southward of the landscaped canal (as shown on the layout plan submitted with the LEP submission) within an R2 Low density residential zone to reflect the principle of single dwellings on individual allotments in these areas.

Recommendation	Apply R3 zone to part of the subject land as outlined above.
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Author	Ardill Payne and Partners on behalf of the Catholic Church and Vixsun Pty Ltd
Issue Category	Site specific Ballina Heights Estate
Submission No.	08, 08a
Issue Summary	Seeking application of 12m building height standard to the commercial area identified in the Ballina Heights Estate.

Assessment

The exhibited draft LEP 2011 applies a 9m building height standard to the Ballina Heights commercial area consistent with the standard applied to the Lennox Head and Alstonville village areas. The intention in this regard was to provide for a scale of development in the Ballina Heights area similar to that contained in the other villages in the shire.

The submission suggests that 12m would be more appropriate as it would provide for three storey buildings with pitched or skillion roof forms' as opposed to 2 storeys or possibly 3 storeys but with a flat roof.

Although the 9m standard has been applied for consistency, the 9m height standard should be considered in the context of the existing villages in which it is applied. That is, it generally reflects the scale and intensity of established commercial areas. In the case of Ballina Heights, the commercial area would be established from 'scratch' and as such, it may be both appropriate and reasonable to allow for taller buildings capable of more mixed use outcomes. However, this may not be favourable to the community and has the potential to make other village centres appear subordinate to the Ballina Heights area which is not the currently intended planning outcome.

Given the above, it is considered appropriate that the concept of an increased building height standard in the Ballina Heights locality is given further and more detailed consideration. In this regard, it is recommended that such consideration be by way of a planning proposal in relation to the above. This would provide for detailed analysis and community consideration of the proposal. If the 12m (or other increased) building height standard is a desirable outcome of this process, it can be implemented by amendment to the new plan.

Recommendation	No change.
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Author	Ballina Coastcare Inc
Issue Category	Environment
Submission No.	09
Issue Summary	The submission from Ballina Coastcare raised a number of matters in relation to the 2010 version of the draft LEP when presented as a deputation to Council's Environmental and Sustainability Committee in May 2011. The matters raised which were not addressed by the 2011 version of the draft LEP are addressed in the table below.

Assessment

Issue	Comment
Urges completion of vegetation mapping for the shire.	Council does not currently have a funded vegetation mapping program. However, Council committed in principle to the preparation of a Biodiversity Strategy at its May Ordinary Meeting. It is envisaged that such a strategy will include vegetation mapping. This project is contingent upon a funding allocation.
Urges completion of a biodiversity study for the shire.	Council committed in principle to the preparation of a Biodiversity Strategy at its May Ordinary Meeting.
Encourage strengthened requirements and limitations in relation riparian areas and around water supplies.	It is envisaged that Council's DCP will include provisions that address development in the vicinity of riparian areas and water supply areas in support of provisions relating to these matters in the draft LEP. This would be supported in the future by the outcomes of a biodiversity strategy when completed.
Reclassification of Flat Rock to operational land.	Council resolved at its October Ordinary Meeting not to proceed with the proposed reclassification of this land.

Recommendation	No change.
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Author	Summerland House With No Steps
Issue Category	Site specific 253 Wardell Road, Alstonville (Summerland House With No Steps)
Submission No.	10
Issue Summary	Seeks application of a planning framework to allow a number of land uses in addition to those permitted in the RU1 zone currently proposed for the land.

Assessment

In conjunction with the provision of support and services for persons with a disability, the House With No Steps (HWNS) operates as an agricultural enterprise as well as a tourist facility. As such, the site is subject to a wide variety of uses and has a complicated approval history.

The HWNS submission essentially seeks the application of a planning framework that provides for long term flexibility in the types of land uses permissible on the subject land. Staff previously considered submissions in this regard from the HWNS and has been concerned that the application of a framework that enables a wide variety of commercial uses is inconsistent with the rural nature of the locality and may set a precedent for the urban use of agricultural land on the Alstonville Plateau. Staff has also previously been uncertain as to exactly what types of land uses are central to the future plans for the facility.

In considering the HWNS submission to the 2010 version of the LEP, Council elected to maintain the RU1 zone over the subject land. However, it was evident that Councillors were interested in considering options for the site given the nature of the activities undertaken. In this regard, the options of applying a different zone and scheduling specific additional uses as being permitted with consent on the land have been examined.

The application of a commercial zone to the land is not recommended as the site is located in the agricultural area of the Alstonville Plateau and is dislocated from the Plateau's urban centres. Further, it is evident that a single zone is unlikely to encompass the entire suite of desired permitted land uses for the site (e.g. a commercial zone does not support current agricultural land uses on the site).

In considering the possibility of identifying specific additional permitted uses on the land, Council staff sought further clarification from the HWNS regarding the future plans for the site. Having regard for the information provided, the following land uses are considered to be reasonable as permitted uses for the site (subject to development consent) on the basis that they reflect the existing approved uses and the social support activities provided by the organisation whilst maintaining the land as a predominately agricultural parcel in a rural part of the shire:

- Respite day care centre;
- Kiosk;
- Restaurant;
- Garden centre;
- Plant nursery;
- Function centre;
- Warehouse and distribution centre.

The above list does not enable additional residential, retail shop or offices on the site under the LEP. Consideration of such uses in the future would be subject to a planning proposal and LEP amendment. This is considered reasonable given their potential scope is unknown and the rural nature of the land. It is considered that this approach will provide for reasonable flexibility for future use of the land whilst also clarifying the planning framework for decision making in relation to development applications.

Recommendation	Include HWNS steps in Schedule 1 and associated mapping with the following uses identified as additional permitted use on the land: <ul style="list-style-type: none">▪ Respite day care centre;▪ Kiosk;▪ Restaurant;▪ Garden centre;▪ Plant nursery;▪ Function centre;▪ Warehouse and distribution centre.
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Author	Mr Glenn Charleston
Issue Category	Environment
Submission No.	11
Issue Summary	Seeks application of the E1 National Parks zone to the coastal foreshore north of Flat Rock.

Assessment

The draft LEP 2011 recognises the significance of the coastal land on the eastern side of The Coast Road north of Flat Rock via the E2 Environmental Conservation zone. This is the highest order environmental protection zone available to Council to apply to this land. The E1 zone cannot be applied as this zone may only be used for National Parks estate.

The E2 zone is considered to be appropriate for the land particularly given that the range of permitted land uses is very narrow.

Recommendation	No change.
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Author	Ballina Environment Society
Issue Category	Environment
Submission No.	12, 12a
Issue Summary	The submission from BES is comprised of a deputation to the May Committee Meeting of Council and a submission to the exhibition of draft LEP 2011. The matters raised which were not addressed by the 2011 version of the LEP are addressed in the table below.

Assessment

Issue	Comment
Object to removal of requirement for Council approval of management plans for the cane industry in relation to acid sulfate soils.	Provision removed to recognise industry self regulation.
Biodiversity Study.	Council committed in principle to the preparation of a Biodiversity Strategy at its May Ordinary Meeting.
Reclassification of Flat Rock to operational land.	Council resolved at its October Ordinary Meeting not to proceed with the proposed reclassification.
Minimum subdivision lot size for caravan parks.	Minimum lot sizes applied to caravan park areas to minimise subdivision potential in the absence of a strategic planning process.
Question suitability of dwelling houses, dual occupancy, bed and breakfast establishments, extensive agriculture, group homes and roads in the E2 zone.	<p>Dwelling houses and dual occupancy are only permitted where the land is subject to a dwelling entitlement as the policy position is not to remove such potential for a dwelling where it exists under the 1987 LEP.</p> <p>Bed and breakfast facilities are considered low impact and compatible with environmental values and such uses must be carried out in dwellings or dual occupancies (i.e. they cannot stand alone from these uses).</p> <p>Extensive agriculture is permitted as animal grazing activities have historically occurred in the understorey of vegetated areas in the shire with limited regulation. It is a significant step to now require a development application for new grazing activities in such areas.</p> <p>Group homes are a State policy mandated use as they must be permitted where dwelling houses are permitted.</p> <p>Roads are a permitted land use as the majority of environmental protection zoned areas are subject to local and public access considerations. For example, road access is required through an E2 zoned area to provide public access to areas at Flat Rock where the general public and various community groups access the beach and foreshore.</p>

Issue	Comment
No uses should be permitted without consent in W, E and RU zones.	The land use tables have been constructed with regard for historic land use arrangements in the shire and the structure of the Standard Instrument. In particular, the E3 zone has been applied to recognise working agricultural land that also has environmental values. In this regard, the land use table reflects the existing and potential for agricultural use of the land.
Removal of Duck Creek water catchment from environmental protection zoning.	The water supply authority has advised that the Duck Creek catchment is no longer required as a water supply. Therefore, it does not meet the criteria applied in relation to drinking water supply catchments for application of an E3 Environmental Management zone.
Flood planning provisions inappropriate.	The draft LEP includes provisions requiring consideration of flooding implications associated with proposed development. Floodplain management policy is being addressed separate to the LEP.
Development requiring fill over 2m should be prohibited.	Council's floodplain management policy presently establishes minimum fill levels for development. At present, Council's policy is to allow lots to be filled to this standard subject to conformity with DCP Chapter 1 Policy Statement 11. It is also unlikely that Council would be able to add an LEP provision limiting development on the basis of the level of fill required.
Incorporation of Aboriginal Heritage items in heritage schedule.	Aboriginal heritage items are not listed under the LEP's heritage schedule on the basis that the location of Aboriginal heritage is considered to be sensitive information and Council does not have agreement from the Aboriginal community for the display of such information to the general public.
Reference to the E2 zone in relation to tourist and visitor accommodation in clause 7.9.	This reference is included to establish specific planning provisions for bed and breakfast accommodation which is permitted in the E2 zone. The use of the clause establishes a stronger level of regulation over this land use than would otherwise be the case.
Permissibility of Intensive plant agriculture without consent in the E3 Environmental management zone.	Council has examined a variety of options in relation to the regulation of various forms of intensive plant agriculture (particularly nurseries). However, within the structure of the Standard Instrument definitions, Council has not been able to adequately separate different forms of intensive plant agriculture. In recognition of the existing agricultural activity occurring in E3 zoned areas, intensive plant agriculture remains permitted without consent. Note: it is proposed that the land use table will be amended to require consent for turf farms.
Extension of W1 zones.	Council has applied W1 zones on the basis of cadastral information where it is available to define the extent of waterways. Of note, North Creek is partly subject to an E1 National Parks and Nature Reserves zone which is stronger than the W1 zone in terms of permissibility of development. Chickiba Lake has been zoned E2 Environmental Conservation and Prospect Lake is subject to an RE1 Public Recreation zone to reflect its more recreational nature.

Issue	Comment
Extent of application of Clause 7.8.	Clause 7.8 is designed to apply to environmentally significant land and areas adjacent to such land. In this regard, it has a generally wide application but is not intended to apply to agricultural or urban areas.
Minimum fill mapping and flood policy.	BES appears to have misinterpreted the purpose of flood fill based mapping in the LEP. The mapping is only provided to identify where building height is subject to an allowance to accommodate fill as allowed for in Council's flood planning policy. Flood planning policy is subject to a separate process and the LEP is designed to be responsive to the outcomes of Council's future flood planning policy. Generally, the detail of flood policy will be incorporated into Council's DCP framework.
Identification of potential urban growth areas.	<p>The draft LEP has been prepared with respect to potential urban growth areas on the basis that where existing site assessment processes are underway, those processes will identify a suitable land use zoning pattern. As such it is pre-emptive to adjust the planning framework in the LEP. Where such processes are not underway, land has been zoned as considered appropriate based on the criteria used in preparing the draft LEP.</p> <p>However, it is recognised that the West Ballina Structure Plan has now established a framework for the West Ballina locality and this should be reflected in the mapping of strategic growth areas by adjusting the SGA footprint to match the structure plan.</p>
Group terms and sub-terms.	BES suggest that Council should have included 'tree diagrams' to support the explanation of the definition structure in the LEP. It should be noted that the suggested diagrams formed part of the core exhibition material available to the public.
Prohibition of ecotourism.	The ecotourism land use is considered to be problematic on the basis of its definition structure. As such, it is proposed as prohibited in all zones. Notwithstanding this, the permissibility of tourist and visitor accommodation in conjunction with the use of clause 7.9 addressing tourism uses provides for a variety of tourist uses subject to specific requirements. Further details in relation to this are contained in the May 2011 reporting to Council.
Identification of mine subsidence and unstable land hazard and risk.	Environmental protection zoning incorporates coastal areas as well as areas of scenic value including ridgelines. Detailed analysis of geotechnical hazards and risks is undertaken in relation to potential urban release areas and zoning is considered accordingly.

