



Nambucca River MASTER PLAN

DRAFT 25 September 2009 - Compendium

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EXECUTIVE SUMMARY

The importance of the Nambucca River cannot be overemphasised regarding its value to not only residents of Nambucca Heads and region but also visitors from other areas.

The study area for the Masterplan extends along the Nambucca River from Teagues Creek to the Nambucca River mouth. This area is influenced by surrounding land uses, activities, connections and topographical interactions.

The vision for the Nambucca River Masterplan is to strengthen and highlight both the use and aesthetics of the waterway for residents and visitors. The restrained approach ensures the unique existing natural environment is maintained and highlighted as an asset to the Nambucca Valley.

The plan aims to establish the areas appeal as a modern destination on the Mid North Coast by improving the built forms and recreational facilities while preserving the areas established relaxed coastal atmosphere and natural environment.

On the immediate foreshore there is a plethora of facilities to enable the enjoyment of the area. This analysis has however revealed the need to:

- upgrade and rationalise these facilities;
- create or reinforce distinctive themes along the foreshore;
- provide an effective framework for linking areas to each other and give a visual context in which the Nambucca River is clearly legible to locals and visitors alike;
- introduce new elements that will create a vibrancy in strategic locations along the foreshore;
- establish new codes for development which will ensure relevance to a coastal character and environmental/cultural context of the study area; and
- provide design solutions that will promote the use of indigenous vegetation and techniques to ensure a healthy sustainable foreshore.

The built form, open space use, signage and planting are a focus for analysis and future design resolution. Use of the river itself within the majority of the study area is restricted to small craft moving at slow speeds. The Nambucca River retains many natural features and it is within the scope of the study to enhance these while exploring the opportunities for greater use and appreciation

Eco Logical Australia has conducted an audit and analysis of the existing environmental condition of the study area by undertaking a desktop assessment and site-based habitat assessment. The results of this assessment are presented in this report and accompanying maps

Four community workshops were undertaken as part of the community consultation process for the Nambucca River Master Plan. All of these meetings were held on Monday 6 April 2009. Particular interests groups were invited to attend the following meetings to assist in gathering targeted information and feed back.

Nambucca Shire Council set up an information desk on Bowra Street, Nambucca Heads to further interact with the community on what they want to see in the Masterplan.



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Appendix B Draft Nambucca River Masterplan Submission

Prepared by Crown Lands Division



1. INTRODUCTION

1.1 Project Objectives

The importance of the Nambucca River cannot be overemphasised regarding its value to not only residents of Nambucca Heads and region but also visitors from other areas.

The existing natural beauty of the Nambucca River and its surroundings will respond well to innovative urban landscape design solutions and benefit from a restrained approach, that identifies and illustrates opportunities for improvements that would not overwhelm the relaxed character of the area and yet bring together and improve connectivity and uses in the area.

The river system extends north west to Bowraville and beyond, south to Scotts Head and south west to Macksville. It is a navigable waterway for much of its length and is an important recreation, fishing and aquaculture area. The interaction between activities in the river system and the adjoining reserves (e.g. Gordon and Bellwood Parks) and landuses is a critical balance for which the proposed masterplan will provide a solid framework for the future.

1.2 Study Area

The study area for the Masterplan extends along the Nambucca River from Teagues Creek to the Nambucca River mouth. This area is influenced by surrounding land uses, activities, connections and topographical interactions.

Within the study area seven individual precincts have been identified as outlined below;

- Teagues Creek, Bellwood to the Tourist Information Centre,
- Stuarts Island including the golf course and causeway,
- Bellwood Park,
- RSL Club and surrounding area,
- Gordon Park and Wellington Drive, and
- V Wall Park including the Glen, river mouth, training wall.

The location of each of these precincts is shown in **Figure 1 – Study Area & Precincts**. Each area has been considered separately as well as holistically within the issues paper.

1.3 Structure of Report

The Masterplan has been provided in two separate volumes, Volume One is known as The Masterplan and Volume Two is known as The Compendium. The Compendium has been separated into Seven Sections.

Section One	Introduces the Compendium and outlines the objectives, study area and contents of the masterplan.
Section Two	Documents the Literature Review undertaken.
Section Three	Provide an outline and assessment of the Planning Framework for the Masterplan.
Section Four	Outlines the Contextual Analysis of the Study Area.
Section Five	Documents the Master planning Consultation Process.
Section Six	List further information required in the Masterplan,
Section Seven	Concludes the Compendium.



2. LITERATURE REVIEW

2.1 Nambucca Shire Council Aboriginal Cultural Heritage Management Plan 2003

This plan was reviewed by John Appleton, who provides the following comments: only Local Aboriginal Land Councils were consulted, but no Elders or other Aboriginal interest groups.

The report does not refer to the research into the living Aboriginal histories and associations with Nambucca done by NPWS and UNE Researchers done in recent years and therefore does not recognise the cultural significance to living Aboriginal people.

The consultation for this project must include not just the Land Council, but other members of the Aboriginal community who have a personal association with sites and places. The Land Council is an administrative body only, and does not represent all interests in the local Aboriginal community.

Further analysis / commentary this study will be provided following consultation with relevant Aboriginal people and / or groups.

2.2 Nambucca Shire Structure Plan, 2008

The Nambucca Shire Structure Plan was prepared by SutherlandKoshy and adopted by Council in September 2007. The Structure Plan is a broad scale land use planning framework that was prepared to guide the accommodation of the predicted 2% annual growth in population in the Nambucca Valley in the next 20 years.

The Structure Plan cites the following population growth statistics:

Year 2006 – 17,896 people

Year 2011 – 19,759 people

Year 2016 – 21,815 people

Year 2026 – 26,593 people

The plan predicts that an additional 4.94 ha of additional land will be required for tourism related uses. It recommends the development of a new tourism precinct along the waterfront inclusive of eco-tourism close to estuary.

The following future development principles of the Structure Plan apply to the study area:

Promote Nambucca Heads as the main tourist town in the valley with sensitive new development designed to protect and enhance the world class estuary system that is the main asset of “the Heads” Support rezoning of the Lower Nambucca tourist accommodation and eco-tourism (draft LEP 47 and 65) based on the report and concept plan prepared by King and Campbell, April 2007. (It is noted that this area is just south of the study area, however it will be considered within this master planning project.)

Recommended Tourism – Strategies / Action / Implementation:

Zone more land for tourist accommodation and facilities

Expanded tourism precinct along the V wall area

Provide more facilities for recreational fishing, more mooring, better utilise boat landing facilities, potential access to island and peninsulas

The draft MP does not propose additional zoned land for tourist accommodation or facilities other than relocating the Visitor Information Centre car park to the opposite side of Riverside Drive on land presently zoned for residential uses.

The draft MP does not propose to expand the tourism precinct along the V wall area. Rather, this area will be upgraded to improve paths and vegetation, however intensifying use in this area is not recommended due to dangerous swimming conditions.

Otherwise, the draft MP is consistent with these strategies.



Recommended Zoning / Policy changes

Increase the area of land zoned tourism in and around the town and permit increased heights of up to 18 to 20 metres above existing ground level for some land so zoned, particularly along the riverfront below the town and to 14 metres to screen Woolworths as viewed from the water. (High Priority)

Permit mixed use at the Riverside Drive / Highway intersection. (High Priority)

Draft LEP 47 rezones land to low density tourist and residential 2d. (High Priority)

Investigate land along river south of town – aquaculture and tourism. (Medium Priority)

Rezone land – draft LEP 47 – to light industrial – see King and Campbell report April 07. (Medium Priority)

Prepare DCP's for 20m height areas. (High Priority)

The Structure Plan refers to the Hill PDA Economic Report in which the following recommendations may be relevant to the project:

Identify tourism precincts and tourism trail

Tourist accommodation to be characteristic of the area

Promote water edge restaurant / dining

Ecotourism

Creative / cultural centres – mixed use zoning

Tensions between locals and tourists – need to ensure local community benefits from tourism income.

An Action Plan which identifies and prioritises various activities is attached to the Structure Plan. Several 'actions' that are relevant to this study are already listed above and their priority is noted in brackets. Other relevant 'actions' are listed as follows:

Prepare shire wide Scenic Landscape Plan (medium priority).

Develop a Water Sensitive Urban Design (WSUD) Policy and revised on-site detention (OSD) policy (high priority)

A key element of the Draft MP is improvements to stormwater quality and quantity through WSUD measures.

Update shire-wide flood study (medium priority).

Prepare a European and Aboriginal Heritage Management Plan for the shire (medium priority).

The draft MP proposes a Cultural Heritage pathway that would be appropriated marked with interpretive signage in key locations. This would be supported by a brochure explaining the cultural significant of Aboriginal areas, sites and relics.

Encourage and support employment generating activities (high priority).

Prepare shire wide bicycle plan and implementation strategy (medium priority).

The draft MP proposes to widen and extend the existing walkway along the northern bank of the Nambucca River from Teagues Creek to the river mouth.

Provide more facilities for recreational fishing particularly in Nambucca and Macksville. Provide more moorings and better utilise boat landing facilities for potential access to islands and peninsulas in the estuary for limited tourism (medium priority).

The draft MP provides improvement moorings, boat facilities, pontoons and boardwalks that will increase opportunities for recreational fishing in the area.

Investigate the environmental impacts of dredging the Nambucca River mouth to enable large ocean going commercial fishing vessels to enter (high priority).

This is the focus of a separate hydrological study.



'Refocus' the towns and encourage new mixed use development that relates more closely to the natural assets of each township, the rivers, creeks and estuary and provide built form links between the town centre and riverfront areas (high priority).

The draft MP proposes significant improvements to the interface between town and the river foreshore through improves linkages at Gordon Park and the RSL precinct.

Increase the areas zoned for tourism uses within the town centres and in selected areas close to the natural assets of the shire (high priority).

Prepare DCP controls for tourist developments to encourage the development of more carefully managed eco-tourism facilities in the shire to 'showcase' the unique natural areas in the valley (medium priority).

Low key day use and eco-tourism in the form of "walk-in" camping is proposed for the Sand Island. An oyster industry interpretive facility is proposed for the Visitor Information Centre.

Make better use of the public land along the foreshore areas to provide facilities for residents, workers and tourists, particularly Council managed launching facilities (high priority).

The draft MP proposes significant upgrades to boat handling facilities, recreational facilities and pathways that will benefit residents, working and tourists.

Development of multi-use river facilities, particularly at Nambucca Heads and Macksville (medium – low priority).

The draft MP proposes multi use river facilities in the Gordon Park and RSL precincts.

2.3 Nambucca River Catchment Estuary Management Study – Estuarine Geomorphology, Physical Condition and Mapping, 2005

This study was prepared to understand the physical process that controls the estuary character and its behaviour. This report provides a description of the Nambucca River Estuary and the processes and recent events that have shaped the estuary and its physical condition.

Key points taken from the study;

- In technical terms the Nambucca River is a drowned river valley with an in filled barrier estuary.
- Warrell Creek has the highest proportion of unstable banks at 6%, mostly due to the predominance of beach sand banks in this style and wave erosion.
- Of all the estuary arms North Arm is the most unstable with 6% highly unstable and 24% mostly unstable, followed by the Nambucca River then Taylors Arm.
- The condition of the riparian vegetation correlates closely with the results of the bank stability assessment, the most common impacts affecting riparian vegetation condition were clearing, weed incursion and stock grazing.
- A total of 13.5km of bank protection works were identified in the 200.7km of estuary surveyed, including 10.3km of rock walls. 69% of the rock walls within the Nambucca River are considered effective in improving bank stability.
- In terms of overall physical impact to the estuary, Nambucca River and Taylors Arm are the most impacts.

Four specific management issues were identified; estuary bank vegetation, estuary sedimentation, boating impacts and foreshore protection.

Seven recommendations for improving riverbank and riparian condition in the Nambucca Estuary were made and listed below.

- Address upstream erosion to limit downstream sedimentation,
- Protect and rehabilitate site with high quality riparian vegetation,
- Manage recreational boat use,



- Protect foreshore areas,
- Target serious invasive weeds in riparian areas,
- Incorporate river health goals into bank protection works, and
- Review Council planning mechanisms.

