



Local Plan Making

BETTER PLANNING – BETTER LIVING

The planning system is undergoing the biggest change in 30 years.

The New South Wales Government is changing the way that local environmental plans (LEPs) are developed and approved for our communities.

Local environmental plans are prepared throughout New South Wales to guide decision making on land use. These plans determine the areas in which various types of development can be considered; and which areas of open space and environmental sensitivity need to be protected.

These plans can have a profound and lasting impact on local communities. There are often important environmental considerations surrounding the preparation and approval of these plans. There are also economic concerns as these plans affect the growth of New South Wales.

GLOSSARY

Planning proposal: The first step in developing a local environmental plan, primarily completed by councils.

Relevant planning authority: Bodies that draft or assess planning proposals, generally councils.

Gateway: All planning proposals to be reviewed at an early stage, to test whether they are viable.

Local environmental plan: Following the preparation of the planning proposal, gateway and community consultation processes, the State Government can decide to make a local environmental plan come into effect.

Working with councils, the NSW Government aims to reduce the time it takes to approve LEPs by 50 percent.

STREAMLINING THE PLAN MAKING PROCESS

These changes will streamline the process so that local environmental plans can be prepared, considered and approved in a much shorter timeframe.

The 'gateway' process provides an early indication of the viability of a proposal. Other benefits include:

- Meeting the government's target of a 50 percent overall reduction in the time taken to produce local environmental plans
- Providing clear and publicly-available justification for each plan at an early stage
- Ensuring vital State and Commonwealth agency input is sought at an early stage
- Replacing the current 'one size fits all' system, under which all LEPs large and small are subject to the same rigid approval steps, with one that better tailors assessment of the proposal to its complexity
- Improving links between long-term strategic planning documents, such as regional strategies and metropolitan strategies.

RELEVANT PLANNING AUTHORITY

The process of creating local environmental plans starts with a planning proposal, which is undertaken by what is known as the relevant planning authority, mostly Councils. The Minister for Planning can nominate others to be the relevant planning authority under some circumstances, particularly if the plan is of state or regional environmental significance.

The Minister can nominate:

- The Director General of the Department of Planning; or a
- Joint Regional Planning Panel.

PLANNING PROPOSAL

In preparation of a local environmental plan the relevant planning authority must also explain and justify the proposal. This document must include:

- A **statement** of objectives and intended outcomes of the proposal
- An **explanation** of the provisions of the proposal
- A **justification** of the objectives and outcomes, including how this is to be implemented
- **Maps** containing the appropriate detail are to be submitted, including land use zones, heritage areas and flood prone areas
- Details of the **community consultation** that will be undertaken.

GATEWAY

When a local environmental plan has been prepared it is forwarded to the Minister for Planning for review.

This 'gateway' process allows a planning proposal to be reviewed at an early stage to make a decision whether to proceed further. This means less time is spent on proposals that would not pass the 'gateway'. After reviewing a proposal, the Minister for Planning will determine:

- Whether the proposal will proceed, with or without variation, and whether it should be re-submitted
- The level of community consultation required
- Input from State and Commonwealth authorities
- The necessity for a public hearing by the Planning Assessment Commission or other body
- The appropriate timeframes for the various stages of the proposal.



COMMUNITY CONSULTATION

Before a local environmental plan is made, the relevant planning authority must meet the community consultation requirements set out in the gateway decision.

The guidelines underpinning the new process stipulate at least 28 days' exhibition of a major plan and 14 days for low impact proposals.

Low impact proposals are generally those which are consistent with current zoning or any existing plans in the area. They are not regarded as low impact if they cover all or a significant part of the local government area (also known as a principal LEP).

During exhibition:

- Any person can make a submission concerning the proposed plan
- A public hearing can be arranged, and a report prepared and made public.

The consultation period will not be deemed to have been completed until the relevant planning authority has considered all submissions and reports from any public hearings.

MAKING OF A LOCAL PLAN

Following these processes, the Minister can decide to make a local environmental plan come into effect.

The Minister may:

- Make the plan in full put forward by the relevant planning authority
- Vary the plan
- Decide not to proceed with the plan
- Defer inclusion of certain matters in the proposed plan
- Choose to delegate the making of the plan to the Director General of the Department of Planning
- From later this year, it is expected that the Minister will be able to choose whether to delegate the determination of the plan to the relevant local council.

AN OVERVIEW OF LOCAL PLAN MAKING

- Transparent**
 - More thorough proposals for local environmental plans
 - Planning proposals, gateway decision and local environmental plans available online.
- Rigorous**
 - Each planning proposal must be fully explained and justified
 - Must demonstrate relationship to regional planning strategies.
- Accountable**
 - Where planning proposals include community consultation, this must meet minimum timeframes
 - Progress tracked online.
- Efficient**
 - A tailored assessment process
 - Reducing time to prepare local environmental plans
 - Planning proposals must pass gateway before resources allocated to assessment.



TRACKING THE PLAN MAKING PROCESS

Under these changes, proponents and authorities will be able to track the progress of the plan. A publically accessible website will provide details of all local environmental plans state-wide. This will give the community access to the reasons and justification for a plan, the conditions on which the government is happy for it to proceed, a clear explanation of what the plan will do and the current status of the plan and decision-making.

