

7 LOCAL FRAMEWORK

7.1 Standard Instrument (Local Environmental Plans) Order 2006

The *Standard Instrument (Local Environmental Plans) Order 2006* (Standard Instrument Order) was gazetted in March 2006. The content seeks to standardise an approach to the preparation of LEPs throughout NSW. The Standard Instrument Order prescribes the form and content of Council's principal LEP for the purposes of section 33A of the Environmental Planning and Assessment Act 1979. The Standard Instrument Order will affect LEP's prepared subsequent to the completion of land use strategies, and the content of maps accompanying LEP's.

The Standard Instrument Order sets out 34 standard zones for Council to use when preparing its new principal local environmental plans (LEP's) for their local government area. An overview of the intended purpose of each zone is set out in Appendix 1.

Council may select zones as appropriate to the needs of their local areas, taking into account any relevant State or regional planning guidance. Only those zones which are used in Council's LEP will need to appear in the Council's gazetted plan. Council may not add new zones or create subzones, or change the name of a standard zone.

For each zone, the standard instrument sets out 'core' objectives for development in the zone, and certain mandated permitted or prohibited land uses. The core objectives ensure consistency between how zones are applied in different areas.

Council may prepare additional local objectives to supplement core objectives where appropriate, provided that these are not inconsistent with the core objectives and mandated land uses, and do not conflict with any relevant State or regional planning guidance. Any additional local objectives must appear below the core objectives for each zone in the LEP.

Council's LEP's may, where appropriate, set out additional 'overlay' controls as local provisions that apply to land that has particular environmental, hazard or design constraints, e.g. flood prone land, wildlife corridors and catchments. Such provisions may apply to land that is in several different zones and would consist of a map and associated heads of consideration for development that apply in addition to the zoning of the land.

Any local overlay provisions will apply in addition to the objectives and land use table for zones, and may not alter the mandated permissible or prohibited uses. Overlay type provisions must be consistent with any relevant State or Regional policy guidance.

To ensure that there is consistency in the presentation of LEP land zoning maps, zone colours and mapping symbols must also be standardised, and LEP maps will be made available online so that they are easily accessible to all potential users.

The Standard LEP Instrument requires the inclusion of a Standard Dictionary. Standard definitions are mandatory; however, definitions not used in Council's LEP need not be reproduced in it. Council is not permitted to alter definitions nor add their own definitions. Definitions are divided into terms that describe land uses or activities that may be controlled within the LEP.

The Standard Instrument Order identifies 38 mandated clauses for inclusion in new principal LEP's. The 38 clauses are either classified as compulsory or optional clauses. Council is able to add local clauses that address specific local circumstances. These could be as a result of council's local strategic planning, or required under a section 117 direction, or regional or metropolitan strategy. Any such local clauses are not to undermine the effect of existing State mandated clauses in the standard instrument or any other relevant State and regional policies, strategies, directions etc.

A number of State Environmental Planning Policies (SEPPs) are either fully or partially incorporated into the standard instrument provisions, *viz*:

- SEPP 1 — Development Standards
- SEPP 4 — Development without Consent and Miscellaneous Exempt and Complying
- SEPP 9 — Group Homes
- SEPP 60 — Exempt and Complying Development

Council's Principal LEP is required to contain five schedules, although there is provision for additional schedules to be added over time. Council can add local specific schedules, as a result of additional local provisions. Any schedules added by Council will be identified Schedule 5A etc. The clauses that reference Schedules are:

- Schedule 1: Additional permitted uses (clause 14)
- Schedule 2: Exempt development (clause 16)
- Schedule 3: Complying development (clause 17)
- Schedule 4: Classification and reclassification of public land (clause 27)
- Schedule 5: Environmental heritage (clause 35)

7.2 Local Environmental Plans

Local Environmental Plans (LEP's) are the principal environmental planning instrument guiding land use, development and conservation at the local government level. Dungog LGA's current LEP is Dungog LEP 2006.

The Department of Planning have advised Dungog Shire Council that they will be required to have completed preparation of a new consolidated LEP by 2011.

LEP amendments emanating from the proposed construction of Tillegra Dam will be in a form which amends LEP 2006.

7.3 Dungog Local Environmental Plan 2006

Dungog Local Environmental Plan 2006 was gazetted on 24 March 2006.

