NOTICE OF MEETING

You are hereby requested to attend a meeting of the Development Committee of the Council of the City of Shoalhaven, to be held in Council Chambers, City Administrative Centre, Bridge Road, Nowra on Thursday, 14 June, 2012 commencing at 4.00 pm for consideration of the following business.

1. Apologies
2. Declarations of Interest
3. Deputations
4. Report of the General Manager
   Strategic Planning & Infrastructure – Draft Shoalhaven LEP 2009
   Internal Submissions
   Staff Identified Issues, Errors and Anomalies
5. Addendum Reports

Note: The attention of Councillors is drawn to the resolution MIN08.907 which states:
   a) That in any circumstances where a DA is called-in by Council for determination, then as a matter of policy, Council include its reasons for doing so in the resolution.
   b) That Council adopt as policy, that Councillor voting in Development Committee meeting be recorded in the minutes.
   c) That Council adopt as policy that it will record the reasons for decisions involving applications for significant variations to Council policies, DCP’s or other development standards, whether the decision is either approval of the variation or refusal.

Note: The attention of Councillors is drawn to Section 451 of the Local Government Act and Regulations and Code of Conduct regarding the requirements to declare pecuniary and non-pecuniary Interest in matters before Council.
Cell Phones:
Council’s Code of Meeting Practice states that “All cell phones are to be turned off for the duration of the meeting”.

LOCAL GOVERNMENT ACT 1993

Chapter 3

Section 8(1) - The Council’s Charter

(1) The council has the following charter:

• to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively

• to exercise community leadership

• to exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism

• to promote and to provide and plan for the needs of children

• to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development

• to have regard to the long term and cumulative effects of its decisions

• to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible

• to facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government

• to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants

• to keep the local community and the State government (and through it, the wider community) informed about its activities

• to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the council is affected

• to be a responsible employer.
REPORT OF GENERAL MANAGER

SPECIAL DEVELOPMENT COMMITTEE - DRAFT LEP 2009

THURSDAY, 14 JUNE 2012

STRATEGIC PLANNING AND INFRASTRUCTURE

1. Special Development Committee - Draft Shoalhaven Local Environmental Plan 2009 - Internal Submissions - Remaining Issues. File 33363E & 45262E (PDR)

PURPOSE OF THE REPORT

To detail the remaining issues raised in the internal Council submissions received on draft SLEP 2009 that have not been considered in earlier reports to the Special Development Committee and to outline options, if needed, to deal with these issues in the finalisation of the draft Plan.

RECOMMENDED that that Council consider individual preferred options/changes to draft SLEP 2009 as set out in the body of this report via the successive recommendations.

The recommendations contained in the body of this report are consistent with Council's resolution of 20 March 2012, being:

“Council consider each submission on its merits and if appropriate, amend the draft LEP accordingly, or add to a list of future projects to be considered following the completion of the draft LEP 2009.”

COMMUNITY STRATEGIC PLAN

**Objective:** 2.2 Population and urban settlement growth that is ecologically sustainable, carefully planned and managed to meet the needs of the community.

**Strategy:** 2.2.1 Develop and implement land use and related strategies for future growth of the City, based on the principles of connectivity, ecological sustainability, flexibility and accessibility.
DELIVERY PROGRAM

Activity: 2.2.1.9 Implement the Planning Works Program to complete planning policy and strategy initiatives.

OPTIONS AND IMPLICATIONS

Option 1:

Council consider the individual preferred options/changes to draft SLEP 2009 as set out in the body of this report via the successive recommendations.

Implications

This option is preferable because:

- The preferred options/changes respond to concerns raised in submissions that represent good strategic planning outcomes that are consistent with the Standard LEP Instrument. The preferred options/changes are consistent with the “ground rules” and the “best fit transfer” approach wherever possible.

- Re-exhibition of draft SLEP 2009 will provide a further opportunity for the community to consider how Council has addressed these issues, and make further comment if they wish.

Option 2:

Council adopt changes to the draft SLEP 2009, other than those suggested and justified in this report.

Implications

This option is not recommended as there is a real risk of there being no strategic planning basis to making changes other than those outlined and recommended in the report.

REPORT DETAILS

Introduction:

During the preparation of draft SLEP 2009, internal staff from all the operational Groups within Council had the opportunity to provide input in to the Plan. However, given the length of time that has elapsed and the large number of changes to the Plan that resulted from the negotiations on the conditional s65 certificate with the Department of Planning & Infrastructure, the internal groups within Council Groups had the opportunity to provide comments on the exhibited draft SLEP 2009, as per all other stakeholders.
A number of the issues raised in the internal submissions have already been addressed in previous reports to this Committee. This report covers all those remaining issues that have not yet been considered.

**Key Issues:**

Internal submissions were received from the following Groups, Sections/Units of Council:

- Development & Environmental Services Group
  - Project & Policy Section
  - Threatened Species Officer

- Assistant General Manager’s Group
  - Information Technology
  - Economic Development Unit

- Strategic Planning & Infrastructure Group
  - Traffic & Transport Unit
  - Property Services Unit
  - Policy Planning Section
    - Urban Design and Heritage
    - Recreation Planning & Community Facilities
    - Natural Resources & Floodplain

- Shoalhaven Water

- City Services & Operations
  - Project Delivery

**General issues**

One issue was that was consistently raised through a number of the internal submissions is the zoning of infrastructure and this issue is discussed below.

**Issue 1: Zoning of Infrastructure**

A number of the submissions from raised concern with the zoning of sites that contain Council or State infrastructure assets, particularly in relation to telecommunication and water assets. The majority of these requested that an SP2 Infrastructure zone be applied to part or all of the relevant sites.
Comment
Generally, State Environmental Planning Policy (SEPP) Infrastructure permits infrastructure to be undertaken on most sites and in several zones with or without consent when undertaken by, or on behalf of, a public authority (i.e. Council). Telecommunication infrastructure is also covered by other State and Federal legislation. Further, there is a clause within the draft SLEP 2009 - Clause 7.2 Council Infrastructure Development - that allows Council to undertake development without consent in certain circumstances:

7.2 Council infrastructure development [local]

(1) Development may be carried out by or on behalf of the Council without development consent on any land, other than land in a heritage conservation area, land containing a heritage item or land that is an environmentally sensitive area for exempt and complying development.

(2) Subclause (1) does not apply to development for the following:
(a) the erection of a class 1–9 building under the Building Code of Australia,
(b) development having a capital value of more than $1,000,000.

# Therefore, in most circumstances, an SP2 zone is not required, particularly for existing uses. This approach is consistent with the State Government’s approach to zoning of infrastructure which is set out in Practice Note PN 10-001 Zoning for Infrastructure in LEPs (see Attachment ‘A’). The practice note generally states that where infrastructure is permissible under SEPP Infrastructure or in an adjoining zone it should be given the adjoining zone, rather than an SP zone. It is recommended that the majority of these sites remain as exhibited in the draft SLEP 2009. Should any particular site require a change in zone due to it particular circumstances, these are discussed as separate issues later in this report.

Recommendation 1:

That the internal submissions relating generally to the zoning of infrastructure in the draft SLEP 2009 be received for information, unless specifically dealt with via a separate recommendation in this report.
Economic Development Unit (EDU)

The EDU commented on a range of issues, most relating to specific sites or locations. The majority of these issues have been considered in the area specific reports. The remaining issues are discussed below.

Issue 2: The waters of Jervis Bay

The EDU questioned when was the line drawn across the mouth Jervis Bay and included into Shoalhaven planning scheme. If it is included, should it not have a waterway zone to ensure that the relevant activities are permitted with or without consent. The following map shows the draft Land Zoning Map for this area.

Comment

Jervis Bay is outside of Shoalhaven local government area (LGA). This has previously been confirmed via legal advice obtained for Council. While there is a line drawn on the draft SLEP mapping across the entrance, this line forms part of the base cadastral map, not the LEP mapping. If Jervis Bay were included in the draft SLEP 2009, it would not be allowed to be left uncoloured on the map as all land within the LGA must be zoned under the Standard Instrument.

Recommendation 2:

That the submission on the inclusion of Jervis Bay in the Shoalhaven LGA be received for information.
**Issue 3: Currambene Creek foreshore**

The EDU requested that the area along the Currambene Creek frontage (near Currambene Street) be zoned IN4 Working Waterfront and that the water area of Currambene Creek generally bounded by a line east from Admiralty St to Myola Beach and waters to south should be W3, acknowledging the commercial operations that use the waterway as a point of embarkation/disembarkation. The following map shows the draft zoning of this area.

![Extract of the draft Land Zoning Map (as exhibited) - Currambene Creek](image)

**Comment**

The IN4 zone is intended to be applied to acknowledged port facilities so is not appropriate for Huskisson at this point.

Further, the draft SLEP 2009 originally showed the area of water as W3 but this was not supported by DP&I, primarily because their advice states that the W3 zone should only be used for commercial shipping, major maritime industries and ports. As the majority of the commercial operations that use the waterway for embarkation/disembarkation are tourist boats, the proposed W2 zone is still considered more appropriate than a W3 zone, and generally permits such uses.

**Recommendation 3:**

That the submission on the zoning of Currambene Creek and its waterfront be received for information.
Issue 4: RE1 Public Recreation zone - Island Point Road, St Georges Basin

The EDU questioned the RE1 Public Recreation zone at the end of Island Point Road, St Georges Basin, specifically whether this is the ‘best fit’ zone or another zone, as this area (former flying boat base) has potential for greater commercial/recreation boating infrastructure. This area is shown on the map below.

Extract of the draft Land Zoning Map (as exhibited)
RE1 zone - Island Point Road, St Georges Basin

Comment
Part of the RE1 Public Recreation zone is the ‘best fit’ transfer of the existing Open Space 6(a) zone in SLEP 1985 and part is a change from the existing unzoned section which is currently shown as road under SLEP 1985. As land can no longer be unzoned in Standard Instrument LEPs, the road section has been given the RE1 zone as per the adjoining zone and consistent with the use of the site for public recreation. The RE1 Public Recreation zone allows for a range of recreation uses such as ‘water recreation facilities’, ‘boat sheds’ and ‘recreation facilities (indoor, major and outdoor)’ and a limited range of commercial uses such as ‘restaurants’ and ‘kiosks’. Hence, some commercial/recreational boating type uses, as referenced in the submission, are permissible in this area. The RE1 zone is considered to be sufficiently flexible and therefore appropriate in this location. Additionally no detailed planning has been done at this stage to justify or support a commercial zone in this location. Two of the Council owned parcels are also classified as “community” land under the Local Government Act.

Recommendation 4:

That the submission regarding the RE1 Public Recreation zone at the end of Island Point Road, St Georges Basin be received for information.
Development and Environmental Services (DES)

DES commented on a range of issues including the land use tables and the natural resource management clauses which have already been considered in earlier reports to this Committee. DES’s remaining comments/issues are outlined below (with the exception of coastal hazards which is discussed in the Natural Resources and Floodplain section issues).