PARTNERSHIP WITH COUNCILS

The critical relationship between the Department of Planning and local councils will be maintained. The Department's regional offices will be the first point of contact for councils – and other parties – thinking of preparing a planning proposal. Regional offices will primarily receive the proposals and will continue to provide assistance to councils through the drafting stage.

STRENGTHENED CONFIDENCE

These changes create strengthened confidence in the local plan making process by providing greater transparency and efficiency. This confidence will lead to the protection of local communities and growth of the New South Wales economy.

FURTHER INFORMATION

Department of Planning

23-33 Bridge Street, Sydney NSW 2000
GPO Box 39, Sydney NSW 2001
Tel: 02 9228 6111
Fax: 02 9228 6455
Email: information@planning.nsw.gov.au
www.planning.nsw.gov.au

ATTACHMENT " B "



City Administrative Centre
Bridge Road (PO Box 42), Nowra NSW Australia 2541 - DX 5323 Nowra
Phone: (02) 4429 3111 - Fax: (02) 4422 1816

Southern District Office
Deering Street, Ulladulla - Phone: (02) 4429 8999 – Fax: (02) 4429 8939

Email: council@shoalhaven.nsw.gov.au

Website: www.shoalhaven.nsw.gov.au

For more information contact the Strategic Planning Group

Rezoning Request Procedures

Policy Number POL08/401 • Adopted. 20/10/1992 • Amended: 28/9/2004 • Minute Number MIN92 2960, MIN04 1175 • File 23426 • Produced By Strategic Planning Group • Review Date 1/12/2012

1. PURPOSE

The aims and objectives of this policy are to ensure any rezoning of land in the City of Shoalhaven:

- Is in the public interest and
- Will not compromise the integrity of Shoalhaven Local Environmental Plan 1985

2. STATEMENT

This policy statement is based on Council Minute 92 2960 of 20th October 1992. Council reaffirmed the policy in its revised format with amendments by Minute 04.1175 on 28th September 2004.

3. PROVISIONS

The following procedures be adopted as Council policy for the consideration of rezoning requests –

- Rezoning requests should be demonstrated to be in the public interest, ie
 - to allow a community facility;
 - to assist a disadvantaged group;
 - to secure a significant public benefit and/or significant cost saving to the public;
 - will improve the on-going economic situation of the area in a significant way;
 - where there is an obvious anomaly within the existing LEP.
- Other rezonings will generally only be considered in the context of the structure plan for that area, or in rural areas, the Rural Plan.
- The zonings and clauses in LEP 1985 (as amended) reflect a major part of Council policy for

Shoalhaven City Council - Rezoning Request Procedures

development in and of Shoalhaven. Any change to this will require appropriate justification from the applicant with sufficient information for Council to initially address the major issues. (If Council supports an amendment to the LEP this may involve further detailed studies prepared by Council, but paid for by the applicant). Requests with inadequate information will not be considered until they properly address the major issues.

d. Rezoning requests will be considered within the context of the Planning Group Program so that appropriate resources are allocated in Council's estimates for the following year.

4. IMPLEMENTATION

The Planning Group will administer this policy through the Local Environmental Plan process. Refer to appendix 1 – 'Requests for Rezoning Guidelines'

5. REVIEW

This policy will be reviewed within one year of the election of every new Council.

6. APPLICATION OF ESD PRINCIPLES

Principles in relation to Ecologically Sustainable Development (ESD) will be considered during the LEP ('rezoning') process for each individual proposal.

Requests for 'Rezoning' Guidelines

1. Introduction

Land use and development activities within the City of Shoalhaven are subject to the provisions of the City of Shoalhaven Local Environmental Plan 1985 (LEP 85)

This plan consists of a written instrument and maps. The maps show zones and special notations, the explanations for which are contained within the written instrument.

The ideal situation is to review this total plan regularly or major sections of the plan on a programmed basis.

Council does however have the ability to instigate less significant amendments to the major plan, the process of which is referred to as a 'Minor LEP' or '1 Off Rezoning'. Technically, the process involves preparation of a Draft Local Environmental Plan. The NSW Minister for Infrastructure, Planning and Natural Resources makes a final determination on whether the matter is able to proceed to implementation by gazettal.

To ensure resources are not drawn away from preparation of important or major strategic planning for the Shoalhaven, minor LEP rezoning requests will only be considered where they have considerable demonstrated public interest or an obvious error, or anomaly and that any requests received be considered in the context of the major planning exercises.

Where a One Off Rezoning proposal of the type mentioned above is considered as warranted action, then certain details and fees are required as outlined in the following sections.

2. Fees

Council has resolved that fees be paid as a contribution by proponents to initial assessment and preparation of relevant studies and the final draft plan. The following are from Council's adopted Management Plan for the period 1st July 2004 to 30th June 2007.

- 1 Initial assessment fee to accompany a request for rezoning - \$835
- 2 After Council has resolved to prepare a Draft Local Environmental Plan, additional costs are required to be covered based on:
 - a. Prepared by Council staff requiring an Environmental Study- \$3,300 plus cost of any Environmental Study.
 - b. Prepared by Council staff not requiring an Environmental Study- \$3,300
 - c. Requiring employment of consultant supervised by Council staff-at cost of employing the consultant to carry out the work, plus administration fee of \$250 per \$1,000 or part thereof of consultant cost, with a minimum of \$1,000

These fees shall be reviewed annually

Note: The consultant will be employed by and be responsible to Council, with costs being met by the proponent.

