

State Environmental Planning Policies Review 2015

Integration and Repeal of 16 SEPPs
Explanation of Intended Effect



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Integration and Repeal of 16 SEPPs Explanation of Intended Effect

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Contents

Executive Summary	5	Part C: Update and transfer policy	18
Part A: SEPPs proposed to be repealed outright	6	• Orana Regional Environmental Plan No 1 – Siding Spring	18
• Illawarra Regional Environmental Plan No 2 – Jamberoo Valley	6	• Riverina Regional Environmental Plan No 1	26
• Lower South Coast Regional Environmental Plan (No 2)	6	Part D: Repeal SEPP and provide flexible local clause	34
• Sydney Regional Environmental Plan No 18 – Public Transport Corridor	7	• State Environmental Planning Policy No 15 – Rural Landsharing Communities	34
• Sydney Regional Environmental Plan No 19 – Rouse Hill Development Area (1989)	7	Part E: Re-insert Coffs Harbour into SEPP 44 Koala Habitat Protection	35
• State Environmental Planning Policy No 59 – Central Western Sydney Regional Open Space and Residential	8	• State Environmental Planning Policy No 44 (Koala Habitat Protection) application to Coffs Harbour local government area	35
• State Environmental Planning Policy No 29 – Western Sydney Recreation Area	8	Part F: Savings and transitional provisions and consequential amendment to other instruments	36
• State Environmental Planning Policy No (SEPP 53 Transitional Provisions) 2011	9		
• State Environmental Planning Policy No 39 – Spit Island Bird Habitat	10		
• State Environmental Planning Policy No 32 – Urban Consolidation (Redevelopment of Urban Land)	10		
• Hunter Regional Environmental Plan 1989 (Heritage)	11		
• North Coast Regional Environmental Plan	13		
Part B: Continued operation of SEPPs for specific land	14		
• Illawarra Regional Environmental Plan No 1	14		
• Jervis Bay Regional Environmental Plan 1996	16		

Executive Summary

The following information is provided as an Explanation of the Intended Effect under section 38 of the Environmental Planning and Assessment Act 1979 (the Act) of the draft State Environmental Planning Policy (Integration and Repeal) 2015 (the 'proposed SEPP').

The proposed SEPP reduces the number of State Environmental Planning Policies (SEPPs) and deemed State Environmental Planning Policies (previously known as Regional Environmental Plans) so that the current planning system is easier to use for all stakeholders. This is in line with the priority action of the NSW 2021 plan for a clear and transparent planning system.

The proposed SEPP intends to remove policy and controls that are now superseded by Regional Strategies, Standard Instrument local environmental plans, and other existing State Environmental Planning Policies. The proposed SEPP also updates and integrates policy to be retained into the relevant local plans to provide controls in the one place making them easy to find and use.

This Explanation of Intended Effect describes the planning controls that are intended to be removed, saved or transferred to another place by the proposed SEPP and are set out under each part.

In summary the proposed SEPP will:

A. Repeal:

- Illawarra Regional Environmental Plan No 2
- Lower South Coast Regional Environmental Plan
- Sydney Regional Environmental Plan No 18 – Public Transport Corridor
- Sydney Regional Environmental Plan No 19 – Rouse Hill Development Area (1989)
- State Environmental Planning Policy No 59 – Central Western Sydney Regional Open Space and Residential

- State Environmental Planning Policy No 29 – Western Sydney Recreation Area
 - State Environmental Planning Policy No 53 (Transitional Provisions) 2011
 - State Environmental Planning Policy No 39 – Spit Island Bird Habitat
 - State Environmental Planning Policy No 32 – Urban Consolidation (Redevelopment of Urban Land)
 - Hunter Regional Environmental Plan 1989 (Heritage)
 - North Coast Regional Environmental Plan
- B. Continue the operation of the following SEPPs for certain lands
- Illawarra Regional Environmental Plan No 1
 - Jervis Bay Regional Environmental Plan 1996
- C. Update and move the policy intent of the Orana REP No 1 – Siding Springs and Riverina REP No 1 into the relevant planning instruments to protect the operation of these facilities and to enable repeal of these SEPPs.
- D. Propose that relevant councils include a flexible provision for rural land sharing into their local plans, so that the State Environmental Planning Policy No 15 – Rural Landsharing Communities can be repealed.
- E. Re-insert Coffs Harbour to the schedule of SEPP 44 Koala Habitat Protection
- F. Make consequential amendments to other instruments to remove reference to those SEPPs which are repealed and provide for savings and transitional provisions for development applications under consideration.

If the proposed SEPP is made by the Governor, the new planning controls will take effect when they are published on the NSW Legislation website.

Note: Repeal means to revoke or set aside.

Part A: SEPPs proposed to be repealed outright

Illawarra Regional Environmental Plan No 2 – Jamberoo Valley

This plan originally introduced in 1987 aims to conserve the agricultural, environmental and aesthetic values of Jamberoo Valley, which lies partly within the Kiama and Shellharbour local government areas. It did this with specific requirements to conserve and protect land identified as Rural Conservation Area, escarpment lands and land supporting significant vegetation. Since 1987 the plan has been amended and various parts of it have been removed. Currently the plan's remaining requirement specifically maps the extent of Jamberoo Village.

Reason for proposed repeal:

The Illawarra Strategy, Shellharbour LEP 2013 and Kiama LEP 2011 have now implemented the relevant provisions of the Illawarra Regional Environmental Plan No 2 – Jamberoo Valley allowing it to be repealed.

In future, the extent of land zoned for housing will continue to be managed through the Illawarra Urban Development Program, regional and local planning processes. The recently exhibited draft Illawarra Regional Growth and Infrastructure Plan proposes that the future of the Jamberoo Valley should be guided by the Kiama Urban Strategy and the mapping of regionally significant agricultural lands.

It is proposed to repeal the Illawarra Regional Environmental Plan No 2 – Jamberoo Valley.

Lower South Coast Regional Environmental Plan (No 2)

The purpose of this plan is to protect the natural environment and promote the orderly and economic development and use of land and other resources in the lower south coast region (land within the Shires of Bega Valley and Eurobodalla).

It does this by setting out plan making provisions related to protection of natural areas, residential development and tourism; policies for development controls related to fishery resources and tourism and recreation; and both plan making provisions and policies for development controls related to rural lands, and water resources.

Reason for proposed repeal:

The aims and objectives of the Lower South Coast Regional Environmental Plan (No 2) are now reflected in the South Coast Regional Strategy 2006-31, Bega Valley LEP 2013 and Eurobodalla LEP 2012. Subsequently, these newer LEPs switch off the Lower South Coast Regional Environmental Plan (No 2) and, in combination with the South Coast Regional Strategy, supersede and replace it.

The proposed SEPP will therefore repeal the Lower South Coast Regional Environmental Plan (No 2) as the policy has been implemented through local environmental plans and the regional strategy. The repeal will also mean that it will no longer apply to 'deferred areas' within Bega Valley and Eurobodalla LGAs. These areas are subject to older LEPs (Bega Valley LEP 2002, Eurobodalla Rural LEP 1987 & Eurobodalla Urban LEP 1999) and have relevant zones and special provisions which are consistent with the Lower South Coast Regional Environmental Plan (No 2). These LEPs will be progressively integrated into the new standard instrument LEPs. Future planning proposals for these areas will need to be consistent with the South Coast Regional Strategy 2006-31.

It is proposed to repeal the Lower South Coast Regional Environmental Plan (No 2).

Sydney Regional Environmental Plan No 18 – Public Transport Corridor

The Sydney Regional Environmental Plan No 18 – Public Transport Corridor was made in 1989 and originally applied to Fairfield, Parramatta, Holroyd and The Hills local government areas. This plan provides for the acquisition of land for a public transport corridor and facilities and originally ran from Hoxton Park to Baulkham Hills through the Parramatta City Centre.

It provided for improved access by public transport into Parramatta from the rapidly developing suburbs on the north-western and south-western fringe of the Metropolitan area. Studies which looked at extending the corridor to the future town centre site at Mungerie Park had been completed and the then Baulkham Hills Council identified the corridor in its LEP 1991.

The plan now applies only to Fairfield local government area and Parramatta City Centre.

Reason for proposed repeal:

The Sydney Regional Environmental Plan No 18 – Public Transport Corridor (SREP 18) has been progressively implemented since its inception. More recently, with the preparation of standard instrument local environmental plans across NSW, the Roads and Maritime Services have worked closely with councils to ensure land identified for the corridor was protected in these local environmental plans.

Subsequently, land identified for this public transport corridor has been acquired or is mapped in the relevant councils' local environmental plans. If through exhibition sites still to be acquired are identified, these will be transferred to the relevant local environmental plan at the same time as the proposed repeal of SREP 18.

SREP 18 has served its purpose and is now proposed to be repealed.

Sydney Regional Environmental Plan No 19 – Rouse Hill Development Area (1989)

This plan provides the mechanism to declare release areas for urban purposes and sets out the zoning for Rouse Hill Development Area to provide for residential, employment, business and open space land uses.

Made in 1989 the Sydney Regional Environmental Plan No 19 – Rouse Hill Development Area identified 9400 hectares of land as the Rouse Hill Development Area in parts of Hawkesbury, The Hills and Blacktown local government areas. It coordinated planning and decision-making for long term growth and identified land for the expansion of urban development. A later amendment ensured it did not apply to a precinct of a growth centre released for urban development with the introduction of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

Reason for proposed repeal:

The land covered by Sydney Regional Environmental Plan No 19 – Rouse Hill Development Area is substantially within the area to which SEPP (Sydney Region Growth Centres) 2006 applies and has been rezoned or released for urban development, or will be released in the future under that instrument. The balance of the land not covered by the SEPP (Sydney Region Growth Centres) 2006 has been rezoned in local plans in accordance with the Rouse Hill Development Area – Structure Plan. In this regard, The Hills LEP 2012 switches off Sydney Regional Environmental Plan No 19 – Rouse Hill Development Area for land within its local government area.

Development processes for the land have been replaced by the SEPP (Sydney Region Growth Centre) 2006 and the controls have been given effect through the Blacktown, Hawkesbury and The Hills local environmental plans. This additional layer of control is no longer required.

It is now proposed that Sydney Regional Environmental Plan No 19 – Rouse Hill Development Area be repealed.

