

ATTACHMENT 5 - LEP PROJECT TEAM IDENTIFIED ISSUES - FINAL SUMMARY AND RECOMMENDATIONS

Mapping

Item No.	Issue/ Consideration	Recommendation
M1	There are several areas where the joins between line work within mapping could be improved. This is generally not visible in the printed map sets but can be discerned in some locations when viewed digitally.	Undertake minor adjustments to line work to 'polish' line alignments.
M2	Land owned by the Department of Education at the north east edge of the CBD area is subject to a floor space ratio of 2.6:1. This has been applied in error as the land is outside the identified CBD area.	Remove 2.6:1 FSR over the subject land.
M3	There are several areas of land zoned RE1 Public Recreation that are subject to minimum lot standards. Generally, RE1 zoned land is not subject to a minimum lot size for subdivision except in the case of caravan parks (addressed elsewhere in the LEP reporting).	Remove minimum lot size standards from RE1 Public Recreation zoned land except where the standard has been applied for a specific reason.
M4	Cadastral adjustments associated with the Pacific Highway alignment adjacent to the Ballina Heights area has created a minor zoning mismatch in relation to the highway and the zoned residential area.	Adjust planning framework including zoning and lot size provisions to match cadastre.
M5	Zoning in the vicinity of Lot 330 DP 116991 along Deadmans Creek Road does not match cadastre or surrounding zoning pattern in the most logical manner.	Adjust planning framework including zoning and lot size provisions to match cadastre and surrounding zoning pattern.
M6	There are several areas where land use zones and associated provisions could be better matched to the cadastre and zoning pattern for improved interpretation through minor adjustments in line work.	Undertake minor adjustments to line work to 'polish' line alignments.
M7	Use of historical map layers has resulted in some minor inconsistencies between mapping layers along the boundaries of the shire.	Undertake minor adjustments to line work to establish a consistent LGA footprint in each LEP map.
M8	The subdivision of the Ferngrove Estate has created some minor cadastral anomalies in zoning and associated mapping and an open space area has been dedicated to Council since the zone mapping for the area was prepared. There is also a distinction between low and medium density lots in the subdivided area.	Undertake adjustments to planning framework to match Ferngrove approval and subdivision outcomes. Apply RE1 zone to public land on Elkhorn Parade. Apply R2 and R3 zones to subdivided area to match low and medium density lots as approved.

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M9	The subdivision of part of the Wollongbar Expansion Area (including the local road network) has created some minor cadastral anomalies in zoning and associated mapping.	Undertake adjustments to planning framework to match cadastre and subdivision that has occurred to date. This includes application of a residential zone to the full alignment of Plateau Drive and use of the R2 and R3 zones to match low and medium density lots as approved in the area opposite Avalon Estate.
M10	Part of Crown lots 14 and 15 Section 15 DP 759050 at Wardell and adjacent road reserve subject to rural zone applied in error. Land is currently zoned for residential purposes under the Ballina LEP 1987.	Apply R2 zone to the area of the subject lots subject to a rural zone under the 2011 exhibited draft LEP.
M11	Several lots along Waverly Place and Smith Drive at West Ballina have had an IN1 General Industrial zone applied under the draft LEP. The zoning arrangement in the broader locality was applied based on the existing zoning under the LEP and Council's DCP categorisations for the land. In this regard, the IN1 zone has been applied to Lots 9 and 10 DP 537357, Lots 1 and 2 DP 524946 and Lot 1 DP 533026 in error as the land is not subject to an industrial zone or industrial DCP categorisation.	Amend LEP to apply RU2 Rural Landscape zone to the subject lots. Amend associated planning provisions for the land to match parameters for the RU2 zone.
M12	Area subject to an RE1 zone on North Creek Road adjacent to the Aldi site is subject to a 10m height standard. This is not consistent with the 8.5m standard generally applied to RE1 zoned land in the shire.	Apply 8.5m height standard to subject RE1 zoned land.
M13	Several labels that do not correlate to the identified attribute have been applied in the map sets in error.	Apply correct labels based on mapped attribute (e.g. based on applicable zone by colour).
M14	Both waterways zones used in the exhibited draft LEP are subject to a 40ha minimum lot standard for subdivision. This may be unnecessarily limiting in relation to activities associated with the waterways such as jetties, boardwalks etc. Significantly, the majority of land zoned for waterways is in the ownership of the Crown.	Apply a Nil minimum lot standard for subdivision to waterways zoned W1 and W2.
M15	Area of land on the southern side of Maguires Creek near the Teven bridges is identified as an E3 Environmental Management zone when its characteristics support the application of an E2 Environmental Conservation zone. The E2 zone was applied in the 2010 version of the LEP. The E3 zone has been applied in error in the re-exhibited draft.	Apply E2 Environmental Conservation zone to vegetated area on the southern side of Maguires Creek adjacent to the junction of Maguires Creek and Emigrant Creek.

Item No.	Issue/ Consideration	Recommendation
M16	The heritage schedule and associated mapping contains a small number of minor errors which can be corrected via minor adjustment to the text and mapping.	Amend heritage schedule and mapping to correctly match descriptions and mapping to items identified for listing under the LEP.

Land Use Table

Item No.	Issue/ Consideration	Recommendation
L1	Environmental protection works are not permitted without consent in any zone. This was originally on the basis of the definition of such works being too broad and inclusive of works that could have a significant impact on the environment or the surrounding community's amenity (principally coastal protection works). The definition has been adjusted by the DP&I to remove coastal protection works from its scope and as such, the permissibility of environmental protection based works in various zones may now be appropriate.	See address of Catchments and Lands submission. Staff issues considered concurrently with matters raised in that submission.
L2	The draft LEP includes wide permissibility of different types of signage in rural zones. Council's Regulatory Services Group has queried whether this is appropriate. SEPP 64 - Advertising and Signage and Council's existing planning framework establish limitations on the erection of certain signage in various zones including environmental, rural and residential zones. Whilst the definitions under the Standard Instrument do not align precisely with Council's existing planning framework, the draft LEP could be adjusted to better match the current circumstances.	Amend land use tables to prohibit advertising structures in environmental, rural, open space and residential zones consistent with SEPP 64 and Council's existing planning framework.