PLANNING GROUP – July 2004 – File 23426

3. Details of Submission

In preparing a submission to accompany a rezoning request to Council, it is important that sufficient information is provided. While the detail may vary from location to location, the following should at least be addressed:

Justification

All rezonings must be justified and not merely a speculative venture. Details on why Council should support the rezoning are to be provided with the submission.

Urban Area

Details of the subject land and ownership*
Existing zone, proposed zone and proposed use
Existing uses on the site, uses on adjoining lands
Vegetation cover, effect of any proposal on the flora and fauna of the site and in the locality
Means of vehicular and pedestrian access to and from the site - likely traffic impacts
Flooding
Availability and location of public utility services eg water, sewerage, electricity, drainage etc.

Rural Area

Details of the subject land and ownership*
Existing zone, proposed zone and proposed use
Existing uses on the site, uses on adjoining lands
Vegetation cover, effect of any proposal on flora and fauna of the site and in the locality
Slope assessment, landform, drainage
Waterways or wetland areas, possible effects on water quality
Flooding
Means of access and possible traffic impacts
Agricultural classification and impact on agricultural uses on the land and on adjoining lands
Visual analysis
Availability and location of public utility services eg water, sewerage, electricity, drainage etc.
Soil capability /erodability - suitability for on-site waste disposal
Bushfire hazard
Archaeological significance

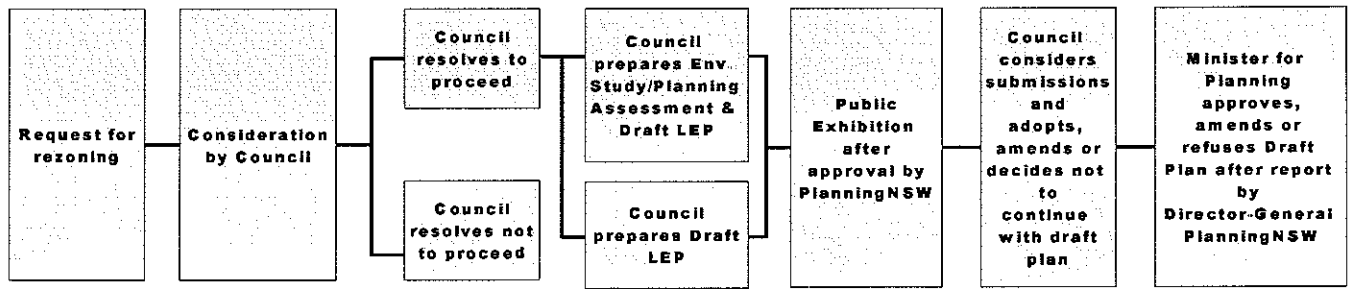
* Note: Where the person making the request to Council is not the owner of the land, written permission of the owner must be lodged with the request.

The above lists are intended as a basic requirement only and persons intending to make a submission to Council should discuss the matter with a member of the Planning Group prior to lodgement. More detailed requirements which may relate to a particular site would be made available at that time.

Five copies of the submission for rezoning should be provided to Council, and each submission should be accompanied by a concept plan. Detail plans which would be required for a development application or a building application are not required at this stage, unless specifically requested where the detail is necessary for Council to fully appreciate a proposal.

The 'Rezoning' Process

Shoalhaven City Council - Rezoning Request Procedures – Appendix 1



Rezoning Guidelines

Rezoning Request – Guidelines

Introduction

Land use and development activities within Shoalhaven are currently subject to the provisions of Shoalhaven Local Environmental Plan 1985 (LEP85). This plan consists of a written instrument and maps. The maps show zones and special notations, the explanations for which are contained within the written instrument.

The ideal situation is to review the total LEP regularly or major sections of the plan on a programmed basis. In this regard, Council is currently finalising a new LEP for the City in accordance with a “Standard Instrument” prepared by the State Government.

Council does, however, have the ability to instigate less significant amendments to the major LEP, the process of which is often referred to as a ‘Minor LEP’ or ‘One Off Rezoning’. Technically, the process involves preparation of a Draft Local Environmental Plan. The NSW Minister for Planning makes a final determination on whether the matter is able to proceed to implementation by gazettal.

To ensure resources are not drawn away from preparation of important or major strategic planning for Shoalhaven, minor LEP rezoning requests will only be considered where they have considerable demonstrated public interest or address an obvious error, or anomaly and that any requests received be considered in the context of the major planning exercises.

Where a One Off Rezoning proposal of the type mentioned above is considered as warranted action, then certain details and fees are required as outlined in the following sections.