Issue 5: Application of environmental outcomes in Development Control Plans

The Threatened Species Officers within DES are concerned that there is currently a problem in ensuring Development Control Plans (DCPs) with environmental outcomes are effectively incorporated within development application approvals and whether the aims and objectives of the DCPs can be better enforced. The submission suggests that the new LEP/Citywide DCP should be worded such that implementation actions to meet the aims and objectives of environmental protection zones and habitat corridors are legally enforceable in any development approval.

Comment
Clause 2.3 Zone objectives and land use tables in draft LEP 2009 form part of the mandated Standard Instrument and requires that “the consent authority must have regard to the objectives in a zone when determining a development application in respect of land within the zone”. The natural resource management clauses also require the consent authority to consider any potential adverse impacts of the proposed development on the environmental attributes of the site.

Recommendation 5:
That the submission regarding the application of environmental outcomes in Development Control Plans be received for information and further considered in the preparation of the draft Citywide DCP.

Issue 6: Exempt and Complying Development

DES is concerned that the complying development schedule is not in draft SLEP 2009. One of the intended effects of the recent amendments to the State Environmental Planning Policy (Exempt and Complying Codes) 2008 (Codes SEPP) is to “extend the transition period for the operation of local controls for exempt and complying development until such a time as a Standard Instrument local environmental plan is prepared for that local government area (Clause 1.9).”

Further the DES submission states “This would mean that our local exempt & complying development provisions that we wish to maintain (as contained in DCP 89 draft amendment No 2) are to be prescribed within the SLEP 2009 when it is gazetted. People can then choose between our local provisions or that of the Codes SEPP’s. DES support community events as exempt development. Has some concern this will now allow for markets and firework displays which were previously excluded from Clause 51A of SLEP 195 which this replaces. This has the potential to raise concerns from surrounding residents and local shop keepers. DAs should be required for markets.
In regards to exempt and complying development exclusions, the draft SLEP 2009 should be consistent with Codes SEPP (particularly for areas of coastal hazard/instability).”

Comment
The DP&I has advised Council not to include anything in Schedule 3 Complying Development in draft LEP 2009 as the Codes SEPP replaces Council’s complying development requirements. This is consistent with the Standard LEP Instrument template.

The Codes SEPP specifies that “A standard plan does not apply to development that is specified in the plan as exempt development or complying development and that is specified in this Policy as exempt development or complying development”. All the types of complying development in DCP 89 are included in the Codes SEPP which means that should we include these types of development in the draft LEP, they would have no legal effect and merely confuse the community.

The recent amendment to the Codes SEPP to extend the transitional period means that Council’s complying development requirements continue to apply until a Standard Instrument LEP has been prepared. The draft SLEP 2009 is a Standard Instrument LEP, therefore, when it commences Council’s complying development requirements can no longer be applied and so cannot be included in the draft SLEP 2009.

The support for ‘community events’ as exempt development is noted. Where a market is proposed to be held on public land, the applicant is still required to put in an application for a licence with Council. Therefore, requiring a DA as well as a licence is a duplication of effort and not required. This approach is also consistent with a contemporary amendment to SLEP 1985.

In regards to having the same exempt and complying development exclusions in the draft SLEP 2009, to date the DP&I has advised Council that they are not necessary as the Codes SEPP covers most exempt and complying development. However, there are still some instances where the draft SLEP 2009 specifies exempt development which is not included in the Codes SEPP. It is important that the same exclusions, particularly relating to the coastal hazard areas, apply to exempt development listed in the draft SLEP 2009. It is therefore appropriate to request that the DP&I allow the inclusion of the same exclusions for exempt development in the draft SLEP 2009 as are in the Codes SEPP.

Recommendation 6:

That Council request the Department of Planning and Infrastructure to allow the inclusion in the draft SLEP 2009 of the same exclusions for exempt development that are contained in the State Environmental Planning Policy (Exempt and Complying Codes) 2008.
**Issue 7: Removal of Clause 48 of SLEP 1985**

DES are concerned with the removal of the SLEP 1985 Clause 48 - Development in Zone 5(a). This will have a negative effect on SF10224 (69 Albert Street, Berry). Removal of this Clause would deem proposed residential units on Lot 1 DP 745962 as non-complying under its proposed draft SLEP 2009 zone SP2 - Infrastructure.

**Comment**

Clause 48 of SLEP 1985 is a flexible zone provision which allows Council to consider giving approval to a use that is permitted on adjoining land but not permitted in the Special Use 5(a) zone provided that the zone is no longer required for a special use. The DP&I advised that Clause 48 of LEP 1985 could not be included in the draft LEP. However, the draft SLEP 2009 does contain a flexible zone boundary provision - Clause 5.3 - Development near zone boundaries which may be used to the same effect in certain circumstances. Clause 5.3 reads as follows:

5.3 Development near zone boundaries [optional]

(1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.

(2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 20 metres.

(3) This clause does not apply to:

   (a) land zoned RE1 Public Recreation, E1 National Parks and Nature Reserves, E2 Environmental Conservation, E3 Environmental Management or W1 Natural Waterways; or
   (b) land within the coastal zone; or
   (c) land proposed to be developed for the purpose of sex services or restricted premises.

(4) Despite the provisions of this Plan relating to the purposes for which development may be carried out, consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:

   (a) the development is not inconsistent with the objectives for development in both zones; and
   (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.

(5) The clause does not prescribe a development standard that may be varied under this Plan.

In regards to the specific subdivision application over Lot 1 DP 745962, 69 Albert Street, Berry, this issue has been considered as part of the Berry area specific report on 10 May 2012. Council resolved on 15 May 2012 to receive the submission regarding 69 Albert Street, Berry for information.

**Recommendation 7:**

That the submission relating to removal of Clause 48 of SLEP 1985 and the subdivision approval at 69 Albert Street, Berry be received for information.
Issue 8: Manufactured home estate definition

DES is concerned that there is no definition of “manufactured home estate” in draft SLEP 2009. Their submission states ““Manufactured home estate” needs to be defined and should appear in the land use tables. Manufactured home estates will only be permissible in zones under SEPP 36 where caravan parks are permissible; i.e., tourist, public & private recreation - this is an undesirable outcome - where do we want them to be permissible?“

Comment
Unfortunately there is no definition of ‘manufactured home estate’ in the Standard LEP Instrument but it is agreed that there is a possible need for one. Council is unable to add new definitions to the dictionary but can request that the DP&I add this as a separate definition. Staff have previously requested that a separate definition be included but no commitment to this request has been forthcoming. This issue was also recently raised with the State Government’s Local Planning Panel. It is recommended that Council again request that a definition of ‘manufactured home estate’ be included in draft SLEP 2009 as a land use term to enable Council’s to determine where these types of development are appropriate in the future, specifically in relation to rural lands.

Recommendation 8:
That Council request that a definition of ‘manufactured home estate’ be included in the draft SLEP 2009 as a land use term to enable Council’s to determine where these types of development are appropriate.

Issue 9: Definition of ‘seniors housing’

DES commented that “recent amendments to LEP include definition of seniors housing that make it permissible in zones that it previously was only innominate development until new LEP gazetted.”

Comment
The inclusion of a definition of ‘seniors housing’ enables Council to have more control over where to allow ‘seniors housing’ to the extent that this use is not mandated by SEPP Housing for Seniors or People with a Disability. As the land use is defined in the Standard LEP Instrument dictionary it is considered important to include it in the relevant land use tables in draft LEP 2009.

Recommendation 9:
That the submission regarding the definition of ‘seniors housing’ be received for information.
Issue 10: Clause 1.9A (2) Suspension of covenants, agreements and other instruments

DES is concerned that Clause 1.9A (2) of draft SLEP 2009 does not allow Council to vary any covenant that Council required to be imposed whereas Clause 4 of SLEP 1985 allows Council to vary this, especially through the passage of time. DES staff need this flexibility.

Comment
The concern over the wording of Clause 1.9A(2) is noted. The intent of the proposed clause is the same as the existing SLEP 1985 clause and should operate in the same way. Clause 1.9 A is one of the DP&I’s ‘settled model local provisions’ and is used by all Council’s that wish to have a clause relating to the suspension of covenants etc.

Recommendation 10:

That the submission relating to Clause 1.9A of draft SLEP 2009 be received for information and staff approach DP&I to see if Section 1.9A(2)(a) can be removed from the clause.

Issue 11: The Matrix

DES is concerned that the Matrix does not recognise ‘secondary dwellings’ as permissible by the Affordable Housing SEPP.

Comment
The Matrix is provided by the DP&I as a partially editable document. It is the DP&I that indicated on the Matrix where a SEPP overrides the application of the LEP. The Matrix does not form part of the draft SLEP 2009 but is rather a guide to assist in the interpretation of the Land Use Tables. An updated Matrix will be prepared for the re-exhibition of the draft SLEP 2009 and the permissibility of ‘secondary dwellings’ under the Affordable Housing SEPP can be raised with DP&I and added at that point if they are agreeable.

Recommendation 11:

That an updated Matrix be prepared and included as part of the exhibition material when draft LEP 2009 is re-exhibited.

Issue 12: Clause 4.1C Exceptions to minimum lot sizes for certain residential development

DES are concerned that Clause 4.1C is misleading if single dwellings cannot be erected in Zone R3 - Medium Density Residential. This clause needs to be split into R1 and R3 separately.
Comment
Clause 4.1C states:

4.1C Exceptions to minimum lot sizes for certain residential development

(1) The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.

(2) This clause applies to development on land in the following zones:

(a) R1 General Residential

(b) R3 Medium Density Residential

(3) Development consent may be granted to a single development application for development to which this clause applies that is both of the following:

(a) the subdivision of land into 3 or more lots, and

(b) the erection of an attached dwelling, a semi-detached dwelling or a dwelling house on each lot resulting from the subdivision, if the size of each lot is equal to or greater than:

(i) for the erection of a dwelling house- 350m², or
(ii) for the erection of an attached dwelling- 350m², or
(iii) for the erection of a semi-detached dwelling- 350m².

While the concern is appreciated, the combination of subclauses 3(a) and 3(b) above means that the development must involve at least three dwelling houses. This means that any such development then falls into the definition of ‘multi dwelling housing’ which is defined as:

multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

While the reference to ‘dwelling houses’ may cause a little confusion, it is considered that the clause is sufficiently clear in relation to what is required for the clause to apply.

Recommendation 12:

That the submission relating to Clause 4.1C Exceptions to minimum lot sizes for certain residential development be received for information.

Issue 13: Minor wording changes and typographical errors

DES identified the following minor wording changes and typographical errors:

- Clause 4.2 [Note under 4.2 (5)] - note should start: “With respect to this clause, a dwelling…..the Dictionary”.
- Clause 4.2 C (1) (a) - Omit “minimise” and replace with “avoid the”.
- Clause 4.2 C (1) (c) - Omit “control” and replace with “regulate”.
- Clause 4.2 C (3) (a) - Omit “a lot that is”.
• Clause 4.2 C (3) (b) - This clause may be problematic for applications seeking to develop over multiple lots which need their site area recognised.
• Clauses 4.1A - C - Consistent terminology for the unit “metre square” needs to be used. Some are in “m²”, some are in “square metres” and some are in “m2”.