Council's aim for Dungog LGA is for '*Dungog to be a sustainable rural community of excellence*'. Council's LEP has been prepared having regard to this aim. In a more detailed sense, the outcomes that Council seeks to achieve from implementation of its local environmental plan are:

- a country atmosphere
- productive agriculture
- diverse communities
- distinctive settlements
- a sustainable environment

The content of the LEP is structured into four (4) parts and has four (4) schedules and a dictionary. The four (4) parts are:

- Part 1: Preliminary
- Part 2: Objectives
- Part 3: General Zoning Controls
- Part 4: Special Provisions

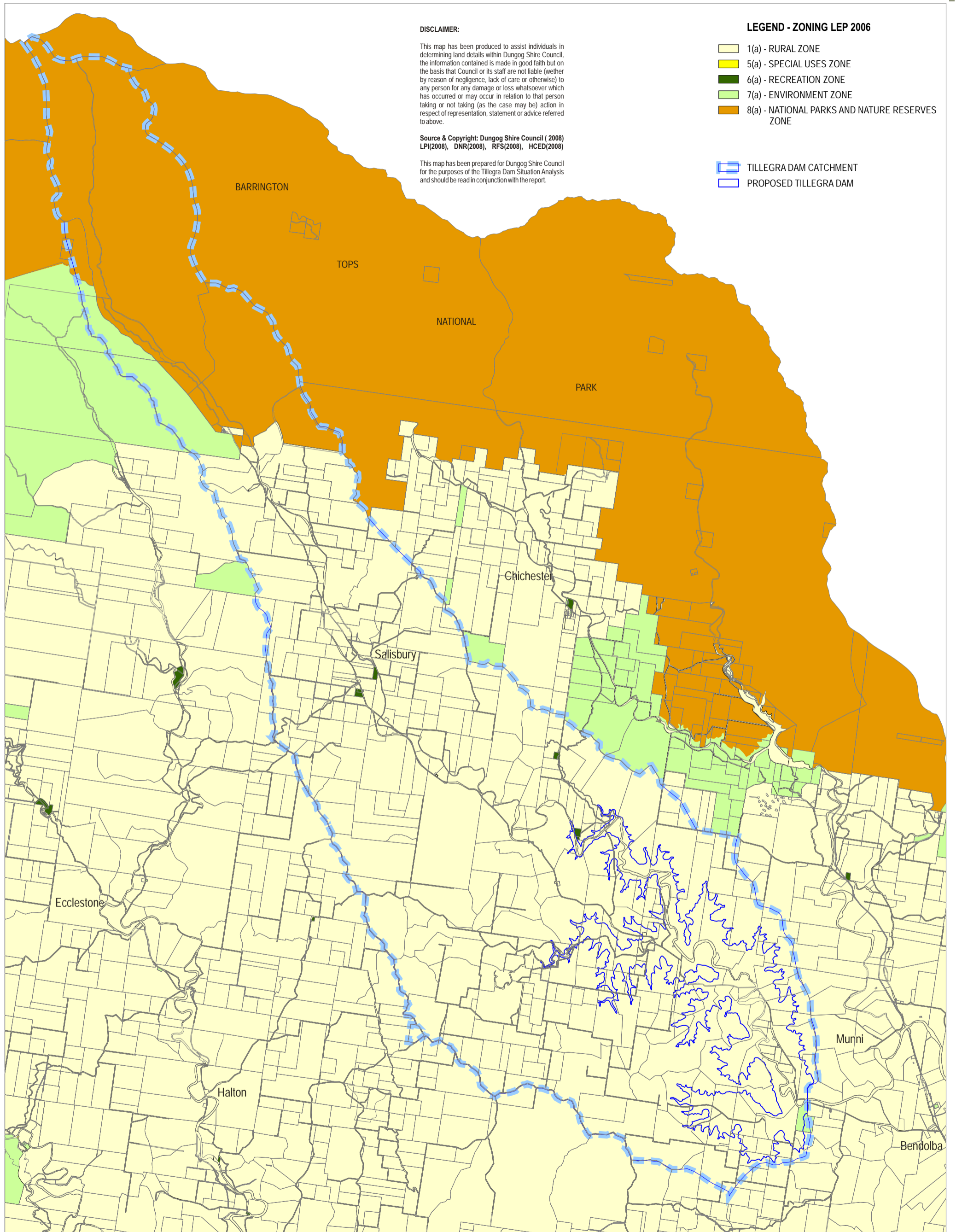
The four (4) schedules are:

- Schedule 1: Vacant Holdings
- Schedule 2: Classification and reclassification of public land
- Schedule 3: Heritage items and heritage conservation areas
- Schedule 4: Additional development

7.3.1 Existing LEP Considerations: Proposed Tillegra Dam

The zoning of land which is the subject of the proposed Tillegra Dam is illustrated in Map 7.1. The land is currently zoned Rural 1(a), Environment 7(a) and National Parks 8(a) under the Dungog LEP 2006.

LEP provisions relevant to these zones are described below.