The NSW Government released a new process for the preparation of LEP’s in July 2009. More information on the process, including relevant guidelines, is available on the NSW Department of Planning’s website www.planning.nsw.gov.au

Fees

Council has resolved that fees be paid as a contribution by proponents to cover the costs of preparing an Amendment to the LEP. The following are from Council’s adopted Management Plan 2009/2010:

1. Initial assessment fee to accompany a request for rezoning \$2,355.60
2. After Council has resolved to support a Draft Local Environmental Plan, additional costs are required to be covered based on:
 - a. Prepared by Council staff not requiring detailed Environmental Study (Planning Proposal) \$8,566.03
 - b. Requiring employment of consultant supervised by Council staff – at cost of employing the consultant to carry out the work, plus administration fee of \$396.55 per \$1,133.00 or part thereof of consultant cost, with a minimum of \$1,258.65

More detailed information on the fees applicable is available in Council’s Management Plan. These fees shall be reviewed annually.



Note: any consultant used will be employed by and be responsible to Council, with costs being met by the proponent.

Rezoning Guidelines

Details of Preliminary Rezoning Proposal

In preparing a submission to accompany a rezoning request to Council, it is important that sufficient information is provided. While the detail may vary from location to location, the following should at least be addressed in report form:

Justification

All rezoning requests must be justified and not merely a speculative venture. Details on why Council should support the rezoning are to be provided with the submission.

Urban Area

- Details of the subject land and ownership*
- Existing zone, proposed zone and proposed use
- Existing uses on the site, uses on adjoining lands
- Vegetation cover, effect of any proposal on the flora and fauna of the site and in the locality
- Means of vehicular and pedestrian access to and from the site – likely traffic impacts
- Flooding
- Coastal Hazard
- Availability and location of public utility services eg. water, sewerage, electricity, drainage etc.

Rural Area

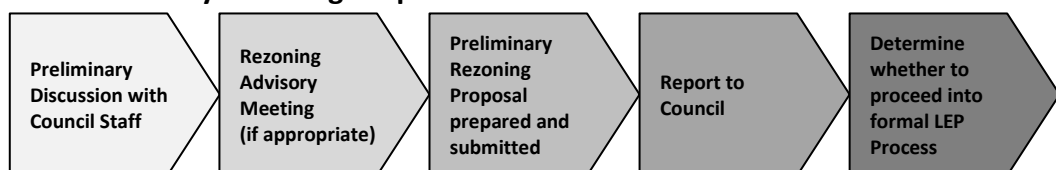
- Details of the subject land and ownership*
- Existing zone, proposed zone and proposed use
- Existing uses on the site, uses on adjoining lands
- Vegetation cover, effect of any proposal on the flora and fauna of the site and in the locality
- Slope assessment, landform, drainage
- Waterways or wetland areas, possible effects on water quality
- Flooding
- Means of access and possible traffic impacts
- Agricultural classification and impact on agricultural uses on the land and on adjoining lands
- Visual analysis
- Availability and location of public utility services eg. water, sewerage, electricity, drainage etc.
- Soil capability/erodability – suitability for on-site waste disposal
- Bushfire hazard
- Coastal Hazard
- Archaeological significance

***Note: Where the person making the request to Council is not the owner of the land, written permission of the owner must be lodged with the request.**

The above lists are intended as a basic requirement only and persons intending to make a submission to Council should discuss the matter with a member of staff from the Strategy Section of Council's Strategic Planning & Infrastructure Group prior to submission. If appropriate, arrangements will be made for a Rezoning Advisory Unit Meeting to be held involving relevant Council staff.

The preliminary rezoning proposal submission should be provided to Council electronically, and if appropriate, should be accompanied by a concept plan. Detailed plans which would be required for a development application or a building application are not required at this stage, unless specifically requested where the detail is necessary for Council to full appreciate a proposal.