Comment
Some of the clauses to which these requested changes apply either form part of the Standard LEP Instrument or are ‘settled model local provisions’. As such, Council is unable to change the wording of these clauses. However, those errors in clauses that Council can change will be made prior to re-exhibition. Other minor wording and typographical errors that have been identified by other staff can also be made at this point.

Recommendation 13:
That appropriate minor wording and typographical changes to the draft SLEP 2009, that do not change the intent, be made prior to re-exhibition of the Plan.

Issue 14: Map overlays

DES are concerned that the minimum lot size of 500m² in areas not connected to Council’s reticulated sewerage scheme sets up an expectation that a greater number of lots can be achieved when subdividing a property, where effluent disposal and other environmental constraints have to be considered. This appears to occur in Zone Residential 2(e) (Village) Zone under SLEP 1985, but may occur elsewhere. Such villages include Tomerong and Bawley Point.

Also, there is no map overlay for bushfire prone land. This should be consistent throughout, as threatened species is mapped under Natural Resource Sensitivity - Biodiversity (NRB) map.

Comment
The concern regarding the minimum lot sizes for unsewered areas is appreciated; however the 500m² is a best fit of the current controls under DCP No. 100 – Subdivision Code and is a minimum. Actual lot sizes will be determined by site constraints etc. DCP No. 78 – On-site Sewage Management applies to all land in Shoalhaven that is not connects to a reticulated public sewerage system. There are two options to address this issue at this point in the LEP process. These are:

1. Retain the exhibited minimum lot size of 500m² for unsewered village areas and consider reviewing the minimum lot size for these areas after the finalisation of the draft SLEP 2009.

2. Change the minimum lot size of unsewered village areas to 1000m² to allow for the provision of on-site effluent disposal.

In regards to the request for the inclusion of bushfire prone land mapping, bushfire mapping is undertaken under separate legislation and although Council has previously
raised concern with this, the DP&I has advised that it should not be included in Standard Instrument LEPs.

Recommendation 14:
(a) Change the exhibited minimum lot size of 1000m² for unsewered village areas and consider reviewing the minimum lot size for these areas if required after the finalisation of the draft SLEP 2009.
(b) Staff approach DP&I and request that bush fire provisions (including bush fire prone land mapping) be included in the draft LEP.

Information Technology Section (ITS)
The ITS submission relates to the zoning of existing and proposed telecommunication facilities and in particular requests a number of sites be changed to SP2. A number of these sites, while containing ‘telecommunication facilities’, are also used for other, more dominant uses. Under the Infrastructure SEPP, ‘telecommunication facilities’ may be carried out by a public authority without consent on any land. Therefore, it is not necessary to specifically label part of these sites as ‘telecommunication facilities’. Where the ‘telecommunication facilities’ is the dominant use it may be appropriate to label it as such. The majority of these sites fall under the discussion on Issue 1, or have already been considered in the area specific reports (eg. Beaumont and Cambewarra) and are not further discussed here.

Traffic Unit (TU)
Issue 15: Nowra Bomaderry Structure Plan - proposed roads
Concerned that the draft SLEP 2009 does not include all of the proposed roads from the Nowra Bomaderry Structure Plan (NBSP) preferred road network and considers this to be a fundamental flaw in the draft LEP.

Comment
The original draft SLEP 2009 that was submitted to the DP&I for certification for exhibition contained a proposed road map overlay and associated clause. This map overlay included the NBSP proposed roads. However, the DP&I advised that the draft SLEP 2009 could not include a “proposed road” map overlay so it was removed. The DP&I advised that proposed roads could be identified if required in the Citywide DCP. Given the DP&I’s advice, it is appropriate to include the relevant proposed roads from the NBSP in the draft Citywide DCP.

Where those roads relate to the urban release areas (URAs) identified in the draft SLEP 2009, there is a requirement under Part 6 of draft LEP 2009 that a DCP must be prepared for the URA before land can be released for development. The DCP must contain an overall transport movement hierarchy showing the major circulation routes and connections. This will ensure that the proposed roads from the NBSP for the URAs are considered in any future development of the URAs.
Recommendation 15:

Where appropriate, include the proposed roads identified in the Nowra Bomaderry Structure Plan preferred road network in the draft Citywide DCP or in any future DCP chapter prepared under Part 6 of draft LEP 2009 in relation to Urban Release Areas.

Issue 16: Overlay maps

The TU submission requests that a number of changes be made to the draft SLEP 2009 Land Zoning and Land Reservation Acquisition Maps in relation to future traffic works across the City.

Comment
Many of these requests for changes to the draft SLEP 2009 Land Zoning and Land Reservation Acquisition Maps in relation to future envisaged traffic works are somewhat premature as the majority of these roads or road works have not yet been adopted by Council and do not have timeframes or funding commitment. By zoning land in the draft LEP and placing it on the Land Reservation Acquisition map, it creates an expectation for the landowner that Council is going to acquire the land in the short term. It is not appropriate to place these future traffic works in draft SLEP 2009 until these projects are adopted by Council and funded in the budget.

It must be noted that the LEP is not the vehicle for implementing projects, until such time that other strategic justification and specific decisions on those projects are made by Council.

Recommendation 16:

That the Traffic Unit submission on future traffic works be received for information.

Property Unit (PU)

The PU raised concerns with the zoning of a number of specific properties, most of which have been considered through the area specific reports to this Committee. Those that have not are discussed below:

Issue 17: Lot 6 DP 758530, 3 Watt Street, Huskisson

The PU requests that the SP2 annotation of Lot 6 DP 758530 Sec 19 - 3 Watt Street Huskisson is changed from 'baby clinic' to 'public purpose'. The following map shows the subject site.
Comment
This request has merit; however, the annotation needs to be changed to a use that is defined in the dictionary of draft SLEP 2009. In this case, the most appropriate definition is ‘community facility’.

Recommendation 17:

That the SP2 annotation of Lot 6 DP 758530 Sec 19 - 3 Watt Street, Huskisson be changed from ‘baby clinic’ to ‘community facility’.

Issue 18: Public Hall at Lot 717 DP 12278 Penguins Head Road, Culburra Beach

The Public Hall at Lot 717 DP 12278 Penguins Head Road, Culburra Beach is currently zoned Special Uses 5(a) (Hall) and was exhibited as SP2 Infrastructure (Community facility) in draft SLEP 2009. The following map shows the location of the property.
The Public Hall is no longer required as the Culburra Community Centre has been extended. Request it be zoned R2 Low Density Residential as per the adjoining land to enable its sale.

Comment
Council resolved in 2011 to seek Expressions of interest for the purchase of the subject land. The land has recently been sold and is no longer in Council's ownership. The SP2 zone is no longer appropriate given that the land is privately owned. It should be changed to R2 Low Density Residential as per the adjoining land and the expected adaptive reuse or redevelopment of the hall/site.

Recommendation 18:

That the exhibited SP2 Infrastructure (Community Facility) zoning of Lot 717 DP 12278, Penguins Head Road, Culburra Beach be changed to the R2 Low Density Residential zone given that the land is now privately owned.

Policy Planning - Natural Resources and Floodplain (NR&F)

The NR&F Unit made a range of comments relating to the natural resource management clauses within the draft LEP and in regards to specific waterways. Most of these comments have been addressed in previous reports to this Committee. The remaining comments are addressed below.

Issue 19: Clause 7.8 Flood Planning Land

NR&F’s comments on the proposed flood clause are as follows:

The objectives focus on maintaining existing flood regime and flow conveyance which is good. However, it does not mention avoidance of risk to life and property per say, rather it states that the objective is to enable safe occupation and evacuation of land subject to flooding. Enabling safe occupation is in line with the Manual’s recommendation to not sterilise the floodplain, however a goal to enable evacuation leads towards a false sense of security and is contradictory to the direction we are getting from SES who state that new development should not be placed in locations where future occupants will be reliant upon evacuation.

7.8 (2) - No account is made for Climate Change and/or Sea Level Rise. The clause should read ............and to “any other unmapped” land subject to the discharge of a 1:100 ARI flood event plus 0.5m freeboard.

7.8 (3) - No controls are possible on any land higher than the Flood Planning Level, however in some cases such controls may be warranted to enable access to PMF for evacuation centres for example. A clause should be introduced to allow such controls where warranted.

7.8 (4) - Again, avoidance of risk to life should be the first priority.
Point (f)(ii) this clause does not make sense, a floodway is already hazardous so a development within it would not cause a hazard… should read “cause or increase flood hazard elsewhere or redirect the floodway”……

It is recommended that Clause 7.8 be replaced by the following clause (which is in line with the draft local model clause-flood (DOPI))

(1) The objectives of this clause are as follows:
   (a) to minimise the flood risk to life and property associated with the use of land,
   (b) to allow development compatible with the land’s flood hazard, taking into account projected changes as a result of climate change,
   (c) to avoid significant adverse impacts on flood behaviour and the environment.

(2) This clause applies to:
   (a) land that is shown as “Flood planning area” on the Flood Planning Map, and
   (b) other land at or below the flood planning level.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:
   (a) is compatible with the flood hazard of the land; and
   (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affection of other development or properties, and
   (c) incorporates appropriate measures to manage risk to life from flood, and
   (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
   (e) will not be likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

(4) Subclause (5) applies to:
   (a) land shown as “projected 2100 flood planning area” on the Flood Planning Map; and
   (b) other land below the projected 2100 flood planning level as a consequence of projected sea level rise.

(5) When determining development to which this subclause applies, council must take into consideration any relevant matters outlined in subclause 3(a) – (e), depending on the context of the following:
   (a) the proximity of the development to the current flood planning area; and
   (b) the location of development in relation to projected sea level rise; and
   (c) the intended design life of the development; and
   (d) the scale of the development; and
   (e) the sensitivity of the development in relation to future effective self-evacuation of the land, and if not possible, the low risk occupation in time of flood, and
   (f) the potential to relocate, modify or remove the development.

Comments
The concerns raised in relation to Clause 7.8 Flood Planning Land are valid and the proposed changes will improve the clarity of the clause and ensure that it is consistent with the State governments Floodplain Development Manual. It is particularly important
to ensure that the flood planning clause is robust and easily applicable given the current weather trends toward more extreme weather events and Council’s responsibilities under the Local Government Act, 1993. However, it should be noted DP&I are in the process of preparing ‘settled model local provisions’ for the natural resource management clauses. While these ‘settled model local provisions’ have not been adopted, it is possible that DP&I may insert the latest version of the model flood clause in the draft SLEP 2009 in finalising the draft Plan for commencement.

Recommendation 19:

That the exhibited Clause 7.8 Flood Planning Land be replaced with the clause proposed by Council’s Natural Resources and Floodplain Unit submission.

Issue 20: Conversion of Natural Hazards 9(a) zone to E2 Environmental Conservation

NR&F is concerned that “the conversion of the existing 9(a) Natural Hazards (Urban Flooding) zone to E2 means that ‘bed and breakfast accommodation’, ‘dwelling houses’, ‘emergency services facilities’, ‘home businesses’ and ‘home industries’ are now allowed where previously they were not thus putting people into harms way where previously they were not permitted to be. This seems a step backwards.”