State Environmental Planning Policy No 59 – Central Western Sydney Regional Open Space and Residential

This policy was formerly known as State Environmental Planning Policy No 59— Central Western Sydney Economic and Employment Area 1999, until it was amended in 2009 with the introduction of two other policies:

- SEPP (Western Sydney Employment Area), and
- SEPP (Western Sydney Parklands).

It provides land use zones and the coordinated planning and development of certain land for urban purposes in the central west of Sydney. When created it applied to lands within the local government areas of Fairfield, Holroyd and Blacktown.

Since 2009, the SEPP zoned land as Regional Open Space and Residential and provided planning provisions for the orderly development of precincts.

Reason for proposed repeal:

This policy has been progressively implemented through local environmental plans. The residential areas of the SEPP have been zoned under the Holroyd LEP 2013 and the Fairfield LEP 2013 and developed into housing precincts. The areas zoned Regional Open Space under the SEPP have been integrated into the Blacktown LEP 2015.

The SEPP also provides planning provisions for an area identified as “Widemere Land” in Greystanes. These lands have since been integrated into the Fairfield LEP 2013, Holroyd LEP 2013 and the State Environmental Planning Policy (Major Development) 2005.

SEPP 59 has served its purpose with the integration of planning provisions for lands to which it applies into the relevant local environmental plans and SEPP (Major Development) 2005 and is therefore no longer required. On this basis, it is proposed that the SEPP be repealed which will remove duplication and ensure a more integrated and streamlined planning system.

State Environmental Planning Policy No 29 – Western Sydney Recreation Area

This policy enables development to be carried out for recreational, sporting and cultural purposes within the Western Sydney Recreation Area. It applies to two lots of land adjacent to the M4 Motorway and Western Sydney Parklands within the Blacktown local government area. These lots are currently used for recreational and hotel accommodation purposes (Eastern Creek International Karting Raceway and Alpha Hotel Eastern Creek).

Reason for proposed repeal:

The two lots of land to which SEPP 29 applies have been zoned RE2 Private Recreation under the Blacktown LEP 2015. The RE2 Private Recreation zone enables land to be used for recreational purposes such as major recreational facilities, information centres, restaurants and hotel accommodation, providing a range of compatible land uses that are permissible with consent. The aims and objectives of SEPP 29 have now been implemented through the RE2 Private Recreation zone.

SEPP 29 has served its purpose and is proposed for repeal.

State Environmental Planning Policy (SEPP 53 Transitional Provisions) 2011

This policy was introduced following the repeal of SEPP 53 (Metropolitan Residential Development) on 3 June 2011. It provides transitional provisions for certain development applications for dual occupancy development within the Ku-ring-gai local government area.

SEPP (SEPP 53 Transitional Provisions) 2011 introduced on 15 July 2011 continues the application of SEPP 53 (Metropolitan Residential Development), for the following dual occupancy development:

- a. a development application for dual occupancy development made before the commencement of SEPP 53 (Transitional Provisions) 2011, not being a development application that was finally determined by the Court before that commencement,*
- b. a further development application for dual occupancy development that was the subject of a previous development application and that is made not later than 6 months after the commencement of SEPP 53 (Transitional Provisions) 2011,*
- c. a development application for dual occupancy development that is subject to an application (whether made before or after the commencement of this Policy) for a review under section 82A of the Act, not being an application for a review that was finally determined before that commencement.*

Reason for proposed repeal:

The SEPP applies to specific circumstances relating to a development application for a dual occupancy including a review of a determination. It is over three years since the SEPP was introduced to ensure development applications prepared or under consideration (whether by the Court or a review under s82A) could be finalised under the former SEPP. Preliminary discussions with Ku-ring-gai council planning officers confirmed that there are no development applications relying on SEPP (SEPP 53 Transitional Provisions) 2011.

It is proposed to repeal SEPP (SEPP 53 Transitional Provisions) 2011 to remove a layer of regulation which has completed its primary function and is no longer required.

State Environmental Planning Policy No 39 – Spit Island Bird Habitat

This policy specifically enables the management and protection of the Spit Island bird habitat reserve at Towra Point to be undertaken without the need for development consent within Sutherland and Rockdale local government areas. The reserve includes both land and water.

Reason for proposed repeal:

The Spit Island bird habitat is located within the Towra Point Aquatic Reserve and is a significant wetland and part of the National Parks estate.

The draft Sutherland LEP 2013 proposes to rezone the majority of the reserve E1 National Parks and Nature Reserves. This zone will provide the same level of protection available under SEPP 39 and allows development for the protection of bird habitat to be undertaken without consent.

A small area of the reserve is located within Rockdale local government area. The Rockdale LEP 2011 maps the reserve and surrounding waterway as 'unzoned'. In order to ensure the continued protection of the reserve, the proposed SEPP will amend the Rockdale LEP 2011 to zone the small portion of the reserve to E1 National Parks and Nature Reserves.

Once the Sutherland LEP is notified and the Rockdale LEP amended, SEPP 39 will no longer be required. In order to remove duplication it is proposed to repeal this SEPP.

State Environmental Planning Policy No 32 – Urban Consolidation (Redevelopment of Urban Land)

Introduced in 1991, SEPP 32 – Urban Consolidation (Redevelopment of Urban Land) enables urban land that is no longer required for the purpose for which it is currently zoned or used, to be redeveloped. The policy applies to all urban land and encourages the identification of land for urban consolidation (housing close to transport and jobs) to assist with the implementation of the policy.

SEPP 32 requires each council, when preparing environmental planning instruments or considering development applications relating to urban land, to implement the aims and objectives of this policy to the fullest extent practicable. It also places an obligation on the Minister to implement the aims and objectives of this policy to the fullest extent practicable in the making of environmental planning instruments relating to urban land.

Reason for proposed repeal:

The purpose of this SEPP has been superseded by other initiatives such as the Priority Precincts Program, the work of UrbanGrowth NSW, current Regional Strategies, and subregional and local planning processes that address the potential increase in density of urban land and contribute to urban consolidation. This SEPP contains outdated references to regional environmental plans which no longer reflect the Act. The aims and objectives of this SEPP are also now contained in the Ministerial Directions; in particular those related to Housing, Infrastructure and Urban Development and are considered in preparing planning proposals.

It is therefore proposed to repeal SEPP 32 – Urban Consolidation (Redevelopment of Urban Land).

Hunter Regional Environmental Plan 1989 (Heritage)

The purpose of this plan, introduced in 1989, is to conserve the Hunter Region's environmental and cultural heritage items and conservation areas which contribute to the character of the historic landscapes of the Region.

The plan has five Schedules identifying state, regional and local heritage items, items requiring further investigation, and conservation areas for the Hunter Region.

The Hunter Regional Environmental Plan 1989 currently applies to the local government areas of Cessnock, Upper Hunter Shire (includes Merriwa and Scone) and Muswellbrook.

The plan also formerly applied to Gloucester, Lake Macquarie and Dungog. Over the past 15 years, these councils have progressively incorporated the heritage items and conservation areas into their LEPs, and have concurrently amended the plan so it no longer applies to these local government areas.

The remaining areas of Cessnock, Upper Hunter and Muswellbrook have progressively switched off the REP when their standard instrument local environmental plans were made.

Reason for proposed repeal:

The content of the Hunter Regional Environmental Plan has been progressively implemented, by the local councils it applies to, through their strategic work underpinning new local environmental plans.

The Hunter REP therefore no longer applies to these local government areas having been removed from the REP or switched off under the relevant local environmental plan. While the majority of the heritage items and conservation areas have been transferred into the local environmental plans some have not been carried over. The reasons for this vary and include a lack of site details within the REP to locate the item and the requirement in some instances for further investigation. **Table 1** lists those heritage items and conservation areas not transferred.

It is proposed to transfer the items into the relevant local plan as part of the proposed SEPP, except where further investigation and the relevant council confirms that protection is no longer warranted. It is then proposed to repeal the Hunter Regional Environmental Plan 1989 to remove this layer of duplication.

Table 1. Hunter REP heritage items to be transferred to local plans and/or require further investigation

Schedule 5 Cessnock LEP 2011		
	ADDRESS	ITEM NAME
Rothbury	Branxton Road	Peacock Hill Burial Ground
Abermain	Main Road	Post Office
Abernethy		Aged Persons Hospital
Branxton	Clift Street	Hall
Branxton	Millfield Street	Cessnock Reservoir
Branxton	Branxton	Conservation Area
Branxton		Street of Miners Cottages
Greta	Greta	Conservation Area
Greta		Water Storage Tanks
Kilcoy		Presbyterian Church
Kitchener	Cessnock Street	Company Houses (3)
Kurri Kurri	Lang Street	Two Storey Shop
Kurri Kurri	Mulbring Road	Coalfields Mining Supplies
Mullbring		Masonic Hall
Mullbring		Imperial Hotel
Mullbring	Main Road & Water Street	Former Temperance Hotel
Mullbring		Burnetts Slaughter House
Pokolbin	Branxton Road	Caerphilly' Winery & Vineyard
Pokolbin	Daisy Hill	The Wilderness' Winery & Vineyard
Pokolbin	Daisy Hill	Winery & Vineyard

Schedule 5 Upper Hunter LEP 2013		
	ADDRESS	ITEM NAME
Scone		Aberdeen Conservation Area
Scone		Former Shire Hall
Scone		Timber Houses
Cassilis		House (No 6)
Cassilis		'Rotherwood'
Cassilis		'Merothouse'
Cassilis		'Tongy'
Merriwa	No. 61 Liverpool Street	'Ayesham'
Moonan Flat		Victoria Hotel
Wingen	Roseberry Street	Red Cottage
Wingen		Bakers Brickworks

Schedule 5 Muswellbrook LEP 2009		
	ADDRESS	ITEM NAME
Muswellbrook		Muswellbrook Conservation Area
Muswellbrook	Mill Street	Former Flour Mill *
Baerami		'Baramul' Station known as Baramul Stud
Kayuga		Kayuga homestead
Kayuga		Kayuga 'Rosedale' Cottage *
Sandy Hollow	Sandy Hollow Railway	Sandy Hollow to Maryvale *

* Archaeological item

North Coast Regional Environmental Plan

This plan, made in 1988, was introduced to provide a consistent approach to policy and development control for rural and urban development, conservation and the environment, regional infrastructure, tourism and recreation for the North Coast Region.