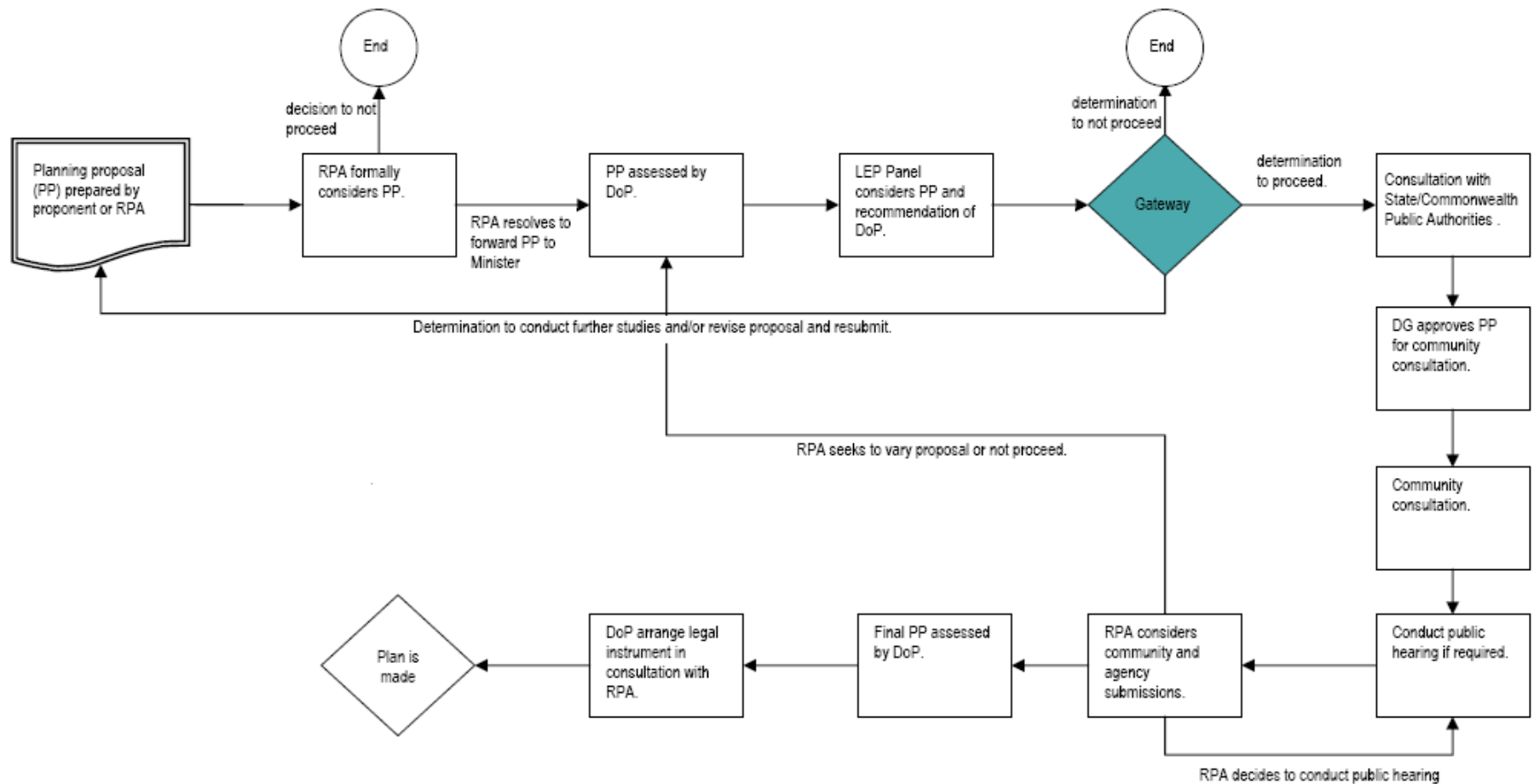
The Preliminary Rezoning Proposal Review