Issue	Comment
<p>Poor presentation and consultation.</p>	<p>It is suggested that BES consider the wide scope of engagement initiatives undertaken by Council over an extended period of time in preparing its draft LEP. Council has engaged well beyond the mandatory requirements of the EP&A Act in an effort to be as inclusive and transparent as possible.</p> <p>Many of the queries raised by BES could have been addressed prior to the making of a submission through the comprehensive review of LEP supporting material or discussion with staff who have been available to address queries since the commencement of the draft LEP's preparation.</p>
<p>Recommendation</p>	<p>Amend Strategic Urban Growth Area Mapping to reflect the adopted West Ballina Planning Study and Structure Plan.</p> <p>Amend land use tables to require development consent for turf farms in the RU1, RU2 and E3 zones.</p>

Author	B & R Grinberg
Issue Category	Site specific 440 South Ballina Beach Road, South Ballina (South Ballina Beach Caravan Park)
Submission No.	13, 13a
Issue Summary	Seeks application of an alternate zone to the E2 Environmental Conservation zone applied to the South Ballina Beach Caravan Park to enable a broader range of permitted land uses.

Assessment

The owners of the South Ballina Beach Caravan Park have made submission (with the assistance of East Coast Planning Consultants) with respect to the suitability of the E2 Environmental Conservation zone over the subject land. The land owner is of the view that the E2 zone is not consistent with the current use of the land and is too restrictive in terms of potential future activity.

With respect to the subject land, the E2 zone has been applied consistent with Council's criteria for the application of the zone. In this instance, it has been applied on the basis of the land being within the coastal zone at South Ballina as the site is currently entirely zoned 7(f) Environmental Protection (Coastal Lands) under the 1987 LEP. At the time of application in the 2010 version of the LEP, the E2 zone was open to a variety of land uses with the consent of Council.

In considering the application of the E2 zone (as amended in the 2011 version of the LEP), it should be noted that the zone is now generally more limiting than the existing 7(f) zone. Given this, and the existing activity undertaken on the site, Council may consider it appropriate to provide for an additional range of permitted uses on the land. The options of adjusting the zoning and listing land uses as additional permitted uses in Schedule 1 have been examined for the site and also having regard for other land parcels in the E2 zone area where similar circumstances may be evident for consistency (these sites are addressed elsewhere in the LEP reporting).

With respect to a change to the E2 zone, this option is not recommended as it is considered essential that the integrity of the E2 zone as applied to the coastal corridor is maintained. Adjustments to the spatial application of the zone may weaken the long term application of the zone and hence its effectiveness over time. Further, the zones proposed by the land owner are not considered suitable in relation to the manner in which zones have been applied in the draft LEP 2011.

As an alternate approach, site specific land uses could be listed in Schedule 1 allowing the listed items as uses permitted on the land, with consent, as a special case. This option is considered to be reasonable in the circumstances. However, the key issue is the determination of the scope of permitted uses. The land owner suggests that the following uses occur on the site: caravan park, entertainment facility, kiosk, recreation facility (indoor), shop and tourist and visitor accommodation. Staff also understand there may be a restaurant currently operating from the site. Importantly, there is uncertainty as to whether all of the uses currently undertaken on the land are lawful and Council is currently undertaking a compliance investigation in this regard. On this basis, it is considered appropriate that where Schedule 1 is used, it should be based on approved land uses.

Having regard for the above, it is recommended that caravan park and kiosk (being what are understood to be currently approved uses on the land) are listed as additional permitted uses on the site in Schedule 1 of the LEP. This enables future expansion of caravan park related activities and associated ancillary uses but does not allow for potentially more intensive uses such as entertainment facilities and indoor recreation facilities.

Recommendation	Include caravan park and kiosk as additional permitted uses on the land under Schedule 1.
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Author	Mr Simon Kalinowski on behalf of Lydia and Jim Kalinowski
Issue Category	Site specific 575 Bagotville Road, Meerschaum Vale
Submission No.	14
Issue Summary	Seeks opportunity for subdivision of rural land at Meerschaum Vale.

Assessment

The draft LEP 2011 proposes the application of an E2 Environmental Conservation zone to the subject land along with a 40ha minimum lot size for subdivision consistent with the criteria utilised by Council in preparation of the LEP. Given the ecological value of the land and that subdivision of the land is not consistent with Council's strategic direction in relation to subdivision of rural land, it is recommended that the planning framework as proposed under the draft LEP 2011 be retained.

Recommendation	No change.
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Author	Prendergast family
Issue Category	Site specific 1336 Teven Road, Alstonville
Submission No.	15, 15a
Issue Summary	Objects to proposed E3 Environmental Management zone and seeks opportunity for subdivision of land located in the Alstonville buffer area for residential purposes.

Assessment

The subject land has been identified for inclusion in the E3 Environmental Management zone on the basis that it is currently contained within the 7(i) Environmental Protection (Urban Buffer) area adjacent to Alstonville. In this regard, Council has maintained its policy with respect to limitation on lateral expansion of Alstonville for many years. The draft LEP 2011 has been prepared on this basis. Given this and in the absence of a broader level strategic investigation into the need for and suitability of expansion for residential development in the Alstonville locality, no change is recommended.

Recommendation	No change.
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Author	SJ Connelly CPP on behalf of Ballina Waterways
Issue Category	Site specific Lot 4 DP 537419 Burns Point Ferry Road, West Ballina
Submission No.	16, 16a
Issue Summary	Objects to proposed E2 Environmental Conservation zone and seeks application on an RU2 Rural Landscape zone and retention of identification of the land as having potential for urban purposes.

Assessment

The Burns Point Ferry Road site has been the subject of extensive history and considerations by Council over a prolonged period of time since 1995. Despite extensive studies, the land has not been considered by Council to be suitable for the application of an urban zone to date. Given the prolonged opportunity that has been available to the landholder to demonstrate the urban suitability of the land, that the current 1(d) Rural (Urban Investigation) zoning only acknowledges that land is to be investigated to determine its urban suitability as well as the known environmental values of the site, the draft LEP 2011 proposes an E2 zone over the entire land parcel.

The landholder's submission suggests a development concept for the site that involves mixed industrial, commercial and residential uses at the Pacific Highway end of the property and environmental conservation over the remainder of the land supported by a biobanking scheme. Significantly, the area proposed for urban uses substantially extends beyond the 4.7ha area identified by Council in 2008 for the focus of further investigations into urban land uses. With respect to the 2008 resolution, Council resolved as follows :

Advise the various land owners that Council is supportive of rezoning the 4.76 ha area of the Ballina Waterways site adjacent to the Pacific Highway and the immediately adjoining lands for urban purposes as part of the comprehensive Draft Local Environmental Plan, provided that:

- a. An integrated rezoning strategy is provided in conjunction with the Ferry Boat Motel site.*
- b. The proposed zoning facilitates the development of the land for low key tourist accommodation, aged care, manufactured home estate, business or low key/impact industrial or a mix, rather than conventional residential allotments.*
- c. A zoning strategy includes areas to be set aside for environmental protection, compensatory environmental measures and strategies for long term maintenance of environmental protection areas.*
- d. The owners of the Ballina Waterways and former Ferry Boat Motel site provide commitments towards access being provided to and across the site in accordance with the NSW Roads & Traffic Authority recommendations i.e. extension of Kalinga Street across the site to give alternative access to Emigrant Lane.*
- e. A planning agreement is provided that outlines all undertakings/proposals that cannot be secured or delivered via the proposed zoning; or*

A core constraint to the future urban use of the land is the ecological values attributable to the land. In particular, information provided on the landholder's behalf as part of the previous rezoning proposal indicates the presence of endangered ecological communities in the form of coastal salt marsh, freshwater wetland and swamp oak open forest over the majority of the site. There are no large areas of the

site free of these attributes fronting either the Pacific Highway or Burns Point Ferry Road.

The concept of utilising development outcomes to support enhanced conservation outcomes over part of the site via the use of biobanking is considered to have merit (in considering the biobanking concept, it should be noted that biobanking can still be undertaken in relation to land zoned E2 Environmental Conservation). However, there does not appear to be an obvious potential development footprint that does not impact on identified endangered ecological communities. Furthermore, ecological values are not the only consideration for future development of the land, with matters such as flooding, geotechnical conditions and access being important considerations. It is acknowledged that investigative work has been undertaken to respond to these issues.

The landholder has previously met with Council and indicated a desire for more time to establish a proposal for the land use on the site. Although the parameters set out in Council's 2008 resolution have not been met, it is open to Council to provide additional time for the landholder to prepare a suitable rezoning application. If this approach is supported by Council, it is recommended that the draft LEP be amended to identify an RU2 Rural Landscape zone over the area the subject of the 2008 resolution (being approximately 4.7 ha in the northern portion of the site - see page 23 submission 16a). Under this approach, the RU2 zoned area would also be identified in the Strategic Urban Growth Area map under the LEP. It is recommended that this arrangement be reviewed in 12 months time, with a view to applying a suitable environmental protection zone to the land if an urban zoning framework has not been resolved by way of an LEP amendment.

An alternative course of action available to Council is to adhere to the zoning arrangement that has been applied in the most recent iteration of the draft plan (i.e. an E2 zone over the entire site).

Recommendation	Amend draft LEP to reflect area for potential urban development as outlined above. The land use zone applicable to the site is to be reviewed in 12 months time.
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Author	GeoLINK on behalf of Petrac Lennox Head (Receivers and Managers Appointed)
Issue Category	Site specific Pacific Pines Estate, Lennox Head
Submission No.	17
Issue Summary	Requests that an E2 Environmental Conservation zone be applied to land in the Pacific Pines urban release area to encompass conservation areas identified in the State Government project approval. This would assist in meeting a statement of commitment made in relation to the proposed development of the land.

Assessment

The currently undeveloped area of the Pacific Pines Estate is subject to a State Government project approval that provides for residential development, a commercial precinct, open space, urban infrastructure and environmental conservation outcomes on the land. The area the subject of the approval is west of North Creek Road, between the existing developed Pacific Pines Estate to the south and the Meadows residential estate to the north.

It appears that the developer of the land needs to demonstrate the protection of identified conservation areas in the estate in order to meet a statement of commitment that relates to the approval for the development of the land. Given that the proposed development is subject to a State Government project approval and that the proposed conservation areas identified in that approval include freshwater wetlands, Hairy Jointgrass and Square Stemmed Spike Rush, it is considered that the application of the E2 Environmental Conservation zone would appropriately reflect the characteristics of the land.

Recommendation	Apply E2 Environmental Conservation zone to conservation areas identified in the Pacific Pines Estate project approval.
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Author	Clarissa Huegill for Anderson family
Issue Category	Site specific 101 Cumbalum Road, Ballina
Submission No.	18
Issue Summary	<p>The subject land is proposed to be zoned part E3 Environmental Management zone and part RU1 Primary Production zone.</p> <p>The owners intend to continue to farm the land. Note the material differences between the E3 and RU1 zones are found in the objectives of the zones. Land uses permitted within the E3 and RU1 zone are very similar. Given the limited land uses permissible without development consent and the likelihood that the land will continue to be farmed, Council will maintain a high level of control over any future development on the land.</p> <p>Owners concerned that the E3 zone will impact on potential sale of the land and request application of the RU1 Primary Production zone over the entire property.</p>

Assessment

As the submission states, the key differences between the E3 and RU1 zones lay in the zone objectives. As also noted in the submission, the following objectives of the E3 zone are the most relevant to the subject site:

- To protect and manage areas of scenic landscape value;
- To promote the restoration and enhancement of the natural environment.

The attributes of that part of the land proposed to be zoned E3 Environmental Management are consistent with the criteria adopted by Council for the application of the zone. As the submission states, there is no significant material difference in the land uses permissible within the two zones. On this basis it is not considered appropriate to amend the application of the E3 Environmental Management zone as requested as the E3 zone provides for agricultural activity whilst recognising the visual significance of the land.