The plan originally applied to 17 local government areas on the North Coast. With the publication of new standard instrument local environmental plans in the north coast region, the North Coast Regional Environmental Plan (REP) has been progressively switched off for these councils as the intent and controls of the REP have been transferred to the local environmental plan (LEP). It now only applies to the deferred lands in Tweed, Ballina, Kyogle and Lismore LGAs. Byron, Coffs Harbour and Kempsey LGAs were removed from the operation of the North Coast REP concurrent with the publication of their local environmental plans.

The recent Review of Environmental Zones on the Far North Coast affects Ballina, Byron, Kyogle, Lismore and Tweed Councils. Local environmental plans for these local government areas defer land which was originally intended to be included in environmental zones. The underlying zones derived from previous LEPs continue to apply in these areas and provide suitable protection consistent with the REP.

The North Coast REP lists conservation areas and heritage items which have now been transferred to relevant local environmental plans.

Reason for proposed repeal:

The initiatives of this REP and the regional specific vision have been transferred to the relevant LEP's in the region and incorporated into two regional strategies the Far North Coast and Mid North Coast Regional Strategies. The proposed repeal of this SEPP will mean that it will no longer apply to 'deferred areas' where previous LEPs are still in place in Tweed, Ballina, Kyogle and Lismore local government areas. These LEPs have relevant zones and special provisions which are consistent with the North Coast REP and provide suitable protection for wetlands, the coast, water catchments and habitat. Once the Review of Environmental Zones is completed and its conclusions implemented by councils the deferred areas will be progressively integrated into the newer standard instrument LEPs. When they are integrated they will need to be consistent with the Far North Coast and Mid North Coast Regional Strategies.

The North Coast REP has served its purpose and is no longer required and is proposed to be repealed.

Part B: Continued operation of SEPPs for specific land

Illawarra Regional Environmental Plan No 1

This plan provides comprehensive controls for the area related to: protection of rural lands, environment and heritage; promotion of renewable energy; development controls to minimise expansion of rural subdivision, land use conflict with mining (coal mines) and building heights. It now applies only to Kiama, Wollongong (deferred lands) and Shoalhaven (deferred lands) local government areas.

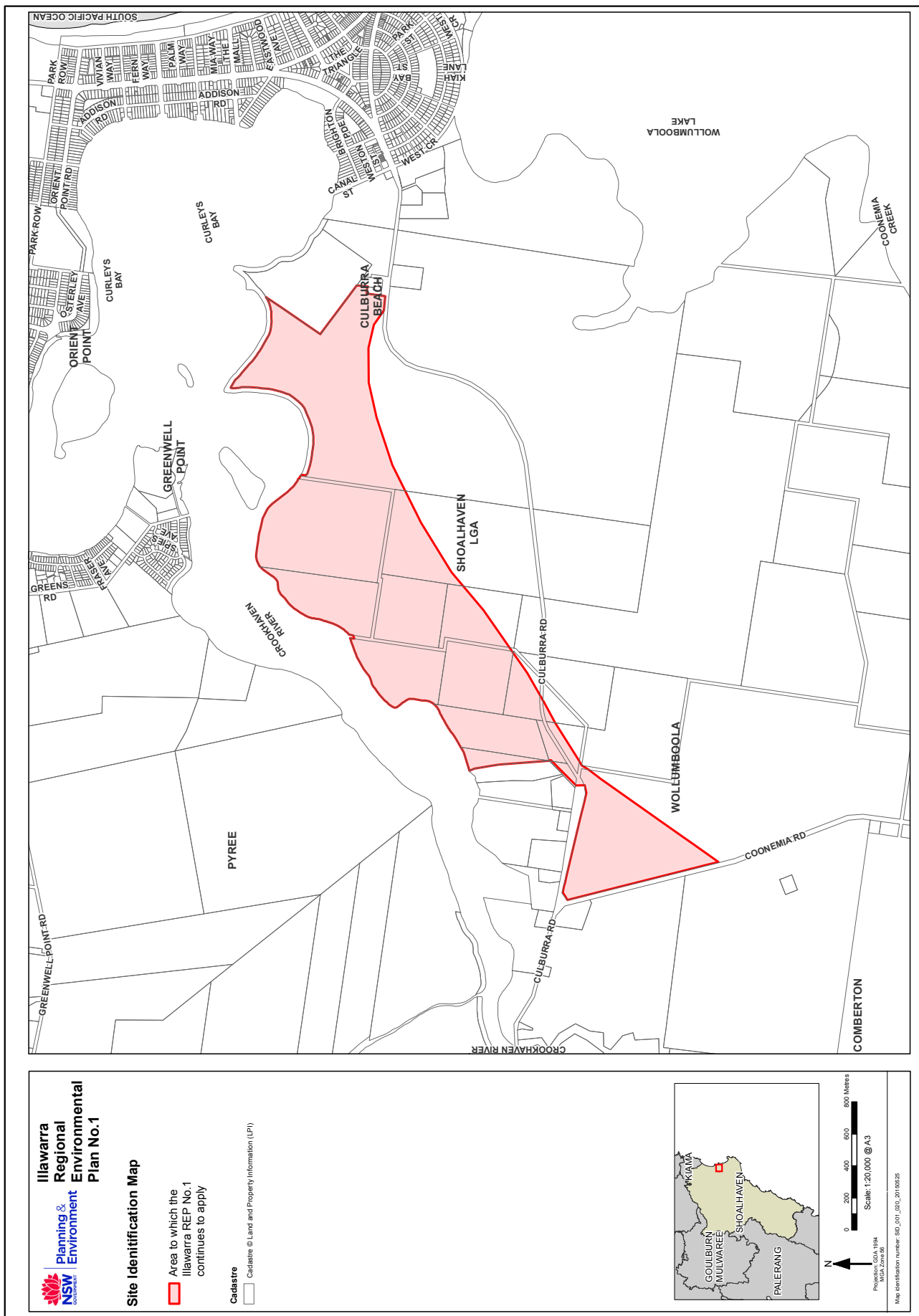
Reason for proposal:

The Illawarra Regional Environmental Plan No 1, introduced in 1986, has been progressively incorporated into the strategic planning for the Illawarra region. Specifically, the planning and development controls have been incorporated into the Illawarra Regional Strategy; South Coast Regional Strategy; local environmental plans of Wollongong, Shellharbour, Shoalhaven, Wingecarribee and Kiama. Other aspects of the plans are included in State planning instruments or Ministerial Directions. Collectively, these supersede the Illawarra Regional Environmental Plan No 1 enabling it to be removed from the area to which it applies with the exception of land at Culburra which was deferred from the Shoalhaven LEP 2014 and to which the Shoalhaven LEP 1985 continues to apply.

The relevant provisions of the plan establishing parameters and controls relating to environmental quality and development, including height, will be maintained.

This area is mapped (Site Identification Map for Illawarra REP No 1) in **Attachment A** as part of this statement.

It is therefore proposed to repeal Illawarra Regional Environmental Plan No 1 and retain the provisions for certain lands at Culburra deferred under the Shoalhaven LEP 2014. These lands to which Illawarra Regional Environmental Plan No 1 continues to apply are mapped in Attachment A. This will remove the application of the Illawarra Regional Environmental Plan No 1 to land within the Wollongong (deferred lands) and Kiama local government areas and retain it for certain lands at Culburra in the Shoalhaven local government area.



Jervis Bay Regional Environmental Plan 1996

This plan provides strategic and development considerations to protect the environment and heritage of Jervis Bay while also providing for future residential and tourism development within Shoalhaven local government area.

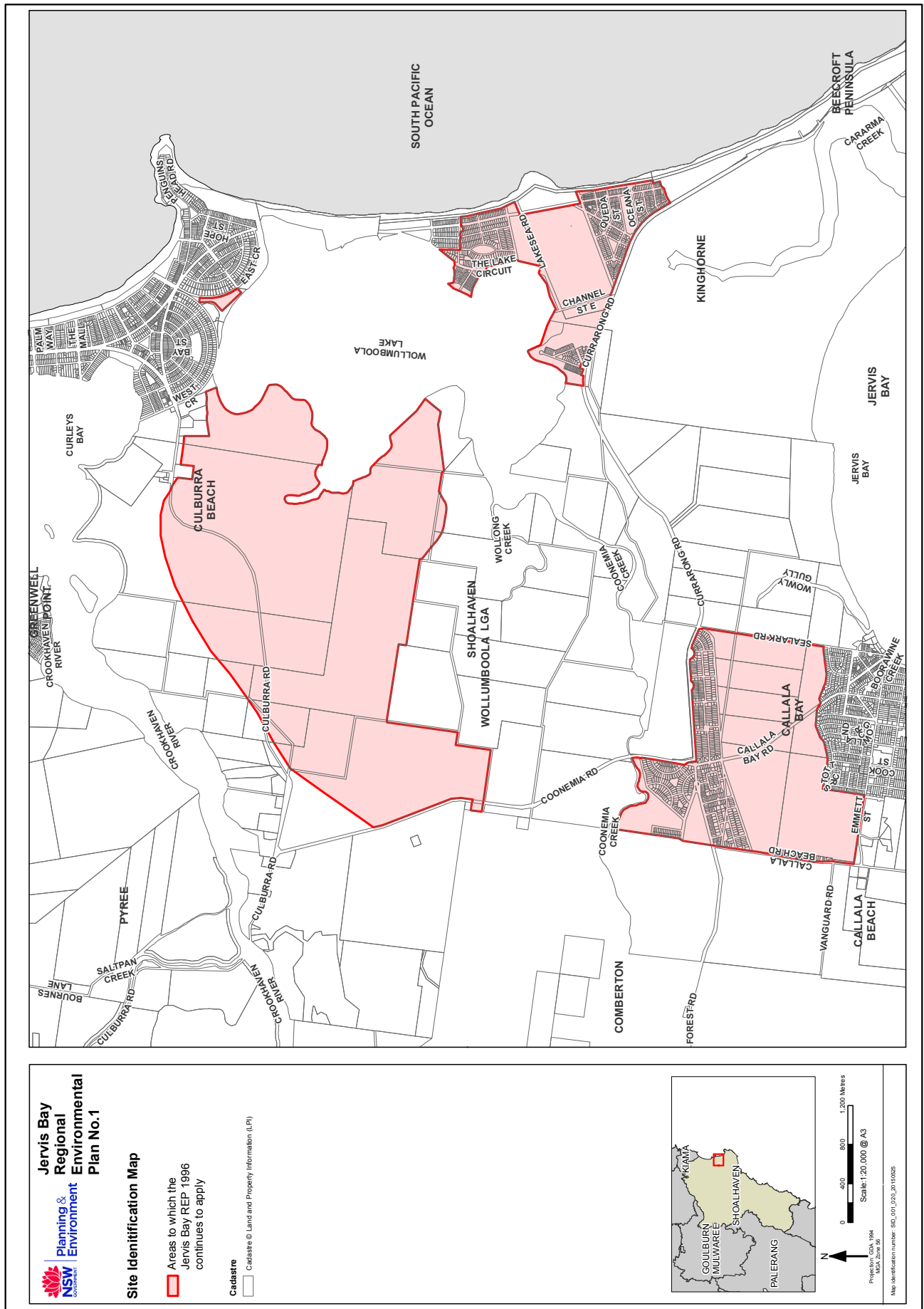
Reason for proposal:

The aim and objectives of the plan have been largely superseded by the South Coast Regional Strategy; Shoalhaven Growth Management Strategy and Shoalhaven LEP 2014. The Shoalhaven LEP 2014 also switches off the Jervis Bay Regional Environmental Plan 1996 for land to which that LEP applies. However, the Jervis Bay Regional Environmental Plan 1996 continues to apply to land deferred under the Shoalhaven LEP 2014 and to which the Shoalhaven LEP 1985 continues to apply.