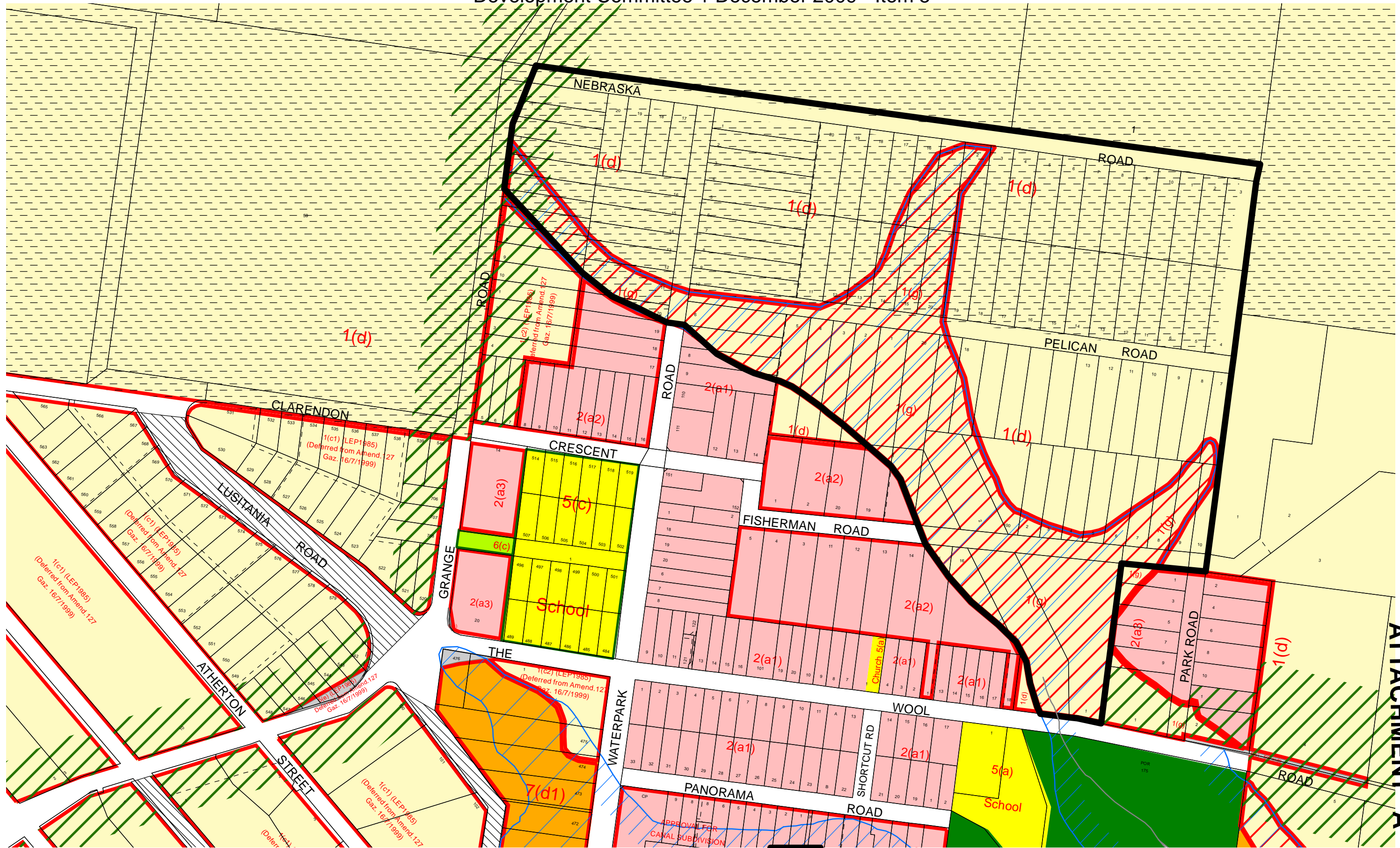
Rezoning Guidelines

Formal Process to make an LEP (Council as RPA) – Should Council decide to proceed

Note: Follows the Preliminary Process.



PP = Planning Proposal / RPA = Relevant Planning Authority / DoP = Department of Planning / DG = Director General of DoP








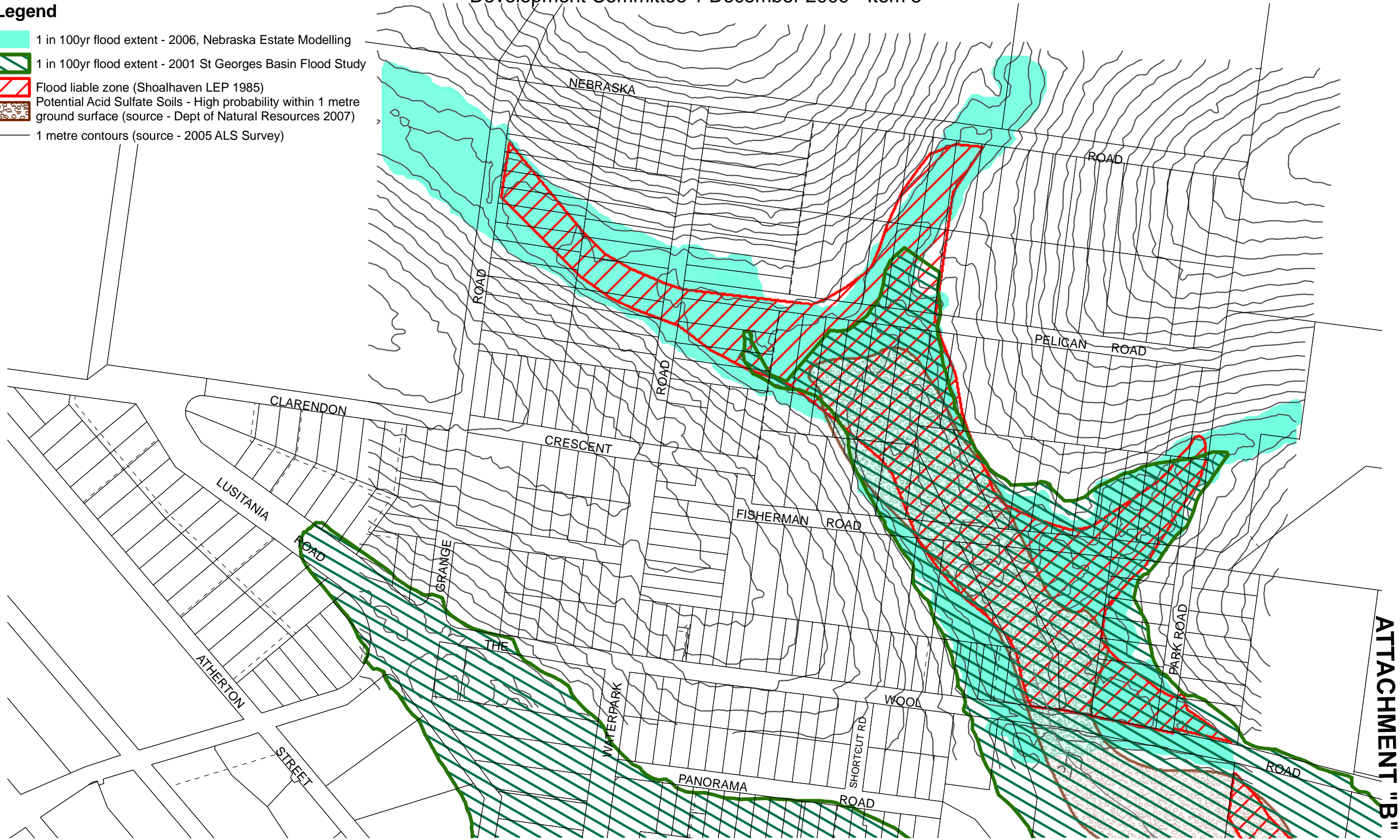
ATTACHMENT "A"