Recommendation	No change.
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Author	Mr Dennis McCarthy
Issue Category	Acid Sulfate Soils Oyster Aquaculture
Submission No.	19
Issue Summary	<p>Cane farmers are exempt from provisions regarding acid sulfate soils under the "Cane Industry Best Code of Practice" managed by the Sugar Milling Co-operative. The draft Estuary Management Plan recommends an update to Best Practice Flood Gate and Drain Management Guidelines and the consent of affected landowners where modification is required.</p> <p>Sustainable Aquaculture SEPP makes provision for refusal of development applications that adversely affect Oyster Aquaculture.</p> <p>Given that development consent is not required for cane farming what is the point of the provisions of the SEPP?</p>

Assessment

The provisions regarding cane farming in acid sulfate soils have a significant history and reflect an agreed regional government policy position. It is not proposed to amend this policy position as part of the draft LEP 2011. Nevertheless, the issues raised in this submission are very important and relate to estuary management and floodplain management planning. Council is currently endeavouring to promote dialogue and action by key agencies and farming/ producer groups to improve and maintain catchment conditions and water quality in the Richmond River.

Recommendation	No change.
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Author	Ms Jane Gardiner, Ms Marelle Lee & other
Issue Category	Heritage issues & other
Submission No.	20, 33 & 67
Issue Summary	<p>The submissions received in relation to heritage issues request inclusion of the following as heritage items:</p> <ul style="list-style-type: none"> • Request that the "relic presumed to be that of MV Limerick" washed up on Angel's Beach, be added to the heritage preservation list. The Limerick was torpedoed early in World War 2. The NSW Heritage Commission was interested in the relic. • Russellton, 103 Bruxner Highway Wollongbar (owner RTA). • Duck Creek Weir & Associated Rainforest, Duck Creek Alstonville (owner Rous Water). • North Creek Moruya Granite Column Owen Street, Ballina (owner Ballina Shire Council). • Archaeological Sites: Ballina-Booyong Railway remains; Bridge Pylons across Fishery Creek from Canal Road Ballina; and Martin's Lane Air Crash Memorial, Pacific Highway, Knockrow. <p>Other comments provided in the submissions include:</p> <ul style="list-style-type: none"> • Item 111 Memorial to the First Selectors Alstonville has now been demolished. • Item 118 Historic Road marker outside the Federal Hotel has been relocated to the Council depot. It is understood that it is to be returned following the completion of the Alstonville Main Street Project but this will need to be confirmed prior to the gazettal of the LEP. • Ballina Trophy guns site listing is puzzling. How can Ballina tip be an archaeological site? • The first Ballina Lighthouse surf clubhouse was built on top of Lighthouse Hill. It would be appropriate to have an historical marker there for public interest. This could also be incorporated with recognition that 'Smithy' Sir Charles Kingsford Smith piloted the Southern Cross to landfall not far away, perhaps by a memorial fence. • Williams Reserve Lennox Head is worthy of a plaque to acknowledge it was carved out of a former farm, mainly by boys on tractors, to become a village green in perpetuity, with sporting fields and passive recreation areas.

	<ul style="list-style-type: none"> • More recognition should be given to philanthropist Florence Price for her generous gifts of land to the people of Ballina including the Wigmore Arcade, part of Wigmore car park, Wigmore Hall and Ballina Ex-Servicemen's Home on the southern bank of North Creek. The current acknowledgement is a small plaque behind the entrance door to the Wigmore Arcade is not readily accessible to the public. • Council should also recognise the Norfolk Pine planted by Captain Fenwick as a memorial after the death of his youngest son, near Fenwick House, east Ballina. • Understanding that when Ballina's Henry Rous Tavern was being considered for demolition there was a condition that historical records of the building would be preserved. Has this been done and are they now on display? • Areas of importance to Aboriginal people at Lennox Head need to be delineated and protected. • Generally coastline development should not be permitted, except for essential services such as surf life saving facilities, helicopter emergency landing areas and a shared pathway track.
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Assessment

The above comments are noted. In relation to the nomination of items for listing, the resolution of Council in relation to the previous version of the draft plan included further investigation and review in relation to most of the items. Those that were not identified in the previous resolution are:

- Bridge Pylons across Fishery Creek from Canal Road Ballina; and
- The relic presumed to be that of MV Limerick washed up on Angel's Beach.

Further investigation in relation to these items will be undertaken.

The permissible land uses within the E2 Environmental Conservation zone have been revised in the draft LEP 2011 based on submissions to the 2010 version of the draft plan.

Recommendation	<p>That further investigation be undertaken in relation to the suitability of the following items for heritage listing:</p> <ul style="list-style-type: none"> ▪ Bridge Pylons across Fishery Creek from Canal Road Ballina; and ▪ The relic presumed to be that of MV Limerick washed up on Angel's Beach.
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Author	Messrs Peter & John Swan
Issue Category	Site specific Lot 3 DP 706961 Keith Hall Lane, South Ballina
Submission No.	21
Issue Summary	<p>Object to RU1 Primary Production zoning and request RU2 Rural Landscape zone.</p> <p>Would like land not to be classified as prime agricultural land. This land was investigated in 2004 by officers from the Department of Planning & Infrastructure and it was found that the soil was light and sandy and in the 'category 4 & 5 range'. Cane production has been tried on the land and the yields were very low making it uneconomical. Cattle are presently run on the land to help control the grasses and the risk of fire.</p> <p>Advised by Ballina Shire Council that the land was not included in the Farmland Protection Project. Believe that someone has made a mistake and land should be left as RU2 not RU1 as the draft proposes.</p> <p>No objection to the protection of the rainforest area on the eastern boundary adjoining the sand dunes.</p>

Assessment

The Standard Instrument contains two rural zones, the RU1 Primary Production zone and the RU2 Rural Landscape zone. During the plan preparation Council adopted criteria for the application of the rural zones. The RU1 zone applies to land in the shire considered well suited to some form of agricultural production based on NSW Department of Primary Industries' agricultural land classifications and NSW Department of Planning & Infrastructure's State and Regionally Significant Farmland mapping. This covers the majority of the rural zoned land in the shire.

The adopted criteria for the application of the zone included any land identified as State or Regionally significant farmland in the State and Regionally Significant Farmland mapping, and identified as class 1, 2, 3 or 4 agricultural land by agricultural land classification mapping provided by the NSW Department of Primary Industries. The submission notes that the land contains class 4 lands. The south-eastern portion of the land is identified as Regionally significant farmland in the State and Regionally Significant Farmland mapping. Land containing both these characteristics was mapped as RU1 unless less than 5% of the property was subject to the defined criteria.

The subject land has been zoned RU1 Primary Production in accordance with the criteria adopted by Council.

Recommendation	No change.
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Author	Mr Bruce & Ms Christine Kemp
Issue Category	Site specific 150 Lindendale Road, Wollongbar
Submission No.	22
Issue Summary	<p>Land is presently zoned 7(c) Environmental Protection (Water Catchment) Zone and proposed to be zoned E3 Environmental Management in accordance with the draft LEP 2011.</p> <p>Would like to be able to offer farm produce of fruit, vegetables and nuts etc. direct to locals and tourists via a farm stall but the current draft LEP 2011 does not allow for this. Roadside stalls were permitted in the draft LEP 2010 and should be provided for in the E3 zone.</p>

Assessment

The prohibition of roadside stalls in the revised draft LEP 2011 appears to have resulted from amendments to the relationship between land use definitions in the Standard Instrument. Specifically, the definition of retail premises has been amended to include roadside stalls. Retail premises are prohibited in the E3 zone and this prohibition has subsequently captured roadside stalls. The prohibition of roadside stalls in the E3 zone is effectively a drafting error and the requested amendment is supported. This amendment is consistent with the recognition of the agricultural values of land within the E3 Environmental Management zone.

Recommendation	Insert "roadside stall" in the land use table as permissible with development consent in the E3 Environmental Management zone.
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Author	Mr Paul Earner Ms Lesley Earner Mr Barry Campey
Issue Category	Urban Buffer and permissible land uses in the RU1 and E3 zones
Submission No.	23, 25 & 42
Issue Summary	<p>Object to car parks, cemeteries, group homes, sex services, information and education facilities, community facilities and electricity generation being permitted within the RU1 Primary Production and E3 Environmental Management zones. These uses are inconsistent with the zone objectives.</p> <p>Urban buffer zones around Wollongbar and Alstonville should be preserved intact without any of the exceptions permitted by the uses listed above which will 'eat' into the buffers. State planning policies allow aged care facilities to be established adjacent to urban areas, even on prime agricultural land zoned RU1 Primary Production. Application of the E3 zone instead of the RU1 zone to the east and south of Alstonville and to the west and south of Wollongbar is required to address this issue.</p>

Assessment

The land use tables have been reviewed extensively to ensure that the uses identified as permitted within the RU1 Primary Production zone and E3 Environmental Management zone are 'non-urban' in nature, compatible with the desired future character of the locality and consistent with the zone objectives. The permissibility of group homes is prescribed by the Affordable Rental Housing SEPP.

The draft LEP seeks to maintain the Alstonville / Wollongbar buffer. Council has also resolved as part of its consideration of the draft LEP to undertake a separate planning proposal process in relation to the expansion of the buffer area around Alstonville and Wollongbar.

Recommendation	No change.
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Author	Mr Warren Cubitt
Issue Category	Coastal land between Lennox Head and Angels Beach North
Submission No.	24
Issue Summary	E2 Environmental Conservation zoning of the narrow strip of coast line between Lennox Head and Angels Beach North should have better protection than the E2 zoning will provide. There are a number of land uses permissible within the E2 zone. This area should be left completely free of development and the application of the E1 National Parks and Nature Reserves zone should be considered.

Assessment

The permitted land uses within the E2 Environmental Conservation zone have been reviewed to ensure that inappropriate land uses are minimised. The application of the E1 zone is not an option as this zone can only be applied to National Parks and Nature Reserves.

Recommendation	No change.
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Author	Ms Rosie Lee (note: author has Power of Attorney for owner Margaret Lee)
Issue Category	Site specific Kays Road, Wardell
Submission No.	26
Issue Summary	<p>The land is currently zoned 1(b) Rural (Secondary Agricultural Land) zone and has a confirmed dwelling entitlement.</p> <p>Site is approximately 6,300m² in area and was cleared when it was purchased in 1975. Land is covered with common melaleuca quinquinervia and wattle regrowth and a small, maintained access clearing. Ms Lee suggests that rezoning the land to E2 Environmental Conservation will inhibit her rights to exercise her dwelling entitlement and / or engage in agricultural activity or home orchard as originally intended. Zoning will impact on the market value of the property.</p> <p>The submission also comments in relation to a number of other matters including:</p> <ul style="list-style-type: none"> ▪ That Council has not produced any scientific evidence that the property should be zoned E2 and comprises an area of high environmental significance apart from verbally citing it is likely to contain certain flora and fauna. Section 149 Certificate issued does not identify the land as containing critical habitat. ▪ The land is surrounded by cleared intensive agricultural land use and its size does not meet the criteria for the application of the E2 zone. Internal fencing along the boundaries would result in clearing that would negate any environmental value of the property. Existing surrounding land uses and infrastructure such as the Pacific Highway also negate any significant environmental value of the property. ▪ No Koala food trees have been identified on the property. No protected, endangered or threatened species have been observed or found on the property. ▪ Existing vegetation is regrowth and therefore can be cleared in accordance with the provisions of the Native Vegetation Act. Noxious weeds, invasive native vegetation and prohibited species abound. Work undertaken by Council in building up Kays Road has impacted on vegetation by inhibiting the natural runoff of water. ▪ Vegetation needs to be cleared to reduce bushfire hazard. ▪ Dwelling entitlement requires continuous ownership by the current owner so the dwelling entitlement is required to be exercised now so that the property can be sold and aged care can be provided for the current owner. ▪ The cost of producing reports to accompany the development application for the dwelling is excessive and is required to be addressed by the landowner with no similar requirement for studies to be undertaken by the Council to demonstrate the site warrants the E2 zoning. ▪ Council should purchase the property if they wish to create a de-facto environmental reserve. Should the proposed rezoning proceed compensation will be sought.

Assessment

Council's Environmental Scientist has reviewed the submission and provided comment. The site contains Swamp Sclerophyll Forest. Koalas, Grey-headed Flying Fox, Wallum Froglet, Wallum Sedge Frog and South Myotis have all been recorded as occurring within 200 metres of the property. The vegetation is significant as it forms part of a larger area of contiguous vegetation in which threatened fauna species are known to occur. Blossom Bats and the Grey-headed Flying Fox are expected to forage within the melaleuca forest during periods of flowering. The proposed E2 zoning is justified in the opinion of Council's Environmental Scientist.