2.4 Nambucca River Estuary Management Study, 2006

The Nambucca River estuary has been and is currently being subjected to a range of direct and indirect pressures arising from current catchment land uses and waterway activities. These pressures typically result in a variety of impacts at both the macro- and micro-scale. To gain a thorough appreciation of the current estuarine condition and impacts resulting from current usage, an Estuary Management Study has been prepared, in accordance with the NSW Estuary Management Program.

The study details the biophysical condition of the estuary; community uses of and values of the estuary and the current institutional arrangements that govern how the estuary is managed. This study was the precursor to the Estuary Management Plan.

The Nambucca River is located within the Nambucca Shire, which is situated on the mid-north coast of NSW approximately 45 kilometres south of Coffs Harbour. The Shire has an approximate area of 1,491 km², while the Nambucca River has a total catchment area of 1,460 km². The river catchment is almost wholly contained within the Shire's boundary. The prominent waterways of the estuarine river system include the Nambucca River, Taylors Arm and Warrell Creek, which collectively have a waterway area of approximately 7.74 km².

Nambucca River and has an area of 253.5 km² (approximately 20% of the total catchment).

The current land use within the study area is approximately evenly divided between cleared lands (50.3%) and remnant vegetation (43.4%). A small portion of the study area is comprised of regrowth vegetation (1.9%), forest plantation (0.3%) and horticulture (0.6%). The remainder of the study area is waterway (3.5%).

Many Crown Land areas are located on the foreshores of the estuary and as such form part of the land/water interface of the estuary. In terms of current waterway usage, community consultation has identified significant recreational usage with the most common activities being fishing (mainly from a boat), swimming and boating (i.e. waterskiing). A number of commercial activities also occur on the river including oyster production, commercial fishing and boat/houseboat hire. The estuary's high scenic and recreational amenity results in increased patronage and demands during summer and holiday periods.

Primary concerns noted by the community during the consultation phase included ongoing sedimentation ('infilling') of the entrance and the impact of boating (for fishing, waterskiing, etc) on the environmental values of the estuary. At present most boating effort (by local residents) occurs between the entrance and Macksville in the main branch of the Nambucca River.

Commercial fishing is undertaken within the Nambucca River estuary. Available data shows that the days of effort put into commercial fishing in the estuary have declined over the period of 1998 to 2004. This has been accompanied by a decrease in the overall weight of commercial catch from the estuary. Despite these declines, the direct value of the commercial fishery has remained relatively constant for the past few years at around \$280,000 per annum. Recent studies by DPI (Fisheries) have identified that the mid-North coast region of NSW has the third highest number of recreational fishers of all the regions in NSW.

Only Sydney rock oysters are grown and harvested within the Nambucca River. Presently, there are a total of 52 commercial oyster leases within the estuary, designated as "current" (43 leases) or "former" (9 leases). Ten permit holders utilise the current leases. The yearly oyster sales of the Nambucca River estuary oyster industry are estimated to be approximately \$500,000 to \$700,000 per annum (or 2% for the State industry income) based on average production values and 2002/2003 prices for farm gate sales.



There has been a reported increase in domestic travel to the mid North Coast region (includes other centres such as Coffs Harbour and Port Macquarie) reported by NSW Tourism for the 2002/03 financial year. Local tourist operators consider that the estuary is potentially under-utilised, except during the peak holiday times. The usage of the estuary for passive recreational pursuits is low, despite it having many superb areas that are suitable for a wide range of passive recreation pursuits.

In respect of the general goals of the Estuary Management Policy (NSW Government, 1992), a range of overarching management objectives have been developed for the Nambucca River estuary. The objectives are based on community uses and values associated with the estuary and from the technical reviews completed as part of this study. The objectives form the goal posts for estuary management and will serve as future measure against which to assess the success of the process. The objective are further refined and published in the Nambucca River Estuary management Plan, 2008.

2.5 Nambucca River Estuary Management Plan, 2008

This document presents the Estuary Management Plan for the Nambucca River. WBM Pty Ltd has prepared the EMP with input from GECO Environmental. The plan was prepared under the direction of the Nambucca Shire Estuary and Coastline Management Committee, Nambucca Shire Council and Department of Environment and Climate Change (DECC, formerly DNR) in accordance with a study brief released by Nambucca Shire Council in February 2004.

The main aim of the plan is to maintain and improve the recreation and amenity values of the river without resulting in deleterious impacts on the natural environment.

The following overarching management objectives have been developed for the Nambucca River estuary and are based on community uses and values associated with the estuary and from the technical reviews completed as part of the Nambucca River Estuary management Study, 2006. The objectives have been ranked and prioritised accordingly.

Management Strategy	Priority	Rank
1. Improve overall riverbank condition (including riparian habitats) on all major streams and waterways within the Nambucca Valley.	High	1
2. Minimise the environmental impact of new development by integrating best practice water management approaches (encompassing design, construction and operation) into Council's planning, approval and regulatory systems.	High	2
3. Reinststate tidal flow through the Stuarts Island Causeway, whilst minimising risk to swimmers utilising the Bellwood Swimming Hole.	High	3
4. Raise community awareness as to the environmental impacts of boating within the estuary and boating techniques that could be employed to minimise them.	High	4
5. Support sustainable aquaculture industries within the Nambucca River estuary by application of the highest levels of catchment and waterway management to ensure that the estuary's water quality is sufficient to maintain this industry, in clearly identified areas.	High	5
6. Protect habitats of high ecological and estuarine conservation value (eg saltmarsh, wetlands, littoral rainforests, riparian zones and floodplain wetlands), through appropriate landuse planning and development controls.	High	6
7. Incorporate riparian protection zones within Council's planning framework to safeguard them against potential future development and land-use change.	High	7
8. Enhance condition of habitats of high ecological/ conservation value.	High	8
9. Raise community awareness of coastal/estuary processes to increase the level of understanding of shoaling mechanisms and associated implications as well as the consequences of intervention measures	High	9
10. To maintain and enhance the condition of Nambucca Valleys waterways to allow for responsible recreational boating and water sports activities.	High	10
11. Rationalise and improve access points, boat ramps and associated facilities to protect existing estuarine values and to provide quality public foreshore access to the estuary.	Medium	11



Management Strategy	Priority	Rank
12. Integrate and improve upon existing water quality monitoring activities occurring within the estuary to provide a better indicator of overall estuarine health, whilst addressing all existing licence and operational requirements.	Medium	12
13. Improve swimmer safety in the lower estuary by a variety of means including improved signage / safety equipment, provision of new swimming areas and/or improving the safety aspects of existing swimming areas.	Medium	13
14. Address localised shoaling and erosion problems and improve navigable access where practical and most needed in the lower estuary giving consideration to the likely effectiveness, costs and benefits of works as well as the potential impacts.	Medium	14
15. Ensure proposals that affect the estuary and surrounds afford an appropriate level of protection to items and areas of Aboriginal and European cultural heritage.	Medium	15
16. Promote the values of the estuary in ways that promote its sustainable use and also support the valuable tourism industry of the Nambucca Shire.	Medium	16
17. Initiate fishing catch surveys on the Nambucca River estuary, which identify key fishing locations, fishing effort, catch quantities and species caught.	Medium	17
18. Obtain better understanding of fisheries habitat values and trends in fish communities over time in different parts of estuary.	Medium	18
19. Incorporate river health goals and best practice design into future bank protection works (e.g. construction of future foreshore retaining walls) through an integrated and streamlined approvals process.	Medium	19
20. Ensure climate change and sea level rise implications are incorporated into the current LEP and forward planning.	Low	20
21. Protect habitats of moderate or local ecological value (eg areas of native regrowth).	Low	21
22. Enhance condition of habitats of moderate or local ecological value.	Low	22
23. Ensure adequate representation of all key local stakeholder groups is maintained on the Estuary and Coastline Management Committee (ECMC) and that stakeholder input is encouraged in the implementation of the Plan	Low	23
24. Ensure all foreshore structures are appropriately licenced, designed and maintained to protect foreshore amenity and access.	Low	24
25. Improve recognition of Crown Land areas in the lower estuary, particular those around existing facilities that may promote greater connectivity and tourist related usage of the area.	Low	25

2.6 Nambucca Cycleway Plan, 2005

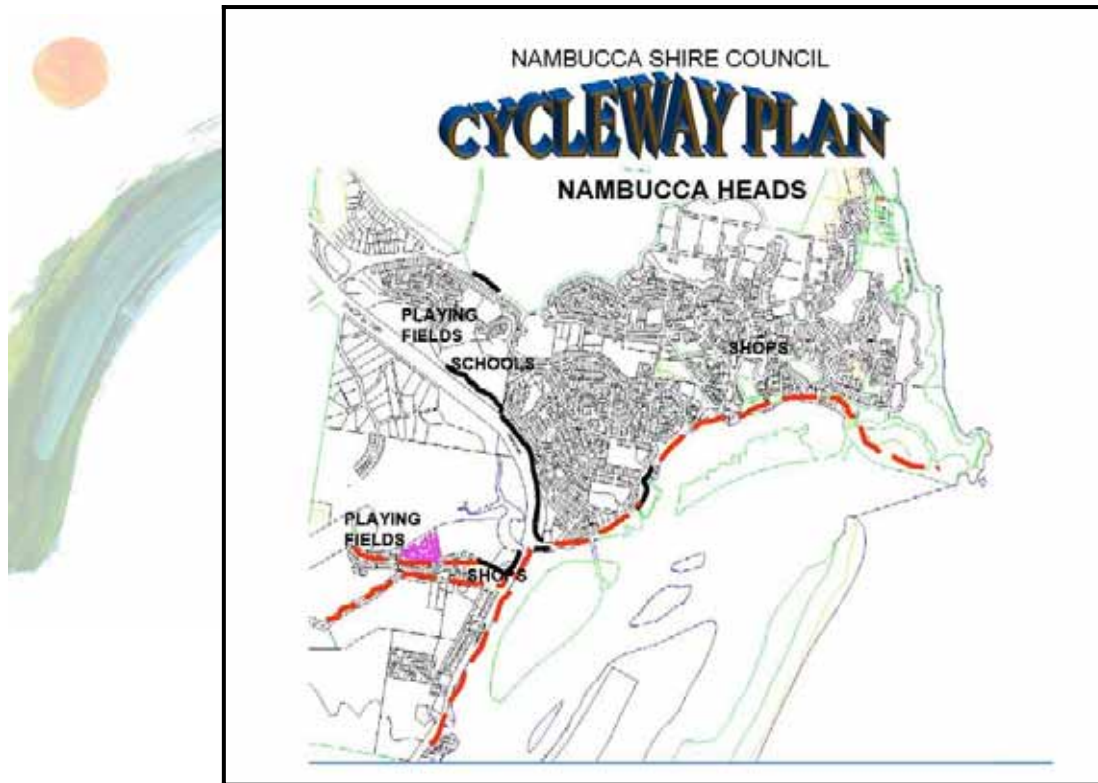
This plan was amended and adopted by Council in 2005. The aim of the plan is to:

Provide a cycleway network within the towns of Macksville, Nambucca Heads, Bowraville, Scotts Head and Valla Beach. Sections of this cycleway network in Macksville and Nambucca Heads will form part of possible future regional cycleway along the east coast.

The objective of the plan is to 'form defined links between areas such as schools, business centres, recreation areas, residential areas and between towns'.

The plan identifies a cycleway along the northern bank of the Nambucca River as shown below. (Black unbroken lines – existing, red broken lines – proposed)





The Cycleway Plan identifies the use of Section 94 funds, Reserves and Community Facilities Plan and a separate plan to implement the construction of the new cycleways.

The draft MP is consistent with the Cycleway Plan in that it proposes to widen, upgrade and provide new connections to the cycleway / walk way along the length of the northern bank of Nambucca River from Teagues Creek to the river mouth.

2.7 Nambucca Valley Tourism Strategy

Evolve Network Australia (ENA) prepared the Tourism Strategy in November 2007 to ‘...discover the driving forces and the current blockages impacting the tourism industry in the Nambucca Valley and to make recommend strategies for future market growth’.