It is proposed to continue to apply Jervis Bay Regional Environmental Plan 1996 to certain lands deferred under the Shoalhaven LEP 2014 including an area of high environmental significance around Lake Wollumboola and Callala Bay near Culburra that is subject to planning investigations. There are also other deferred lands currently subject to planning proposals and until these are resolved, the Jervis Bay Regional Environmental Plan 1996 will continue to apply.

The aims of the plan to protect the natural and cultural values of Jervis Bay and to allow proposals that contribute to the natural and cultural values of the area will be maintained. Similarly, all the provisions of the plan including those relating to outcomes expected of a proposal will continue.

The specific lands to which the Jervis Bay Regional Environmental Plan continues to apply are mapped (Site Identification Map for Jervis Bay REP) and are in **Attachment B** as part of this statement.



Part C: Update and transfer policy

Orana Regional Environmental Plan No 1 – Siding Spring

Siding Springs was established in 1964 as the best optical observing site in Australia and is a major national and international resource for astronomy. It is also of regional importance economically.

The Orana Regional Environmental Plan No 1 - Siding Spring was prepared in 1990 following agreement by the Prime Minister and the NSW Premier and the Department of Environment and Planning to protect the observing environment at Siding Springs for research into deep space. The policy was one of several responses which also comprised the establishment of a consultative committee and a commitment to education on good lighting practice to issues identified in the region.

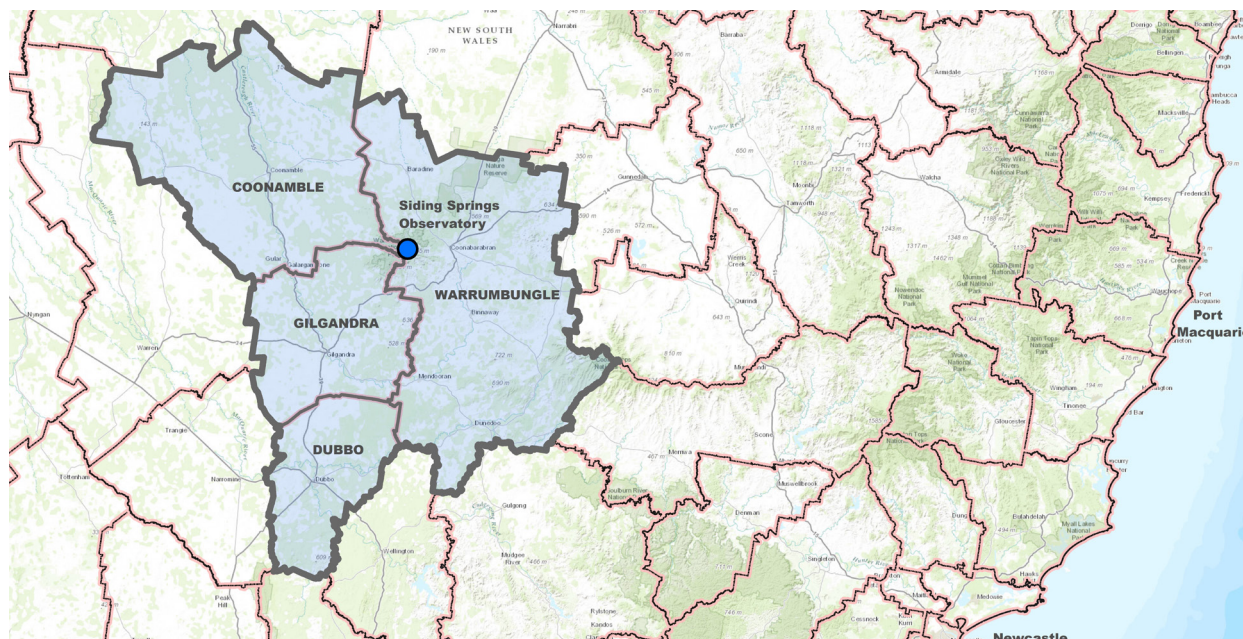
This policy seeks to preserve optimal astronomical observing conditions for the Observatory by establishing critical light thresholds for development within various distance bands from the Observatory along with consultation and concurrence requirements. It applies to land within the local government areas of Warrumbungle, Coonamble, Gilgandra and Dubbo (**Figure 1**).

Both natural and artificial light affect the observing environment. Sources of artificial light include street lights, advertising, recreation facilities, housing, industry and business etc. Outdoor light has the greatest impact on increasing sky glow, although interior lighting can also contribute significantly where windows have inadequate shielding.

Since its inception the Orana REP has become outdated, is overly complex and does not offer necessary protections. Growth in the region has also introduced new challenges for protecting the dark skies from upward light spill and increased levels of atmospheric dust.

The ongoing protection of the Observatory is required through updated controls that can be readily implemented to ensure that development, including State Significant Development, considers its impact on the operation of the Observatory to keep artificial sky glow below critical levels.

Figure 1. Application of the policy to protect the Siding Springs Observatory



Reason for proposed repeal and integration:

Preservation of the region's dark skies is essential for the operation of the Siding Springs Observatory and to its international standing.

The existing policy can be effectively delivered via local environmental plans (LEPs) for development and by providing state provisions through the proposed SEPP for larger projects and activities not captured by an LEP. There are already other mechanisms in place, such as a standard condition of consent for mines within a 200km radius of the Observatory, to implement best practice lighting in consultation with the Siding Springs Observatory.

It is proposed to update the controls that protect the Observatory and transfer these into:

- a. Local environmental plans for Warrumbungle, Coonamble, Gilgandra and Dubbo as a mandatory clause; and
- b. State level provisions to ensure development such as mining, industry and infrastructure proposals, as well as activities within a 200 km radius of the Observatory consider their impact on the dark skies region.

Combined, these measures will ensure the observing conditions at Siding Spring Observatory continue to be protected from upward pointing artificial light and that new uses, light levels and new technologies which contribute to light pollution are managed. It will also promote good lighting levels and practice for all development

State provisions

The state provisions will support good lighting practice to minimise light pollution and will require within a 200km radius of the Siding Spring Observatory:

- all outdoor lighting to be fully shielded providing full cut-off lighting;
- low colour-temperature lamps are used for the full cut-off lighting fixtures;

- effective dust minimisation measures where relevant; and
- protective measures to be incorporated for gas flares.

Consultation with the Observatory Director for development or activities that have the capacity to impact the dark skies is also proposed to facilitate implementation of these measures and to respond to site specific conditions. The types of industries or activities will be those that generate dust, use lights at night or produce flares. The 21 day response time for the Observatory Director will be carried across.

A guideline on outdoor lighting for the region will be developed to assist good lighting practice and the implementation of the controls.

Local provisions

The new local clauses will transfer and update the existing controls and extend the consultation role for the observatory and concurrence role of the Department from 100 kilometres to all land within the local government areas of Coonamble, Dubbo, Gilgandra and Warrumbungle.

The proposed clauses for the LEPs will continue:

- to prevent light shining above the horizontal plane
- to maintain a concurrence role for the Secretary of the Department
- a consultation role for the Observatory Director

It will do this however by simplifying the existing six distance bands for lighting and establishing three lighting zones (0 - 12km, 12 - 18km, over 18kms). The lighting bands incorporate all land within each of the four local government areas and set maximum levels of lighting which require consultation or concurrence as detailed in **Table 2**.

Table 2. Existing and proposed consultation and concurrence requirements for LEPs

Orana REP No 1 – Siding Springs Existing consultation and concurrence requirements			Proposed consultation and concurrence requirements	
Column 1	Column 2	Column 3	Proposed Consultation	Proposed Concurrence
Distance (in kilometres) from Observatory	Emission rate (in lumens)—consultation	Emission rate (in lumens)—concurrence	Distance within 18kms: must consult on any development that is lit Distance greater than 18kms: <ul style="list-style-type: none"> • must consult on any development (other than a dwelling house, secondary dwelling or dual occupancy) that emits light greater than 50,000 lumens, and • must consult where development for a dwelling house, secondary dwelling or dual occupancy has more than seven fully shielded outside light fittings or where unshielded fittings are proposed 	Distance 0 - 12kms must seek concurrence on any development greater than 3,600 lumens Distance 12 - 18kms must seek concurrence on any development greater than 7,200 lumens Distance more than 18kms must seek concurrence on any development with 1,000,000 lumens or greater within the four local government areas
3	0	1,000		
8	1,000	2,000		
12	2,000	4,000		
18	4,000	12,000		
30	12,000	1,000,000		
100	1,000,000	5,000,000		

These proposed changes will be accompanied by a guideline which will explain good lighting practice for development and translate the technical detail to make the SEPP and LEP requirements easy to understand and use. The Observatory will provide technical input into the guideline and through its ongoing role in consultation and concurrence so that good lighting is achieved for development within the region.