It should be noted that the proposed E2 zoning of the land does not impact on the ability of the owner to lodge a development application for a dwelling house on the subject property, supported by specialist technical information regarding site constraints including ecological considerations and bushfire hazard. These requirements exist irrespective of the zoning.

Recommendation	No change.
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Author	Mr Andrew & Ms Kathleen Steele
Issue Category	Site specific 56 Hillside Lane, Meerschaum Vale
Submission No.	27
Issue Summary	Request for the review of the application of the E2 Environmental Conservation zone as it applies to the north eastern area of the property. The E2 zone is applied to the property boundary and the owners advise that their driveway and a cleared area are located between the line of vegetation and the property boundary.

Assessment

The apparent discrepancy in the zone line is related to the cadastre being slightly misaligned. This issue will be corrected over time as cadastral records are updated, particularly through the numeric cadastre project (i.e. availability of more accurate cadastral information). Therefore it is not considered appropriate to move the proposed zoning boundary.

Recommendation	No change.
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Author	Mr Gary & Ms Mary Couch
Issue Category	Site specific Goat Island
Submission No.	28
Issue Summary	<p>Approximately 9 hectares of the land is presently zoned part 1(b) Rural (Secondary Agricultural Land) Zone, and approximately 17 hectares is zoned 7(a) Environmental Protection (Wetlands) Zone.</p> <p>Draft LEP 2010 proposed the application of the E2 Environmental Conservation zone to the entire island. Submission to the draft LEP 2010 requested the application of the RU2 Rural Landscape zone to the area of the land presently zoned 1(b) and the reinstatement of the dwelling entitlement.</p> <p>The draft LEP 2011 reinstates the dwelling entitlement however the RU2 Rural Landscape zone has been applied to the cleared parts of the site only.</p> <p>Request that the E2 Environmental Conservation zone only be applied to the existing 7(a) zoned land, and that the RU2 Rural Landscape zone be applied to the existing 1(b) zoned land.</p> <p>The following matters are requested to be taken into account:</p> <ul style="list-style-type: none"> ▪ Island purchased in view of rural zoning and permissible agricultural use; ▪ Income now at risk; ▪ Role as custodians of wetlands environment was a bonus but is now a detriment; ▪ Propose to rid the island of weed infestations and return it to its proven agricultural potential; ▪ Propose to graze livestock and have a Dorper Sheep stud; ▪ Propose to develop an organic bush tucker enterprise for income and add to the agricultural diversity of the region; ▪ Land proposed for RU2 zoning is not sufficient in area for farming and existing use rights are far too restrictive; ▪ Other legislation adequately protects the land; ▪ Council has been advised to take care not to trigger the acquisition of land under the Just Terms Compensation Act 1991; ▪ No scientific basis for zoning or confirmation by independent ecologist; ▪ Photos demonstrate regrowth; ▪ Zoning E2 will devalue property.

Assessment

Council's Environmental Scientist has reviewed the submission and accompanying material and provided comment. The site contains Mangrove habitat and Swamp Oak Forest which is an Endangered Ecological Community (EEC). The proposed zone boundary reflects the extent of Swamp Oak EEC (based on 2009 aerial photography) and the proposed zoning is justified on this basis.

Recommendation	No change.
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Author	Newton Denny Chapelle
Issue Category	Elevation Estate Lennox Head -- request for application of the R3 Medium Density zone
Submission No.	29
Issue Summary	<p>Request for the application of the R3 Medium Density zone to the unsubdivided portions of the estate instead of the R2 Low Density Residential zone.</p> <p>The DCP for the areas requires land within Precinct 1 to achieve a density of 8–10 dwellings / hectare and notes that the area is to be characterised by smaller residential lots. The DCP also notes that parts of the development of this land may include medium density, duplex and lots such as mews lots. The residue area has an approved subdivision layout in place via DA 2007/502. At this stage details concerning the proposed land use designations of the individual lots have yet to be lodged with Council. This documentation is required to be submitted to Council prior to the release of the Subdivision Certificate for the land.</p> <p>The submission notes that the R3 zone has been applied to North Angels Beach, Pacific Pines Estate and Ferngrove Estate and that this approach will provide for flexibility in relation to the nomination of lots for higher density.</p>

Assessment

The approved subdivision of the land would appear to generally provide for standard allotments in the order of 600m². The application of the R3 zone in the examples cited in the submission was based on an approved allotment layout. In the event that the proponent wishes to pursue dual occupancy, medium density or smaller lot development on parts of the land, a planning proposal to apply the R3 zone to specific lots within the scheme would enable detailed consideration of this.

Recommendation	No change.
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<p>Author</p>	<p>Petition initiated by Mr David Bouren Mr Peter & Ms Karen Wood (147 signatures)</p> <p>Letter from Ms Kerry & Mr David Johnston (accompanied by 14 signatures)</p>
<p>Issue Category</p>	<p>Objection to E3 Environmental Management zone</p>
<p>Submission No.</p>	<p>30 & 45</p>
<p>Issue Summary</p>	<p>Objection to proposed rezoning of land in Tintenbar / Teven from "Secondary Agriculture" to "E3 Environmental Management".</p> <p>The summary sheet of the submission states as follows:</p> <p style="padding-left: 40px;"><i>We object to proposed re-zoning giving the distant State Govt greater control over the uses of our farming and residential lands.</i></p> <p style="padding-left: 40px;"><i>Please add your signature to object to the proposed Ballina Local Environmental Plan 2011 that will change our zoning from "Agricultural Farmland" to E3 Environmental Management.</i></p> <p style="padding-left: 40px;"><i>Read attached for more detail, if required.</i></p> <p>It is unclear as to whether the more detailed submission referred to was attached to all the signature sheets. The following summary of the issues raised in the more detailed submission is provided.</p> <p>The submission states that the property owners in the Teven / Tintenbar precinct strongly object to the proposed re-zoning of farm properties and residences from "Secondary Agriculture" to Zone "E3 Environmental Management".</p> <p>Land is currently used productively for farming, horticultural and residential uses. Any rezoning that restricts property rights is reprehensible. Any further constraints placed by Council or State government on use of the land must diminish its value and adversely affect our lifestyle and environment.</p> <p>Environmental protection appears to be the latest 'catch-all' for planners which gives the State government, local Council and bureaucrats almost unlimited scope to refuse planning consent to any development proposal regardless of its merit.</p> <p>There is no description or explanation in the proposal of the "special ecological, scientific, cultural or aesthetic features" to be protected by the rezoning.</p> <p>Land is being used productively for orchards and farming and is a well-maintained scenic precinct. Thus the objectives of the zone are already being met.</p>

	<p>Purchased freehold land on the basis that it was zoned agricultural and that we would be able to continue living on and farming the land within the zoning restrictions already in place. Now it seems that this may no longer be the case, without any good reason.</p> <p>The concept that we need to be directed and regulated by State government or Councils in the management of our freehold land is simply not acceptable.</p> <p>The covering letter for the petition states that only one of the signatories was aware of the draft LEP prior to the circulation of the petition and that the proposal has not been widely communicated directly to the landowners and residents of the Shire.</p>
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Assessment

The land proposed to be zoned E3 Environmental Management has been identified as an area of scenic significance. The E3 Environmental Management zone has also been applied to functioning drinking water catchments and the urban buffer between Alstonville and Wollongbar.

The land at Teven / Tintenbar proposed to be zoned E3 Environmental Management will be particularly visually prominent from the new highway. Notwithstanding this, the E3 Environmental Management zone has been drafted to recognise the existing and potential agricultural use of the land. Extensive agriculture and intensive plant agriculture are proposed to be permissible without development consent in the E3 zone. The proposed zoning will not impact on the land uses identified in the submission as presently undertaken on the land.

Extensive community consultation has been undertaken by Council during the preparation of the draft LEP.

Recommendation	No change.
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Author	Mr Marco & Ms Melissa Veronesi
Issue Category	937 Wardell Road, Meerschaum Vale
Submission No.	31
Issue Summary	<p>Land purchased in June 2011 with intention to continue to expand agricultural pursuits on the land. During research prior to purchase it was discovered that there was a plan to introduce a zoning change on a small part of the land (the south eastern corner). The 2011 draft LEP proposes to zone almost half of the land E2 Environmental Conservation.</p> <p>Land is currently and recently used for grazing cattle throughout the cleared and forested areas. Historical research suggests that land has been used for extensive banana farming, logging and some vegetable cropping. Due to a lack of management the land has become overgrown by Camphor Laurel and unmanaged native bushland in some areas.</p> <p>The submission suggests that the area proposed to be rezoned (E2) contains large areas of cleared land connected by useable tracks and roads, as well as recent regrowth which may be suitable for agricultural use. Concern regarding the limited permissibility of agricultural land uses within the E2 zone.</p> <p>Property has current approval for Private Native Forestry on land proposed to be zoned E2 for a period of 15 years. The proposed E2 zoning would see the renewal of this approval to become prohibited.</p> <p>Mapping of vegetation on the property by the NSW Office of Environment & Heritage identified only the vegetation in the south eastern corner of the site as protected rainforest.</p> <p>No objection to protecting south east corner of the land with E2 zoning however request RU2 zone be applied to the remainder of the property.</p>

Assessment

The draft LEP 2010 provided for more extensive application of the E2 zone to the subject land than the revised draft LEP 2011. The revised draft LEP 2011 applies the RU2 Rural Landscape Zone to a cleared area of the site in the south east of the property.

Council's Environmental Scientist has reviewed the submission and the vegetation is considered to comprise mature to old growth forest. As such, the vegetation presents excellent habitat for a wide range of fauna species, including threatened fauna species. The vegetation provides an important landscape linkage and the proposed zoning is recommended to be maintained.

Recommendation	No change.
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Author	SAKE Development on behalf of D & R Dossor
Issue Category	Site specific Amber Drive, Lennox Head
Submission No.	32
Issue Summary	Registration of approved Coastal Grove development will occur early in 2012 at which time the title details will change. With the registration of the plan Lot 88 in DP 802588 will become Lot 42 DP 1168665. Request for the reference in Schedule 1 to be amended to reflect title change.

Assessment

Lot 88 DP 802588 is identified in Schedule 1 of the draft plan. The new property description of proposed Lot 42 cannot be inserted in Schedule 1 until it has been registered. A change in title description often occurs in these circumstances and the provisions effectively transfer to the subsequent child parcel. In the event that the proponents would like the amendment to be made once the plan of subdivision has been registered, the amendment can be made to the plan as part of an administrative amendment.

Recommendation	No change.
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Author	Mr Robert & Ms Christine Watson
Issue Category	Site specific 171 Ross Lane, Tintenbar
Submission No.	34
Issue Summary	Request for the land to be zoned RU2 Rural Landscape for the following reasons: <ul style="list-style-type: none"> • Cane share farmer no longer wishes to grow sugarcane on the land as it is financially unviable; • Soil is poor and sandy; • Directly south of Ross Lane is Precinct B of Council's Urban Land Release Strategy; • Prudent to zone land RU2 as a buffer to adjacent urban development.

Assessment

During the plan preparation Council adopted criteria for the application of the rural zones (RU1 Primary Production zone and the RU2 Rural Landscape zone). The RU1 zone applies to land in the shire considered well suited to some form of agricultural production based on NSW Department of Primary Industries' agricultural land classifications and NSW Department of Planning & Infrastructure's State and Regionally Significant Farmland mapping. This covers the majority of the rural zoned land in the shire.

The adopted criteria for the application of the zone included any land identified as State or Regionally significant farmland in the State and Regionally Significant Farmland mapping, and identified as class 1, 2, 3 or 4 agricultural land by agricultural land classification mapping provided by the NSW Department of Primary Industries. The land is identified as class 3 & 4 agricultural land and as Regionally significant farmland in the State and Regionally Significant Farmland mapping. Land containing both these characteristics was mapped as RU1 unless less than 5% of the property was subject to the defined criteria.

The subject land has been zoned RU1 Primary Production in accordance with the criteria adopted by Council.