Zoning of Tillegra Catchment under Dungog LEP 2006

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7.3.1.1 Rural 1(a) Zone

Zone Objectives (clause 11)

The objectives of the Rural 1(a) zone are to:

- (a) *reinforce the agricultural character and landscape attributes of the area of Dungog; and*
- (b) *promote agriculture, protect high productivity land and prevent the fragmentation of farm holdings; and*
- (c) *ensure development is compatible with agricultural operations and does not adversely affect the environment or amenity of the locality; and*
- (d) *prevent development which could compromise the efficient extraction of valuable deposits of minerals or extractive materials; and*
- (e) *maintain and enhance environmentally sensitive land, particularly wetlands, riparian ecosystems, forests, woodlands and linkages between them; and*
- (f) *allow for the natural flooding of rivers and for the temporary storage of floodwaters; and*
- (g) *maintain and enhance local biodiversity; and*
- (h) *provide for recreational and tourist activities that are compatible with the agricultural, environmental and conservation value of the land.*

Environmental Protection (clause 26)

1. Consent may be granted for development in Zone 1(a) only if the consent authority is satisfied that:
 - (a) *any buildings or works resulting from carrying out the development will blend into the landscape to promote rural amenity and character, and not be silhouetted on a ridgeline in a rural area, particularly when seen from a public road,*
 - (b) *the design, bulk and colours of any such buildings will be compatible with the surrounding landscape, they are low buildings, and they are suitably screened from a public road,*
 - (c) *there will be no, or only minimal, clearance of trees or significant areas of native vegetation in carrying out the proposed development, in obtaining access to its site, in drainage from it, or for bushfire hazard protection, unless the development is essential and there is no reasonable alternative,*
 - (d) *adequate vehicular access can be provided and maintained to and on the site of the proposed development,*
 - (e) *adequate provision has been or will be made for any telecommunication and electricity services needed because of the proposed development,*
 - (f) *if the development will be carried out on land that is flood prone, it will not be adversely affected by flood and will not exacerbate flood conditions elsewhere,*

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- (g) the land to be used for development is stable, has a slope of less than 18 degrees, and, if relevant, has minimal disturbance of sodic or dispersive soils,*
 - (h) where the development will result in the erection of dwellings, the dwellings have been or will be provided with an inner bushfire asset protection zone and any proposed buildings can be protected from bushfire hazard without creating any additional risk to life or property, fire-fighting personnel or equipment,*
 - (i) adequate buffers are provided to any existing or foreseeable future agricultural, intensive agricultural or extractive industry activities which could cause noise, smell, fumes, vibration, spray or other objectionable impacts,*
 - (j) adequate buffers are provided to places of Aboriginal heritage or endangered or threatened ecological communities,*
 - (k) where relevant, appropriate measures have been taken to protect the amenity and comfort of the occupants of buildings near a rail corridor, or other existing or potential utility installations, from noise and vibration,*
 - (l) where the proposed development will result in the erection of a habitable building, either the building can be connected to a reticulated sewerage system, or it is in accordance with an effluent capability assessment (which takes into account hydrologic loading) demonstrating effective disposal of sewage,*
 - (m) the quality of stormwater run-off from the site will not degrade water quality or the quality of groundwater supplies and complies with any environmental management plan required by Council,*
 - (n) stormwater run-off from the site will not contribute to additional flooding downstream,*
 - (o) any relevant harvestable water rights are protected or adequately assessed,*
 - (p) the development will not unduly lower the water table or disturb the soil so as to result in the creation of acid sulphate soils, and*
 - (q) any impact of the development on biodiversity, and on native habitat on the land, is minimal.*
2. Consent may be granted for development on land identified as bush fire prone in the Dungog LGA Bushfire Prone Map, or on land which, in the opinion of the Council, is likely to be affected by bush fire, if the consent authority has taken into account whether:
- (a) the development is likely to have a significant adverse effect on the implementation of any strategies for bush fire control and fuel management adopted by the Council,*
 - (b) a significant threat to the lives of residents, visitors or emergency services personnel may be created or increased as a result of the development or the access arrangements to and from the site of the development,*

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- (c) the increased demand created by the development for emergency services during bush fire events would lead to a significant decrease in the ability of the emergency services personnel to control major bush fires effectively, and*
 - (d) the measures adopted to avoid or mitigate the threat from bush fire (including positioning of development; design of structures and materials used; clearing of vegetation; inner protection and outer protection areas; landscaping; and fire control aids such as roads and water supplies) are adequate for the locality or would result in unacceptable environmental impacts.*
3. In exercising its consideration under sub clause (2), the consent authority shall have regard to, and as much as possible be satisfied that, the provisions of Planning for Bushfire Protection, published by the NSW Rural Fire Service, have been met.
 4. A condition of development consent may be imposed requiring the adoption of, and conformity to, an environmental management plan (including any recovery or threat abatement plan for threatened species or endangered ecological communities likely to occur on the land) to ensure the on-going integrity of eco-systems and the environment, or the reduction of risk from natural disasters.