The guideline will describe how to measure light, why good lighting is important and how poorly directed light can impact on the dark night sky. It will set out the principles for good lighting practice for all development and provide examples of best practice fixtures and fittings for specific applications. The guidelines will cover all types of lighting and be relevant to stakeholders using, designing and approving outdoor lighting. It will assist in the selection of suitable lighting to protect the observing environment at Siding Springs.

It is also proposed that standard conditions of consent for development applications (particularly for residential housing) be developed within the four local government areas to ensure that when a house is built the outdoor lighting is fully shielded and downward facing and any windows, doors or glazing that could allow light spill can be covered. Employing good lighting design will ensure development directs the right amount of light to where it is required with minimal waste or spill light and to prevent light from escaping upwards (**Figure 2**). This will support energy efficient lighting and cost savings.

Within 18 kilometres of Siding Spring Observatory

The strictest controls will continue to apply within 18 kilometres of the Observatory, where development consent is required for all development (unless it has no lights). Most of this area has a direct line of sight to the Observatory, so any upward light is visible from it. The 18 kilometre radius applies to land within the Warrumbungle, Coonamble and Gilgandra LGA's.

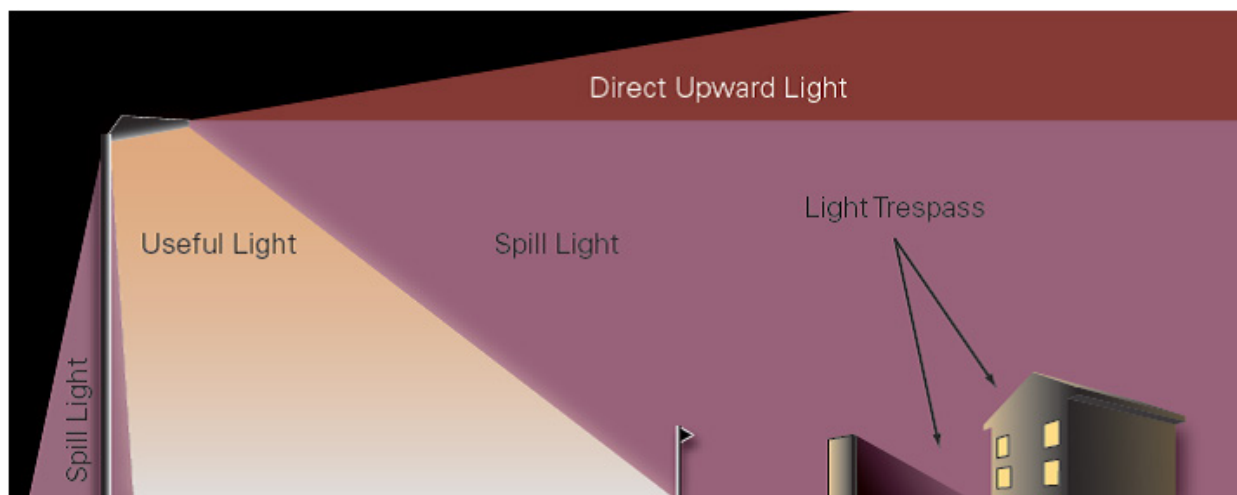


Figure 2 Some common aspects of outdoor light pollution (Image credit: ILE, 2005)

For development within 18 kilometres of the Observatory the existing consultation and concurrence requirements are proposed to be simplified. All development that includes any lights will continue to require consultation with the Observatory however the concurrence requirement with the Secretary of the Department for development within this area has been modified to:

- Distance 0 - 12kms must seek concurrence on any development greater than 3,600 lumens
- Distance 12 - 18kms must seek concurrence on any development greater than 7,200 lumens

Within this 18 kilometre area the number and brightness of outdoor lights at all properties will be restricted.

All outdoor lights will need to be downward facing, fully shielded and not exceed the maximum levels as follows:

- for development on land that is 12 kilometres or less from the Observatory - 4 fully shielded light fittings that emit light at no more than 900 lumens; and
- for development on land that is more than 12 kilometres but less than 18 kilometres from the Observatory - 4 fully shielded light fittings that emit light at no more than 1800 lumens.

To support this proposed approach all windows, doorways and existing skylights must be designed to be able to be covered at night to prevent light escaping.

Currently, all development within 18 kilometres needs Council consent unless it is not supplied with electric power. The revised approach is to require all development that has lighting to obtain consent. To ensure cumulative impacts are assessed development applications will be required to include details of all existing and proposed lights. The Council must consult the Observatory Director for comments on all existing and proposed lights before granting consent. The existing requirement for the Observatory Director to provide a response within 21 days of being notified will be retained.

Clear guidance will be developed to assist councils, applicants and others to understand what is required to prevent light pollution and ensure good lighting practice that is energy efficient, downward facing, promotes safety, is site specific and does not produce glare or light spill.

More than 18 kilometres from Siding Spring Observatory

Lights beyond 18 kilometres from Siding Springs within the local government areas of Coonamble, Gilgandra, Warrumbungle and Dubbo can also have an impact on the Observatory.

While councils currently have a consultation requirement for development over certain distances and with specified lumens (see **Table 1**) this has been simplified and a new threshold for consultation is proposed, as follows:

- All development greater than 18 kilometres from the Siding Springs Observatory (other than for a dwelling house, dual occupancy or secondary dwelling) within the local government areas of Warrumbungle, Coonamble, Gilgandra and Dubbo must consult the Observatory for comments on any development application with lights totalling 50 000 lumens or more (including any existing outdoor lights).

Any development with a light output of 50,000 lumens or more can have a significant impact and needs careful choice and location of its lights. Fully shielded outdoor lights with no light shining above the horizontal plane have the least impact, so all outdoor lights must be this type.

For a dwelling house, dual occupancy or secondary dwelling it is proposed to establish a maximum number of outdoor lights to 5 fully shielded lights plus 2 fully shielded motion sensor lights. With this approach it is not expected that these dwelling types would reach 50,000 lumens and so they will not trigger the consultation requirement.

Poorly directed street lighting can also impact on the night environment and produce spill, light trespass, glare and fail to promote pedestrian safety. All street lights in the four local government areas will need to conform to the relevant Australian Standard, be fully shielded and of a warm white.

Examples of the type of lights and lumen count are provided in **Attachment C**.

The assessment of lumens for development applications and construction certificates will be based primarily on outdoor lights. However, where internal light will spill outside the building or structure and cannot be contained then it will also contribute to the calculation of lumens and the threshold for consultation or concurrence. This maybe the case where warehouse operations are ongoing through the night and in convention or theatre buildings, libraries, universities or TAFES with large expanses of glass, or modern open planned residential living areas with extensive glass areas or walls.

Concurrence requirements for development in the four LGA's

It is also proposed to reduce the complexity of concurrence requirements and consolidate it into one requiring all development that emits 1,000,000 lumens or more, including any existing outdoor lights, greater than 18 kilometres from Siding Spring Observatory, to seek the concurrence of the Secretary of the Department.

Development likely to be of 1,000,000 lumens or more includes car parks (e.g. for supermarkets), sports fields, stock yards, transport terminals, industrial and business areas. Even flood lighting of building facades can produce significant light pollution as can lighting for mines and flares from coal seam gas extraction.

The existing requirement under the Orana REP for the Observatory Director to provide a response within 21 days of being notified will be retained. It is also proposed to update but retain the matters the Secretary must consider in deciding whether to grant concurrence as follows:

1. any comments made by the Observatory Director in relation to the development,

2. the effect the development would have on the level of artificial sky glow at the Observatory,
3. the level of artificial sky glow at the Observatory on or about the date the development application is made and the relationship of that level to the critical level,
- d. whether any public interest in permitting the development outweighs the public interest in preserving the environment at the Observatory suitable for astronomical observations.

Improved clarification on cumulative impacts and dust that is lit

Since the introduction of the Orana REP in 1990 the region has continued to grow and new development, such as mines and other extractive industries (eg coal seam gas), transport terminals and 24 hour operations are establishing with the potential to impact on the dark skies.

For both state and local provisions it is proposed that consideration be explicitly given to:

- minimise the impacts of development to generate and illuminate dust which scatters light and causes light pollution, and
- the cumulative impact of development in contributing to the artificial sky glow.

This will clarify the effect of the existing clause (clause 7 consideration-generally) of the Orana REP.

A new clause will therefore continue to protect observing conditions at the Observatory and minimise light pollution by preventing light shining directly above the horizontal plane.

Consent authorities will need to consider the following matters relating to light emissions before they grant consent:

- a. the amount and type of light likely to be emitted by the development (including any existing or proposed building or work used in connection with it) and the probable effect of that emission on the level of artificial sky glow at the Observatory;

Note: 'Light likely to be emitted by development' is outdoor lights and internal light that spills outside that contributes to the artificial sky glow.

- b. the use of fully shielded light fittings to ensure that no light is emitted above the horizontal plane;
- c. any additional measures proposed to prevent light spill, sky glow, glare and implement efficient, good lighting practice;
- d. effective dust minimisation measures where development, particularly extractive industries, may generate and illuminate dust which scatters light and increases light pollution.

Note: A map and information about the artificial skyglow will be published regularly by the Australian Astronomical Observatory to assist in understanding the cumulative impact of emissions on the dark skies so that critical levels are not reached.

To assist understanding of good lighting practice and of the impact of dust and cumulative effects, guidance will be provided and support given to the four councils to update their DCPs on the types of development that are most likely to generate dust which can be illuminated and reflected through the atmosphere, adding to light pollution. All development will need to consider how the ongoing accumulation of lights or light sources can over time impact on the dark skies.

Other matters

The SEPP (Exempt and Complying Development Codes) 2008 (State policy for exempt and complying development) does not apply to land within 18km of the land owned by the Australian National University (ANU). That is, exempt or complying development cannot be undertaken within 18km of the Observatory. Beyond 18km, the State policy for exempt and complying development regulates skylights and roof windows.

Skylights and roof windows are neither exempt nor complying development in Warrumbungle, Coonamble, Gilgandra or Dubbo councils on land to which the Orana REP applies. The State policy for exempt and complying development will continue to be monitored to ensure the dark skies are suitably protected.

Illuminated signage can also impact on the dark skies and is another development type considered under clause 7 of the REP.

To better understand the potential impact the guideline will ensure that the internationally accepted limit on illuminated signage is implemented in the four local government areas.

In summary, the proposed SEPP will repeal the Orana REP No 1 and insert a new mandatory local clause into the standard instrument local environmental plans of Coonamble, Dubbo, and Gilgandra and Warrumbungle councils.