Comment
The concern raised over the loss of the natural hazards zone is appreciated and the lack of a hazard zone in the Standard Instrument LEP has been consistently raised with State Government. Unfortunately there is no “natural hazards” zone under the Standard LEP Instrument. As such, E2 was seen as the most appropriate zone to replace the 9(a) zone in combination with the flood overlay/clause. Should a natural hazard zone be included in the Standard Instrument in the future, Council could revisit the zoning of existing 9(a) zoned areas.

Recommendation 20:

That the submission relating to the conversion of the Natural Hazards 9(a) zone to E2 Environmental Protection be received for information.

Issue 21: Conversion of Rural 1(g) (Flood Liable) to RU1 Primary Production or RU2 Rural Landscape

NR&F raised concern with the conversion of the existing Rural 1(g) flood liable zone to RU1 or RU2 means that ‘dual occupancy’ is now permissible in these locations where previously they were not. Also, ‘home based childcare’ will now be allowed, which is not desirable in a flood zone.

Comment
While this issue is an acknowledged concern, the Standard Instrument contains no equivalent or hazard zones that could be applied to the current Rural 1(g) zone in SLEP
1985. Further, DP&I has advised that Council cannot at this point include clauses to prohibit specific land uses in certain circumstances that are permitted in the land use tables. Council will have to rely on the development assessment process, the provisions of Clause 7.8 in the draft LEP and DCP No. 106 in this instance. Should a hazard zone be included in the Standard Instrument in the future, Council should revisit the zoning of existing Rural 1(g) zoned areas.

**Recommendation 21:**

That the submission relating to the conversion of the Rural 1(g) (Flood Liable) to RU1 Primary Production or RU2 Rural Landscape be received for information.

**Issue 22: “Flood” and “flood planning area” definitions**

NR&F have requested that “flood” and “flood planning area” be defined in the dictionary in draft LEP 2009.

**Comment**

Council is unable to add definitions to the Dictionary but can request that DP&I add these definitions in future revisions of the Standard LEP Instrument. This request has merit as these terms are used in the flood planning land clause, are generally used in other flood planning documents and should be defined to assist in the interpretation of the clause.

**Recommendation 22:**

Request that the DP&I add the definitions of “flood” and “flood planning area” to the Dictionary of draft SLEP 2009.

**Issue 23: Adopted flood risk management plans recommendations**

NR&F are concerned that it is not clear how the draft SLEP implements recommendations from adopted flood risk management plans.

The adopted Terara Village flood risk management plans states that:
- vacant lots cannot be developed for residential buildings unless Council is satisfied that the dwelling house is essential for the proper and efficient use of the land for agricultural or turf farming
- development in a high hazard floodway will only be permitted if it can be shown that there is no other viable alternative. Further considerations would then need to be made regarding the specific location of the development

The adopted Riverview Road flood risk management plans states that:
- no new subdivision approval will be granted as it would increase the demand on the rescue services and the risk to life
- no dual occupancies or subdivisions will be permitted in Riverview Road, Elia Avenue, Lyrebird drive; lot 7 DP 809132; lot 1 DP 1053438; Lot 2 DP 1053438; Lot 6 DP 538956; lot 1 DP449102; all vacant land within IDO N0.1 not already subdivided
The adopted St Georges Basin flood risk management plans states that:

- new parks, manufactured homes and moveable dwellings are not permitted in high hazard floodway areas

The adopted Lower Shoalhaven River floodplain risk management study and plan states that:

- further development at Hay avenue, Shoalhaven Heads, would increase the permanent population in a high hazard floodway area and consequently increase reliance on rescue services during flood emergencies. Resolution of an appropriate zoning and development controls for this area needs to be addressed through an LEP amendment
- any further expansion or new development beyond the current residential zoning will not be permitted at Greenwell Point
- no subdivision, dual occupancy or strata development even on flood free land will be permitted at Greenwell Point

Comment

Unfortunately, the Standard LEP Instrument contains no hazard zones and Council cannot include clauses to prohibit land uses that are permitted in the land use tables. Council will need to discuss with DP&I ways that the recommendations of the adopted flood risk management plans can be implemented through the draft LEP. Until some resolution is achieved, Council will have to rely on the development assessment process, the provisions of Clause 7.8 in the draft LEP and DCP No. 106.

It should be noted that Clause 4.2C Erection of dwelling houses on land in certain zones contains a subclause that requires Council to consider applications for dwellings on land to which Clause 7.8 applies whether the land is predominately prime crop and pasture land and whether the dwelling is essential for the efficient use of the land for agriculture or turf farming.

Recommendation 23:

Discuss with DP&I ways that the recommendations of the adopted flood risk management plans can be implemented through the draft SLEP 2009.

Issue 24: Consistency with DCP No. 106 (Amendment 1)

NR&F expressed concern with the consistency of draft SLEP 2009 with DCP 106 Amendment 1. Schedule 7 of DCP 106 Amendment 1 recognises that some developments are not suitable in high hazard floodways, however this is not reflected in the draft SLEP. In addition the DP&I notes of the Draft Model Local Provision- Flood Planning states that “once council has completed its flood study and flood risk management plan, council has a number of tools that will assist in giving effect to the study and plan:

In the LEP where greatest risk is recognised (generally up to the flood planning level), these tools include:
It is recommended that the draft SLEP be reviewed to ensure its consistency with DCP 106 Amendment 1 and that it incorporates appropriate zoning of high hazard floodways.

**Comment**

Consistent with discussion above, the issues above, as the Standard Instrument contains no hazard zones and Council cannot include clauses to specifically prohibit land uses that are generally permitted in the land use tables, Council will need to discuss with DP&I ways that DCP No. 106 Amendment 1 can be implemented through the draft LEP. Until some resolution is achieved, Council will have to rely on the development assessment process, Clause 7.8 Flood Planning Land in the draft LEP and the consistent application of DCP No. 106.

**Recommendation 24:**

Discuss with DP&I ways that DCP No. 106 (Amendment 1) can be implemented through the draft LEP.

**Issue 25: Clause 7.11 Coastal risk planning and overlay mapping**

In regard to the proposed DP&I clause that was exhibited, NR&F do not support subclause 3 (d) as it limits the need to avoid or minimise exposure to coastal processes to development located seaward of the immediate hazard line. This is not in line with NSW Sea Level Rise Policy and NSW coastal planning guidelines.

NR&F suggest the overlay mapping needs to be amended in accordance with comments previously provided by Natural Resources and Floodplain Unit (beach compartments-colouring of properties affected by up to the 2100 ZRFC-refer SMEC studies; cliffs: colouring of properties affected by the 50 year 50% line-refer SMEC studies and peer review and requiring a site specific geotech assessment).

Coastal risk areas are currently mapped in the Natural Resources Sensitivity- Lands (NRL) overlay and may be difficult to find. Could coastal risk have its own overlay (similar to flood)? - the DP&I draft Model local provision for coastal risk planning refers to Coastal Risk Planning map.

It is recommended that the coastal risk mapping be reviewed. That the new mapping identify properties in coastal slope instability area for which a site specific geotechnical assessment will be required and that the properties identified by the peer review of the SMEC work be included. The new mapping should not retain the ‘SMEC 2025 line’ but rather identify properties at risk of coastal hazards. DES also requested that the mapping be reviewed and updated with the latest data, particularly for Surfers Avenue, Tallwood Avenue and Bannisters Head Road, Narrawallee.

**Comment**

The coastal risk planning land clause in draft SLEP 2009 is based on DP&I’s proposed model clause but after substantial negotiation was amended to suit Shoalhaven’s specific circumstances. It is recommended that the exhibited coastal risk clause be retained.
rather than being replaced with DP&I’s more recent proposed ‘settled model local provision’.

The coastal risk mapping should be amended to reflect the advice of the NR&F Unit and the DES Group. This will ensure that the draft SLEP 2009 mapping is up to date and legible. The request for a separate map for coastal risk mapping has merit as it makes the data more accessible. It is recommended that this be pursued with DP&I.

Recommendation 25:

a) The exhibited Clause 7.11 Coastal risk planning be retained;

b) The coastal risk mapping be amended to reflect the advice of the Natural Resource and Floodplain Unit and the Development and Environmental Services Group as set out in their submissions; and

c) The coastal risk data be mapped on a separate map called the Coastal Risk Planning Map, subject to the concurrence of DP&I.

Issue 26: Stormwater management

NR&F is concerned that there is no mention of design/management objectives for stormwater quality/quantity for development requiring consent in areas that do not fall within an environmental category.

Council is currently developing a stormwater DCP section to be included in the Citywide DCP and objectives include:

- Ensure stormwater quality and quantity is managed as per Council’s DCP;
- Design and manage stormwater flow paths and systems to ensure the safety of people and property;
- Design and maintain stormwater quality and quantity to protect and/or rehabilitate modified watercourses and their associated ecosystems and ecological processes towards a natural state;
- Mitigate the impacts of development on water quality and quantity;
- Minimise soil erosion and sedimentation resulting from site disturbing activities, stormwater works and stormwater infrastructure; and
- Minimise the potential impacts of development and other associated activities on the aesthetic, recreational and ecological values of receiving waters

The LEP should include stormwater quality and quantity objectives. There is no dictionary meaning of stormwater. A possible definition is: Stormwater is rainfall that lands on the Earth’s surface and becomes runoff. It is recommended that the LEP be reviewed to include a definition of stormwater in the dictionary.

Comment

The Stormwater DCP will stand under the LEP and will need to be addressed for all development applications that are submitted. Under Section 79C of the Environmental
Planning and Assessment Act, 1979 and as well as other legislation, stormwater impacts need to be considered for all development applications. Unfortunately it is not practical or achievable to add Stormwater objectives to the draft SLEP 2009 under the current Standard LEP Instrument format. Consistent application of what will be contemporary DCP controls regarding stormwater management will assist with ensuring best practice stormwater quality and quantity outcomes.

The dictionary is a mandatory component of the Standard LEP Instrument that Council is not able to amend or add to. Council may request that the DP&I add a definition but the DP&I are somewhat reluctant to add definitions. In this case, as there is no clause in the draft SLEP 2009 relating to stormwater, it is not necessary to include a definition in the draft LEP.

Recommendation 26:
That the submission relating to storm water management in draft SLEP 2009 be received for information.

Policy Planning - Urban Design and Heritage (UD&H)

Issue 27: Residential zones

UD&H raised concerns with the application of the residential zones in some circumstances.

1) Many R1 zones seem to relate to the old 2(c) zones. Many of these areas have been subdivided with low density residential style subdivisions (R2) but the zone retains the 2(c) (R1) uses i.e. they are too flexible and will threaten the character of the approved subdivisions. This is an anomaly that should be corrected as it is unlikely that additional permissible uses will occur in the foreseeable future.

2) R1 appears to be a zone for transitional type residential uses whilst R2 would appear to be more suitable for suburban residential development. R1 zones within the towns of Ulladulla and Nowra should be changed to R2 with B4 the preferred zone for transitional uses. R1 will pose a threat to the residential character of these areas. The B4 zone will provide a more unifying character between the R2 and the B zones and still maintain flexibility for market forces to create a strong replacement character.