Recommendation	No change.
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Author	SAKE Development on behalf of D & R Dossor
Issue Category	Site specific Blue Seas Parade, Lennox Head
Submission No.	35
Issue Summary	<p>Crown land adjacent to approved Lot 10 in the Coastal Grove subdivision has been purchased by the proponent. The land purchased from the Crown (Lot 1 DP 1161550) is currently zoned 1(d) Rural (Urban Investigation). The land is proposed to be zoned RU1 Primary Production in accordance with the provisions of draft LEP 2011.</p> <p>The proponent proposes to consolidate the land purchased from the Crown with the approved Lot 10 which is zoned R2 Low Density Residential.</p> <p>It is requested that the R2 Low Density Residential zone be applied to the land purchased from the Crown for the following reasons:</p> <ul style="list-style-type: none"> ▪ It will remove ambiguity resulting from the application of two zones to the land. ▪ The land forms the end of a row of housing and is below the ridgeline (RL 60). Any future dwelling will be setback in line with existing housing and the visual impact will be low. ▪ Potential for contamination of site considered low and can be addressed at development application stage. ▪ Very low to low risk of slope instability. ▪ Low bushfire hazard. ▪ Site does not contain littoral rainforest. ▪ Services available to the land.

Assessment

The submission notes that the existing approved Lot 10 (522m²) and the purchased Crown land (640m²) will be consolidated to form a 1162m² single dwelling-house allotment. While that part of the land proposed to be zoned RU1 Primary Production does not presently have a dwelling entitlement due to its closed road status, a dwelling-house will be permissible on the consolidated allotment.

It is noted that the preliminary review of the site constraints undertaken by the proponent indicates that the land proposed to be zoned RU1 Primary Production is suitable for the construction of a dwelling-house. Notwithstanding this preliminary review it is considered that a more detailed assessment of the suitability of the RU1 land for a dwelling-house is required. The application of the R2 Low Density Residential zone is not considered appropriate in the absence of an assessment of the site constraints as it will infer suitability for the siting of residential development.

The proposed consolidated lot will contain some 522m² of R2 Low Density Residential zoned land which is more than adequate to accommodate the construction of a dwelling-house. In the event that the landowners wish to pursue the siting of a dwelling-house partly or wholly within the RU1 land that opportunity is available to them via the development application process. In the event that the owners decide to proceed with seeking the application of the R2 zone over the subject land this can be undertaken as a separate planning proposal accompanied by a more detailed assessment of the site constraints.

Recommendation	No change.
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Author	Dr C McKenzie
Issue Category	Health services facilities
Submission No.	36
Issue Summary	<p>Request that consideration be given to permitting health services facilities with consent in the R2 Low Density Residential zone. Notes that a review of the Infrastructure SEPP undertaken by the State government identifies that the omission of the R2 zone as a prescribed zone in which health services facilities are permitted is a drafting error.</p> <p>Request for Council to consider the future needs for provision of medical services to the community of Ballina and surrounding areas when finalising the revised Ballina LEP.</p>

Assessment

The Infrastructure SEPP review undertaken in March 2010 does identify the omission of health services facilities as permissible within the R2 zone as a drafting error and recommends an amendment to the Infrastructure SEPP to address this. In the interim the definition of health services facilities includes uses which are more intensive than a doctor's surgery and which may result in impacts on the amenity of residential areas.

The draft LEP provides for health services facilities in the R3 Medium Density Residential zone. There are significant areas of land zoned R3 around the Ballina town centre (including the hospital), Alstonville village and Lennox Head village. Given this, it is considered that the draft LEP provides sufficient opportunities for health services facilities to be located outside of the business zones and within residential areas.

Recommendation	No change.
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Author	Mr Graeme Fleming Mr Tim Reilly
Issue Category	Dwelling entitlements
Submission No.	37 & 51
Issue Summary	<p>Objection to restriction of dwelling entitlements to properties 40 hectares or greater in area. The submission addresses a number of considerations including those outlined below.</p> <p>Current LEP provisions provide for a minimum lot size of 20 hectares for subdivision and the erection of a dwelling-house on land within the 1(a1) Rural (Plateau Lands Agriculture) Zone and 7(i) Environmental Protection (Urban Buffer) Zone.</p> <p>Author's property, purchased in 2005, is 30 hectares in area and, while zoned 1(b), contains a significant area of good quality land. There are 2300 macadamia trees on the land with the potential for a further 2000 and a potential net income of \$90,000 per annum. Parts of the property are also under bushland regeneration. Council does not currently recognise the property as having a dwelling entitlement under the current LEP or the draft LEP.</p> <p>As the author is unable to reside on the property there is the capital cost of providing an off-site residence and travel time associated with the 10 km trip to and from the property. This impacts on the viability of the farm and creates issues such as security for farm equipment.</p> <p>The provision of a dwelling entitlement also improves viability as a worker can be provided with free or cheap rent in an otherwise expensive housing area. Quality labour is difficult to obtain and provision of incentives such as houses are essential due to reasonably low wages in this field.</p> <p>Objection to amendment to increase the land area required for a dwelling entitlement from 20 hectares to 40 hectares on land presently zoned 1(a1).</p> <p>Draft LEP should provide for a 20 hectare minimum for Plateau land with the additional requirement that the property is shown to be agriculturally viable.</p>

Assessment:

The draft LEP 2011 preserves the ability for sites on the plateau which could presently be subdivided (given their area) into 20 hectare allotments. The dwelling entitlement provisions also recognise entitlements for lots which do not meet the minimum lot size provisions where those lots meet the other relevant criteria.

Recommendation	No change.
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Author	Ardill Payne & Partners on behalf of Mt Moriah Pty Ltd
Issue Category	Site specific 3-5 Lismore Road, Alstonville (Former Peanut Factory)
Submission No.	38
Issue Summary	<p>Request to zone the land R3 Medium Density Residential instead of R2 Low Density Residential.</p> <p>Previous submissions in relation to the land have sought a commercial zone based on current and approved land uses, however recent changes including the Alstonville By-pass have resulted in a review of the options for the land. These investigations have determined the land may be suitable for medium density development, including the conversion of the Butter Factory to warehouse type housing. The site has a total area of 5864m² and the limited residential uses permitted within the R2 Low Density Residential zone would underutilise the land.</p> <p>The site is suitable for medium density development for the following reasons:</p> <ul style="list-style-type: none"> ▪ R2 zoning will result in a substantial underutilisation of the land and will not attain urban consolidation principles; ▪ Subject to heritage considerations the land is well suited to medium density residential development having regard to its size, shape, road frontage, and separation from adjoining land uses; ▪ Use for medium density purposes is more economically viable and will facilitate the continued conservation and protection of the heritage item; ▪ Economic viability of the commercial use of the site has been adversely impacted on by the Alstonville By-pass and the global financial crisis and downturn in retail in general; ▪ There is scope to convert the Butter Factory into warehouse type apartments and construct dwelling units on the adjoining land without adversely impacting on the heritage item and its setting.

Assessment

As the submission notes, previous submissions to the LEP process have sought a commercial zoning over the land. The application of the R2 Low Density Residential Zone is consistent with Council's adopted policy for the application of land use zones. In the event that detailed site investigations determine that the development of the site for medium density development is appropriate and can address relevant site constraints and issues including heritage conservation, then it is considered appropriate to deal with this request via a separate planning proposal.

There has been no material presented to Council to enable a thorough assessment of the suitability of the site for medium density development to be undertaken. The approach adopted by Council in relation to similar requests has been to recommend that the change in the zoning requested be addressed via a separate planning proposal.

Recommendation	No change.
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Author	Ardill Payne & Partners on behalf of Porter family
Issue Category	Site specific 853 Bruxner Highway, Wollongbar
Submission No.	39
Issue Summary	The site is currently zoned 7(i) Environmental Protection (Urban Buffer) in accordance with BLEP 1987 and is proposed to be zoned E3 Environmental Management in accordance with the draft LEP. Submission states that the land is relatively unconstrained and adjacent to existing Russellton Industrial Estate. Request for the land to be zoned IN1 General Industrial.

Assessment

Council has undertaken an audit of industrial land which concludes that no additional land beyond that zoned and planned for is required to meet projected demand for industrial land in the shire. The subject land is also located within the Plateau villages urban buffer area.

Recommendation	No change.
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Author	Ardill Payne & Partners on behalf of United Protestant Association
Issue Category	Site specific Sneaths Road, Wollongbar Urban Expansion Area
Submission No.	40
Issue Summary	Submission notes the proposed application of 600m ² minimum lot size for the land and notes in order to achieve target densities identified for the land in Ballina Combined DCP 2006 there is a need to provide for a greater mix of lot sizes. Request that the Lot Size Map be amended to provide for a minimum lot size of 450m ² on the subject land.

Assessment

This issue was identified in the initial exhibition of the draft LEP. The basis for the application of the 600m² minimum lot size and not 450m² minimum lot size is that the area does not contain a commercial area around which a precinct for higher densities can be identified. The provision of smaller lot sizes throughout the urban release area can be pursued via a planning proposal subject to a detailed site analysis.

Recommendation	No change.
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Author	AAP Corporation Pty Ltd on behalf of Boral
Issue Category	Site specific 489 Gap Road, Alstonville 2-4 Northcott Crescent, Alstonville 3-9 Simmons Street, Ballina 348 North Teven Road, Teven
Submission No.	41
Issue Summary	<p>The Gap Road quarry is presently zoned 1(e) Rural (Extractive & Mineral Resources) zone. The site is proposed to be zoned E3 Environmental Management in accordance with the draft LEP. The submission raises concern that extractive resource activities will be limited by the zone and makes several comments including the following:</p> <ul style="list-style-type: none"> ▪ The site is highly disturbed and without any special landscape, scenic or environmental values. Zoning does not reflect the current or long term land use. It is requested that Council include the use of the site for the purpose of extractive industry and an asphalt plant in Schedule 1 of the draft LEP. ▪ Proposed building height provisions do not adequately provide for infrastructure associated with concrete batch plants, asphalt plants and extractive industry. ▪ Request that the height control clause 4.3 be amended to enable silos ventilation stacks and the like required for industrial activities to be a maximum height of 22 metres, and crushing plants, bins, conveyors and the like required for quarry operations to be a maximum height of 25 metres.

Assessment

Extractive industry is permissible with development consent in the E3 Environmental Management zone in accordance with the provisions of Clause 7(3)(a) of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007. Extractive industry is permissible with development consent on land on which development for the purposes of agriculture may be carried out. In the event that the proposed E3 zone is applied the asphalt plant will continue to operate in accordance with the relevant development consent.

The provisions of Clause 4.6 Exceptions to Development Standards enable the height limit to be varied in circumstances where it can be justified on environmental planning grounds and demonstrated to be unreasonable or unnecessary in the circumstances of the case. The insertion of the suggested amendment to the height clause is not considered to be appropriate given its potential application to a broad range of developments in a number of localities. The preferred approach is that any development applications that require plant or machinery of the scale noted submit a justification to vary the height provisions in the particular circumstances.

Recommendation	No change.
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Author	Mr Barry Clifford
Issue Category	Site specific 490 Old Bagotville Road, Wardell
Submission No.	43
Issue Summary	Objection to the application of an E2 Environmental Conservation zone to the southern portion of the subject land.

Assessment:

The subject land is split into two parcels by Old Bagotville Road. The southern land parcel is comprised of SEPP 14 wetland along its frontage to the Tuckean Broadwater and Swamp Schlerophyll and Wet Schlerophyll forest across the majority of the remainder of the parcel. However, a small area of the site in the north western corner is comprised of a more sparsely treed area and is the vegetation is not classified in Council's vegetation mapping.

The wetland and schlerophyll forest areas are considered by Council's Environmental Scientist to be of conservation value and meet the criteria for application of the E2 Environmental Conservation zone. However, the area of non-classified vegetation is similar in character to land immediately adjacent to the west. This area is subject to an RU2 Rural Landscape zone. Given this, it is recommended that the E2 zone be removed from the north western corner of the site by applying an RU2 zone generally to the area of vegetation that is not classified under Council's vegetation mapping for the locality.

In addition to the above, it is also suggested that the E2 zone be replaced by an RU2 zone over the Old Bagotville road reserve adjacent to the area of unclassified vegetation.

Recommendation	Remove E2 zone and apply RU2 zone to the north western corner of the subject land and adjacent road reserve as outlined above.
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Author	Mr Colin Skennar
Issue Category	Site specific 23 Newrybar Swamp Road
Submission No.	44
Issue Summary	Request for the land to be zoned RU2 Rural Landscape for the following reasons: <ul style="list-style-type: none"> ▪ No sugarcane grown on land since 2005 as it is financially unviable; ▪ Soil is poor and sandy; ▪ Directly south of Ross Lane is Precinct B of Council's Urban Land Release Strategy and when this is developed it will be in conflict with agriculture; ▪ Eastern side of Newrybar Swamp Road is proposed to be zoned RU2 and the western side is proposed to be zoned RU1.