It will also transfer state provisions into a SEPP to apply to activities and mining, industry and infrastructure projects or proposals within 200km of the Observatory to ensure adequate protection of the observing conditions at Siding Springs.

Attachment C

Examples of lights and lumen levels

Lumens are a measure of light output that is independent of the type of luminaire or power supply. The level is listed on lamp packets and manufacturers' data sheets.

Lights totalling 15 000 lumens

1 x 150 Watt ceramic metal halide or high pressure sodium – car park lights
4 x 40 Watt fluorescent tube – urban street lights

Lights totalling 50 000 lumens

3 x 150 Watt ceramic metal halide or high pressure sodium – car park lights
>15 x 40 Watt fluorescent tubes – urban street lights

Lights totalling 1 000 000 lumens

Only sports fields and major developments need lights with an output of 1 million lumens, and 10 million lumens is an upper limit for almost any development.

69 x 150 Watt ceramic metal halide or high pressure sodium – car park lights

5 x 2000 Watt metal halide floodlight – sports fields lighting

Further examples

5W Compact Fluorescent Lamp = 300 lumens	70W High Pressure Sodium Clear = 6500 lumens
11W Compact Fluorescent Lamp = 680 lumens	100W High Pressure Sodium Clear = 10000 lumens
20W Compact Fluorescent Lamp = 1360 lumens	150W High Pressure Sodium Clear = 15250 lumens
14W Tubular Fluorescent Lamp T5 = 1350 lumens	60W Cosmopolis = 6900 lumens
70W Metal Halide Ceramic = 6700 lumens	70W High Pressure Sodium Coated = 5600 lumens
150W Metal Halide Ceramic = 14500 lumens	100W High Pressure Sodium Coated = 9500 lumens
70W Metal Halide Quartz = 5200 lumens	150W High Pressure Sodium Coated = 14000 lumens
150W Metal Halide Quartz = 12000 lumens	140W Cosmopolis = 16500 lumens

Riverina Regional Environmental Plan No 1

The Defence Communication Facility near Morundah is an important part of Australia's defence communication system. The Riverina Regional Environmental Plan No 1 (the plan) preserves the optimum operational capability of the facility near Morundah by requiring Lockhart, Urana and Narrandera councils to obtain the concurrence of the Secretary of the Department of Planning and Environment before granting consent to certain development within a 16 kilometre radius of the facility (**Figure 3**). Before giving concurrence the Secretary must consult with the Minister of Defence, consider the effect of the proposed development on the operational capability of the facility and consider the public interest.

The plan also requires a consent authority to consider the aim of the plan (which references *Australian Standard AS 3516.1-1988—Siting of Radiocommunications Facilities*) when determining a development application and requires anyone carrying out an activity that does not require development consent, whether or not they are a public authority, to consider the same aim.

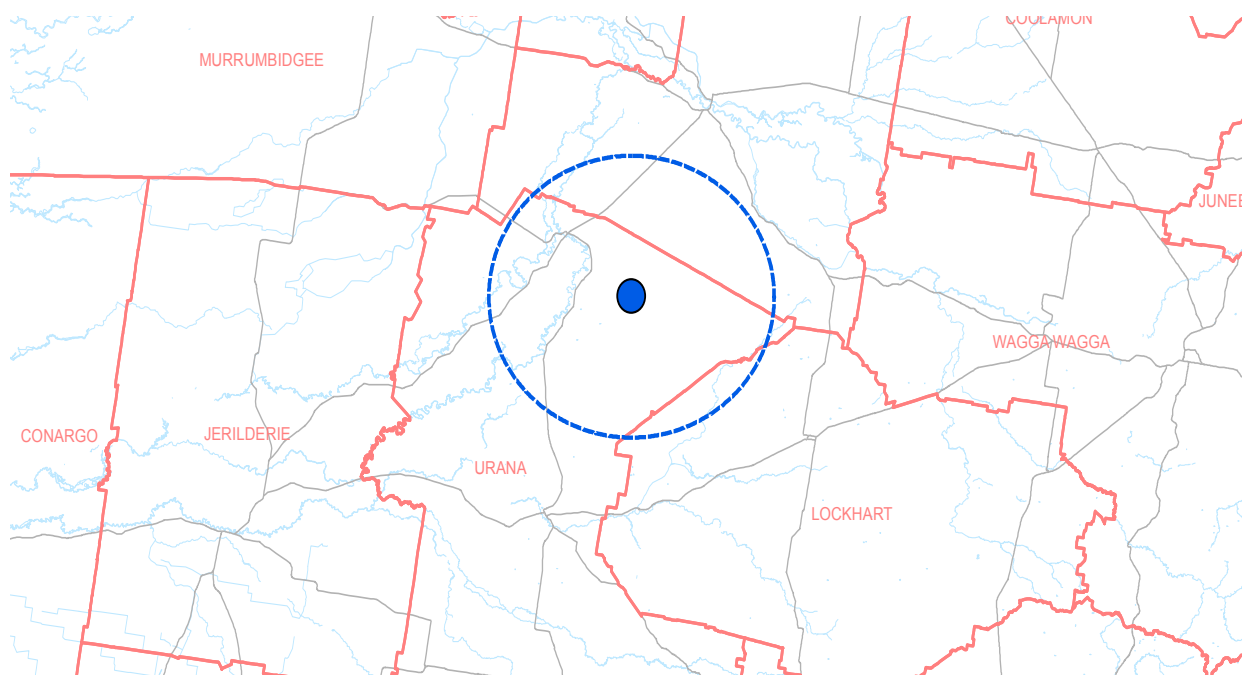
Development likely to cause radio frequency interference is listed along with the concurrence requirements for a council.

Reason for proposed repeal and integration:

The review of the Riverina Regional Environmental Plan No 1 is needed to update technical references and to ensure it is effectively delivering policy and controls to protect the facility. These protection mechanisms can be incorporated into the Local Environmental Plans (LEPs) for the relevant councils, as a mandatory provision, to cover development and into a State Environmental Planning Policy (SEPP) to capture activities and works by public authorities. The types of activities which could affect the operation of the facility, undertaken by or for a public authority, are set out in the Infrastructure SEPP.

It is therefore proposed to update and transfer the controls within the Riverina Regional Environmental Plan No 1 into the relevant LEPs to simplify the planning system for development on land near this facility. This will support efficient decision making for development in close proximity to the Defence Communication Facility.

Figure 3. Proposed Defence Communication Facility Buffer



All development and any activities in the area identified with the capacity to affect the facility will be required to consider the aim of the plan and the relevant Australian Standards. The concurrence role will be transferred to the LEPs and continue to be required for equipment involving electromagnetic emissions, for industry (including general, heavy & light), radio transmitters, power lines, electric powered railways and roadworks. The Department of Defence has requested that health services facilities, veterinary hospitals and motor body repair workshops also have a concurrence requirement as these uses have the potential to interfere with the facility's operation.

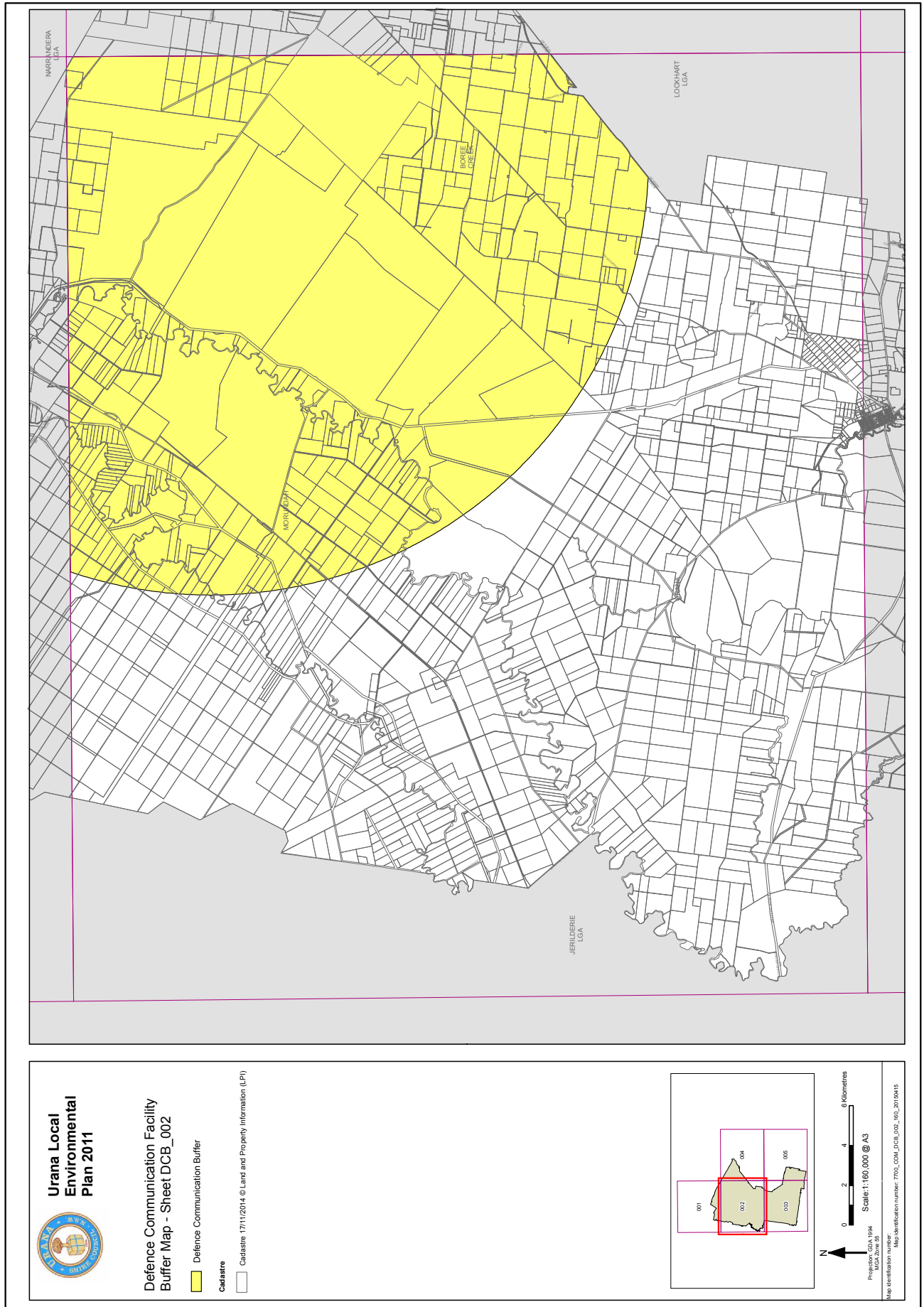
The Department of Defence has requested the provisions apply to a revised radius of 22 kilometres (increased from 16 kilometres). This new distance was derived using the latest Australian Standard AS/NZS 5070.1:2008 and is based on noise testing and the recommended separation distances under this Australian Standard.