Comment
The ‘best fit’ transfer zone for the existing SLEP 1985 Residential 2(c) (General) zone under draft SLEP 2009 is the R1 General Residential zone. However, in areas that have been substantially developed with a low density type character and are unlikely to be redeveloped in the foreseeable future for higher forms of density, a R2 Low Density Residential zone has been applied through the draft SLEP 2009 (eg. parts of Bomaderry). This is consistent with the adopted “ground rules”. In areas such as Nowra and Ulladulla where infill development is expected to occur, it is appropriate to retain the R1 zone. The B4 Mixed Use zone is a business zone that allows for a wide range of commercial, residential, tourist and recreation uses and should not be applied to residential areas, where the predominant use should be residential consistent with strategies such as the NBSP.
Recommendation 27:

That the submission relating to residential zones be received for information.

Issue 28: B2 Local Centre Land Use Table

UD&H notes that in Local centres the land use table includes as permitted with consent “vehicle” by itself and it is not in the dictionary.

Comment
This is an error, it should be ‘vehicle repair station’ and ‘vehicle sales or hire premises’. This will be amended prior to re-exhibition of the draft LEP.

Recommendation 28:

That ‘vehicle’ be removed from the B2 Local Centre zone and replaced with ‘vehicle repair station’ and ‘vehicle sale or hire premises’.

Issue 29: Zoning of villages

UD&H is concerned that Shoalhaven’s villages have a particularly unique character that needs to be retained as a tourism drawcard: Curramong; Hyams Beach; Swanhaven; Bendalong & Depot Beach are some good examples. The designated zone in the draft LEP is RU5 Village. However the objectives restrict this zone to rural villages. The objectives should be broadened to include coastal villages as well and expand the number of objectives to include height and scale appropriate to a small village, land uses that do not place undue requirements on infrastructure and services and also maintain a village character in accordance with the objectives of the SCRS. The villages of Curramong, Hyam’s Beach, Swanhaven, Bendalong, Cudmirrah etc. with R2 zones should be rezoned to RU5 (this is not back zoning but is best fit) and the permitted uses in the RU5 zone drastically reduced. Kangaroo Valley should revert back to town zones similar to Berry and Milton with specific R2 and B2 zones etc applied in accordance with their respective DCPs to guarantee certainty to existing character area as already exists in Berry and Milton.

Comment
The basis of the draft SLEP 2009 is the ‘best fit’ transfer from SLEP 1985. A number of the villages mentioned in the submission currently have a Residential 2(a1) zone which has been transferred directly to R2 Low Density Residential; those that are currently zoned Residential 2(e) (Village) have either been transferred to R2 or RU5. It would not be appropriate at this stage to dramatically change the RU5 zone or to change the zoning of these villages, particularly as the community appears to be reasonably comfortable with the zonings.

Recommendation 29:

That the submission relating to the zoning of villages be received for information.
Issue 30: Zoning of the Business 3(g) zones

It is noted that the former 3(g) zones have generally been changed to B4 zones. Originally 3(g) zones were developed to encourage icon developments in strategic sites. It is not considered that B4 zones are best fit and it is suggested that the SP3 is more compatible with the original objectives. The proposed zone in the draft LEP however is too restrictive and a number of additional uses should be permitted: For example I do not agree that Boat repair facilities; helipads and heliports are desirable in SP3 zones but residential flat buildings; attached housing; community facilities and entertainment facilities should not be a problem.

Comment

Where the Business 3(g) statement indicates that the zoned area should be used for tourist purposes, it has been given the SP3 Tourist zone. Otherwise, the more flexible B4 Mixed Used zone has been applied as this zone is the closest equivalent to the existing 3(g) zone (in the Standard LEP Instrument). Residential uses are not desirable in designated tourist zones as it makes it less likely that the area will be developed for tourist uses and more likely that it will be developed for residential purposes only.

Recommendation 30:

That the submission relating to the zoning of Business 3(g) zones be received for information.

Issue 31: Minimum lot sizes for rural zones

UD&H raised concerns with the minimum lot sizes for rural zones. The South Coast Regional Strategy actions also include minimum subdivision limits for rural and environment protection areas. With the exception of one small area with an 80ha limit on the Bolong flood plain all RU1 & 2 zones in the current plan have a minimum area of 40 ha. There is no differentiation between the minimum size of high quality agricultural land and general rural despite the fact that the size of viable rural holdings show that most farms are larger than 80ha. For example:

- Kangaroo Valley: Chittick >140ha Walker >150ha Cocharane > 150ha
- Bolong: Eaton 85ha, Pomona 140ha, Henry 80ha
- Numbaa/Pyree: Crawford >160ha, Menzies 192ha
- Milton: Miller 359ha, Anderson 176ha, Ewin 172ha

Notwithstanding the above comment re minimum subdivision limits, the preferred alternative to protecting high quality agricultural land including Pastoral Landscapes identified in the Shoalhaven Heritage Study would be to have a nominal minimum subdivision limit with provisions in RU2 zones requiring a minimum total area of at least 80 ha or more preferably 100ha before consent to erect a dwelling house would be permitted. There would appear to be flexibility in the standard instrument to permit these controls.
Comment
While the Shoalhaven Heritage Study highlights importance of certain pastoral landscapes in Shoalhaven, it does not make any recommendations for a change in the minimum lot size for these areas. The 40ha minimum lot size for rural areas is the ‘best fit’ transfer of the SLEP 1985 to draft SLEP 2009. The Department of Primary Industries, DP&I or landowner submissions raised no concerns with this minimum lot size. Further, it is consistent with both the SEPP (Rural Lands) 2008 and S117 Direction No. 1.2. It is likely that any move to increase the minimum lot size for rural zoned land would meet with opposition from rural landowners.

Recommendation 31:
That the submission relating to minimum lot sizes for rural zones be received for information.

Issue 32: Zoning of roads

UD&H are concerned that “the zoning of roads and particularly closed roads to the adjoining zone will inevitably result in a conflict with the need for community infrastructure and the temptation to increase State Government “coffers”. There should be a proper needs study to identify those roads that should be retained to protect informal footpaths, cycle ways and drainage links and zone these for open space RE1 or SP2.”

Comment
While the zoning of roads is an acknowledged concern, it is a requirement under the Standard LEP Instrument that all land must be zoned. While major roads are able to be zoned SP2 Infrastructure, remaining roads are to take the adjoining zone, based on advice from DP&I.

Recommendation 32:
That the submission from UD&H regarding the zoning of roads be received for information.

Shoalhaven Water (SW)

Issue 33: Zoning of Shoalhaven Water assets

SW identified a number of water and sewerage assets that do not have the appropriate SP2 Infrastructure zone. SW’s requests are set out in the table below.