Assessment

The RU1 zone has been applied to land in the shire considered well suited to some form of agricultural production based on NSW Department of Primary Industries' agricultural land classifications and NSW Department of Planning & Infrastructure's State and Regionally Significant Farmland mapping. This covers the majority of the rural zoned land in the shire.

The adopted criteria for the application of the zone included any land identified as State or Regionally significant farmland in the State and Regionally Significant Farmland mapping, and identified as class 1, 2, 3 or 4 agricultural land by agricultural land classification mapping provided by the NSW Department of Primary Industries. The land is identified as class 3 & 4 agricultural land and as Regionally significant farmland in the State and Regionally Significant Farmland mapping. Land containing both these characteristics was mapped as RU1 unless less than 5% of the property was subject to the defined criteria.

The subject land has been zoned RU1 Primary Production in accordance with the criteria adopted by Council.

Recommendation	No change.
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Author	David Dodgson Stephen Fletcher & Associates on behalf of Polid Pty Ltd
Issue Category	Site specific Lot 1711 DP 597523, South Ballina Beach Road, South Ballina
Submission No.	46 & 62
Issue Summary	<p>Site is vacant and currently used for grazing. Site is zoned 1(b) Rural (Secondary Agricultural Land) Zone and is able to be used for a variety of agricultural uses, including grazing. The draft LEP will rezone the land to E2 Environmental Conservation zone.</p> <p>Object to the proposed E2 zone and Request RU2 Rural Landscape zone on the following grounds:</p> <ul style="list-style-type: none"> ▪ Land has always been zoned rural to reflect its agricultural potential and use. ▪ Environmental zoning will affect ability and rights to farm land. ▪ Dispute contention that the property is of any significant environmental importance. It contains normal coastal vegetation similar to large areas of land in the locality including Crown lands. Do not see the need to lock up land with environmental zoning when there is already so much similar land under government ownership and control. ▪ Council has not undertaken any ecological assessment of land to justify the imposition of the E2 zone. <p>A recent Section 149(5) Certificate issued by Council also indicates that the site does not have a dwelling entitlement. The submission indicates that it is assumed that the existing dwelling on the adjacent caravan park site may have utilised an entitlement for the two lots. The adjacent dwelling-house is really a caretakers residence for the caravan park and therefore it is argued that the dwelling entitlement has not been exhausted. Request for amendment to include a dwelling entitlement on the subject land on the following grounds:</p> <ul style="list-style-type: none"> ▪ Land is suitable for development for rural living purposes. All required services are available. ▪ Property contains a number of suitable sites for a dwelling, without significant visual or environmental impact. ▪ Land is not prime agricultural land. ▪ Adjoining properties are used for rural living and a number of properties with dwellings in the locality are less than the prescribed minimum allotment size. ▪ Suitable dwelling sites are well removed from drainage lines. Stormwater and on-site effluent disposal can comply with Council policies. ▪ Proposal represents the orderly and economic use of the land in accordance with the objects of the EP & A Act, 1979.

Assessment

The submission has been reviewed by Council's Environmental Scientist. The site contains Heathland, Swamp Sclerophyll Forest and Littoral Rainforest. Swamp Sclerophyll Forest and Littoral Rainforest are Endangered Ecological Communities and threatened species are expected to utilise the site. The site provides an extremely important landscape linkage to the east west and the E2 zoning is appropriate.

In relation to the dwelling entitlement issue it is noted that the criteria for dwelling entitlements in the BLEP 1987 was carried forward into the draft LEP 2011. Where there is no entitlement under the BLEP 1987, there is no entitlement under the draft LEP 2011 unless special criteria are met in relation to LEP Amendment No. 110. The subject land has not met the relevant criteria.

Recommendation	No change.
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Author	D. Kitson on behalf of R. Watson & D. Kitson
Issue Category	Site specific Corner of North Creek Road and Henderson Lane, Lennox Head
Submission No.	47
Issue Summary	<p>Request to zone approximately 2100m² R2 Low Density Residential and / or apply a 1800m² minimum lot size to this portion of the property to facilitate the subdivision of the existing house / dual occupancy from the balance of the developable land.</p> <p>The request will allow the staging of the development of the land which is the subject of a Planning Proposal in conjunction with the adjacent Condon land (Amendment No. 108 to BLEP 1987). The request will enable the financing of the work required to pursue the rezoning of the developable land.</p> <p>The site constraints and characteristics indicate that the most appropriate planning response to the "house lot" is to subdivide it from the remainder of the land and retain it for its present use.</p> <p>Reasons supporting this request also include:</p> <ul style="list-style-type: none"> ▪ Littoral rainforest regrowth is located on developable land and not this portion of the site which contains a substantial fig but no other significant vegetation. ▪ Assessment of potential contamination from past land uses indicates that the area surrounding the house lot does not contain any chemical residues and a remediation plan has been prepared and approved by Council in relation to the developable land. ▪ Council's desire to maintain an integrated approach to the rezoning is not affected given the limited development potential of the house lot and its relationship to the developable land. ▪ The rezoning combined with other provisions of the Standard Instrument will restrict the ability to undertake a boundary adjustment or a special purpose subdivision to address this issue. These options under the BLEP 1987 will be removed by the adoption of the draft LEP. ▪ Access and sewer reticulation can be addressed via easements.

Assessment

The benefits for the landowner of being able to subdivide the existing dwelling / dual occupancy from the remainder of the site are acknowledged. However it is noted that this avenue has been and remains open to the landowner under the current provisions of BLEP 1987, via a development application accompanied by an objection pursuant to State Environmental Planning Policy No. 1 – Development Standards, to vary the applicable minimum lot size.

Council's approach to the rezoning of candidate release areas has been to consider the areas on an integrated basis. While the submission that the portion of the land referred to does not have development potential may be accurate, it is preferred that the development potential of the site (and associated planning provisions) be considered in the context of the candidate release area as a whole.

Recommendation	No change.
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Author	David Lewis-Hughes
Issue Category	Site specific Gap Road, Alstonville
Submission No.	48
Issue Summary	<p>Objection to proposed application of E2 Environmental Conservation zone and E3 Environmental Management zone to the land.</p> <p>In relation to the E3 zoning the land has no coastal view, unlike the land on the eastern side of Gap Road. Sites in the vicinity which do have coastal views are zoned RU1 Primary Production. Land comprises cleared paddocks used for cattle grazing.</p> <p>The proposed E2 zone is more concerning and is not based on any flora and fauna studies conducted by Council. The property owners have, since 1967, undertaken a Camphor Laurel reduction program and revegetated with native vegetation. The area is used for cattle and while it is understood it could be continued to be used for that purpose, the proposed zoning will detract from the future value of the land. Proposal will result in the owners being disadvantaged for taking care of their land. Current legislation protecting flora and fauna is more than adequate to protect the area without the added burden of the proposed zoning.</p> <p>Request for land to be zoned RU1 Primary Production.</p>

Assessment

The proposed zoning of the land is consistent with the adopted criteria for the application of the E2 Environmental Conservation and E3 Environmental Management zones. Council's Environmental Scientist has also reviewed the submission and provided comment. The vegetation is mature Sclerophyll forest and presents excellent habitat for a wide range of fauna species, including threatened species. Tallowwood, which is a Koala food tree, is abundant within the subject vegetation community.

In relation to the proposed E3 Environmental Management zone the land is elevated and identified as being visually significant from several surrounding public roadways.

Recommendation	No change.
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Author	Mr Michael Hickey sj connelly CPP on behalf of Michael Hickey
Issue Category	Site specific Lot 60 DP 1067198, No. 13 Figtree Hill Drive, Figtree Hill Estate, Lennox Head
Submission No.	49 & 49a
Issue Summary	<p>The submission on behalf of the landowner notes that the whole of the Figtree Hill Estate locality is presently zoned secondary agricultural, while land to the west used for cane production is zoned primary agricultural. The draft LEP proposes an RU1 Primary Production zone for Figtree Hill Estate and an RU2 Rural Landscape zone for the cane land to the west, effectively swapping the current zoning. This is at odds with the land use pattern.</p> <p>Report prepared by landowner suggests the property is not of a high agricultural quality. The RU1 zone is more restrictive in terms of permissible land uses than the current zone applying to the land.</p> <p>The submission suggests that since its development in the 1980's Figtree Hill has exhibited all of the characteristics of a "large lot" residential precinct. It is similar to the Greenfield Road locality in terms of nature and character. Residential sized lots in Figtree Hill Estate locality ought to be properly recognised for urban purposes and have zoning controls applying to them that are relevant to an urban area.</p> <p>Landowner submission argues that as the property is shown within the Figtree Hill Precinct in Chapter 16 of Ballina Combined DCP this recognises that the development of the site will 'round off' the neighbourhood. The submission argues that the Lennox Head Structure Plan and Chapter 16 of the Combined DCP recognise the future development potential of the land.</p> <p>Request to amend mapping:</p> <ul style="list-style-type: none"> ▪ to apply secondary agricultural zone to larger lots in the locality; and ▪ to apply a residential zone to land used now and land likely to be used in the future for residential purposes.

Assessment:

The RU1 zone applies to land in the shire considered well suited to some form of agricultural production based on NSW Department of Primary Industries' agricultural land classifications and NSW Department of Planning & Infrastructure's State and Regionally Significant Farmland mapping. This covers the majority of the rural zoned land in the shire.

The adopted criteria for the application of the zone included any land identified as State or Regionally significant farmland in the State and Regionally Significant Farmland mapping, and identified as class 1, 2, 3 or 4 agricultural land by agricultural land classification mapping provided by the NSW Department of Primary Industries.

The land is identified as class 4 agricultural land by agricultural land classification mapping provided by the NSW Department of Primary Industries. The land is also identified as Regionally significant farmland in the State and Regionally Significant Farmland mapping. Land containing both these characteristics was mapped as RU1 unless less than 5% of a property was subject to the defined criteria.

The subject land has been zoned RU1 Primary Production in accordance with the criteria adopted by Council.

The existing Figtree Hill rural residential subdivision does not meet the adopted criteria for the application of a residential zone. The approved rural residential subdivision has been zoned RU1 Primary Production in accordance with the adopted approach for rural residential subdivisions. Contrary to the submission from the landowner, his land has not been identified in strategic land use planning for the locality as potential urban land.

Recommendation	No change.
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Author	Ardill Payne & Partners on behalf of Ballina Byron Gateway Airport
Issue Category	Site specific Ballina Byron Gateway Airport
Submission No.	50
Issue Summary	<p>Submission supports the SP2 Infrastructure zoning of the Ballina Byron Gateway Airport and requests expansion of its application to ensure consistency with the strategic and master planning works that have been undertaken for the area.</p> <p>Submission notes the minimum lot size of 40 hectares proposed in the draft LEP 2011 and requests that there be no minimum lot size for subdivision in the SP2 zone. It is suggested that due to the potential for a wide range of possible uses there needs to be an ability for smaller lot sizes in and around the terminal and the general aviation airside area.</p>

Assessment

As the submission notes Council is currently undertaking master planning for the existing and future use and operations of the airport. It is considered that the outcomes of this process, once endorsed by Council, will guide any potential expansion of the application of the SP2 zone. In relation to the minimum lot size provisions, it is considered that the application of no minimum allotment size is not desirable. While there may be circumstances in which a variety of allotment sizes is appropriate, the subdivision of the land should occur in a co-ordinated and considered manner, rather than on an application by application basis.

Should the completion of the master planning process identify particular outcomes in relation to the subdivision of the land, the introduction of smaller lot sizes can be accommodated as a separate Planning Proposal, either independently of, or in conjunction with any identified expansion of the SP2 zone.

Recommendation	No change.
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Author	SJ Connelly CPP Pty Ltd on behalf of Mr Lester Ailsop
Issue Category	Site specific Lot 1 DP 781699, 255 North Creek Road, Lennox Head
Submission No.	52
Issue Summary	Objects to the application of an RU1 Primary Production zone to the subject land. Seeks application of an R2 Low Density Residential zone to the land.