The study involved a review of previous studies, interviews, a survey, observation and industry consultation. Relevant outcomes / factors identified in the strategy include:

- opportunities for eco-tourism
- water based activities will be impacted by the final Estuary Management Plan (this is discussed separately in this section and will be further considered in the draft Master Plan).
- market trends:
 - ‘baby boomer’ demand
 - special interest – niche markets
 - more frequent short break holidays
 - environmental and social awareness
 - variable fuel prices
 - crime prevention at the visitor information centre
 - consultation / collaboration – ENA found that:

“There is a distinct lack of unity in the tourism industry across the valley, most of the operators who participated in the research operated alone with little or no collaboration with other local entities. Operators are unclear about the roles of Council and tourism bodies and feel unsupported.”



This comment highlights the need to include all tourist related groups and individuals in the business group workshops to increase their participation rate. A series of Consultation workshops were held to discuss the master plan and seek input from interested people. Refer to Section 5 of this report for further details and a list of attendees.

2.8 Nambucca Shire Social & Community Plan, 2004

The Social and Community Plan was prepared by Nambucca Shire Council's Community Services staff in conjunction with Council's Community Services Committee in October 2004.

The purpose of the Social Plan is to assist Nambucca Shire Council, local community organisation/services, and government departments to determine the present and future social and community service needs of the Nambucca Shire. It is a tool which can assist in the orderly development of services and facilities for the community, and further, provides guidance to Council as to which priorities it should consider in its Management Plan and Budget processes.

The plan identifies the following 'issues, needs and strategies' that are relevant to the project:

RECREATION AND CULTURE				
OBJECTIVE: To provide facilities and services in response to the active and passive recreational and cultural needs of residents and visitors.				
ISSUE	STRATEGY	OUTCOME	ACTION REQUIRED/BY WHOM	TIME FRAME
Preservation of Aboriginal culture and heritage	Develop a "keeping place" Consultation protocol & plan has to be developed & updated	Focal point for experiencing the culture Artefacts kept outside the Nambucca can be returned to their home area	Ngurrala Aboriginal Corporations and others to develop facilities (LALC'S, Language Group, Gumbaynggir Elders) Requires a suitable keeping place	Short-term
Suitable venues	To provide appropriate facilities for arts and cultural activities Liaise with Land Council for Culture & Heritage Centre	Facility for arts and crafts production and sale; a venue for performing arts Venue will attract high quality performers	Develop a cultural centre; seek out land and funding for buildings etc (NSC, community groups, Regional Arts Development Office) Continue to improve Nambucca Entertainment Centre (NSC, NV Arts Council)	Current and Ongoing Ongoing.
Preservation of history	To preserve and protect locally significant sites, buildings and artefacts	Knowledge of and respect for local history	Preservation being undertaken by groups based in Bowraville, Macksville and Nambucca Heads	Ongoing

John Appleton, Archaeologist met with Nambucca District Historical Society to discuss identification of a suitable venue for the preservation of Aboriginal culture and heritage.



PRINCIPAL ACTIVITY: RECREATION AND CULTURE				
OBJECTIVE: To provide facilities and services in response to the active and passive recreational and cultural needs of residents and visitors				
ISSUE	STRATEGY	OUTCOME	ACTION REQUIRED/BY WHOM	TIME-FRAME
Providing a range of suitable sporting facilities	Plan ahead for improvements to existing facilities and building new ones	Adequate facilities to meet the increasing population	Develop an up to date plan for development of new recreation facilities (NSC) Review Section 94 Plan (NSC) Committee of Management to have Forward Plans	Short-term
Water safety	Provide facilities for water based organisations	Suitable facilities	Housing for Marine Rescue equipment and activities (Nambucca Shire Council, Nambucca River Marine Rescue) Include concept of a Surf Club at Valla Beach in developing the Valla Beach Coastal Reserves Management Plan (NSC) Continue to upgrade surf club at Main Beach Nambucca Heads	Current and short-term Likely to be very long-term; site identification could be medium term Current

Refer to Section 5 for details and outcomes of the community workshops held in Macksville and Nambucca Heads.

The Social Plan noted the lack of tourist facilities and the need for more picnic tables as an issue raised by the community. The draft MP has responded to this need.

2.9 Urban Design Strategies – Sites In Nambucca Heads (Final Draft)

This plan was prepared by Ruker Urban Design for Council in November 2008.

This plan details the urban design parameters for three key locations in Nambucca Heads including:

1. *The Southern corners of the intersection of Bowra and Ridge Streets,*
2. *Sites along Liston Street between Ridge Street, Lackey Street, Small Street and Bellinger Street,*
3. *Sites along Wellington Drive east from Quarry Street.*

To achieve a whole of precinct approach the plan provides a framework to inform the design direction for individual sites to assist land holders and the Council in negotiating an outcome.

The design principles embedded in this document have been developed using a place specific and urban design based approach that examines the sites within the context of Nambucca Heads.

The principles have been developed with regard for achieving high quality developments that enhance the quality and attractiveness of Nambucca Heads as a whole.

The three key locations within the Urban Design Strategy are relevant to the draft Master Plan. The ridge roads in the town centre and further to the east off Bellinger Street over look the Nambucca River study area.

The Urban Design Strategy recognises one of the key findings of the draft Master Plan:

Connection between the main urban area of the settlement and the foreshore occurs from only a few streets making the settlement separated from the water physically but not visually. Given the settlements tourism base access to, access along and use of the foreshore in proximity to the settlement's centre is important. This underlies the main opportunities:



- *Continue to reinforce the importance of public and pedestrian access along all foreshores and public views from key places along the main streets and Ridge Street.*
- *Ensure that pedestrian connections from the main street to the foreshores are retained.*

The draft Master Plan strengthens the connections from the town to the river foreshore, both physically and through visual elements using paths, thematic design elements and focal points.

The Urban Design Strategy found that:

'The Wellington Drive Site is located so low as to be no more than 500mm above high tide. This poses significant risks in terms of sea level rise, storm surge and coastal erosion. The rear of the site has a high sheer cliff of unstable soil. This poses a risk in terms of slip.'

The strategy recommends that (future) designs for sites along Wellington Drive address sea level rise, storm surge, coastal erosion and slip. Principles and controls provided in the strategy for the Wellington Drive precinct have been deferred by Council.

2.10 North Coast Design Guidelines

These guidelines have been prepared to support the Far North Coast and Mid North Coast Regional Strategies developed by the NSW Department of Planning, and to manage this change, maintaining a prosperous economy and protecting the unique North Coast environment through good planning and urban design.

Councils, as part of their responsibilities under the Far North Coast and Mid North Coast Regional Strategies are required to prepare a Local Growth Management Strategy for their local government area. The North Coast Urban Design Guidelines are designed to assist with this process.

This document has been prepared in two parts.

- *Part One of these guidelines is designed to assist councils in undertaking an assessment of the existing positive attributes of their own settlements to determine what planning responses may be required to maintain the character of the settlement through future settlement growth opportunities.*
- *Part Two outlines the principles and strategies for managing environmentally, economically and socially sustainable settlement growth. It addresses growth management in three typical planning scenarios and at three scale levels.*

Growth and development must be properly planned and designed at all scales - regionally, locally, settlement by settlement, street by street and block by block - in order to properly preserve the existing natural and built character.

A clear understanding of and respect for the region's character is fundamental to its ongoing appeal and success. The guidelines are an additional tool in advancing quality urban design.

The draft Nambucca River Master Plan is not part of a Growth Management Strategy, however, the need for the plan has followed on from the preparation of Nambucca's Structure Plan and the Estuary Management Plan.

The following design principles of the North Coast Design Guidelines are relevant to the draft Master Plan:

- *Ensure local and regional transport connectivity*
- *Establish a development scale and density which is supportive of public transport, cyclist and pedestrian use; provide pedestrian and cycle routes that connect key community facilities, parks and open spaces*
- *Maintain axes with views and vistas towards watercourses and surrounding natural landscape, enhance and maintain river, coastal and landscape edge treatments, whilst minimising risk of flooding*



- *Maintain and protect any local heritage, natural or manmade, of physical, social or cultural significance in the community to establish an understanding of the collective past*
- *Define public open spaces and parks with consistent carriageway treatment and landscaping along the urban/natural edge*

The draft Master Plan is consistent with these guidelines.

- *NSW DoP Settlement Planning Guidelines*
- *Nambucca Shire Council Street Tree Guideline*
- *North Coast Crown Reserves Management Strategy*
- *“Guidelines for Tourism Development Adjacent to Natural Areas*
- ***Tourism Development along the NSW Coast: Guidelines***, NSW Department of Planning, 1992.



3. PLANNING FRAMEWORK

The master planning vision and concept has been developed under the guidelines of a statutory and strategic planning framework. This framework comprises State, Regional and local planning legislation, policies, plans, strategies and guidelines.

The study area comprises Crown Land, Council managed land and privately owned land. The draft Nambucca River Master Plan proposes a range of land and river uses. A range of legislation and policies impacts on the way in which the study area is used and managed.

The principles of ecologically sustainable development (ESD) have guided much of the work that has preceded the preparation of the draft MP. The key background studies are the Nambucca Economic Strategy, Nambucca Valley Structure Plan, Nambucca River Estuary Management Plan and the Nambucca Valley Tourism Strategy.

The studies were prepared under the provisions of the NSW Coastal Policy (1997), NSW Estuary Policy (1992) and the Local Government Act (1993) all have regard to the ESD principles.

These principles are:

- The precautionary principle: the lack of full scientific evidence should not be used as a justification for the postponement of the introduction of measures to prevent or mitigate environmental degradation.
- Intergenerational equity: Each generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for future generations.
- Conservation of biological diversity and ecological integrity: Measures should be taken to prevent and protect against the extinction of plant and animal species due to human activities.
- Improved valuation and pricing of environmental resources: The quality and value of environmental resources should be maintained and enhanced through appropriate management, preventing degradation and damage.

A brief summary of the key State, Regional and Local planning documents follows:

3.1 The Environmental Planning and Assessment Act 1979

The principal law regulating land use in New South Wales is the *Environmental Planning and Assessment Act (EP&A Act) 1979*. The EP&A Act is administered by the Minister for Planning.

The EP&A Act provides the statutory basis for the development consent process in NSW. Depending on the scale of the development or activity and on the proponent, Part 3A, Part 4 and Part 5 of the Act may apply.

It is likely that significant development proposals will be assessed under Part 3A of the EP&A Act. Part 3A requires that major projects are to be determined by the Minister for Planning. The Major Projects SEPP identifies development to which the development assessment and approval process under Part 3A of the Act applies. Development involving marinas, structures over 13 metres and tourist facilities involving accommodation are considered to be major projects in the Nambucca River and within 100m of the mean high water mark.

Other development proposals may be assessed under Part 4 of the EP&A Act. Section 79C of Part 4 outlines the factors that a Council must consider when assessing a development application for local development. These matters include:

- Any environmental planning instrument.
- Any draft environmental planning instrument that has been placed on public exhibition and details of which have been notified to the consent authority.
- Any development control plan.



- The Regulations.
- The likely impacts of the development, including environmental impacts on both.
- The natural and built environment, and social and economic impacts on the locality.
- The suitability of the site for the development.
- Any submissions made in accordance with the Act or the Regulations; and the public interest.

Activities carried out by public authorities that do not require development consent will be assessed under Part 5 of the EP&A Act. In this case, the proponent must prepare a Review of Environmental Factors (REF) which will determine whether the activity may proceed, or whether it is likely to have a significant effect on the environment and an Environmental Impact Statement (EIS) must be prepared.