Special Provisions

Item No.	Issue/ Consideration	Recommendation
SP1	Exempt development schedule does not identify signage for public purposes as exempt development. It Council's current planning framework makes allowance for signage on public land and within environmental and rural zones and interpretative, directional and identification signage more generally as exempt development.	Incorporate exempt development provisions for interpretive, directional and identification signage as exempt development based on the current exempt development policy of Council.

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SP2	Council resolved at its October 2011 Ordinary Meeting to incorporate exempt development standards for A-frame signage on private land into the Draft Ballina Local Environmental Plan 2011 prior to its finalisation.	Incorporate exempt development provisions for a-frame signage on private land generally in accordance with Council's October 2011 resolution.
SP3	Clause 7.9 Rural and nature based tourism development establishes requirements associated with rural tourism land uses. The exhibited clause allows for tourist and visitor accommodation on land where a dwelling house may be erected pursuant to clause 4.1A or Schedule 1. This may exclude tourist and visitor accommodation on land where there is already a lawfully erected dwelling house. However this is not the intent of the provision.	Amend clause 7.9 to clarify that tourist and visitor accommodation is enabled on land where a dwelling house may be erected on vacant land and on land where a lawfully erected dwelling house already exists.
SP4	Dwelling entitlement provisions.	See address of DP&I issues. Staff considerations considered concurrently with DP&I items.
SP5	Schedule 1 includes a list of uses permitted on specified land in addition to those items listed as permitted in the applicable zone. Several uses associated with existing commercial operations in Newrybar including the Harvest Café, deli, gallery and rural supplies where not scheduled on the basis that they were land uses permitted with consent in the applicable zone. However, since the February 2011 amendment to the Standard Instrument, approved uses undertaken on these sites are now mandatory prohibited land uses in the E3 Environmental Management zone. Additional listing in Schedule 1 is required to provide for consistency in the approach taken to the permissibility of existing approved commercial uses in the Newrybar village area.	Amend Schedule 1 to include existing approved commercial uses as permitted with consent on specified sites where these uses are prohibited under the applicable zone. This will expressly permit the approved land use as well as remove the potential for existing use rights to be used to enable conversion of one type of commercial use to another.
SP6	Use of DP&I model flood clause	Adopt DP&I model flood clause as Council's floodplain management planning policy is not yet complete.
SP7	Schedule 1 does not include additional permitted uses consistent with the Sharpes Beach Master Plan that is intended to guide future use of the area adjacent to the Sharpes Beach car park. Where the desired uses are not scheduled, many will be prohibited land uses in the E2 Environmental Conservation zone.	List intended land use outcomes associated with the leased area of the Sharpes Beach foreshore as additional permitted uses (including: car park, community facility, emergency services facility, kiosk, and recreation area. In addition, match the provisions of Clause 5.1A Development on land intended to be acquired for a public purpose to the listing.

Item No.	Issue/ Consideration	Recommendation
SP8	Part of the Seabreeze Caravan Park at South Ballina (Lot 10 DP 544706) is subject to an E2 Environmental Conservation zone. However, part of the vegetation in the area zoned E2, generally correlating with the built elements of the caravan park, is not classified in Council's vegetation mapping. Given this and that the land is currently zoned 1(b) Rural (Secondary Agricultural Land) under the Ballina LEP 1987, a rural zone may be more appropriate for the north western part of the site. Caravan parks are a permitted land use in the RU2 zone.	Amend mapping to remove the area of unclassified vegetation in the vicinity of caravan/ home sites at the Seabreeze Caravan Park from the E2 zone and apply an RU2 zone and commensurate associated planning provisions.
SP9	Schedule 1 provides for subdivision in the form of 2 allotments with dwelling entitlements adjacent to the Elevation Estate at Lennox Head based on previous outcomes associated the zoning of the land. The language in relation to the provision of a dwelling entitlement could be improved to clarify that the provision provides for a single entitlement for each lot.	Amend provision associated with additional permitted uses on Lot 5 DP 253428 to clarify the intent that only a single dwelling entitlement would be applicable to the 2 lots allowed for by the clause.
SP10	The exhibited exempt development provisions for advertising signage indicate that advertisements cannot be flashing if they are to be exempt development. This could be further clarified to include reference to illumination of signage as well.	Include a requirement that illuminated signage cannot be exempt development (this means that illuminated signage will require development consent where such signage is permitted with Council's consent).
SP11	The exempt development schedule refers to advertisements as a category of exempt development. However, the exempt development provisions relate more generally to signage as defined under the Standard Instrument.	Amend terminology in Schedule 2 to reflect signage as the land use to which the provisions apply.
SP12	The application of the E2 Environmental Conservation zone to the coastal corridor in the shire includes a small number of sites where land uses may reasonably occur outside the scope of the zone. These sites are the Flat Rock Tent Park, the site commonly known as Gunundi, East Ballina and the South Ballina Beach Caravan Park at South Ballina.	To provide for certainty and clarity in relation to the potential future use of these sites, nominate each land parcel in schedule 1 of the LEP and identify additional permitted uses as follows: Flat Rock Tent Park: camping ground. Dunes at Shelly Beach (Gunundi): function centre.. South Ballina Beach Caravan Park (Grinberg): caravan park, kiosk.