LEP1985 Current Zones



Legend

-  1 in 100yr flood extent - 2006, Nebraska Estate Modelling
-  1 in 100yr flood extent - 2001 St Georges Basin Flood Study
-  Flood liable zone (Shoalhaven LEP 1985)
-  Potential Acid Sulfate Soils - High probability within 1 metre ground surface (source - Dept of Natural Resources 2007)
-  1 metre contours (source - 2005 ALS Survey)



ATTACHMENT "B"

Flooding and Acid Sulfate Soils



Figure 7: Ecological constraint categories



Development Committee 1 December 2009 - Item 5

Our reference : Fil08/1575
Your reference : Nebraska Estates

Mr Gordon Clark
Strategic Planning Manager
Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

Dear Gordon

RE: Draft Flora and Fauna Study for Nebraska Estates by BES

I refer to your email requesting comments from the Department of Environment, Climate Change and Water (DECCW) on the *draft Flora and Fauna Study for Nebraska Estates by Ecological/BES*. Particularly, DECCW was requested to review the areas that are inappropriate for development based on the reports findings on biodiversity issues. The delay in replying is regretted.

DECCW has reviewed the draft reports and generally considers the report will provide a sound basis on which to make informed biodiversity decisions on the areas suitable for additional development on the land.

The following comments are provided on the technical aspects of the report:

- Given the habitats present, the techniques used in this investigation are considered adequate to gather the data necessary to identify species and habitats of high conservation value within the study area.
- The Intensity and distribution of surveys across the site and habitat types were appropriate for the target species. As recognised in the report further survey work could have been undertaken for orchid species for completeness. However, it is considered adequate for the stage of the planning process.

DECCW concurs with the reports main conclusion that *'given the extent of ecological constraints present, the development of all lots in the Estate is not considered appropriate. However, it is considered possible to maintain the key biodiversity values of Nebraska Estate while allowing limited further residential development. This would involve the retention of substantial areas of habitat for conservation purposes, particularly the riparian corridors and other areas of high level constraints, and possibly the amalgamation or reconfiguration of lots to allow limited residential development to occur in areas of lower ecological constraints'* P57.

The main implications for future conservation/development zoning of the site from the studies are considered to be:

- *The riparian vegetation of the study area was found to be of high conservation value, containing both the Swamp sclerophyll forest endangered ecological community and large numbers of the threatened plant Melaleuca biconvexa. P57*



Development Committee 1 December 2009 - Item 5

- *Other areas of high conservation value include habitat for the orchids *Cryptostylis hunteriana* and *Specularantha ventricosa* in the north east of the estate. P57*
- *The known nest tree of the Gang-gang Cockatoo, which lies approximately 30-40m north of Nebraska Road, should be protected from further disturbances by limiting or excluding development from adjacent areas of Nebraska Estate P60*
- *The northern portion of the study area is defined as part of an east-west 'disturbed habitat and vegetation' corridor under Clause 15 of the Jervis Bay Regional Environment Plan and provides important connectivity for species and habitats in the study area. P57 The existing subdivision pattern and the size and dimensions of the individual lots would greatly limit the extent to which these objectives could be achieved. However, as the study area occupies only part of the 'disturbed vegetation and habitat' (corridor) defined by the JBREP, limited and low-density development within this area should not substantially compromise these objectives or the functioning of the general area as a 'habitat corridor'. P57*
- *Other ecological constraints to development of the study area include foraging resources for threatened species such as the Glossy Black-cockatoo and Yellow-bellied Glider, and a number of hollow-bearing trees. Page vi*
- *On the corridor issues the conservation values of the northern portion of the study area are in part related to its good connectivity to adjoining habitats of high quality. These values warrant the protection of much, if not all, of the habitat in the northern portion of the study area Page 51*

DECCWs interpretation of how the findings could be applied in a planning layer is shown in the attached map Appendix 1.

Other issues if development is to occur in the areas outside "High Level Constraint" Lands

- It is clear that if the detailed management recommendations on Pages 59-62 of the report are to be applied that the existing lot configuration would have to be amalgamated considerably. It is going to take a high level of compliance and commitment from Council if the biodiversity values are to be maintained on these lands in the future.
- In developing the amalgamated lot design the requirements for clearing and fuel reduction to meet RFS requirements should be factored in up front.
- The existing Volunteer Conservation Agreement (VCA) under *NPW Act 1974* outcomes should not be compromised by the design.

Should you have any queries regarding the above Information, please contact Miles Boak, Conservation Planning Officer on 02 62297095.

Yours sincerely

MBoak 25 Aug 09.

MICHAEL HOOD
Manager Planning and Aboriginal Heritage, South Branch
Environment Protection and Regulation

Development Committee 1 December 2009 - Item 5

Our reference : FIL08/1575, DOC09/53964
Your reference : Nebraska Estates

Mr Gordon Clark
Strategic Planning Manager
Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

Dear Gordon

RE: Draft Flora and Fauna Study for Nebraska Estates by BES


I refer to your email of 9 November 2009 requesting clarification from the Department of Environment, Climate Change and Water (DECCW) regarding buffers to biodiversity assets for Nebraska Estates.

DECCW concurs with the *draft Flora and Fauna Study for Nebraska Estates* prepared by Ecological/BES which has generally recommended a 50m buffer to the endangered ecological community (EEC), the threatened Biconvex Paperbark (*Melaleuca biconvex*) and the orchid *Speculantha ventricosa*. These buffer areas should be included in the lands excluded from development and managed for biodiversity conservation.