Assessment

The submission suggests that the land is capable of supporting increased residential development and that its omission from a suitable residential zone is the result of a drafting error associated with the preparation of Council's 1987 LEP.

The land is currently zoned 1(b) Rural (Secondary Agricultural Land) and is not identified in Council's Urban Land Release Strategy or the Far North Coast Regional Strategy as a site having potential for urban development. More significantly, the most recent strategic planning policy for Lennox Head, represented in the Lennox Head Structure Plan, does not identify the subject land as a potential urban area. As such, a rural land use zone (being RU1) is proposed for the subject land under the draft LEP 2011.

Although the submission suggests that the application of a residential zone to the land would only yield a small number of lots, it is not a planned outcome for the locality and the ad hoc application of urban zoning to rural land on the edge of urban areas may erode Council's local strategic planning framework and policy for Lennox Head and other areas in the shire.

Recommendation	No change.
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Author	Ms Pamela Dunn
Issue Category	Site specific Land at Teven
Submission No.	53
Issue Summary	Request for the application of the E2 Environmental Conservation zone to land at Teven bounded by the western side of Teven Road and the Pacific Highway, adjoining the Emmigrant Creek buffer. The area has become a haven for wildlife and sightings of Brolgas have occurred in the last month. Any development of the area would require enormous amounts of fill and the consequences on the floodplain and creek unknown.

Assessment

A review of this submission by Council's Environmental Scientist indicates that the zone boundaries do not reflect the true extent of the vegetation on the land comprising Endangered Ecological Communities. The zone boundary needs to be modified to ensure the correct extent of the vegetation communities is included.

Notwithstanding this anomaly, it is considered that any expansion of the E2 zone mapping be undertaken as part of an administrative mapping Planning Proposal, or in association with the outcomes of a Biodiversity Study, to provide for consultation with the affected landowners.

Recommendation	That the expansion of the application of the E2 Environmental Conservation Zone to this area be reviewed as part of a future administrative Planning Proposal or in association with a Biodiversity Study.
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Author	North Coast Holiday Parks
Issue Category	Ballina Central Holiday Park Shaws Bay Holiday Park Lake Ainsworth Holiday Park
Submission No.	54
Issue Summary	<p>Comments provided in submissions from North Coast Accommodation Trust (NCAT) should be portrayed as being those of an agency of the government and should be allocated appropriate weighting.</p> <p>The application of minimum lot sizes for subdivision to the caravan park sites is not warranted. The draft plan proposes a minimum lot size of 2 hectares to Ballina Central and Shaws Bay Holiday parks and 40 hectares to Lake Ainsworth Holiday Park. Smaller parcels than this exist within the parks and the imposition of the minimum lot size as proposed is not warranted.</p> <p>Current draft has not correctly captured the heritage matters associated with Shaws Bay. The old laundry building has no heritage significance and the ambulance station has some significance. The LEP documentation has this reversed. There is no heritage mapping that identifies A3 Historic Shaws Bay Precinct.</p>

Assessment

The comments provided by NCAT have been given appropriate weight.

The application of minimum lot sizes to all caravan parks in private and public ownership is considered appropriate. Any subdivision of the land should be undertaken in a strategic manner and in the event that it is proposed to subdivide the caravan park sites the submission of a Planning Proposal to amend the minimum lot size map would be appropriate.

In relation to the issue of items of environmental heritage at Shaws Bay, the resolution of Council in its previous consideration of the draft LEP included a review of the listings in this locality. The revised draft LEP 2011 includes the camp site laundry building and the former ambulance station in the heritage schedule. It is recommended that the items noted above be added to the list of items for review.

In relation to the mapping, the absence of the A3 notation on the map is related to a layering issue and will be resolved.

Recommendation	<p>That a further review of the heritage listings for the Shaws Bay precinct be undertaken (including the old laundry building and ambulance station).</p> <p>That the mapping of the archaeological sites be amended to ensure that the notation for Shaws Bay (A3) is visible.</p>
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Author	Ms Ruth & Mr Malcolm Bennett
Issue Category	Site specific Littoral rainforest, Kellie Ann Crescent, Lennox Head
Submission No.	55
Issue Summary	Littoral rainforest protected by State planning provisions adjoins property. Concern regarding the housing density and proximity to adjoining conservation areas behind Kellie Ann Crescent. The following matters should be considered in consideration of the area for future development: <ul style="list-style-type: none"> ▪ 100m buffer to littoral rainforest; ▪ Impact on fauna; ▪ Land contains significant dry stone walls; ▪ Access to property via lane off Kellie Ann Crescent. Lane is narrow and increased pedestrian traffic and children using lane causes concern regarding the potential for accidents.

Assessment

The State Environmental Planning Policy applying to littoral rainforest (SEPP No. 26) and the proposed provisions of the draft LEP 2011 contain adequate provisions to address the potential impact of adjoining development on the littoral rainforest. Any development of adjoining land will be required to have due regard for impacts on flora and fauna as well as traffic impacts and the like.

Recommendation	No change.
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Author	SJ Connelly CPP Pty Ltd on behalf of Ballina HSC Pty Ltd
Issue Category	Site specific Lot 1 in DA approval 2010/962, relating to Lot 11 DP 1011575, West Ballina (Proposed Ballina Highway Service Centre)
Submission No.	56
Issue Summary	Seeks amendment to the draft LEP in relation to the following with respect to the site of the highway service centre at West Ballina: <ul style="list-style-type: none"> ▪ Provision for a 10m building height standard on the subject site; ▪ Identification of hotel or motel accommodation as a permitted land use on the site; and ▪ Adjustment to the building height allowance map to identify a fill height of 2.7m AHD to reflect the development approval for the highway service centre.

Assessment

Council recently granted development consent to the erection of a highway service centre on the subject land via DA approval 2010/962. The submission to the LEP seeks amendment to the plan to align the provisions of the LEP with the development approval. Each of the three matters raised above is addressed separately below:

Building height:

The proposed highway service centre development may be carried out in accordance with its development consent. Where modifications are sought in relation to the existing approval, clause 4.6 - Variations to development standards may be utilised to maintain building height outcomes consistent with other aspects of the approval.

Further, the application of a 10m building height standard to the land would be inconsistent with the rural land use zoning applicable to the site. That is, land uses aside from the approved highway service centre are subject to an 8.5m building height standard. This is applicable if an alternate use is proposed on the site.

Permissibility of hotel or motel accommodation:

This use does not form part of the existing approval for the highway service centre and as such, it is suggested that it is premature to enable the use on the site without further consideration. As such, it is recommended that the proponent be advised of the option of submitting a planning proposal addressing this matter. This will allow consideration of the proposal in more detail and potential implications associated with existing accommodation operations in the Ballina urban area.

Building Height Allowance Map:

The building height allowance map provides for building height to be measured from the applicable fill level on land, effectively creating an allowance for fill in building height design.

Similar to the consideration of the building height standard above, the proposed highway service centre development may be carried out in accordance with its development consent. Where modifications are sought in relation to the existing

approval, clause 4.6 - Variations to development standards may be utilised to maintain building height outcomes consistent with other aspects of the approval.

The building height allowance map is based on minimum fill level requirements established by Council's flood planning policy. The allowance means that building height is measured from the required fill level rather than natural ground level. The application of a 2.7m AHD building height allowance standard to the land would allow for an overall increase in building height inconsistent with the minimum fill mapping on which the height allowance is based. Notwithstanding the highway service centre approval, the additional height enabled by raising the building height allowance level should be considered in relation to the potential for alternate uses on the site.

Recommendation	No change.
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Author	EAL Consulting Services
Issue Category	Site specific South Ballina Beach Road, South Ballina (South Ballina Sand Quarry)
Submission No.	57
Issue Summary	<p>Site is currently zoned 1(a2) Rural (Coastal Lands Agriculture) Zone, 1(b) Rural (Secondary Agricultural Land) Zone, 1(e) Rural (Extractive and Mineral Resources) Zone, and 7(a) Environmental Protection (Wetlands) Zone.</p> <p>Proposed zoning seeks to zone the land RU2 Rural Landscape and E2 Environmental Conservation. Object to the proposed increase in environmental zoning from approximately 6 hectares to approximately 97 hectares, comprising half of the site. Proposed E2 zone includes the current South Ballina Sand Quarry, some of the old quarry, and large portions of lots currently used for grazing.</p> <p>Uses permitted with consent in the E2 zone have also been reduced.</p> <p>The submission states there has been no consultation with the landowners and no detailed conservation strategy to support and underpin the conservation zoning. Grounds for objection to E2 zoning include:</p> <ul style="list-style-type: none"> ▪ Majority of the vegetation at the site is not included in the 'High Classification Vegetation Significance' but is mapped as "Unclassified Vegetation Communities" and "Other Vegetation Communities". ▪ Lack of documentation demonstrating basis for zoning and key criteria with vegetation community mapping for the site. ▪ No appropriate assessment for the Shire to support the highest conservation zoning. ▪ Land is principally used for rural industry pursuits (grazing and quarrying). ▪ Planning Practice Note for application of E2 zone states that the use of the zone needs to be justified by appropriate evaluation of the area in terms of meeting the core objectives and no such evaluation is evident. ▪ No ground-truthing has been undertaken / documented. ▪ Extractive industries only permissible by virtue of Mining SEPP which permits this use where agriculture is permitted and this does not provide sufficient certainty (i.e. land use table could be amended to remove extensive agriculture as permissible use, thereby resulting in prohibition of the extractive industry use). ▪ Land is currently grazed and can be utilised for "agriculture" without consent. Proposed E2 zone permits extensive agriculture only and requires development consent. Intensification of the current grazing use would require development consent. Any more intensive agricultural use will be prohibited.

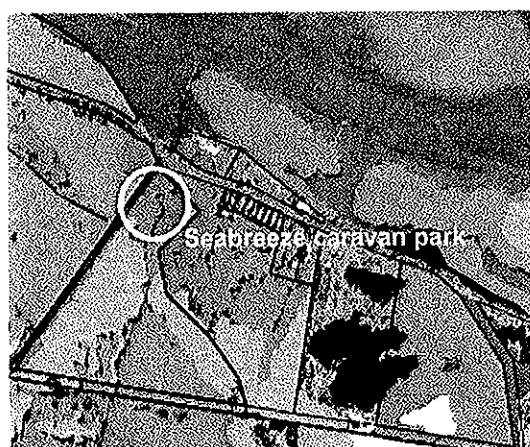
	<p>Preferred option put forward in the submission involves the removal of the E2 Environmental Conservation zone, expansion of the RU2 Rural Landscape zone, and the application of the E3 Environmental Management zone (as mapped in the submission).</p> <p>The second, and less preferred option, put forward includes the expansion of the RU2 Rural Landscape zone as above, and the retention of the application of the E2 Environmental Conservation zone (instead of the E3 Environmental Management zone in the preferred option).</p>
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Assessment

As stated in the submission, the land is currently zoned part 1(a2) Rural (Coastal Lands Agriculture) Zone, part 1(b) Rural (Secondary Agricultural Land) Zone, part 1(e) Rural (Extractive and Mineral Resources) Zone, and part 7(a) Environmental Protection (Wetlands) Zone in accordance with the provisions of BLEP 1987.

The proposed zoning applies the RU2 Rural Landscape zone and E2 Environmental Conservation zone to the land. Council's Environmental Scientist has reviewed the submission in detail and provided comment. The subject land contains Heathland, Swamp Oak, Swamp Sclerophyll Forest, Dry Sclerophyll Forest, and Lowland Rainforest on Floodplain. The identification of the conservation significance of the vegetation communities has been based, in part, on the Flora and Fauna Report prepared by Landpartners for the sand quarry on the site.

Council's Environmental Scientist notes that the area of contention includes the vegetation communities that the applicant wishes to retain within the RU2 zone. The eastern portion of these vegetation communities has been identified during field surveys as Swamp Oak Endangered Ecological Community (EEC), although an area adjacent to the Seabreeze Caravan Park along South Ballina Beach Road (within Lot 5 DP 813 112 and circled below) is not classified in mapping prepared by Council or the proponent. Council's Environmental Scientist has advised that the vegetation in this area is classified as Swamp Oak.



The vegetated area in the central and western portion of the subject land (Lot 4 DP 813112) is identified within the Landpartners report as Coastal Blackbutt which is a

classified Rare Ecosystem under the Comprehensive Regional Assessment (CRA) classification system.