<table>
<thead>
<tr>
<th>Property</th>
<th>Current zone</th>
<th>Draft 2009 zone</th>
<th>SLEP zone</th>
<th>Requested zone</th>
<th>Comments</th>
</tr>
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<tbody>
<tr>
<td>Lot 9 DP 186813 North St, Nowra</td>
<td>3(g)</td>
<td>B3</td>
<td>SP2</td>
<td>Major Sewerage Pumping Station</td>
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<tr>
<td>Lot 55 DP 808935 Browns Road, South Nowra</td>
<td>2(c)</td>
<td>R1</td>
<td>SP2</td>
<td>For Future Emergency Storage</td>
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<tr>
<td>Property</td>
<td>Current zone</td>
<td>Draft 2009 zone</td>
<td>Requested zone</td>
<td>Comments</td>
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<td>Lot 64 DP 1048562</td>
<td>2(c)</td>
<td>R1</td>
<td>SP2 &amp; R1</td>
<td>SPS 20 exists upon the land - Use aerials to determine extent of SP2 required refer SF10109</td>
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<td>Burradoo Cres, Nowra</td>
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<td>Lot 38 DP 802671</td>
<td>4(a)</td>
<td>IN1</td>
<td>SP2</td>
<td>Minimum area to be 15m x 15m</td>
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<td>Norfolk Ave, South Nowra</td>
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<td>Lot 139 DP 1168622</td>
<td>2(c)</td>
<td>R1</td>
<td>SP2</td>
<td>Site for SPS</td>
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<td>Quins Lane, South Nowra</td>
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<tr>
<td>Lot 102 DP 755952</td>
<td>1(f)</td>
<td>SP1/E2</td>
<td>SP2</td>
<td>Located on SCCC site (land to be acquired - minimum 20x 20m) Use Sewer layer on GIS to locate</td>
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<td>The Links Rd, South Nowra</td>
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<tr>
<td>Lot 1 DP 227233</td>
<td>1(d)</td>
<td>RU2</td>
<td>SP2</td>
<td>Sanitary Depot</td>
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<td>BTU Rd, Nowra Hill</td>
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<td>4(a)</td>
<td>SP2</td>
<td>IN1</td>
<td>Proposed to possibly dispose of land in future</td>
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<tr>
<td>Lot 12 DP 708513</td>
<td>1(g)</td>
<td>RU2</td>
<td>SP2</td>
<td>Acquisition of land to augment SPS 8</td>
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<td>Meroo Rd, Bomaderry</td>
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<td>Note: now Lot 1 DP 11645756</td>
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<td>Lot 10 DP 245290</td>
<td>4(a)</td>
<td>IN1</td>
<td>SP2</td>
<td>IN1 zoned part only</td>
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<td>Concorde Way, Bomaderry</td>
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<td>Lot 1 DP 717652</td>
<td>2(a1)</td>
<td>R2</td>
<td>SP2</td>
<td>Sewerage Pumping Station Works</td>
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<td>Hume St, Greenwell Point</td>
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<td>Lot 2 DP 848057</td>
<td>1 (g) &amp; 2(c)</td>
<td>E2 &amp; R1</td>
<td>SP2</td>
<td>Required Site area - minimum 20x 20m on R1 zoned part</td>
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<td>Emmett St, Callala Bay</td>
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<td>Lot 103 DP 857246</td>
<td>1(d)</td>
<td>RU2</td>
<td>SP2</td>
<td>Major SPS</td>
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<td>Callala Beach Rd, Callala Beach</td>
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<td>Myola Rd, Myola</td>
<td>1(d)</td>
<td>RU2</td>
<td>SP2</td>
<td>Located adjacent to Lot 46 DP 22792 Catherine St Myola</td>
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<td>Lot 101 DP 1046323</td>
<td>2(c)</td>
<td>R1</td>
<td>SP2</td>
<td>Sewerage Pumping Station Works</td>
<td></td>
</tr>
<tr>
<td>Caffery Crt, Callala Beach</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lot 17 DP 1096605</td>
<td>4(a)</td>
<td>IN1</td>
<td>SP2</td>
<td>Sewerage Pumping Station Works</td>
<td></td>
</tr>
<tr>
<td>Durandah Dr, Huskisson</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lot 5 DP 544758</td>
<td>3(a)</td>
<td>B2</td>
<td>SP2</td>
<td>Sewerage Pumping Station Works</td>
<td></td>
</tr>
<tr>
<td>Owen St, Huskisson</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lot 2 DP 620668</td>
<td>No Zone</td>
<td>E1</td>
<td>SP2</td>
<td>Sewerage Pumping Station Works</td>
<td></td>
</tr>
<tr>
<td>Duncan St, Vincentia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Argyle St, Vincentia</td>
<td>No Zone</td>
<td>R1</td>
<td>SP2</td>
<td>In road reserve adjacent to Lot 66 DP 874040</td>
<td></td>
</tr>
<tr>
<td>Church St, Vincentia</td>
<td>No Zone</td>
<td>R1</td>
<td>SP2</td>
<td>In road reserve adjacent to Lot 227 DP 25099</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Property</td>
<td>Current zone</td>
<td>Draft 2009 zone</td>
<td>Requested zone</td>
<td>Comments</td>
<td></td>
</tr>
<tr>
<td>----------</td>
<td>--------------</td>
<td>-----------------</td>
<td>----------------</td>
<td>----------</td>
<td></td>
</tr>
<tr>
<td>Lot 43 DP 755907 Birriga Ave, Vincentia</td>
<td>No Zone</td>
<td>E1</td>
<td>SP2</td>
<td>Crown Land - allow an area 15m x 15m</td>
<td></td>
</tr>
<tr>
<td>Lot 1 DP 840184 Mathie St, Basin View</td>
<td>1(g)</td>
<td>RU2</td>
<td>SP2</td>
<td>Sewerage Pumping Station Works</td>
<td></td>
</tr>
<tr>
<td>Lot 3 DP 722549 The Wool Rd, St Georges Basin</td>
<td>1(d)</td>
<td>RU2</td>
<td>SP2</td>
<td>Sewerage Pumping Station Works - need 15m x 15m site &amp; extend to road</td>
<td></td>
</tr>
<tr>
<td>Lot 114 DP 1123551 Larmer Ave, Sanctuary Point</td>
<td>1(g)</td>
<td>RU2</td>
<td>SP2</td>
<td>Sewerage Pumping Station Works</td>
<td></td>
</tr>
<tr>
<td>Lot 7017 DP 1054757 Birch Rd, Bendalong</td>
<td>2(e)</td>
<td>E2</td>
<td>SP2</td>
<td>Need to show area 15m x 15m as a minimum around the site adjacent to Birch Rd.</td>
<td></td>
</tr>
<tr>
<td>Lot 243 DP 755923 Thorne St, Lake Conjola</td>
<td>7(f2)</td>
<td>E2</td>
<td>SP2</td>
<td>Include the road reserve which dissects the property</td>
<td></td>
</tr>
<tr>
<td>Lot 371, DP 1125806 Prior St, Lake Conjola</td>
<td>V</td>
<td>RU5</td>
<td>SP2</td>
<td>Sewerage Pumping Station Works</td>
<td></td>
</tr>
<tr>
<td>Lot 101 DP 1125068 Spinks Ave, Lake Conjola</td>
<td>V</td>
<td>RU5</td>
<td>SP2</td>
<td>Sewerage Pumping Station Works</td>
<td></td>
</tr>
<tr>
<td>Lot 1 DP 1120003 Fishermans Paradise Rd, Conjola</td>
<td>1(d)</td>
<td>RU2</td>
<td>SP2</td>
<td>Sewerage Pumping Station Works</td>
<td></td>
</tr>
<tr>
<td>Lot 1 DP 1083059 Croobyar Rd, Milton</td>
<td>1(a)</td>
<td>RU1</td>
<td>SP2</td>
<td>Sewerage Pumping Station Works</td>
<td></td>
</tr>
<tr>
<td>Lot 1, DP 1105993 Croobyar Rd, Milton</td>
<td>1(a)</td>
<td>RU1</td>
<td>SP2</td>
<td>Sewerage Pumping Station Works</td>
<td></td>
</tr>
<tr>
<td>Lot 54 DP 730895 Aries Pl, Narrawallee</td>
<td>6(a)</td>
<td>RE1</td>
<td>SP2</td>
<td>Sewerage Pumping Station Works</td>
<td></td>
</tr>
<tr>
<td>Lot 7042, 1059894 Princes Hwy, Ulladulla</td>
<td>6(a)</td>
<td>RE1</td>
<td>SP2</td>
<td>Whole property + adjacent Crown road Reserve</td>
<td></td>
</tr>
<tr>
<td>Lot 1 DP 1134134 Princes Hwy, Lake Tabourie</td>
<td>6(a)</td>
<td>RE1</td>
<td>SP2</td>
<td>Sewerage Pumping Station Works</td>
<td></td>
</tr>
<tr>
<td>Lot B Lot 160491 Slaughterhouse Rd, Milton</td>
<td>1(b)</td>
<td>RU2</td>
<td>SP2</td>
<td>Sanitary Depot - Whole property</td>
<td></td>
</tr>
</tbody>
</table>

**Comment**

The DP&I’s practice note on zoning for infrastructure sets out that Infrastructure land that is highly unlikely to be used for a different purpose in the future should be zoned ‘special purpose’. For example, cemeteries and sewage treatment plants. These lands should be zoned SP2 Infrastructure. It is therefore appropriate to zone the sites contained in the table above as SP2 or the split as requested. However, where the asset forms part of the road reserve, it is more appropriate to leave the zone as is as the dominant use of the land is for the road. This is the case for the Argyle Street and Church Street, Vincentia assets which is the reason that the recommendation below is that these properties remain unchanged.
Recommendation 33:

That the requested zoning changes of water infrastructure assets listed in the Shoalhaven Water submission (table above) be amended as requested with the except of the requests relating to Argyle Street and Church Street, Vincentia.

Resourcing Implications - Financial, Assets, Workforce:

To date, considerable staff (workforce) time has been, and will continue to be, prioritised on this project.

Community, Environment (ESD), Economic and Governance Impact:

The recommendations aim to consider and if appropriate address community concern, whilst also recognising and respecting the “ground rules” and the Standard LEP Instrument, on which draft SLEP 2009 has been based. Should the recommendations be supported by Council, then this will reflect good governance, in the context of strategic planning.

The changes to draft SLEP 2009 supported by Council will also be re-exhibited as resolved by Council on 28 February 2012. This will allow further opportunity for the community to comment on these key issues.

CONCLUSION

The time and effort put into internal submissions from staff with extensive professional knowledge is appreciated. The submissions raised a wide range of issues. The consideration of these submissions through this report ensures that the issues raised in the context of the draft SLEP 2009 are considered in detail, and where sound strategic planning outcomes within the Standard LEP Instrument requirements can be realised changes to draft LEP 2009 have been supported.
The recommendations contained in the body of this report are consistent with Council’s resolution of 20 March 2012, being:

“Council consider each submission on its merits and if appropriate, amend the draft LEP accordingly, or add to a list of future projects to be considered following the completion of the draft LEP 2009.”

COMMUNITY STRATEGIC PLAN

Objective: 2.2 Population and urban settlement growth that is ecologically sustainable, carefully planned and managed to meet the needs of the community.

Strategy: 2.2.1 Develop and implement land use and related strategies for future growth of the City, based on the principles of connectivity, ecological sustainability, flexibility and accessibility.

DELIVERY PROGRAM

Activity: 2.2.1.9 Implement the Planning Works Program to complete planning policy and strategy initiatives.

OPTIONS AND IMPLICATIONS

Option 1:

Council consider the individual preferred options/ changes to draft SLEP 2009 as set out in the body of this report via the successive recommendations.

Implications

This option is preferable because:

- The preferred options/changes respond to issues, errors and anomalies identified by staff and represent good strategic planning outcomes that are consistent with the Standard LEP Instrument. The preferred options/changes are consistent with the “ground rules” and the “best fit transfer” approach wherever possible.

- Re-exhibition of draft SLEP 2009 will provide a further opportunity for the community to consider how Council has addressed these issues, and make further comment if they wish.
**Option 2:**

Council adopt changes to the draft SLEP 2009, other than those suggested and justified in this report.

**Implications**

This option is not recommended as there is a real risk of there being no strategic planning basis to making changes other than those outlined and recommended in the report.

**REPORT DETAILS**

**Introduction:**

Given the length of time the draft SLEP 2009 preparation process has taken to date, the complexity of the changes and the Citywide nature of the plan, it was inevitable that there would be some issues, errors and anomalies in the draft plan. This report addresses the issues, errors and anomalies identified by Strategy Planning Staff during the exhibition process that require consideration and resolution.

**Key Issues:**

**Issue 1: Changes to property descriptions on the Heritage Schedule.**

Through time the property description of items listed in the Heritage Schedule of the LEP change due to subdivision or boundary adjustments. Schedule 5 of the draft SLEP 2009 needs to be amended to reflect these changes to ensure that it is legally accurate. The following table outlines the changes to property descriptions that should be amended in Schedule 5.

<table>
<thead>
<tr>
<th>Item</th>
<th>Address</th>
<th>Old Property Description</th>
<th>New Property Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>I29 - Victorian Carpenter Gothic Style Hall</td>
<td>69 Albert Street, Berry</td>
<td>Lot 1 DP 745962</td>
<td>Lot 100 DP 1172397</td>
</tr>
<tr>
<td>I441 - Parma Farm</td>
<td>Parma Road, Parma</td>
<td>Lots 4 &amp; 5 DP 1143944</td>
<td>Lot 4 DP 1143944 Lots 3 &amp; 4 DP 1160993</td>
</tr>
<tr>
<td>I522 - Weatherboard and Fibro Holiday Cottage</td>
<td>759 Woollamia Road, Woollamia</td>
<td>Lots 1 &amp; 2 DP 9289 Lot 54 DP 755928 Lot 3 DP 1149557</td>
<td>Lot 1 &amp; 2 DP 9289 Lot 3 &amp; Lot 4 DP 1172636</td>
</tr>
<tr>
<td>I287 - “Eyrie Bowrie” - two storey Victorian Regency Residence</td>
<td>Eyrie Bowrie Drive, Milton</td>
<td>Lot 23 DP 1110239 Lot 24 DP 1124445 Lot 42A DP 1132331</td>
<td>Lot 24 DP 1124445 Lot 42 DP 1132331 Lots 1-41 DP 1124431</td>
</tr>
<tr>
<td>I288 - Victorian Georgian Residence and former Dispensary</td>
<td>131 Princes Highway, Milton</td>
<td>Lot 7 DP 556082</td>
<td>Lot 1 DP 1171862</td>
</tr>
<tr>
<td>I518 - Interwar Reinforced Concrete Butter Factory</td>
<td>170 Woodstock Road, Woodstock</td>
<td>Lot 1 DP 529083</td>
<td>Lot 1 DP 529083 Lot 1 DP 726006</td>
</tr>
<tr>
<td>Item</td>
<td>Address</td>
<td>Old Property Description</td>
<td>New Property Description</td>
</tr>
<tr>
<td>--------</td>
<td>--------------------------------------</td>
<td>--------------------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>I199</td>
<td>Greenwell Point Road, Greenwell Point</td>
<td>Lots 7002 and 7003 DP 1075730</td>
<td>Lots 7300-7302 DP 1165443</td>
</tr>
<tr>
<td>I255</td>
<td>Mayfield Road, Mayfield Road Reserve UTE 68860</td>
<td>Lot 7314 DP 1169000</td>
<td></td>
</tr>
</tbody>
</table>

**Recommendation 1:**

That the changes to the Heritage Schedule outlined in the table above be made to the draft SLEP 2009.