Future development proposals and activities will be assessed under the applicable part of the EP&A Act. The part applicable to a proposal will depend on the scale of the activity and whether or not the proponent is a public authority. For example, sand extraction from the river bed could be carried out in the following circumstances:

- Routine dredging for navigation works by Lands may be carried out without consent under the provisions of Clause 65 of the Infrastructure SEPP. This is a Part 5 activity and would require the preparation of a REF.
- Routine maintenance works (including dredging, or bed profile levelling, of existing navigation channels if it is for safety reasons or in connection with existing facilities) carried out by or on behalf of a public authority is permitted without consent under Clause 68 of the Infrastructure SEPP. This is a Part 5 activity and would require the preparation of a REF.
- Clause 7(3) of the SEPP (Mining, Petroleum Production and Extractive Industries) 2007 provides that sand extraction (mining or extractive industry) in any part of a waterway, an estuary in the coastal zone or coastal waters of the State that is not in an environmental conservation zone, is permissible with consent. Consent is required, therefore this becomes a Part 4 development proposal. Clause 12 of the SEPP requires the consent authority to consider the following:
 - The existing uses and approved uses of land in the vicinity of the development, and
 - whether or not the development is likely to have a significant impact on the uses that, in the opinion of the consent authority having regard to land use trends, are likely to be the preferred uses of land in the vicinity of the development, and
 - Any ways in which the development may be incompatible with any of those existing, approved or likely preferred uses, and
 - Evaluate and compare the respective public benefits of the development and the land uses referred to in paragraph (a) (i) and (ii), and
 - Evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a) (iii).

The EP&A Act establishes three types of Environmental Planning Instruments (EPIs) that are legally binding on both government and developers. These are:

- Local Environmental Plans (LEPs);
- Regional Environmental Plans (REPs), and
- State Environmental Planning Policies (SEPPs).

EPIs that are relevant to the study have been considered under the draft Nambucca River Master Plan. The relevant EPI's and studies are summarised in this section.

3.2 State Environmental Planning Policies (SEPPs)

3.2.1 State Environmental Planning Policy No 71 (SEPP 71) – Coastal Protection

SEPP 71 was introduced in October 2002 as part of the NSW Government's Coastal Protection Package and applies to the coastal zone of the State as defined in the Coastal Protection Act 1979.



The Nambucca River study area is located in the coastal zone. The Policy gives statutory force to some of the elements of the NSW Coastal Policy 1997.

While the policy primarily comes under consideration when a development application is submitted for determination, the objectives and general principles established in the SEPP should be recognised as relevant to any coastal planning exercise.

The aims of SEPP 71 are:

- to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales Coast,
- to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore,
- to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore,
- to protect and preserve Aboriginal cultural heritage and Aboriginal places, values, customs, beliefs and traditional knowledge,
- to ensure that the visual amenity of the coast is protected,
- to protect and preserve beach environments and beach amenity,
- to protect and preserve native coastal vegetation,
- to protect and preserve the marine environments of New South Wales,
- to protect and preserve rock platforms,
- to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6(2) of the Protection of the Environment Administration Act 1991),
- to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic qualities of the surrounding area,
- to encourage a strategic approach to coastal management.

The following clause 8 'matters' are to be taken into account by a consent authority when it determines a development application to carry out development on land to which this Policy applies. Although the draft MP does not seek consent for any works, it is important that future works in the study area are consistent with clause 8 matters.

Clause 8 Matters for Consideration

Clause 8: Matters for Consideration	Response
(a) the aims of this Policy set out in clause 2: <i>Aim (a) - to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast.</i>	The aim of the Nambucca River Master Plan project is to develop an ecologically sustainable plan to protect and manage the natural, cultural, recreational and economic attributes of the Nambucca River study area.
<i>Aim (b) - to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore.</i>	The draft MP improves public access whilst providing for improved vegetation through weed eradication and increased estuarine forest and mangrove planting.
<i>Aim (c) - to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore.</i>	The draft MP proposed new opportunities for public access to the foreshore.



Clause 8: Matters for Consideration	Response
<i>Aim (d) - to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge.</i>	There study area, particularly Stuart Island is an area of great significance to Aboriginal people. The draft MP proposes to protect and better interpret these places.
<i>Aim (e) - to ensure that the visual amenity of the coast is protected.</i>	The Nambucca River is of high visual importance to the area. The draft MP proposed to protect this visual asset.
<i>Aim (f) - to protect and preserve beach environments and beach amenity.</i>	The study area does not include the beach environment.
<i>Aim (g) - to protect and preserve native coastal vegetation.</i>	The draft MP proposes protection, conservation and enhancement of native coastal vegetation.
<i>Aim (h) - to protect and preserve the marine environment of New South Wales.</i>	The draft MP aims to protect the river bank in accordance with the management objectives of the <i>Nambucca River Estuary Management Plan 2008</i> .
<i>Aim (i) - to protect and preserve rock platforms.</i>	Protection of rock platforms is not applicable to this draft MP.
<i>Aim (j) - to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991).</i>	Principles of ecological sustainable development have guided the preparation of this draft MP.
<i>Aim (k) - to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area.</i>	The type, bulk, scale and size of development proposed within this draft MP is consistent with the 'low key' coastal and riverine environment of the study area.
<i>Aim (l) - to encourage a strategic approach to coastal management.</i>	The draft MP is consistent with the strategic vision of the Nambucca Valley Structure Plan, Nambucca Valley Estuary Management Plan, Nambucca Valley Tourism Plan, Nambucca Economic Development Plan and the Nambucca Aboriginal Cultural Heritage Management Plan.
<i>b) Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.</i>	The draft MP improves public access through widening paths and boardwalks and creating new access points and linkages to existing path networks.
<i>c) Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.</i>	The draft MP proposes improvements to public access along the full length of the study area from Teagues Creek to the river mouth.
<i>d) The suitability of development given its type, location and design and its relationship with the surrounding area.</i>	Works and future development proposed under the draft MP are consistent with a low key, restrained coastal environment.
<i>e) Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.</i>	Works and future development proposals under the draft MP have been designed to minimise overshadowing and to maximise views of natural areas within the study area.
<i>f) The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.</i>	The scenic qualities of the coastal area of Nambucca River have been protected and enhanced under the draft MP.
<i>g) Measures to conserve animals (within the meaning of</i>	The draft MP identifies areas of ecological significance



Clause 8: Matters for Consideration	Response
<i>the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats.</i>	and proposes to protect and enhance these areas.
<i>h) Measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats.</i>	Fish habitat and marine vegetation, particularly mangroves and sea grass areas and enhanced and protected under this draft MP.
<i>i) Existing wildlife corridors and the impact of development on these corridors.</i>	Works and future development proposals under this draft MP are low key and restrained and will not impact on wildlife corridors.
<i>j) The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.</i>	Urban impacts from the surrounding area will be improved using WSUD measures recommended in the draft MP. Impacts from coastal processes and hazards within the study area will be improved using native vegetation planting, rock bank stabilisation and rock 'fillets'.
<i>k) Measures to reduce the potential for conflict between land-based and water-based coastal activities.</i>	One of the aims of this draft MP is to better manage the interface between urban activities and the river environment. This is achieved through WSUD measures and improvements to public infrastructure.
<i>l) Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.</i>	The draft MP proposes a cultural walk / pathway, interpretative / educational signage and background brochures to better inform people of the aboriginal cultural significance of the study area. Cultural heritage places will be better protected through the use of defined pathways and recreation areas.
<i>m) Likely impacts of development on the water quality of coastal waterbodies.</i>	The draft MP proposes low key, restrained future works and development, WSUD measures and enhanced vegetation that will reduce existing urban impacts to water quality in the study area.
<i>n) The conservation and preservation of items of heritage, archaeological or historic significance.</i>	The draft MP proposes a cultural walk / pathway, interpretative / educational signage and background brochures to better inform people of the aboriginal cultural significance of the study area. Cultural heritage places will be better protected through the use of defined pathways and recreation areas.
<i>o) Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities.</i>	A draft LEP is not proposed under this draft MP.
<i>p) Only in cases in which a development application in relation to proposed development is determined:</i> <i>(i) the cumulative impacts of the proposed development on the environment, and</i> <i>(ii) measures to ensure that water and energy usage by the proposed development is efficient.</i>	This draft MP is not a Development Application (DA), however, future DA's are required to be compliant with this provisions. Works proposed under this MP have considered cumulative impacts and also propose the use of energy efficient public infrastructure.



3.2.2 State Environmental Planning Policy (Infrastructure) (SEPP) 2007

This SEPP provides a consistent planning regime for infrastructure and the provision of services and public works across NSW, along with providing for consultation with relevant public authorities during the assessment process. Where there is an legislation inconsistency, the provisions of the Major Projects SEPP prevail over the Infrastructure SEPP.

Schedule 1 of the SEPP lists a range of minor activities, including car parks, some signage, disabled access ramps as exempt development (does not require development consent) if it is carried out by a public authority.

The SEPP lists a range of development controls that 'save' certain activities from the need for consent. Listed below are some of those activities that may be relevant to the study area:

Parks and other public reserves (Clauses 64 – 66)

Development for any purpose may be carried out without consent if, in the case of land that is a reserve within the meaning of Part 5 of the Crown Lands Act 1989, by or on behalf of the Director-General of the Department of Lands, a trustee of the reserve or (if appointed under that Act to manage the reserve) the Ministerial Corporation constituted under that Act or an administrator, if the development is for the purposes of implementing a plan of management adopted for the land under the Act referred to above in relation to the land.

Clause 65 (3) enables Council as reserve manager to carry out any of the development listed below on a public reserve:

- roads, cycleways, single storey car parks, ticketing facilities and viewing platforms,
- outdoor recreational facilities, including playing fields, but not including grandstands,
- information facilities such as visitors' centres and information boards,
- lighting, if light spill and artificial sky glow is minimised in accordance with AS/NZS 1158: 2007, Lighting for Roads and Public Spaces,
- landscaping, including irrigation schemes (whether they use recycled or other water),
- amenity facilities,
- maintenance depots,
- environmental management works.

Clause 66 enables public authorities (including Councils) to carry out the following works as exempt development provided it complies with the criteria in Clause 20(1) and the development standards listed in Schedule 1. Construction, maintenance and repair of:

- walking tracks, boardwalks and raised walking paths, ramps, minor pedestrian bridges, stairways, gates, seats, barbecues, shelters and shade structures,
- viewing platforms with an area not exceeding 100m², or
- sporting facilities, including goal posts, sight screens and fences, if the visual impact of the development on surrounding land uses is minimal, or
- play equipment where adequate safety provisions (including soft landing surfaces) are provided, but only if any structure is at least 1.2m away from any fence,
- routine maintenance (including earthworks associated with playing field regrading or landscaping and maintenance of existing access roads).

Port, wharf or boating facilities (Clauses 67 – 72)

Development for any of the following purposes may be carried out by or on behalf of a public authority without consent on any land or on unzoned land:

- navigation and emergency response facilities,
- environmental management works associated with a port, wharf or boating facility.
- construction works including dredging and land reclamation, (if it is required for the construction of facilities),
- routine maintenance works



- alteration, demolition or relocation of a local heritage item,
- alteration or relocation of a State heritage item

Road infrastructure facilities (Clauses 93 – 97)

Subject to a range of criteria, development for the purpose of a road or road infrastructure facilities may be carried out by or on behalf of a public authority without consent on any land.

Waterway or foreshore management activities (Clauses 128 – 129)

Waterway or foreshore management activities includes coastal management and beach nourishment, including erosion control, dune or foreshore stabilisation works, headland management, weed management, revegetation activities and foreshore access ways.

Development for the purpose of waterway or foreshore management activities may be carried out by or on behalf of a public authority without consent on any land for the following purposes;

- construction works,
- routine maintenance works,
- emergency works, including works required as a result of flooding, storms or coastal erosion,
- environmental management works.

Stormwater Management Systems (Clauses 110 – 112)

This section allows public authorities to carry out stormwater management development without consent. This includes drainage works, detention basins and stormwater quality control devices. WSUD works proposed under the draft MP may be carried out by Council with the need for consent.

3.2.3 State Environmental Planning Policy (SEPP) (Major Development) 2005

This SEPP defines certain developments that are major development under Part 3A of the Environmental Planning and Assessment Act 1979 and determined by Joint Regional Planning Panels (JRPP).

One of the aims of this SEPP is to identify development to which the development assessment and approval process under Part 3A of the Act applies.

Development that is described in Schedules 1, 2 and 3 of the SEPP (in the opinion of the Minister) are deemed to be Part 3A projects.