The proposed SEPP will therefore map the 22km radius from the facility for each of the local environmental plans and in doing so amend those LEPs. The land to which the local clause will apply are mapped in Attachment D to this statement.

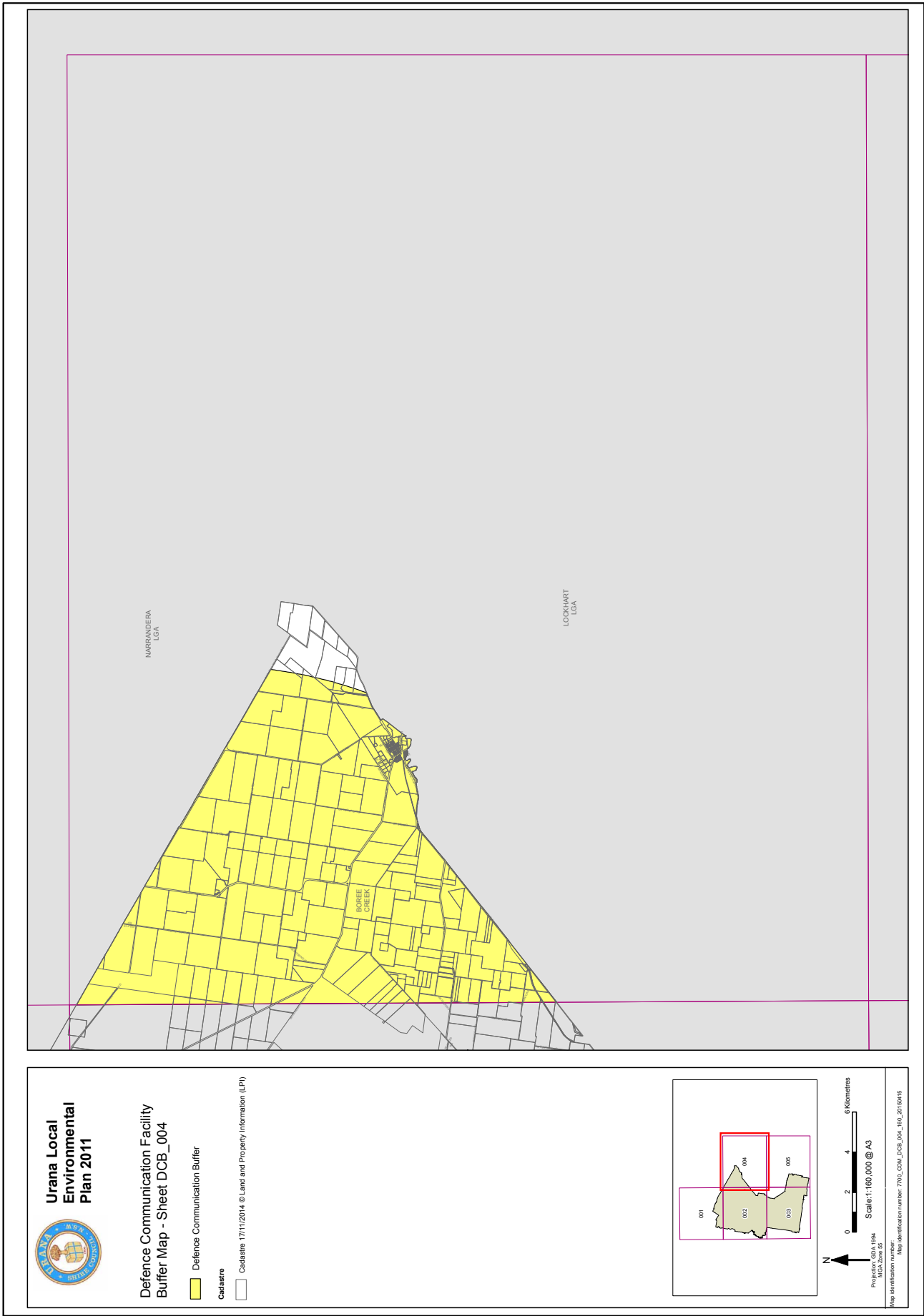
It is also proposed to transfer the concurrence role from the Secretary of the Department to the Commonwealth Department of Defence for all development within the mapped area. This will remove an unnecessary step in the approval process.

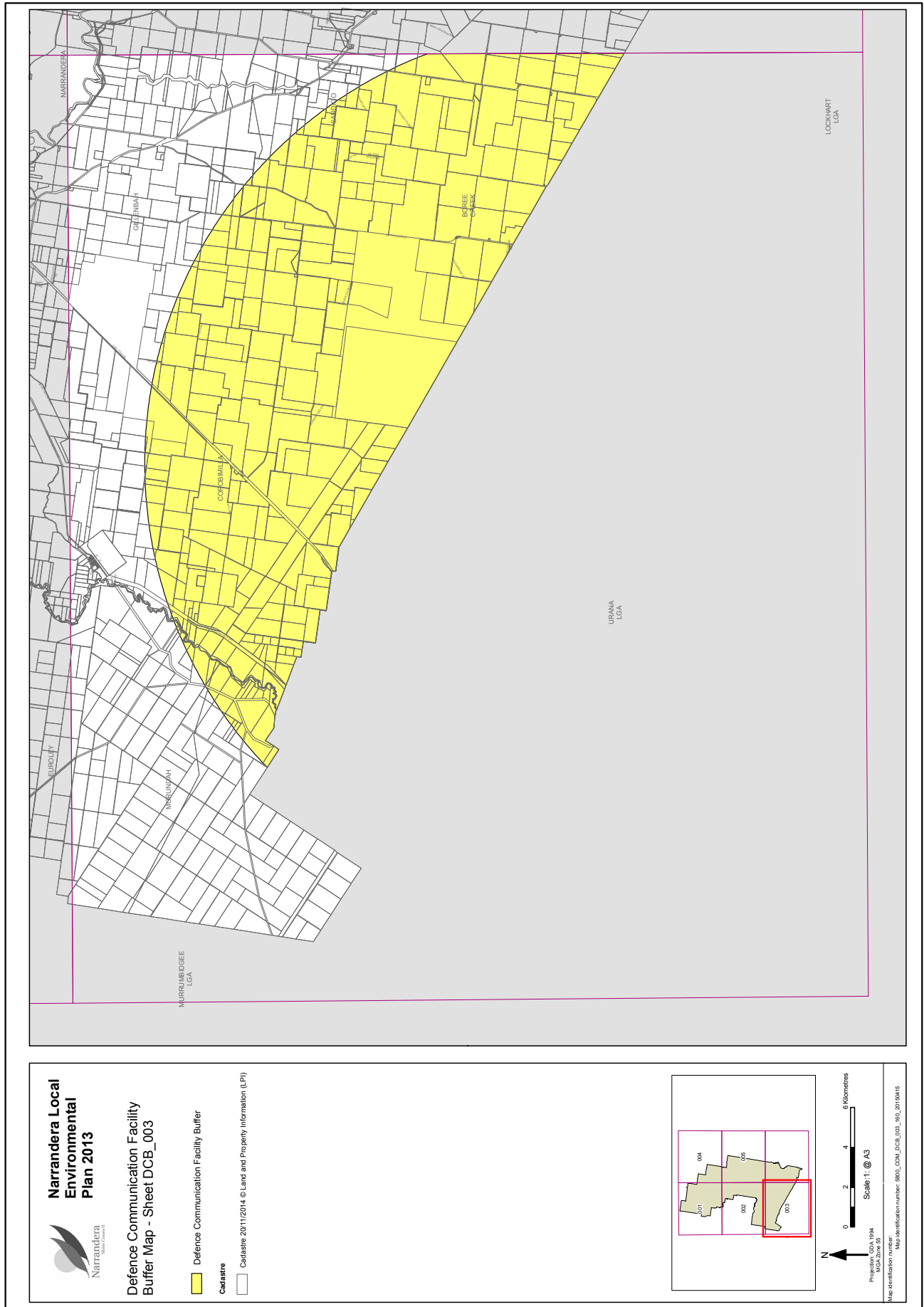
In summary, for land within a 22km radius of the facility, the proposed SEPP will:

- transfer the intent of the Riverina Regional Environmental Plan No 1 and protect the operational capacity of the facility through an updated mandatory clause for the Urana, Lockhart and Narrandera Council LEPs;
- transfer and update the existing provision relating to activities and ensure larger projects such as State Significant Development are also captured through a SEPP; and
- amend the Infrastructure SEPP 2007 to require consultation with Defence.