**Issue 2: State Heritage listing of Bomaderry Aboriginal Children’s Home**

The Bomaderry Aboriginal Children’s home at 59 Beinda Street, Bomaderry has recently (Feb 2012) been included on the State Heritage Register. Schedule 5 Environmental Heritage of draft SLEP needs to be updated to reflect the State significance of this heritage item (I125 - Group of detached batten fibro buildings (former United Aboriginal Mission).

**Recommendation 2:**

Update Schedule 5 Environmental Heritage of draft SLEP to reflect the State significance of Item No 125 - Group of detached batten fibro buildings (former United Aboriginal Mission)

**Issue 3: Crookhaven Heads Pilot Station**

Crown Lands carried out a boundary adjustment on the land on which the Crookhaven Heads Pilot Station is sited in 2011. This boundary adjustment altered the configuration of the lot and as a result, the new lot does not match the exhibited SP2 Infrastructure zoning for the site. The SP2 Infrastructure zone needs to be amended to match the configuration of the new lot (Part - Lot 34 DP 755971). See maps below.
Recommendation 3:

Amend the Land Zoning Map for the Crookhaven Heads Pilot Station (Part - Lot 34 DP 755971) to match the SP2 Infrastructure zone to the configuration of the lot.

Issue 4: Lots 233 & 234 DP 788157, 15 & 17 The Wool Lane, St Georges Basin

The properties in question are large residential lots that adjoin Nulla Place Reserve at St Georges Basin. The Reserve is currently zoned Residential 2(c) as are the adjoining subject properties. In transferring the zoning of the Reserve from 2(c) to the more appropriate RE1 Public Recreation zone, it appears that the due to the shape and layout of the properties, that they have also been mistakenly given the RE1 zone. The following map shows the draft zoning of these properties.
As the properties are privately owned, developed with houses and not intended to form part of the Reserve, it is inappropriate to zone the properties as RE1. The appropriate zone for these properties is the R2 Low Density Residential zone that has been applied to the adjoining residential area, which reflects the character of the area.

**Recommendation 4:**

That the zoning of Lots 233 & 234 DP 788157, 15 & 17 The Wool Lane, St Georges Basin be changed from RE1 Public Recreation to R2 Low Density Residential.

**Issue 5: Definition of ‘top of bank’**

Both Clause 7.5 Biodiversity and Clause 7.6 Water provide a definition of ‘bank’ which is used to determine the area to which the clauses applies, however, it does not contain a specific definition of ‘top of bank’. ‘Top of bank’ is the reference point from which the distance that the clauses are to apply are measured.
The inclusion of a specific definition of ‘top of bank’ would greatly assist in the application of these clauses. A suggested definition is:

Top of Bank means either the point closest to the boundary of the active floodplain of a stream where a break in the slope of the land occurs such that the grade beyond the break is flatter than 3:1 at any point for a minimum distance of 15 metres measured perpendicularly from the break or where the slope extends for a distance greater than 15 metres the top of the bank will be measured from a control point that conforms to the definition. If the opposite bank is unable to be defined by this definition then the relative heights of the defined control bank shall be transferred to the opposite bank.

This definition has been adapted from a GHD riparian verification study undertaken on behalf of Council and has been successful used by Council to determine top of bank. The inclusion of this definition, which has proven practical application, would assist in consistent application of the Water and Biodiversity clauses.

Recommendation 5:

That Council request that a definition for ‘top of bank’ be included in the Dictionary of draft SLEP 2009.

Issue 6: Minimum lot size map - 945A Illaroo Road, 64, 70 & 82 Spotted Gum Drive and 28 Shalom Way, Tapitallee

945A Illaroo Road, 64, 70 & 82 Spotted Gum Drive and 28 Shalom Way, Tapitallee (Lot 3 DP 791835, Lots 181-184 DP 861191 and Lot 22 DP 1092927) (see map below) are zoned R5 Large Lot Residential but were not been mapped on the Minimum Lot Size
map. This is an error; these properties should have had the same minimum lot size as the adjoining R5 zones parcels (1ha).

Following on from an earlier recommendation of this Committee, Council resolved, on 17 April 2012, to “retain the status quo and include lot averaging provisions in draft SLEP 2009 based on existing provisions in Shoalhaven LEP 1985”. Consistent with this resolution minimum lot sizes will not be required to be mapped for land to which the lot averaging provisions will apply. Rather a local clause will be included in the draft LEP, along with the inclusion of the relevant properties on the local clause map, prior to the request for a Section 65 certificate and the re-exhibition.

Recommendation 6:

That the lot averaging provisions apply to 945A Illaroo Road, 64, 70 & 82 Spotted Gum Drive and 28 Shalom Way, Tapitallee (Lot 3 DP 791835, Lots 181-184 DP 861191 and Lot 22 DP 1092927).

Issue 7: Minimum lot size map - Lot 1 DP 1126288 Princes Highway, South Nowra

Council resolved to change the zone of part of Lot 1 DP 1126288 Princes Highway, South Nowra Changed from Rural 1(b)(Arterial and Main Road Protection) to IN1 General Industrial to encourage rehabilitation/reuse of the Nowra Brickworks site in future. The following map shows the exhibited zone.
The draft Land Zoning map was amended but the Minimum Lot Size map was not. This was an oversight. The exhibited draft SLEP 2009 showed the site with a 40ha minimum lot size which is the standard for rural zoned land. Given that the land is proposed to be industrial, the 40ha minimum should be removed and no minimum lot size should be shown on the map overlay for the subject land, consistent with other industrial zoned land.

Recommendation 7:

That the minimum lot size map be amended to remove the 40ha minimum from Lot 1 DP 1126288 Princes Highway, South Nowra.

Issue 8: Minimum lot size - Lot 1 DP 1053438, Riverview Road, Nowra

Lot 1 DP 1053438, River Road, Nowra is currently zoned Residential 2(a4) (Restricted Development) and was exhibited as R2 Low Density Residential under draft SLEP 2009 - see map below. The property is also subject to inundation by flood waters.
The property is also subject to Clause 13C of SLEP 1985 which is set out below. This clause was inserted in 2004, and it is noted that property description has changed since this time.

**13C Subdivision prohibited – part of Lot 2, DP 714140, Riverview Road, Nowra**

1. This clause applies to so much of Lot 2, DP 714140, Riverview Road, Nowra, as is within Zone No 2(a4) and shown edged heavy black and lettered “2(a4)” on the map marked “City of Shoalhaven Local Environmental Plan 1985 (Amendment No 208)”.

2. Despite any other provision of this plan, the Council must not grant consent to the subdivision of the land to which this clause applies.

However, the exhibited draft Lot Size Map shows a minimum lot size of 500m² as per the adjoining land. The Lot Size Map should be amended to show a 4000m² minimum lot size to ensure that the property cannot be subdivided further consistent with the current LEP.

**Recommendation 8:**

That the Lot Size map be amended to show a minimum lot size of 4000m² for Lot 1, DP 1053438, Riverview Road, Nowra.
Issue 9: Schedule 1 Additional Permitted Uses - Subclause 7

Schedule 1 Additional Permitted Uses subclause 7 relates to Kylor’s land at Manyana (see map below). It specifically lists the property descriptions to which the subclause applies. Since the finalisation of the exhibition draft for the draft SLEP 2009, there has been some subdivision of the land resulting in subclause 7 containing incorrect property descriptions. This should be corrected.

Recommendation 9:

That Schedule 1 Additional Permitted Uses - Subclause 7 be amended to reflect the updated property descriptions for the relevant land.

(Note - the relevance of Recommendation 13 is dependent on Council’s decision regarding Item 21 (and specifically 21(c)) in the 12th June 2012 Special Development Committee Report.)
**Issue 10: Recent Amendments to SLEP 1985**

Since the draft SLEP 2009 was certified for exhibition, three amendments have been made to SLEP 1985 which will need to be reflected in the draft SLEP 2009. These are:

<table>
<thead>
<tr>
<th>No.</th>
<th>Amendment</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>240</td>
<td>NOWRA (Cancer Care Centre)</td>
<td>23 September 2011</td>
</tr>
<tr>
<td></td>
<td>This Plan applies to part of Lot 7300, DP 1132679, Scenic Drive, Nowra, as shown coloured yellow, edged in heavy black and lettered scarlet “Health Services Facility” on the map marked “Shoalhaven Local Environmental Plan 1985 (Amendment No 240)” deposited in the office of Shoalhaven City Council.</td>
<td></td>
</tr>
<tr>
<td>239</td>
<td>NARRAWALLEE</td>
<td>21 October 2011</td>
</tr>
<tr>
<td></td>
<td>This plan applies to part of Lot 300, DP 792411, Ross Avenue, Narrawallee (Garrards Lagoon), as shown coloured orange, edged heavy black and identified as “7(a)” on the map marked “Shoalhaven Local Environmental Plan 1985 (Amendment No 239)” deposited in the office of Shoalhaven City Council.</td>
<td></td>
</tr>
<tr>
<td>191</td>
<td>NARRAWALLEE</td>
<td>21 October 2011</td>
</tr>
<tr>
<td></td>
<td>This plan applies to part of Lot 29, DP 874275, Seascape Close, Narrawallee, as shown distinctively coloured and identified as “2(a1)” and “7(d2)” on the map marked “Shoalhaven Local Environmental Plan1985 (Amendment No 191)” deposited in the office of Shoalhaven City Council.</td>
<td></td>
</tr>
</tbody>
</table>

**Recommendation 10:**

That Amendments 191, 239 and 240 to SLEP 1985 be incorporated into draft SLEP 2009.
**Issue 11: Lot 7 DP 1067884, Lake Conjola Entrance Road, Lake Conjola**

This property is privately owned and currently zoned Rural 1(d) General Rural, Environment Protection 7(a) (Ecology) and National Parks and Wildlife Reserves 8(a) under SLEP 1985. It was exhibited as entirely zoned E1 National Parks and Nature Reserves under draft SLEP 2009. The proposed zoning of the site can be seen on the following map.

![Extract of the draft Land Zoning Map (draft SLEP 2009 as exhibited)](image)

*Extract of the draft Land Zoning Map (draft SLEP 2009 as exhibited)*

*Lot 7 DP 1067884, Lake Conjola Entrance Road, Lake Conjola*

Council records and the NPWS Plan of Management indicate the land has been gazetted as Narrawallee Creek Nature Reserve in 2006, however, this is being confirmed with NPWS, due to the land remaining in private ownership since then.