The draft MP does not propose works or development listed under Schedules 1, 2 or 3 of the SEPP.

Clarification was provided on the types and forms of applications that will and will not be referred to the JRPP's for determination which are contained in State Environmental Planning Policy (Major Development) 2005 (Major Development SEPP) and outlined below.

Clause 13A of the SEPP outlines those developments or works that **will not** be referred to the JRPP.

13A Development excluded from Part

This Part does not apply to the following development:

- complying development,*
- development within the area of the City of Sydney,*
- development for which development consent is not required,*
- development specified in Schedule 1, 2, 5 or 6,*
- development for which the consent authority is not the council.*



Clause 13B of the SEPP outlines those developments or works that **will be** referred to the JRPP for determination.

13B General development to which Part applies

- (1) This Part applies to the following development:
 - (a) development that has a capital investment value of more than \$10 million,
 - (b) development for any of the following purposes if it has a capital investment value of more than \$5 million:
 - (i) affordable housing, air transport facilities, child care centres, community facilities, correctional centres, educational establishments, electricity generating works, [electricity transmission or distribution networks](#), emergency services facilities, health services facilities, group homes, places of public worship, [port facilities](#), public administration [buildings](#), public ferry wharves, [rail infrastructure facilities](#), research stations, [road infrastructure facilities](#), roads, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, [wharf or boating facilities](#),
 - (c) [Crown development](#) that has a capital investment value of more than \$5 million,
 - (d) development for the purposes of eco-tourism facilities that has a capital investment value of more than \$5 million,
 - (e) designated development,
 - (f) [subdivision of land](#) into more than 250 lots.
- (2) This Part also applies to development that has a capital investment value of more than \$5 million if:
 - (a) a council for the area in which the development is to be carried out is the applicant for development consent, or
 - (b) the council is the owner of any land on which the proposed development is to be carried out, or
 - (c) the development is to be carried out by the council, or
 - (d) the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under [the Act](#) or for the purposes of the payment of contributions by a person other than the Council).

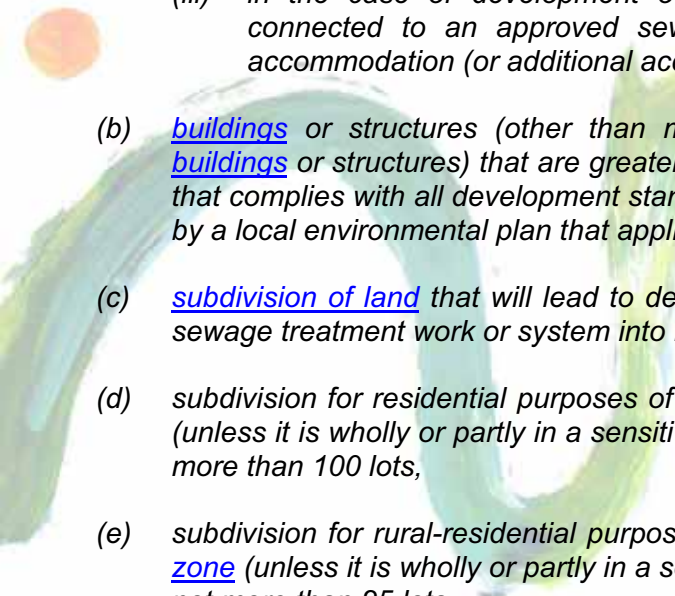
In addition to the above Clause 13C would apply to Nambucca Shire regarding development within the Coastal Zone.

13C Coastal development to which Part applies

This Part applies to development within the coastal zone for any of the following purposes:

- (a) caravan parks and tourist and visitor accommodation:
 - (i) in the case of development wholly or partly in a sensitive coastal location outside the [metropolitan coastal zone](#)-that provide accommodation (or additional accommodation) for 10 persons or more, or
 - (ii) in the case of development wholly or partly in a sensitive coastal location in the [metropolitan coastal zone](#)-that provide accommodation (or additional accommodation) for 100 persons or more, or



- 
- (iii) *in the case of development outside a sensitive coastal location that is not connected to an approved sewerage treatment work or system—that provide accommodation (or additional accommodation) for 25 persons or more,*
 - (b) *buildings or structures (other than minor alterations or minor additions to existing buildings or structures) that are greater than 13 metres in height, excluding any building that complies with all development standards relating to the height of such a building set by a local environmental plan that applies to the land on which the building is located,*
 - (c) *subdivision of land that will lead to development that is not connected to an approved sewerage treatment work or system into more than 5 lots but not more than 100 lots,*
 - (d) *subdivision for residential purposes of land that is not in the metropolitan coastal zone (unless it is wholly or partly in a sensitive coastal location) into more than 25 lots but not more than 100 lots,*
 - (e) *subdivision for rural-residential purposes of land that is not in the metropolitan coastal zone (unless it is wholly or partly in a sensitive coastal location) into more than 5 lots but not more than 25 lots.*

Applications outside of the above criteria will either be dealt with by Council or by the Minister for Planning under Part 3A (Major Projects) of the Act.

3.3 North Coast Regional Environmental Plan (NCREP)

The NCREP provides Councils with state and regional policy guidelines for the preparation of local environmental plans (LEPs) and for certain types of development. The draft Nambucca River Master Plan does not amend the LEP nor does it seek consent for development, however it will provide the strategic master planning basis for future LEP amendments and / or new development within the study area.

The relevant aims of the REP are:

- *to develop regional policies that protect the natural environment, encourage an efficient and attractive built environment and guide development into a productive yet environmentally sound future,*
- *to provide a basis for the co-ordination of activities related to growth in the region and encourage optimum economic and social benefit to the local community and visitors to the region, and*
- *to initiate a regional planning process that will serve as a framework for identifying priorities for further investigation to be carried out by the Department and other agencies.*

The NCREP applies to a consent authority when determining an application for development consent for the carrying out of development on or in relation to land within the region, and to the Minister or a public authority when determining whether or not to grant concurrence to the granting of such a consent.

The following provisions of the NCREP are relevant to future development proposals within the study area:

Clause 15 Development control—wetlands or fishery habitats

A consent authority must consider a range of matters when assessing development proposals within or adjoining a fishery habitat area, including:

- *the need to conserve the existing amateur and commercial fisheries,*
- *any loss of habitat which will or is likely to be caused by the carrying out of the development,*
- *whether an adequate public foreshore reserve is available and whether there is adequate public access to that reserve,*



- *the proximity of aquatic reserves dedicated under the Fisheries Management Act 1994 and the effect the development will have on these reserves,*
- *the need to ensure that native vegetation surrounding the wetland or fishery habitat area is conserved.*

Clause 32B Development control—coastal lands

This clause requires that, in considering applications for development within the Coastal Zone, Council (or the relevant consent authority) consider issues associated with public foreshore access and the overshadowing of beaches. This clause also requires that Council consider the Coastal Policy, the Coastline Management Manual and North Coast Design Guidelines. These plans are considered in Section 3.5, 3.6 and 2.10 respectively.

Clause 36 Development control—heritage items, generally

This clause requires consent for any activity or development that would impact on an item of environmental heritage. The following items are listed under the REP and are discussed in Section 4.3 Aboriginal & European Historical Analysis;

- Royal Tar” Bed Logs, on vacant Crown land within the Inner Harbour on the northern bank of the Nambucca River near Nambucca Heads (A074)
- Nambucca Heads Sea-wall located within R81262 from Sale or Lease generally on the northern bank of the Nambucca River between the Nambucca Heads Inner Harbour to the west and Wellington Rocks to the east and including Indicator Point and the Fishing Wall (A082A)

In respect of future development that may impact on these items, development consent must not be granted unless an assessment is made of the following matters:

- *the heritage significance of the item,*
- *the extent to which the carrying out of the development in accordance with the consent would affect the heritage significance of the item and its site,*
- *whether the setting of the item and, in particular, whether any stylistic, horticultural or archaeological features of the setting, should be retained,*
- *whether the item constitutes a danger to the users or occupiers of that item or to the public, and*
- *measures to be taken to conserve heritage items, including any conservation plan prepared by the applicant.*

Clause 33 Development control—coastal hazard areas

This clause requires that where land is affected or likely to be affected by coastal processes, consent authorities take into consideration the following matters:

- the Coastline Management Manual,
- require as a condition of development consent, that disturbed foreshore areas be rehabilitated, and
- require as a condition of development consent, that access across foredune areas be confined to specified points.

Clause 36D Development control—advertising of heritage applications

This clause relates to demolition of a heritage item and is therefore not relevant under the draft Master Plan (MP). The draft Master Plan does not propose demolition of any heritage items.

Clause 75 Development control—tourism development

This clause provides that consent must not be granted to tourism development unless it is satisfied that:

- adequate access by road, railway or water transport (or any combination of them) exists or will be provided to service the development, taking into account the scale of the development proposed, and



- if the proposal involves permanent residential accommodation, all social and community services reasonably required by those residents exist in close proximity to the development, and
- the development will not be detrimental to the scenery or other significant features of the natural environment, and
- reticulated water and sewerage are available, or arrangements satisfactory to the council have been made for the provision of those facilities.

In considering an application for consent for tourism development, the council must have regard to principles contained in the *Tourism Development Along the New South Wales Coast: Guidelines*.

The council must not approve an application for large scale resort development unless it is within or adjacent to a prime tourism development area or adequate urban services are available.

It should be noted that development for tourism that involves accommodation, marinas that are designated development and building greater than 13m in height are considered to be major projects and would be approved by the Minister under Part 3A of the EP&A Act. Consideration of the relevant EPI's is a requirement under Part 3A and this would include the NCREP. The draft MP does not propose any large scale resort development.

Clause 76 Development control—natural tourism areas

'Natural tourism area' means an area within the region which:

- adjoins a national park, nature reserve or state recreation area within the meaning of the National Parks and Wildlife Act 1974, or a State forest,*
- comprises or is adjacent to predominantly Crown land, or*
- is, in the opinion of the council, a natural area with qualities which make it a major attraction.*

Most of the study area is Crown land, therefore this clause would apply to future development in the area.

Before granting consent for the development of a natural tourism area for tourism purposes, the council must have regard to the '*Tourism Development Near Natural Areas: Guidelines for the North Coast*' regarding the location of facilities, the intensity of development and the means of access available from the development to any adjoining natural areas.

Tourism Development Near Natural Areas: Guidelines for the North Coast was published in 1990. It is considered that the NSW Department of Planning *Settlement Planning Guidelines*, August 2007 and *North Coast Urban Design Guidelines*, 2008 provide more recent / relevant guidelines.

Clause 81 Development control—development adjacent to the ocean or a waterway

This clause provides that development consent should not be granted for development on land within 100 metres of the ocean or any substantial waterway unless it is satisfied that:

- *there is a sufficient foreshore open space which is accessible and open to the public within the vicinity of the proposed development,*
- *buildings to be erected as part of the development will not detract from the amenity of the waterway, and*
- *the development is consistent with the principles of any foreshore management plan applying to the area.*

The draft MP is consistent with the provisions of this clause. Future development proposals in the study area should be consistent with the draft Nambucca River Master Plan.



3.4 Nambucca Local Environment Plan (LEP) 1995.

A Local Environmental Plan is an instrument prepared by a Council and approved by the Minister in respect of the whole or any part of the land within the Council's area. The Nambucca Local Environmental Plan (LEP) provides zone particulars, lists permissible and prohibited uses of land and provides general and special provisions for land within the shire.

Relevant objectives of the LEP are as follows:

- to promote development that is consistent with the four principles of ecologically sustainable development;
- to encourage growth in a planned and co-ordinated manner which will be commercially viable and ecologically sustainable;
- to protect the quality of areas of high landscape and environmental value;
- to provide opportunities for and to encourage development which will support the area's economic, employment and tourism base;
- to provide land that is appropriate in area, location and quality for living, working and recreational activities;
- to protect places and buildings of archaeological or heritage significance, including Aboriginal relics and places;
- to provide public recreation areas and a range of recreational facilities to meet the needs of the population;

The land within the study is primarily zoned 6 (a) Public Recreation. Some of the land is zoned: 7 (g) Environment Protection (Archaeological)

- The objective of this zone is to preserve areas that are of significance to the Aboriginal culture and to the local Aboriginal community because of their historical or mythological association.