The vegetated area in the north west of the subject land (Lot 4 DP 263643) near South Ballina Beach Road is identified as degraded Open forest to woodland by Landpartners. This area is the subject of rehabilitation works being undertaken in accordance with the development approval applicable to the sand quarry.

Given the above, it is recommended that the E2 zone is retained over the land as exhibited with the exception of a small area (approximately 1ha in size) adjacent to the Seabreeze Caravan Park which has not been formally classified in the mapping or site specific flora and fauna information utilised to support the LEP renewal process.

In relation to the use of the land for the purpose of an extractive industry it is considered that State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 makes adequate provision for this land use within this zone.

Recommendation	Amend LEP to remove the E2 Environmental Conservation zone and apply an RU2 Rural Landscape zone over the area of land adjacent to the Seabreeze Caravan Park that is not classified in Council's vegetation mapping utilised in support of the LEP renewal.
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Author	Newton Denny Chapelle on behalf of C & J Elliott and D & C Westaway
Issue Category	Site specific 8 Burns Point Ferry Road, West Ballina (Former Ferry Boat Motel Site)
Submission No.	58
Issue Summary	<p>Site has an area of 4046m² and comprises the former Ferry Boat Motel. The motel building was demolished in 2008 and since this time the site has been slashed.</p> <p>Submission requests inclusion of the site as a potential urban growth area on the Strategic Urban Growth Area Map, on the following grounds:</p> <ul style="list-style-type: none"> ▪ Currently zoned 1(d) Rural (Urban Investigation) Zone in accordance with BLEP 1987. ▪ Identified in Ballina Urban Land Release Area Strategy 2000 as being a potential rezoning site and this is reflected in the Far North Coast Regional Strategy 2006. ▪ Exhibited draft LEP 2010 proposed application of the RU2 Rural Landscape Zone and included property on the Strategic Growth Area Map. ▪ The post-exhibition consideration of this area has focused on the land to the south which has subsequently had the E2 Environmental Conservation zone applied to it. ▪ Almost all other land currently zoned 1(d) is included on the map. ▪ There may be opportunities to integrate the development of the site with those portions of the road corridor not required for road purposes. <p>Client is considering a range of options for the land and is keen to ensure existing development status is not diminished.</p>

Assessment

The removal of the site from the Strategic Urban Growth Area Map appears to have resulted from the removal of the land to the south. Notwithstanding that any potential urban development of the land will be dependent on a detailed assessment of the suitability of the site, it is recommended that the site be mapped on the Strategic Urban Growth Area Map.

Recommendation	That the Strategic Urban Growth Area Map be amended to include 8 Burns Point Ferry Road, West Ballina (former Ferry Boat Motel site).
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Author	Lennox Head Residents Association Inc
Issue Category	Various
Submission No.	59
Issue Summary	<p>Pleased to see the zoning of scenic and vulnerable environmental areas like Condon's Hill effectively covered. Pleased to see a reduction of possible uses in E2 zone.</p> <p>Applaud Council for the clauses that relate to the environmental management of E3 zone.</p> <p>Feel positive that the new LEP provides thoughtful and reasonable guidelines for the care of unique environment in Lennox Head.</p>

Assessment

Comments noted.

Recommendation	No change.
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Author	SJ Connelly CPP Pty Ltd on behalf of Lennox Palms Estate
Issue Category	Site specific Lot 2 DP 1154810 Kellie Ann Crescent, Lennox Head
Submission No.	60
Issue Summary	Seeks amendment to the draft LEP 2011 in relation to the following: <ul style="list-style-type: none"> ▪ Apply R3 Medium Density Residential zone to property boundary in north western corner of the site; ▪ Remove RE1 Public Recreation zone along eastern boundary and apply R3 Medium Density Residential zone; ▪ Apply R3 Medium Density Residential zone to road access on western side of the site; and ▪ Apply R2 Low Density Residential zone to proposed lots fronting Kellie Ann Crescent.

Assessment

Each of the four matters raised above is addressed separately below:

R3 Medium Density Residential zone in north western corner.

An E2 Environmental Conservation zone is proposed over a small portion in the north western corner of the site. The zone has been proposed on the basis of the Department of Planning and Infrastructure's SEPP 26 Littoral Rainforest mapping which applies to the land. However, inspection of the site indicates that the land is maintained for agricultural purposes to its northern boundary. As such, it is recommended that the R3 Medium Density Residential zone is applied to the land in this part of the site, thereby replacing the E2 Environmental Conservation zone.

RE1 Public Recreation zone.

The proposed RE1 zone has been applied on the basis that the land is identified for open space purposes in Council's Combined DCP. However, the basis for this is unclear and as such, it is recommended that the RE1 zone is removed and replaced with the R3 Medium Density Residential zone.

Road access.

The subject land is accessed by an existing road formation off Henderson Drive. The alignment is currently subject to an E2 Environmental Conservation zone but is better suited to an R3 Medium Density Residential zone given that the road is formed. It is recommended that the draft LEP 2011 is adjusted to reflect this.

R2 Low Density Residential zone Kellie Ann Crescent.

Council is currently considering DA 2011/380 which proposes 4 allotments at the end of Kellie Ann Crescent between 1020m² and 1560m² in area. The submission requests that the area subject to the proposed lots be zoned R2 Low Density Residential. Such a zoning is consistent with the low density character of the surrounding residential development and as such it is recommended that the R2 zone is applied with an associated 1,200m² minimum lot standard for subdivision.

Recommendation	<p>Apply R3 Medium Density Residential zone along north western and eastern boundaries and along road alignment off Henderson Drive as outlined above and match the minimum lot size standard accordingly.</p> <p>Apply R2 zone and a 1,200m² minimum lot standard to the land on Kellie Anne Crescent commensurate with the lots proposed under DA 2011/380.</p>
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Author	M & B Jukes
Issue Category	Site specific 186 Coolgardie Road, Coolgardie
Submission No.	61
Issue Summary	<p>Request to apply RU1 Primary Production zone to property. Initial request in relation to the draft LEP 2010 to remove the E2 zone from the property resulted in a minor adjustment to the eastern paddock which was amended to RU2, not RU1 as requested, and no change to the western paddock.</p> <p>E2 zone will restrict ability to undertake rural activities other than grazing for which the property is currently used. It will devalue the property and deny the ability to earn income.</p> <p>Land adjoins substantial RU1 zoning and is similar in terms of size and characteristics to other RU1 zoned pockets of land in area.</p>

Assessment

The subject land has been reviewed and the application of the RU2 Rural Landscape Zone is consistent with the criteria adopted by Council based on the NSW Department of Primary Industries' agricultural land classifications and NSW Department of Planning & Infrastructure's State and Regionally Significant Farmland mapping.

In relation to the application of the E2 zone, a further review of the site indicates that the cleared paddock referred to is in the order of the 1 hectare criteria identified for 'island' paddock areas excluded from the application of the E2 zone, when adjusted to take into consideration the tree canopy fronting the road. On this basis, it is recommended that the western paddock be zoned RU2.

Recommendation	Amend the zone mapping to remove the E2 Environmental Conservation zone from the western paddock and apply the RU2 Rural Landscape zone.
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Author	Tekcadl Investments Pty Ltd
Issue Category	Site specific Various lots in the vicinity of the Ballina Wastewater Treatment Plant at West Ballina
Submission No.	63
Issue Summary	<p>Land is currently zoned 1(d) Rural (Urban Investigation) zone and the proposed RU2 Rural Landscape Zone does not appropriately reflect the potential of the land.</p> <p>Land uses permissible with consent in the RU2 zone should include service station, bulky goods premises and warehouse / distribution centre.</p> <p>Council response to previous submission requesting the application of the RU6 Rural Transition zone states that Council is unable to apply this zone on the basis of drafting instructions from the Department. Clarification / explanation regarding these instructions is required.</p> <p>Support for the Strategic Urban Growth Areas Map and Clause 7.7 of the draft LEP. Request an update on the timing for completion of the Local Growth Management Strategy.</p>

Assessment

It is not considered appropriate to broadly permit the requested land uses within the RU2 zone. The subject land is currently zoned 1(d) and part of the land will be identified in the Growth Management Strategy as potentially suitable for urban development based on the West Ballina Structure Plan. As such, future urban use of the land will be determined via the Planning Proposal process, subject to the necessary investigations and analysis. The Planning Proposal process will determine the appropriate permissible land uses on particular sites:

The RU6 Rural Transition zone has not been applied at all in the shire.

The support for the Strategic Urban Growth Areas Map and associated provisions is noted. The Local Growth Management Strategy is on the current work program and is presently awaiting input in relation to floodplain management issues.

Recommendation	No change.
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Author	SJ Connelly CPP Pty Ltd on behalf of Loosemore and McGarry
Issue Category	Site specific Dunes at Shelly Beach (commonly known as Gunundi) Lot 1 DP 781525, No. 70 Shelly Beach Road, East Ballina
Submission No.	64
Issue Summary	<p>Objection to more restrictive E2 Environmental Conservation zone in revised draft plan.</p> <p>The site is identified as Lot 1 DP 781525 and has an area of 8170m². Access to the site is provided via a right of way over Crown Land to the south. The submission refers to approvals applying to the land including:</p> <ul style="list-style-type: none"> ▪ Development Application 971/31 for a "conference centre"; and ▪ Development Application 9/1975 for dormitory accommodation. <p>The current 7(f) Environmental Protection (Coastal Lands) zone applying to the site permits a range of land uses including beach amenities; bed and breakfast establishments; camping grounds; caravan parks; dwelling houses; environmental educational facilities; golf courses; picnic grounds; recreational establishments; recreation facilities; and refreshment rooms.</p> <p>The initial land use table for the E2 Environmental Conservation Zone exhibited in 2010 was "restricted but not draconian" in the view of the author. The revised land use table for the E2 Environmental Conservation Zone is too restrictive in the author's view and prohibits most forms of tourist accommodation, commercial premises, health services and educational establishments.</p> <p>The submission notes that the application of an urban zone to the land may be more appropriate given the current approvals applying to it but notes that this would result in the site being 'ringed' by the E2 zone.</p> <p>The Standard Instrument dictionary does not contain a specific definition for a "conference centre". The submission requests that the draft LEP be amended to include the site in Schedule 1 with a list of land uses that reflects the current use of the site, as follows:</p> <ul style="list-style-type: none"> ▪ tourist and visitor accommodation; ▪ restaurant; ▪ educational establishment; ▪ camping ground; ▪ eco-tourist facility; ▪ function centre; ▪ recreation facility (indoor); and ▪ recreation facility (outdoor).

Assessment

The application of the E2 Environmental Conservation zone to the coastal corridor in the shire includes a small number of sites where there are existing activities that may be characterised as urban in nature. The Dunes site is one of 5 sites along the coastal corridor where private land subject to an existing urban use has been identified. It is generally considered reasonable to recognise the current and approved land uses on these sites in order to support their continuation and possible alteration in the future.

With respect to the Dunes submission, the key issue is the scope of uses that is to be enabled under the zone. In this regard, it is recommended that 'Function centre' be listed in schedule 1 as an additional permitted use on the subject land to match the known approvals relating to the site. In considering this, it should be noted that Council's Regulatory Services Group has advised the landowner that Council has no record of the dormitory accommodation having approval for separate use as motel/ holiday/ backpacker accommodation or the like.

As an alternate approach, Council could apply an urban zone to the land enabling a wider range of permitted land uses. However, this option is not recommended as it is considered essential that the integrity of the E2 zone as applied to the coastal corridor is maintained. Adjustments to the spatial application of the zone may weaken the long term application of the zone and hence its effectiveness over time.

Recommendation	Include function centre as an additional permitted use on the subject land under Schedule 1 of the LEP.
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Author	Newton Denny Chapelle
Issue Category	Subdivision provisions / boundary adjustments
Submission No.	66
Issue Summary	<p>Current provisions within the Standard Instrument effectively prohibit boundary adjustments in rural and environmental zones between undersized lots.</p> <p>Urge Council to resist the introduction of the subdivision clauses as currently drafted and request this matter be rectified in the Standard Instrument prior to the finalisation and introduction of the LEP.</p>

Assessment

This issue has been the subject of numerous discussions and written correspondence with the Department of Planning & Infrastructure (DP&I). Council has an undertaking from DP&I that this issue will be reviewed and resolved. While ideally this will occur prior to the gazettal of the plan, in the event that it has not been resolved it is not recommended that the plan be deferred until it has been addressed.

Recommendation	No change.
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