**Recommendation 11:**

Should the whole of Lot 7 DP 1067884 not form part of the Nature Reserve change the zoning for that part of the lot from E1 to RU2 Rural Landscape.
**Issue 12: Lot 7301 DP 1130281 & Lot 7304 DP 1131265, Waterpark Drive, Basin View**

This land is owned by the Crown with the majority of the land is currently zoned Residential 2(a1) under SLEP 1985. The 2(a1) zoned area was exhibited as R1 General Residential under draft SLEP 2009 - see map below.

![Extract of the draft Land Zoning Map (draft SLEP 2009 as exhibited)](image)

Lot 7301 DP 1130281 & Lot 7304 DP 1131265, Waterpark Drive, Basin View

This change in zone to a more flexible zone may not be appropriate in this location given the low density residential character of the existing developed area. It is also inconsistent with the ‘best fit’ transfer. Both lots contain areas of R3 Medium Density Residential zoned land adjacent to the RE1 Public Recreation zoned land which can cater for any need for higher density residential development in the area.

There are 2 options for addressing this issue at this point in the draft LEP process. These are:

1. Retain the exhibited R1 General Residential zoned land for Lot 7301 DP 1130281 & Lot 7304 DP 1131265, Waterpark Drive, Basin View.

2. Change the exhibited R1 General Residential zone to R2 Low Density Residential consistent with the ‘best fit’ transfer for Lot 7301 DP 1130281 & Lot 7304 DP 1131265, Waterpark Drive, Basin View.

**Recommendation12:**

That the zoning of Lot 7301 DP 1130281 & Lot 7304 DP 1131265, Waterpark Drive, Basin View be changed from the exhibited R1 General Residential zone to R2 Low Density Residential.
Issue 13: Nowra Golf Club, Lot 226 DP 751258, 86 Fairway Drive, North Nowra

The licensed club building was approved in the 1980’s and occupies a separate land parcel from the rest of the golf club (Lot 226 DP 751258). The map below shows the two parcels.

The club building is on Crown land under special lease to the golf club. Lot 226 DP 751258 is currently unzoned under SLEP 1985 which allows Council to consider any use with consent on the site. Under draft SLEP 2009, the whole of the golf club is proposed to be RE1 Public Recreation. The RE1 zone does not permit ‘registered clubs’. Given the existing planning position of the land and its existing development, an RE2 Private Recreation zone (subject to concurrence of the landowner) may be more appropriate as it permits ‘registered clubs’ and reflects the use of the land.

There are two options to address this issue at this point in the LEP process. These are:

1. Retain the RE1 Public Recreation zone for Lot 226 DP 751258 (Nowra Golf Club) as exhibited in draft LEP 2009.

2. Change the zone of Lot 226 DP 751258 (Nowra Golf Club) from RE1 Public Recreation to RE2 Private Recreation, subject to the concurrence of the landowner (the Crown).

Recommendation 13:

That the zone of Lot 226 DP 751258 (Nowra Golf Club) be changed from RE1 Public Recreation to RE2 Private Recreation, subject to the concurrence of the landowner (the Crown).
Issue 14: Vincentia Coastal Village (Bayswood)

The Vincentia Coastal Village (Bayswood) was approved under Part 3A of the Environmental Planning and Assessment Act 1979 and the site was removed from the operation of SLEP 1985 and placed under the State Environmental Planning Policy (SEPP) Major Projects. The map below shows the land in question.

The DP&I advised that the site should be included in the draft SLEP 2009 which would enable the relevant part of SEPP Major Project to be repealed. While the Land Zoning Map was included in the exhibited draft SLEP 2009, the Height of Buildings, Land Reservation Acquisition and Additional Permitted Uses maps were not. These should now be included in the draft SLEP 2009 to allow the relevant part of the SEPP Major Projects to be repealed.

Recommendation 14:

That the SEPP Major Projects Height of Building, Land Reservation Acquisition and Additional Permitted Uses maps for Vincentia Coastal Village (Bayswood) be incorporated into draft SLEP 2009
Issue 15: Clause 5.1 and Clause 5.1A

Clause 5.1 and Clause 5.1A relate to land shown on the Land Reservation Acquisition map and both list the zone and acquisition authority. Land for local roads has been identified. But Council has been missed from the tables as the relevant acquisition authority for these areas. This should be added to make it clear that Council is the acquisition authority.

Recommendation 15:

That the tables in Clauses 5.1 and 5.1A be amended to include local roads with Council as the acquisition authority.

Issue 16: Application of Clause 5.4 (2) and (3) to E3 Environmental Management

Clause 5.4 Controls relating to miscellaneous permissible uses set various controls for certain uses that are permitted in the Land Use Tables. Subclauses (2) and (3) set floor area controls for ‘home businesses’ and ‘home industries’. The floor area controls relate to the zones in which these uses are permissible, however, E3 Environmental Management has not been included. Should this not be rectified, these uses would have no floor area restrictions in draft SLEP 2009 which is not appropriate given the sensitive nature of the E3 zone. Subclauses (2) and (3) should be amended to include E3 Environmental Management so that it has the same floor area restrictions as the rural zoned areas (100m²).

Recommendation 16:

That subclauses 5.4 (2) and 5.4 (3) be amended to set a floor area control for E3 Environmental Management the same as for rural zoned land.

Issue 17: Acquisition of land for Highway upgrades - Roads and Maritime Service (RMS)

The RMS are in the process of upgrading sections of the Princes Highway within Shoalhaven, for example at South Nowra. This work involves the realignment of the Highway in some locations which requires the acquisition of land by the RMS. There are a number of such parcels that have been acquired but are still zoned as non-infrastructure zones. It is appropriate to change the zones of these parcels of land to SP2 Infrastructure (Road).

Recommendation 17:

That the zoning of those parcels of land that have been acquired by the RMS for road purposes that currently have a non-infrastructure zone be changed to SP2 Infrastructure (Road).
**Issue 18: Lot 1 DP 1156441, E1525C Princes Highway, Conjola**

Lot 1 DP 1156441, E1525C Princes Highway, Conjola is currently zoned Rural 1(b) (Arterial and Main Road Protection) and was exhibited in the draft SLEP 2009 as SP2 Infrastructure (Road) as can be seen in the map below.

At the time of the preparation of the draft Land Zoning Maps, the property, which adjoins the Princes Highway, was in the ownership of the RMS and so was given a SP2 infrastructure zone. The RMS sold the property in 2011 to a private landowner. As the land appears to no longer be required by the RMS for road widening, it should revert to the adjoining rural zone, which in this case is RU2 Rural Landscape.

**Recommendation 18:**

That the zoning of Lot 1 DP 1156441, E1525C Princes Highway, Conjola be changed from SP2 Infrastructure to RU2 Rural Landscape.
Issue 19: Lot 2 DP 1164734, 140A Princes Highway, Berry

Council has acquired additional land from the Berry Bowling Club for the Berry Sewage Pumping Station. The land is currently zoned Open Space 6(b) (Private) under SLEP 1985 and was exhibited as RE2 Private Recreation - see map below.

As part of this land has now been acquired by Council for the purpose of sewerage infrastructure, it should be given an SP2 Infrastructure (Sewerage System) zone.

Recommendation 19:

That the zoning of the additional land adjacent to the Berry Bowling club acquired by Council for the Berry sewage pumping station (Lot 2 DP 1164734) be changed from RE2 Private Recreation to SP2 Infrastructure (Sewerage System).

Issue 20: Sewage Treatment Plant buffers/Lot 218 DP 1071257, The Wool Lane, Sanctuary Point

A rezoning request was received over Lot 218 DP 1071257, The Wool Lane, Sanctuary Point requesting that the zoning of part of the subject land be changed from the proposed IN2 zone to Residential. The site has an existing 37 lot subdivision approval which requires each lot to have industrial use at the back and residential use at the front. Council resolved on 17 April 2012 to not support the request at this stage and to place it on the schedule of matters for consideration after the completion of the draft LEP.

The property is currently zoned Industrial 4(b) (Light) and Environment Protection 7(d2) (Special Scenic) under SLEP 1985 and proposed to be zoned IN2 Light Industrial and E2
Environmental Conservation under SLEP 2009. The SLEP 1985 also identifies a building line which provides a buffer from the sewage treatment plant (STP) located on the adjoining property to the north (Lot 2 DP 827728). The existing and proposed zones are shown on the maps below.

Due to the constraints of working within the Standard Instrument process, building lines have not been able to be carried over into draft SLEP 2009. Building lines from SLEP 1985 will instead be shown in the Citywide DCP. However, the Ulladulla STP in has a buffer shown on the Buffers Map (400m radius around the STP). It may be appropriate to amend the Buffers Map to show a buffer around the STP on Lot 2 DP 827728 and around the other STPs in Shoalhaven that do not already have a buffer on the Buffers Map. This would make it clear where the STPs are located and ensures that the impacts of STP are considered in regard to any development located in the buffer area.

There are 3 options to address this issue at this point in the LEP process. These are:

1. Not amend the Buffers Map to include additional STP buffers.

2. Change the Buffers Map to include an STP buffer for the STP located on Lot 2 DP 827728.

3. Change the Buffers Map to include STP buffers for all STPs in Shoalhaven. This is the preferred approach as it ensures consistency.

Recommendation 20:

That the Buffers Map in draft LEP 2009 be changed and updated to include STP buffers for all STPs in Shoalhaven.
**Issue 21: Ongoing processes**

There are several ongoing processes that Strategy Planning are undertaking which will be reflected in the finalised draft SLEP 2009. These are:

1. Review of all privately owned land that is zoned SP2 Infrastructure zoned in the draft SLEP 2009 to determine if it is also on the Land Reservation Acquisition Map and whether there are funds in place for the acquisition of the land in the short term.

2. Review of all SP2 Infrastructure zoned land to determine whether it is zoned consistently with the DP&I Practice Note PN 10-001 Zoning for Infrastructure in LEPs.

3. Review of adopted Plans of Managements (POM) to ensure that all relevant recommendations are reflected in the draft SLEP 2009.

4. Review of land owned by Aboriginal Land Councils to ensure that the land is appropriately zoned to reflect that it is privately owned i.e. not zoned RE1 Private Recreation.

As the abovementioned processes are ongoing it is considered efficient and appropriate to delegate any decisions in relation to changes to draft LEP 2009 that are warranted by the process above to the GM.

**Recommendation 21:**

That any draft LEP 2009 changes that are warranted by the ongoing processes being undertaken by Strategy Planning as outlined above are delegated as decisions to be made by the GM.

**Resourcing Implications - Financial, Assets, Workforce:**

To date, considerable staff (workforce) time has been, and will continue to be, prioritised on this project.

**Community, Environment (ESD), Economic and Governance Impact:**

The recommendations aim to consider and address issues, errors and anomalies identified by staff, recognising and respecting the “ground rules” and the Standard LEP Instrument, on which draft SLEP 2009 has been based. Should the recommendations be supported by Council, then this will reflect good governance, in the context of strategic planning.

The changes to draft SLEP 2009 supported by Council will also be re-exhibited as resolved by Council on 28 February 2012. This will allow further opportunity for the community to comment on these key issues.
CONCLUSION

The resolution of the issues, errors and anomalies as recommended in this report will ensure a more robust and accurate environmental planning instrument.

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R.D Pigg
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