One of these areas is located near the western bank of Stuart Island and likely to be preserving a significant Aboriginal burial ground. The other area is located near the foreshore to the south of the Caravan Park adjacent to Bellwood Park.

- 5 (a) Special Uses

This land is a public car parking area located near the Nambucca Head RSL Club

- 2 (b) Residential (Medium-High Density)

The main aim of this zone is to allow for higher residential densities in appropriate areas. This land is located along Wellington Drive in an area characterised by one to four storey residential flat buildings. A small area of 2(b) land is located adjacent to the RSL. Three storey apartments with river frontage are located on this site.

- 3 (a) General Business

This is a small retail site (fish and chip shop) located in the Gordon Park precinct on the corner of Wellington Drive.

- 1 (a1) Rural

This land is located on the southern edge of the study area adjacent to the Pacific Highway. This is private land on which one dwelling is located. There is no public access to the river from this area.

As mentioned above, most of the land in the study area is zoned 6 (a) Public Recreation. The objectives of this zone are:



- (a) *to identify proposed or existing publicly owned land that is used or is capable of being used for the purpose of active or passive recreation,*

The draft MP aims to improve active and passive recreation on publicly owned land.

- (b) *to encourage the development of public recreation in a manner which maximises the satisfaction of the community's diverse recreational needs,*

Community input has influenced the proposals made in the draft MP.

- (c) *to enable development associated with, ancillary to, or supportive of, public recreational uses, and*

The draft MP proposes uses that are supportive of public recreational uses.

- (d) *to encourage the development of open space as a major urban landscape element.*

The draft MP proposes passive and interactive uses of open space along the Nambucca River foreshore. It also improves linkages to the town and urban areas of Nambucca Heads.

The following uses are permissible with consent in the zone (note that the Infrastructure SEPP "saves" the need for consent for some of these uses):

advertising structures; boat landing facilities; boat sheds; buildings used for landscaping, gardening or bush fire hazard reduction; car-parking; caretaker's residences; child care centres; communications facilities; community centres; drainage; earthworks; educational establishments; environmental facilities; golf courses; kiosks; public buildings; recreation areas; recreation vehicle areas; roads; surf life saving clubs.

The following Special Provisions of the Nambucca LEP may be applicable to future development within the study area.

Clause 48 What restrictions apply to the development of land subject to bush fire hazards?

Clause 49 What restrictions apply to development of flood prone land?

Parts of the study area are identified as 100 year flood inundated land (Storm Consulting, Structure Plan 2008). This clause provides that consent is required for development of flood prone land, however, the provisions of the Infrastructure SEPP prevail over the LEP. The Infrastructure SEPP "saves" certain works (i.e. recreational facilities, roads, cycleways, stormwater infrastructure, boat handling facilities) from the need for consent.

Clause 52 What restrictions apply to Council works and facilities?

This clause provides that Council is not required to obtain its own consent for development by the Council (or a person acting on behalf of the Council) on land within any zone for the purpose of roads and their structures; car-parking; communication facilities; cycleways; stormwater drainage; recreation areas; buildings used for landscaping; gardening or bush fire hazard reduction; environmental facilities; public amenities (consisting of toilets, shelter sheds, picnic grounds, kiosks and the like); boat sheds; boat landing facilities; signage; utility installations.

Clause 54 What restrictions apply to development of Aboriginal conservation areas and relics?

This clause provides that Council must maintain a register of Aboriginal sites, conservation areas and relics. Consent is required for development on land identified in the register. The following sites within the study area are identified on the AHIMS register;



Four sites occur on Stuarts Island: Site 21-6-0008, an open camp site; Site 21-6-0076, a Bora ground; Site 21-6-0088, a burial ground; and Site 21-6-0089, a sacred artefact site. The other three sites are Site 21-6-0012, a natural mythological site – which is to the south of Teagues Creek and therefore just outside the study area; Site 21-6-003, a natural mythological site – since altered by the construction work to Bellwood Park; and Site 22-4-0053, an open camp site near the Lookout off Parkes Street.

Clause 55 What general provisions apply to advertising?

This clause provides that Council may grant consent to advertising on land in any Rural, Environment Protection or Recreation zone, if the advertising is directing the travelling public to tourist areas or tourist facilities or relates to the purpose for which the land is used.

Clause 64 What provisions apply to development below high water mark?

This clause provides that a person must not carry out development on any land:

- (a) *below high water mark,*
- (b) *forming part of the bed of a river, creek, bay, lagoon or other natural watercourse shown uncoloured on the map, or*
- (c) *which has been reclaimed,*

without the consent of the consent authority. As mention previously, the Infrastructure SEPP saves the need for consent for certain activities carried out by a public authority.

Clause 66 Development on land containing potential acid sulfate soils

This clause provides that consent is required for works on land that is identified as affected by acid sulfate soils. The Macksville (1997) Acid Sulfate Soils Planning Map identifies land within the study area as Class1, 2 and 3 acid sulfate soil. As mention previously, the Infrastructure SEPP saves the need for consent for certain activities carried out by a public authority.

Draft LEP 2008

All NSW Councils are required to prepare new LEPs in the prescribed 'template' which will provide a consistent format across NSW. All LEPs prepared in accordance with the Standard LEP Template will share the same set of land zones, standard clauses and definitions.

Nambucca Shire Council is currently preparing their new LEP under the standard template and aim to complete this task by 2010. Consequently, the current zonings applicable to the study area will change to a compatible zone prescribed under the new template. However, until a new LEP is gazetted, the existing zonings under the Nambucca LEP will continue to apply to proposals lodged prior to gazettal.

The aims of the Nambucca LEP have been carried forward into the draft LEP 2008. Land currently zoned 6(a) Public Recreation is likely to be zoned RE1 Public Recreation under draft LEP 2008.

The objectives of the RE1 Public Recreation zone are:

Objectives of zone

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To identify proposed or existing publicly owned land that is used or is capable of being used for the purpose of active or passive recreation.



- To enable development associated with, ancillary to, or supportive of, public recreational uses.

The draft MP is consistent with these objectives. The following land uses are permissible with consent in the zone:

Advertising structures; Boat launching ramp; Boat sheds; Car parks; Child care centres; Community facilities; Caravan parks; Drainage; Dwellings (associated with another land use permitted within this zone); Earthworks; Educational establishments; Environmental facilities; Filming; Kiosks; Public administration buildings; Recreation areas; Recreation facility (indoor); Recreation facility (major); Recreation facility (outdoor); roads.

3.5 NSW Coastal Policy 1997

The 1997 NSW Coastal Policy responds to the fundamental challenge to provide for population growth and economic development without placing the natural, cultural, spiritual and heritage values of the coastal environment at risk. To achieve this, the Policy has a strong integrating philosophy based on the principles of ecologically sustainable development (ESD). The study area is within the area covered by the NSW Coastal Policy.

The Policy addresses a number of key coastal themes including:

- population growth in terms of physical locations and absolute limits.
- coastal water quality issues, especially in estuaries.
- disturbance of acid sulphate soils.
- establishing an adequate, comprehensive and representative system of reserves.
- better integration of the range of government agencies and community organisations involved in coastal planning and management.
- indigenous and European cultural heritage; and integration of the principles of ESD into coastal zone management and decision making.

The management of the coastal zone is the responsibility of a range of government agencies, local councils and the community. The Policy provides a framework for the balanced and coordinated management of the coast's unique physical, ecological, cultural and economic attributes.

In 2001, the NSW Government's Coastal Protection Package was announced. This consists of the Comprehensive Coastal Assessment (a program designed to build a set of consistent and comprehensive data on the physical, biological, social and economic values of the NSW coastline), SEPP 71, extension of the 1997 NSW Coastal Policy, and a number of related strategies and programs.

The draft Nambucca River Master Plan is consistent with the principles and themes of the NSW Coastal Policy. A 'checklist' to verify the implementation of the NSW Coastal Policy is provided below:

Strategic Action Number	Summary Provision	Consistency
Protect, Rehabilitate and Improve the Natural Environment		
1.1.5	Councils will be encouraged to classify open space and land with conservation value as community land under the Local Government Act.	Most of the high conservation value land within the study area is publicly owned. Y
1.1.7	Conservation of coastal ecosystems through existing controls and water sensitive urban design (WSUD).	Y



Strategic Action Number	Summary Provision	Consistency
1.1.8	The implementation of State Environmental Planning Policies No. 14 - Coastal Wetlands and No.26 - Littoral Rainforests will continue..	Y
1.1.11	Open space networks/corridors.	Y
1.2.1	Threatening processes for coastal species and communities will be identified and threat abatement plans prepared.	Y
1.3.2	Non-point source pollution.	Y
1.3.3	Water quality monitoring programs and environmental studies in coastal river systems, estuaries, inshore marine waters and coastal aquifers will be undertaken as necessary, and regular reporting on the state of the environment for these ecosystems will take place.	Y
1.3.7	Water quality and environmental flow objectives through catchment plans.	Y
1.3.8	Discharge of contaminated stormwater.	Y
1.3.12	The control of discharge of toilet and galley waste from vessels in intensively used waterways will be enforced and adequate vessel sewage pumpout facilities in the State's intensively used waterways will be provided.	Y
1.4.3	Detailed management plans for the coastline and estuaries, as provided for in the Coastline Management Manual and Estuary Management Manual, will continue to be prepared and implemented.	Y
1.4.4	The Government's Coastal Management Program will continue to be implemented. Technical and financial assistance will continue to be provided to local government and agencies for the purpose of preparing and implementing coastal management plans, providing protective measures where appropriate, rehabilitating the coastal environment, and improving the recreational amenity of the coastline, as outlined in the NSW Government's Coastline Management Manual.	Y
1.4.6	The Government's Estuary Management Program will continue to be implemented by providing technical and financial assistance to local government and agencies for the purpose of preparing and implementing estuary management plans, undertaking activities to rehabilitate the estuarine environment, and improving the recreational amenity of estuarine foreshores.	Y
1.4.7	Development proposals in estuaries must be consistent with Fisheries Management Act, Crown Lands Act in regard to impacts to the ecology of the area.	Y
1.5.1	Community involvement in implementing measures to protect and rehabilitate natural areas.	Y
1.5.2	Catchment management committees and trusts will continue to play an influencing role in the protection and restoration of coastal environments.	Y
Natural Processes and Climate Change		
2.1.1	Coastline, estuary and floodplain management plans will continue to be prepared by local councils.	Y



Strategic Action Number	Summary Provision	Consistency
2.1.4	Impact of Acid Sulfate Soils.	Y
2.2.2	Sea level change estimates (IPCC).	Y
Aesthetic Qualities		
3.1.2	Provisions to protect areas or items of high aesthetic value.	Y
3.2.1	North Coast Design Guidelines and NSW Guidelines for Tourism Development.	Y
3.3.2	The "Main Street"/"Small Towns" programs will continue to be implemented to promote the unique character of coastal towns.	Y
Cultural Heritage		
4.1.2	Coastal heritage resources.	Y
4.1.4	Views, vistas, street patterns and layout, heritage items.	Y
4.2.2	Aboriginal cultural and heritage values will be considered in the assessment of coastal Crown Lands, having regard to the Commonwealth Native Title Act, Local Land 1993.	Y
Ecologically Sustainable Use of Resources		
5.1.2	Regional economic and tourism development strategies.	Y
5.1.11	Nature-based tourism and ecotourism operators should have regard to the publication "Guidelines for Tourism Development Adjacent to Natural Areas."	Y
5.2.2	Local councils will include in their management plans a statement of activities to be undertaken to protect environmentally sensitive coastal areas and to promote ecological sustainability of the coastal area.	Y
5.2.11	Local tourism development plans.	Y
Public Access and Use		
7.1.1	Increase opportunities for public access to and along the foreshore will continue.	Y
7.1.2	Public facilities - fair and equitable access to and enjoyment of the recreational amenity of the coast and estuary foreshores.	Y
7.1.3	Public access to council owned coastal lands should be facilitated by: <ul style="list-style-type: none"> • the preparation of plans of management • the provision of appropriate access to council owned operational land; • leasing arrangements for council owned coastal land which maximise public access opportunities. 	Y
7.1.5	Public access to foreshores included in new tourism development.	Y
7.2.6	Safe use of coastal / cliff areas – appropriate warnings.	Y



Strategic Action Number	Summary Provision	Consistency
Integrated Planning and Management		
9.1.2	Consistency with Coastal Policy	Y
9.3.1	Ecosystem protection and rehabilitation.	Y
9.3.2	Coastal protection included in Council management plans.	Y

3.6 NSW Coastline Management Manual 1990 and NSW Coastline Hazard Policy 1988

In June 1988 Cabinet adopted a Coastline Hazard Policy involving:

- a) provision, under the proposed Coastline Hazard program, of financial and technical assistance to local government on the basis of 1:1 subsidy, (1 State : 1 Council);
- b) production of a Manual to assist local government in dealing with coastline hazards and with new coastline development proposals;
- c) amendment of the appropriate Act to provide Councils and other public authorities and their staff with immunity from liability in respect of advice provided or acts done in good faith in respect of coastline hazard matters, provided they follow the principles set down in the Manual; and
- d) amendment of appropriate Acts to allow Councils and other authorities to provide rate relief in respect of vacant land which cannot be developed because of planning decisions made in response to coastal hazards caused by oceanic processes.