This would leave the north-western corner of the Estates available for development and would severely constrain the remainder of the site. Hence, the existing approved dwellings and one or two additional dwellings may be the only feasible development options in the eastern part of the Estates.

Should you have any queries regarding the above Information, please contact Miles Boak, Conservation Planning Officer on 02 62297095.

Yours sincerely








11 November 2009













DIMITRI YOUNG
A/Manager Landscape Aboriginal Heritage Protection
Environment Protection and Regulation

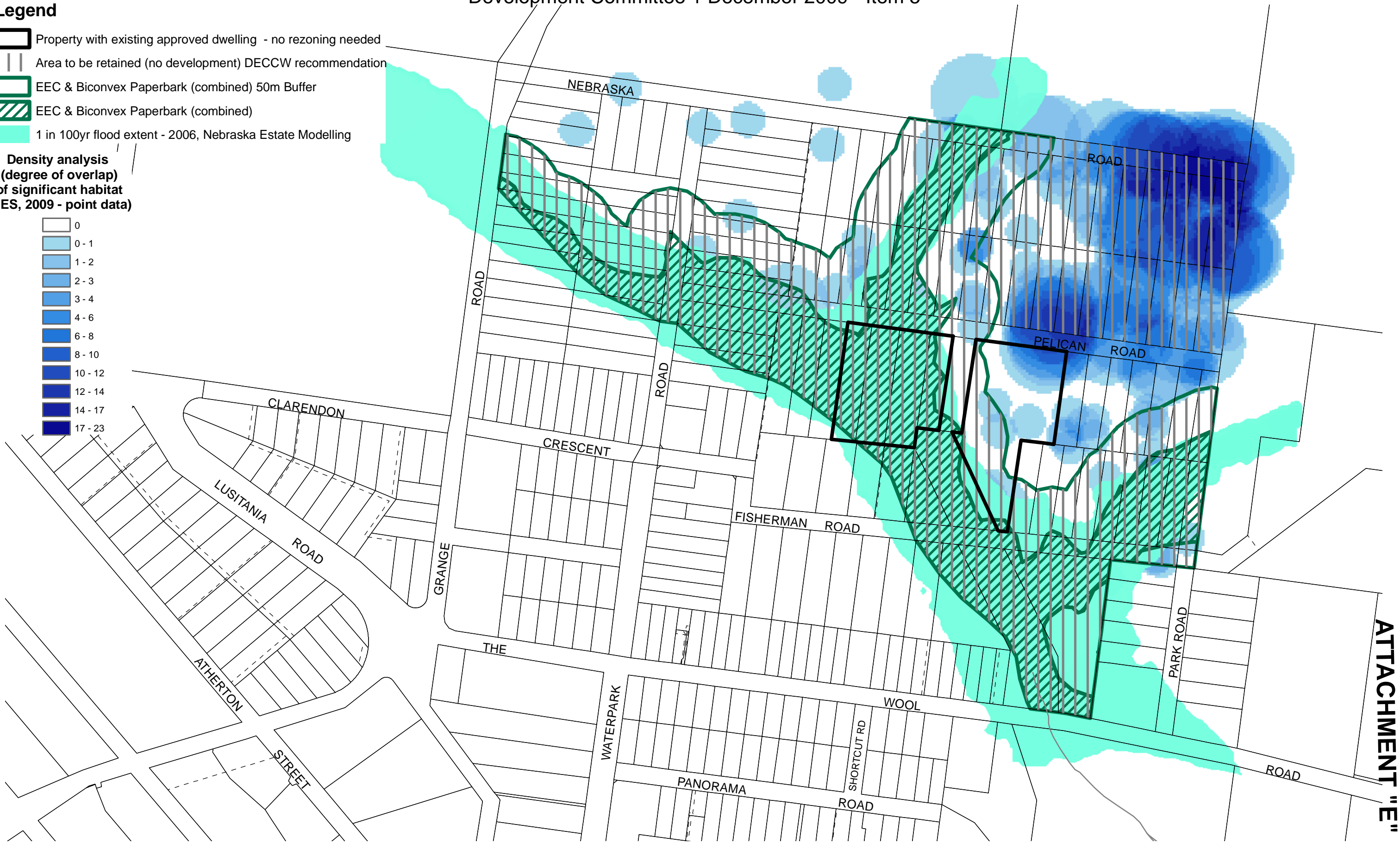


Legend

-  Property with existing approved dwelling - no rezoning needed
-  Area to be retained (no development) DECCW recommendation
-  EEC & Biconvex Paperbark (combined) 50m Buffer
-  EEC & Biconvex Paperbark (combined)
-  1 in 100yr flood extent - 2006, Nebraska Estate Modelling

**Density analysis
(degree of overlap)
of significant habitat
(BES, 2009 - point data)**

-  0
-  0 - 1
-  1 - 2
-  2 - 3
-  3 - 4
-  4 - 6
-  6 - 8
-  8 - 10
-  10 - 12
-  12 - 14
-  14 - 17
-  17 - 23



ATTACHMENT "E"



Flooding and Biodiversity