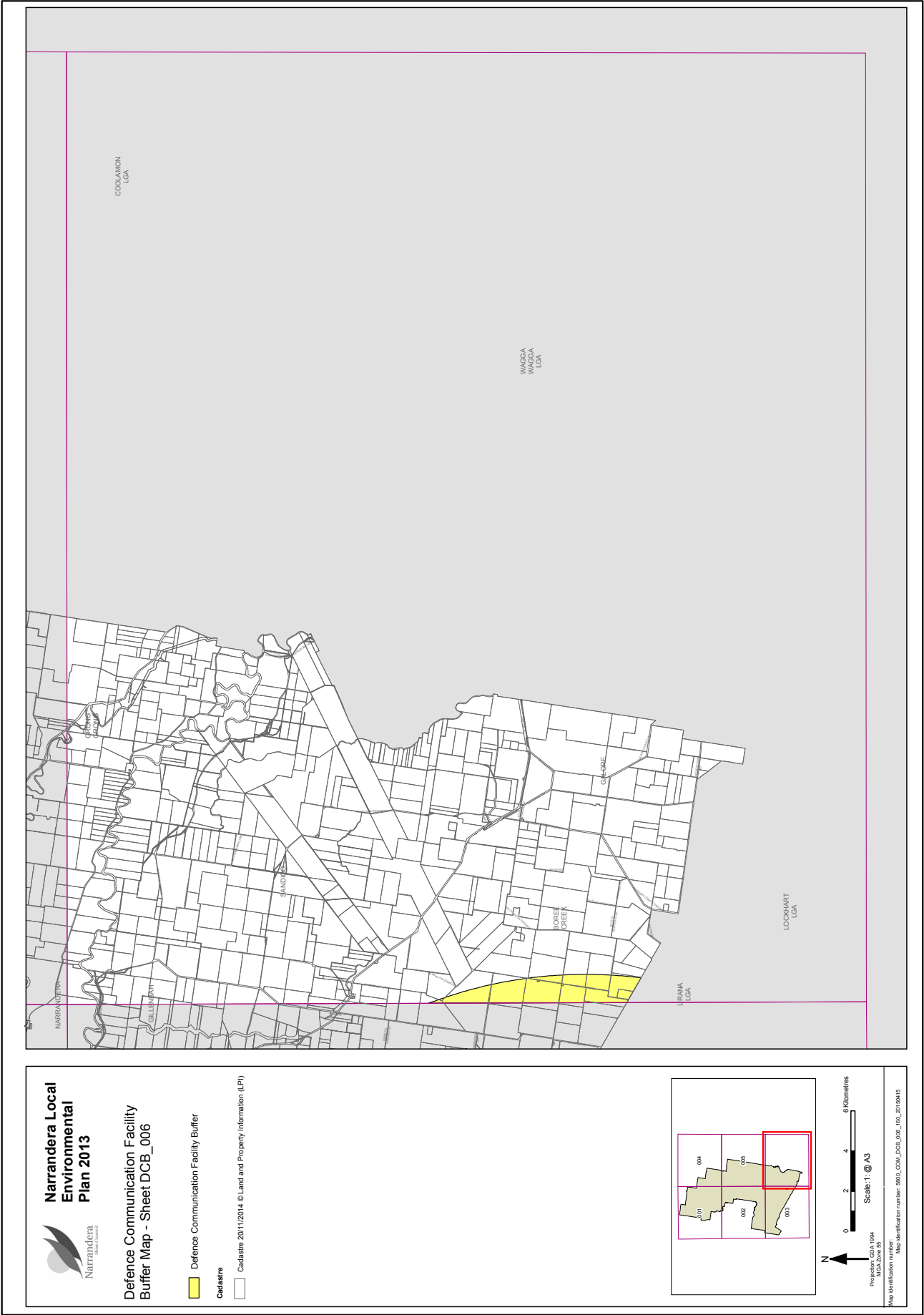


Attachment D

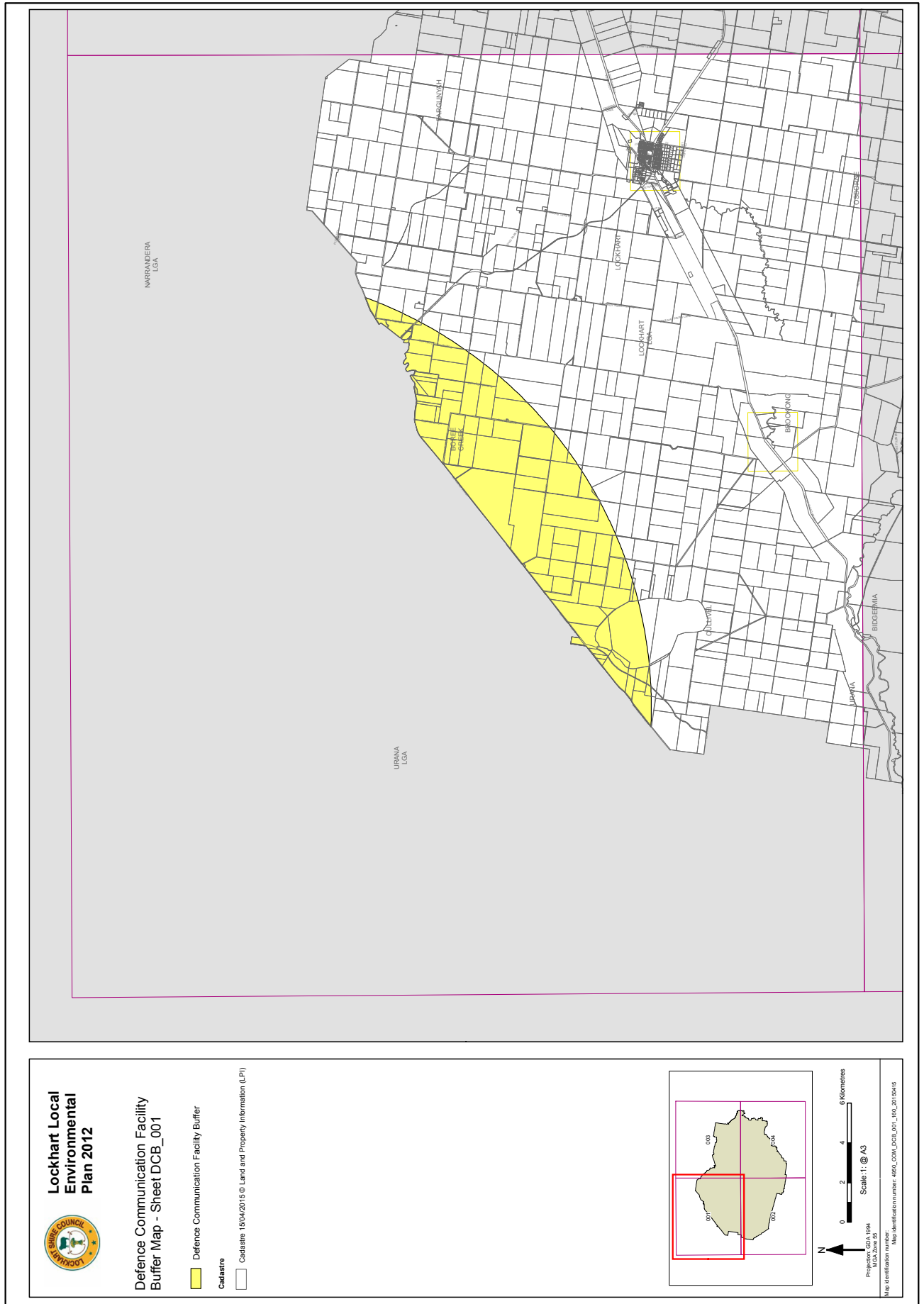




Attachment D



Attachment D



Part D: Repeal SEPP and provide flexible local clause

State Environmental Planning Policy 15 – Rural Landsharing Communities

This policy currently provides the legal framework to permit the collective ownership of a single allotment as a principal place of residence. The policy allows the sharing of facilities and resources, and the fostering of alternative and environmentally sustainable lifestyles in a rural setting, particularly where low incomes are involved. It prohibits land subdivision and separate legal rights to parts of the land for such communities.

SEPP 15 applies to 43 local government areas, with most approved rural landsharing communities located on the north coast across eight local government areas. It applies to land of 10 hectares or more in rural or non-urban zones.

Where SEPP 15 applies:

Councils by region

- Hunter:
Cessnock, Gloucester, Great Lakes, Greater Taree, Lake Macquarie, Maitland, Muswellbrook, Port Stephens, Singleton, Upper Hunter
- Northern:
Armidale-Dumaresq, Ballina, Bellingen, Clarence Valley, Coffs Harbour, Glen Innes Severn, Guyra, Gwydir, Inverell, Kempsey, Kyogle, Liverpool Plains, Nambucca, Port Macquarie, Richmond Valley, Tamworth, Tenterfield, Tweed, Uralla, Walcha
- Southern:
Palarang, Goulburn-Mulwaree, Cooma-Monaro, Bombala, Bega Valley, Eurobodalla
- Western:
Oberon, Cowra, Bathurst, Lithgow, Blayney, Orange, Mid-Western

Reason for proposed repeal:

SEPP 15 has been largely replaced by rural settlement strategies on the north coast and the strategic work underpinning new standard instrument LEPs in areas where rural land sharing communities exist. The policy is now outdated, superseded by these later strategic and statutory instruments or is applied to areas where there is no demand or uptake.

SEPP 15 prohibits subdivision, strata title or any other form of separate land title of rural landsharing communities for the councils to which it applies. With its proposed repeal, no new rural landsharing communities will be permitted unless the local environmental plan provides for one. Subdivision will continue to be prohibited (unless provided for under the existing LEP) or will be subject to the minimum lot size within the relevant LEP.

Lismore, Byron and Shoalhaven are no longer subject to SEPP 15 as they have local provisions which apply in their local environmental plans. Lismore LEP 2012 has a provision permitting rural land sharing development while Byron LEP 2014 and Shoalhaven LEP 2014 have a provision permitting subdivision.

The proposed SEPP seeks to repeal State Environmental Planning Policy 15 – Rural Landsharing Communities and enable councils to include a flexible provision for rural land sharing communities within their specific LEP, if they choose to. The Department will work with those Councils who seek to include a local provision within their local environmental plan and will facilitate this concurrent with the repeal of the SEPP.

Part E: Re-insert Coffs Harbour into State Environmental Planning Policy No 44 Koala Habitat Protection

SEPP 44 (Koala Habitat Protection) application to Coffs Harbour LGA

State Environmental Planning Policy No 44 (Koala Habitat Protection) (SEPP 44) encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained.

This proposal seeks to amend SEPP 44 by re-listing Coffs Harbour local government area to Schedule 1 of SEPP 44 to ensure the right level of koala habitat protection.

Council has requested the Department re-list the Coffs Harbour local government area in SEPP 44 so that an updated plan of management for koala habitat in the area can be approved (Council Resolution 281, 9 October 2014). The proposed re-listing of Coffs Harbour LGA under Schedule 1 of SEPP 44 will facilitate the protection of core koala habitat in this local government area, through the Council's Comprehensive Koala Plan of Management.

Part F: Savings and transitional provisions and consequential amendment to other instruments

Savings and transitional provisions will be prepared for those SEPPs where development applications have been lodged but not determined at the same time the proposed SEPP repeals the 16 SEPPs.

In repealing these SEPPs existing references to them need to be removed from other instruments to ensure correct advice is being given and is not outdated. This tidy up does not affect the intent or operation of those instruments and in many cases is a change to a note within the instrument which has no legal effect.