The primary objective of the Coastline Hazard Policy is to reduce the impact of coastal hazards on individual owners and occupiers, and to reduce private and public losses resulting from natural coastal forces.

The Coastline Hazard Policy introduces a range of planning and structural measures.

In applying the Coastline Hazard Policy, all planning, development and building proposals should be treated on their merits. Social, economic, aesthetic, recreational, and ecological factors need to be considered, as well as coastline hazards. In this way, appropriate development of coastal areas will not be unnecessarily prevented, but potentially inappropriate development will either be excluded from hazardous areas or conditioned to render it compatible with the hazards and its environment.

As part of the implementation of the Policy, this Manual was prepared to assist those responsible for management of the coastline to reach balanced, merit based decisions. The Manual sets down a management system through which local councils can better manage the coastline in accordance with the Government's requirements and provides information concerning coastal processes, hazards and hazard management measures to those involved with development proposed in proximity to the coastline and to those whose property is threatened by coastal hazards.

Implementation of the Coastline Hazard Policy generally involves the formulation and execution of a coastline management plan. In this regard, it is considered that the Nambucca River Estuary Management Study (WBM 2006), the Estuarine Geomorphology, Physical Condition and Mapping report by (GECO 2005) and the Nambucca River Estuary Management Plan (BMT WBM 2008) provide the necessary background documentation to enable Council, the Estuary Management Committee and DECC to make informed management decision regarding the Nambucca River estuary and coastline.



3.7 Coastal Protection Act 1979

The Coastal Protection Act 1979 regulates the use and occupation of the coastal region of NSW and facilitates coastal protection works to provide for the protection of the coastal environment for the benefit of both present and future generations. The specific objectives of the legislation include:

- (a) *to protect, enhance, maintain and restore the environment of the coastal region, its associated ecosystems, ecological processes and biological diversity, and its water quality, and*
- (b) *to encourage, promote and secure the orderly and balanced utilisation and conservation of the coastal region and its natural and man-made resources, having regard to the principles of ecologically sustainable development, and*
- (c) *to recognise and foster the significant social and economic benefits to the State that result from a sustainable coastal environment, including:*
 - a. *benefits to the environment, and*
 - b. *benefits to urban communities, fisheries, industry and recreation, and*
 - c. *benefits to culture and heritage, and*
 - d. *benefits to the Aboriginal people in relation to their spiritual, social, customary and economic use of land and water, and*
- (d) *to promote public pedestrian access to the coastal region and recognise the public's right to access, and*
- (e) *to provide for the acquisition of land in the coastal region to promote the protection, enhancement, maintenance and restoration of the environment of the coastal region, and*
- (f) *to recognise the role of the community, as a partner with government, in resolving issues relating to the protection of the coastal environment, and*
- (g) *to ensure co-ordination of the policies and activities of the Government and public authorities relating to the coastal region and to facilitate the proper integration of their management activities.*

The requirement for Council's to prepare Coastal Zone Management Plans is conferred by clause 55B of the act. Clause 55C provides matters that must be considered under a Coastal Zone Management Plan. As mention earlier, the Nambucca River Estuary Management Study (WBM 2006), the Estuarine Geomorphology, Physical Condition and Mapping report by (GECO 2005) and the Nambucca River Estuary Management Plan (BMT WBM 2008) were prepared on behalf of Council, the Estuary Management Committee and DECC under the provisions of the act to assist in making informed management decisions regarding the Nambucca River estuary and coastline.

3.8 Crown Lands Act 1989 (as amended)

The Crown Lands Act 1989 provides for the administration and management of Crown Land in NSW consistent with the objectives and principles of Crown Lands Act.

The objectives of the Act are to ensure that Crown land is managed for the benefit of the people of New South Wales and in particular to provide for:

- a proper assessment of Crown land,
- the management of Crown land having regard to the principles of Crown land management
- the proper development and conservation of Crown land having regard to those principles,
- the regulation of the conditions under which Crown land is permitted to be occupied, used, sold, leased, licensed or otherwise dealt with,
- the reservation or dedication of Crown land for public purposes and the management and use of the reserved or dedicated land, and
- the collection, recording and dissemination of information in relation to Crown land.

The principles of the Act are as follows:

- that environmental protection principles be observed in relation to the management and administration of Crown land,



- that the natural resources of Crown land (including water, soil, flora, fauna and scenic quality) be conserved wherever possible,
- that public use and enjoyment of appropriate Crown land be encouraged,
- that, where appropriate, multiple use of Crown land be encouraged,
- that, where appropriate, Crown land should be used and managed in such a way that both the land and its resources are sustained in perpetuity, and
- that Crown land be occupied, used, sold, leased, licensed or otherwise dealt with in the best interests of the State consistent with the above principles.

The draft MP is consistent with the objectives and principles of the Crown Lands Act, particularly in regard to conservation and public use and enjoyment principles.

3.9 Threatened Species Conservation Act (TSC) 1995

The TSC Act commenced on 1 January 1996. This Act provides for the protection of all threatened plants and animals native to NSW and their habitats (including endangered populations and ecological communities, and their habitats). Threatened 'fish' and marine vegetation are specifically excluded as these are covered by the Fisheries Management Act 1994.

The TSC Act provides for the listing of species, populations and ecological communities considered (EEC's) to be threatened in NSW. Schedule 1 of the TSC Act contains listings of endangered species, populations and ecological communities. Schedule 2 contains listings of vulnerable species. Any person may nominate any species, population or ecological community for inclusion on, omission from, or amendment to Schedule 1 or 2. The NSW Scientific Committee is responsible for reviewing nominations and determining which species, populations and ecological communities are listed on the Schedules. The TSC Act requires that determinations made by the Scientific Committee are based on scientific criteria and considerations

The following EEC's and threatened species are mapped as present within the study area:

- Littoral Rainforest EEC
- Swamp Oak Floodplain Forest EEC (NSW only);
- Coastal Saltmarsh EEC (NSW only);
- Osprey, Sooty Oystercatcher, Pied Oystercatcher and Beach Stone-curlew (all listed as threatened species in NSW); and
- Potential habitat for a variety of threatened and migratory species.

Schedule 3 of the Act lists Key Threatening Processes. A key threatening process is a process that threatens, or may have the capability to threaten, the survival or evolutionary development of species, populations or ecological communities. A requirement of their listing on the TSC Act is that the process adversely affects two or more threatened species, populations or ecological communities, or that it may cause species, populations or ecological communities that are not threatened to become threatened.

Relevant key threatening processes to the study area are:

- Alteration to the natural flow regimes of rivers and streams and their floodplains and wetlands
- Clearing of native vegetation

The draft MP does not propose significant application of either of these processes; however, limited clearing of seagrass and mangroves for new boat moorings and pontoons would be offset by proposed riparian revegetation at degraded locations along the river bank. Prior to any works, an assessment of significance (see below) would be carried out.

The TSC Act provides for a set of factors which must be considered regarding the effects of a proposed development, activity or action on threatened biodiversity. These factors are contained in



s5A of the EP&A Act and s94 of the TSC Act and form the 'Assessment of Significance'. These factors are often previously referred to as the '7 or 8 Part Test'.

If the application of the Assessment of Significance indicates that a significant effect on threatened biodiversity is likely then:

- the proposal may be modified such that a significant effect on threatened biodiversity is unlikely; and/or
- a Species Impact Statement (SIS) must be prepared.

3.10 Fisheries Management (FM) Act 1994.

The objectives of this Act are to conserve, develop and share the fishery resources of the State for the benefit of present and future generations. The act aims:

- (a) to conserve fish stocks and key fish habitats, and
- (b) to conserve threatened species, populations and ecological communities of fish and marine vegetation, and
- (c) to promote ecologically sustainable development, including the conservation of biological diversity,
- (d) to promote viable commercial fishing and aquaculture industries, and
- (e) to promote quality recreational fishing opportunities, and
- (f) to appropriately share fisheries resources between the users of those resources, and
- (g) to provide social and economic benefits for the wider community of New South Wales.

The draft MP is consistent with these aims.

The FM Act is particularly relevant to the study area in that it provides for the protection of mangroves and seagrasses. NSW Department of Primary Industries (DPI) is responsible for the management of fish and marine vegetation, including mangroves and seagrasses, under the act. Any development or activity that may harm mangroves must be referred to NSW DPI for approval.

The FM Act sets out provisions to protect marine vegetation, including mangroves and seagrasses, from 'harm'. 'Harm' under the FM Act means gather, cut, pull up, destroy, poison, dig up, remove, injure, prevent light from reaching or otherwise harm the marine vegetation, or any part of it. A permit is required from NSW DPI to harm any marine vegetation. The maximum penalty for harming mangroves or seagrasses without a permit is \$220 000 for a corporation or \$110000 for a person.

3.11 National Parks and Wildlife Act (NPW Act) 1974 (as amended)

The NPW Act establishes the National Parks and Wildlife Service (NPWS), and institutes a process for the management of conservation reserves, including national parks and nature reserves and administration of the Threatened Species Conservation Act (TSC Act) and certain provisions of the EP&A Act.

The NPW Act 1974 (as amended) provides the primary basis for the statutory protection and management of Aboriginal sites in NSW. The administration of legislation pertaining to sites is currently the responsibility of the Department of Environment and Climate Change (DECC).

In accordance with the Act, an Aboriginal object may not be knowingly disturbed, defaced, damaged or destroyed without written authority from the DECC. The provisions apply to all Indigenous archaeological sites regardless of whether or not they have been registered with the DECC. If any proposed development will or is likely to damage, deface, desecrate or destroy an Aboriginal object, a Section 90 Heritage Impact Permit must first be granted by the DECC Director-General.

Such a permit is normally only issued following review of a specialist report, consideration of the object's significance, advice from the local Aboriginal community and consideration of all alternative conservation options. Except where destruction of an object/group of objects is or will be demonstrably unavoidable, DECC policy is to require conservation in its original location and context.



Under the terms of the Act an Aboriginal object is defined as:

'any deposit, object or material evidence, not being a handicraft made for sale, relating to indigenous and non-European habitation of the area that comprises NSW, being habitation both prior to and concurrent with the occupation of that area by persons of European extraction.'

The study area includes areas and sites of Aboriginal cultural significance. The key sites are located in and around Stuart Island. Other sites and areas may become known as a result of consultation with Aboriginal people.

3.12 Native Vegetation Act 2003

The native vegetation legislation introduced in 2005 represented an historic change to the way native vegetation is managed across NSW. The Native Vegetation Act 2003 (NV Act) and Native Vegetation Regulation 2005 (NV Regulation) aims to ensure:

- the Government's commitment to end broadscale clearing, to protect the health of our land, rivers and wildlife;
- investment security and increased flexibility for farmers;
- additional funding for farmers and other local groups to repair damaged rivers and restore over cleared landscapes, and
- new powers to local Catchment Management Authorities (CMAs) to make decisions in the best interests of the community.

The system is based on Property Vegetation Plans (PVPs), voluntary agreements between landholders and CMAs. Urban areas are generally excluded from the operations of the NV Act, however land zoned for recreational purposes is not considered to be 'urban land' under the Act. Therefore, the NV Act applies to the study area.

The NV Act requires consent for clearing of native vegetation. Mangroves and seagrass are native vegetation. The Minister for Climate Change and the Environment is the consent authority for development applications for clearing of native vegetation. Part 5 of the EP&A Act does not apply to an activity that involves clearing of native vegetation.

3.13 Water Management Act 2000

The main objective of the Water Management Act (WM) 2000 is the sustainable and integrated management of the State's water for the benefit of both present and future generations. The Act recognises that:

- the fundamental health of our rivers and groundwater systems and associated wetlands, floodplains, estuaries has to be protected
- the management of water must be integrated with other natural resources such as vegetation, soils and land
- to be properly effective, water management must be a shared responsibility between the government and the community
- water management decisions must involve consideration of environmental, social, economic, cultural and heritage aspects
- social and economic benefits to the State will result from the sustainable and efficient use of water

The NSW Department of Water and Energy (DWE) administers planning and development assessment under the EP&A Act and the WM Act. In reviewing and assessing developments submitted under this legislation DWE considers the requirements of the Water Management Act 2000, the Water Act 1912 and relevant key water policies and publications



DWE is referred development applications that trigger the provisions of section 91 of the EP&A Act "Integrated Development". For DWE, Integrated Development applies when a development requires an approval under the Water Management Act 2000 or the Water Act 1912.

Development along water courses may be Integrated Development if it is deemed to be a "controlled activity". A controlled activity approval confers a right on its holder to carry out a specified controlled activity at a specified location in, on or under waterfront land (generally 40m from the river).

A 'controlled activity' means:

- (a) the erection of a building or the carrying out of a work (within the meaning of the Environmental Planning and Assessment Act 1979), or
- (b) the removal of material (whether or not extractive material) or vegetation from land, whether by way of excavation or otherwise, or
- (c) the deposition of material (whether or not extractive material) on land, whether by way of landfill operations or otherwise, or
- (d) the carrying out of any other activity that affects the quantity or flow of water in a water source.

When referred an application DWE will advise the consent authority (usually a local council) whether it will issue the required approval through DWE's General Terms of Approval.

3.14 Maritime Services Act 1935 / Maritime Safety Act 1998.

The NSW Maritime Services Board administers the Maritime Services Act (MSA) and the Maritime Safety Act 1998. Under the provisions of the EP&A Act, 1979 and other relevant legislation, NSW Maritime has four separate development approval roles with respect to its own land and adjoining foreshore land, ie as land owner, as consent authority in the development approval process, as a determining authority and as a construction approval authority.

Maritime property policy generally applies to the following land:

- the land comprising the beds of Sydney Harbour, Botany Bay, Newcastle Harbour and Port Kembla Harbour, as shown in Figure 1; and
- reclaimed lands, dry lands and intertidal zones which are owned by NSW Maritime, and adjacent to or in the vicinity of these bodies of water.

The board administers other functions such as aquatic licences, speed limits of vessels in navigable waters, crossings of navigable waters etc. The draft MP does not propose development or activities that would be considered by the NSW Maritime Board.

3.15 Commonwealth Native Title Act 1993

Native title is the legal recognition of Indigenous Australians' rights and interests in land and waters according to their own traditional laws and customs. Unlike Land Rights, native title is not a grant or a right that is created by governments.

The High Court recognised native title for the first time in 1992, in what is known as the Mabo case. Native title is recognised and protected in Australian law by the Native Title Act 1993

The main objectives of this Act are:

- to provide for the recognition and protection of native title; and
- to establish ways in which future dealings affecting native title may proceed and to set standards for those dealings; and
- to establish a mechanism for determining claims to native title; and



- to provide for, or permit, the validation of past acts, and intermediate period acts, invalidated because of the existence of native title.

As a Crown Authority it is the Department of Lands responsibility to ensure that Native Title issues have been addressed in accordance with the Native Title Act 1993 prior to entering into any commercial terms, leases or management plans within the study area.

3.16 NSW State Plan (2006)

The NSW State Plan is a ten year plan consisting of 14 long term social, economic and environmental goals, 34 specific priorities for action and 60 targets, against which progress can be measured.

The plan is divided in to five major areas of Government activity:

- Rights, Respect and Responsibility – reducing crime and anti-social behaviour by improving the justice system and promoting community participation and citizenship.
- Delivering Better Services – improving service delivery in the key areas of healthcare, transport and education.
- Fairness and Opportunity – Promoting social justice and bettering outcomes for Aboriginal people, people with a disability and people with a mental illness. Increasing focus on early intervention, developing skills at school entry and reducing child abuse and neglect.
- Growing Prosperity Across NSW – promoting productivity and economic growth, supporting rural and regional economies and cutting government red tape.
- Environment for Living – improving urban environments, housing affordability and road networks as well as improving sustainable water and electricity supplies while focusing on environmental protection.

The State Plan is driving policy and planning and project development at the regional and local level. Development within Council and Crown land should be consistent with the outcomes sought in the State Plan.

The draft MP is consistent with the outcomes sought in the State Plan, particularly in regard to improving urban environments and environmental protection.

3.17 Mid North Coast Regional Strategy (MNCRS)

The primary purpose of the Regional Strategy is to ensure that adequate land is available and appropriately located to accommodate the projected housing and employment needs of the Region's population over the next 25 years.

The Strategy sets the policy to govern where and how growth can occur. While it is clear that expected growth can be accommodated in the Region, the Strategy places limits on growth in some areas where the value of environmental/cultural assets and natural resources is high.

The MNCRS recognises the economic and employment benefits that result from tourism in the region. It acknowledges that tourist development should not overwhelm natural landscape values. It also recognises the importance of the region's natural environment and natural resources to its economy, character, scenery and cultural values.

The draft strategy outlines a range of actions that will guide strategic planning decisions. Relevant actions to the Nambucca River study area are:

- Tourism developments should not include permanent residential accommodation, except where the tourism development is within an area identified for urban development in an agreed local growth management strategy.



- New development adjoining and adjacent to farmland, extractive resources, waterways, wetlands and areas with high value biodiversity will incorporate buffers to avoid land use conflict.
- In order to manage risk associated with climate change, councils will undertake flood investigations over lands with the potential to be affected by sea-level rise and inundation to ensure that risk to public and private assets are minimised.
- Councils are to ensure that Aboriginal cultural and community values are considered in the future planning and management of the local government area.

The draft MP is consistent with these strategic actions.

3.18 Crown Lands Policy for Marinas and Waterfront Commercial Tenures (2005)

This Policy was developed to guide the creation of new and renewed tenures for marinas and waterfront commercial facilities in accordance with the requirements of the Crown Lands Act 1989, the principles of Crown Land Management, and the wider considerations such as competition and probity. It sets out considerations that apply to existing Crown tenures, as well as new development sites.

The intent of the Policy is to:

- ensure that the commercial leasing and licensing of Crown lands is consistent, transparent, fair and impartial;
- encourage the sound environmental management of New South Wales' waterways and foreshores;
- encourage the ongoing development and improvement of existing and new waterfront sites to ensure the availability of high infrastructure for the storage, maintenance, repair and use of watercraft by the boating public;
- encourage the use of waterfront land for public use and enjoyment;
- secure a market return from the commercial use of Crown land and the best outcome for the State;
- provide certainty for the holders of Crown tenures in a commercially secure environment; and
- promote and encourage the operation of market forces in the development and operation of Crown tenures.

The draft MP provides new opportunities for waterfront commercial tenures along the northern bank of the Nambucca River.

3.19 Crown Lands Policy for Tourist & Associated Facilities on Crown Land (2006)

This Policy was developed to guide the creation of new and renewed tenures for Tourist & Associated Facilities in accordance with the requirements of the Crown Lands Act 1989, the principles of Crown Land Management, and the wider considerations such as competition and probity. It sets out considerations that apply to existing Crown tenures, as well as new development sites.

The intent of the Policy is to:

- ensure that the commercial leasing and licensing of Crown lands is consistent, transparent, fair and impartial;
- encourage the sound environmental management of Crown land in New South Wales;
- encourage the ongoing development and improvement of existing and new tourist facilities to ensure the availability of high quality infrastructure and accommodation for tourists;
- encourage the use of suitable crown land for public use and enjoyment;
- secure a market return from the commercial use of Crown land and the best outcome for the State;
- provide certainty for the holders of Crown tenures in a commercially secure environment; and



- promote and encourage the operation of market forces in the development and operation of Crown tenures.

The draft MP is consistent with this policy particularly in regard to the use of suitable crown land for public use and enjoyment.

3.20 Bellwood Park Plan of Management (PoM), 2003

The purpose of this PoM is to document the environmental, economic, recreation and social values of the Bellwood Park Reserve and to guide the future use, development and management of the reserve. The key value of reserve is diverse range of active recreation activities.

The land use zone applicable to the reserve is 6a open space. The area of the reserve is 1.9 ha. Council was appointed as the corporate manager of the reserve in 1955 under the Crown Lands Act.

The reserve contains a number of facilities which were funded through the sale of an adjacent crown reserve. Any new development in the reserve must consider the following issues provided in Section 1.12 of the PoM:

- The compatibility of the proposal with the notified purpose of the reserve;
- The impact on the existing use of the reserve;
- The compatibility with the Vision and Management Principles for the reserve;
- The need for the proposal and whether it will promote and be ancillary to the use and enjoyment of the reserve, as distinct from satisfying a requirement generated by an adjoining property or by an unassociated community need;
- The advantage and benefit that the development would bring to the normal reserve users;
- The need for a lease and its draft terms, conditions and rental that would apply; and
- The North Coast Crown Reserves Management Strategy.

Vision Statement:

The Vision of the Reserve Trust in managing the Bellwood Park Reserve is that the land be managed to provide an outstanding asset for the recreational, social and educational benefit of the community while protecting and enhancing the reserves natural and cultural values for future generations.

Management Principles:

- Identification and preservation of the natural environment and cultural heritage values;
- Recognition, protection and enhancement of the unique recreational values the foreshore location offers;
- Maintenance of existing infrastructure to ensure safe, accessible and enjoyable use; and
- Provision of new infrastructure to extend the recreational potential of the reserve.

The purpose of this project to provide an ecologically sustainable master planning concept, design and implementation plan for the use, interaction, management, development and conservation of the study area is consistent with the Bellwood Park Plan of Management. It is unlikely that the PoM would require amendments to facilitate any proposed uses for the park that arise out of this study.

3.21 Nambucca Heads Foreshores Reserves Plan of Management.

This PoM was adopted by the Minister for Lands in March 1987 and applies to reserve land located from the mouth of the Nambucca River north to Deep Creek. The PoM was prepared to provide a planning guide for the development and management of reserves in this location.

Crown Reserve R81262 is located within the study area on the northern bank of the Nambucca River near the mouth of the estuary on the southern side of Shelley Beach. This includes the Wellington Rocks area.

Management Strategies for this area include:

- formalising the gravel road to the Wellington Rocks beach hind dune area



- form car parking area at the end of this access road
- form and maintain pedestrian access to Wellington Rocks beach and Shelley Beach from this car park
- construct post and rail fence around caravan park
- plant trees and shrubs adjacent to post and rail fence to screen caravan park and improve amenity
- install signposts to designate the extent of the reserves, car parking areas and access, walking tracks and picnic areas
- install picnic / day use amenities at Wellington Rocks hind dune area

The draft MP is generally consistent with these management strategies in that it is proposed to:

- strengthen banksia and casuarina planting in the area adjoining the caravan park
- install steps and reinstate the integrity of the existing pathway in the hind dune area
- vegetation rehabilitation and weed removal in the hind dune area
- upgrade amenities at the southern end of Shelley Beach
- new car park and turnaround area at the eastern end of the “tavern” car park.