Buildings (clause 27)

Consent must not be granted to the erection of a dwelling-house or a dual occupancy on land in Zone 1(a), unless it is erected on:

- (a) a lot created in accordance with clause 28(4)(b), or*
- (b) a vacant holding identified in Schedule 1, or*
- (c) land comprising an established holding on which there is no dwelling-house, or*
- (d) land comprising part of an established holding, providing it will not result in there being more than one dwelling or dual occupancy for each 60 hectares of the holding.*

Subdivision (clause 28)

Consent must not be granted for subdivision to create a lot of land in the 1(a) zone unless:

- (a) the lot is for use for intensive agriculture, a utility installation or a community facility, without the need for an additional dwelling, and the consent authority is of the opinion that creation of the lot is justified for this purpose, or*
- (b) the land to be subdivided is an established holding with an area in excess of 120 hectares, and:*
 - i. where the established holding comprises more than one lot, the land is first consolidated into one lot, and each of the lots to be created by the subdivision contains 60 hectares or more, and*

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- ii. *no lot to be created will, immediately after the subdivision, have on it more than one dwelling-house or one dual occupancy, and*
- iii. *each lot to be created which is vacant is suitable for the erection of a dwelling.*

Rural Tourism (clause 29)

Consent may be granted to development for the purpose of a tourist facility on land in Zone 1(a) only if:

- (a) *the floor space of any holiday cabin included in the tourist facility is less than 60 square metres, and*
- (b) *no such cabin has a separate land title (for example, as a lot in a strata or neighbourhood plan), and*
- (c) *there are to be 20 or fewer holiday cabins on the land, and*
- (d) *the land is of at least 20 hectares and*
- (e) *all effluent from the tourist facility is disposed of in a common treatment plant, unless there are compelling ecological or economic reasons for not doing so.*

7.3.1.2 Environment 7(a) Zone

Zone Objectives (clause 20)

The objectives of the Environment 7(a) zone are to identify and protect:

- (a) *environmentally sensitive lands having special aesthetic, scenic, ecological or conservational value, and*
- (b) *key ecological habitats and wildlife corridors, and*
- (c) *land within water catchment areas, by regulating development so as to avoid uses of land that would destroy or damage the quality and quantity of raw drinking water, and*
- (d) *flood prone areas.*

Buildings (clause 27)

The provisions which apply to the erection of dwelling-houses and dual occupancies in the Rural 1(a) zone pursuant to clause 27 also apply in the 7(a) zone.

Subdivision (clause 28)

Consent must not be granted for a subdivision of land in Zone 7(a) where that subdivision will create an additional lot with a dwelling entitlement.

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National Parks 8(a) Zone

The objectives of the National Parks 8(a) zone are to:

- (a) *identify land which is reserved or dedicated under the National Parks and Wildlife Act 1974,*
- (b) *allow for the management and appropriate use of the land as provided for under that Act; and*
- (c) *ensure the protection of water catchment areas under the control of the Department of Conservation and Environment to safeguard the quality and quantity of raw drinking water.*

7.4 Dungog Shire Rural Strategy 2003

The *Dungog Shire Rural Strategy* was adopted by Council on 9 October 2003.

The Rural Strategy was prepared having regard to the need to produce a new comprehensive LEP for the LGA. The Rural Strategy was instrumental in informing the content of Council's comprehensive environmental planning instrument. It provides Council's vision for rural settlement and activities, and was prepared with the intention of providing a basis for sustainable and desirable rural growth, whilst aiming to retain the LGA's 'original character'.

The aims of the Strategy have been to protect;

- prime agricultural land,
- environmentally sensitive land
- water resources and
- rural character

and to;

- reduce conflict between adjoining land uses
- minimise the costs of services and infrastructure and
- actively encourage environmental rehabilitation

Consistent with the requirements of the WRREP, the strategy was prepared having particular regard to the protection of water quality in watercourses within the LGA. Emphasis was given to the Williams River Catchment, a major water source for residents of Dungog LGA and the Lower Hunter Region.

The Dungog Shire Rural Strategy will be superseded by the forthcoming Land Use Strategy.

7.5 Dungog LGA Local Area Plans

Council has adopted Local Area Plans (LAPs) for the communities of Clarence Town, Vacy, Paterson and Gresford. A Draft LAP exists for Martins Creek.

LAPs are locality specific plans that are prepared for each nominated town and village within an Investigation Zone 9(a). The towns of concern, and their surrounding Investigation zones, are shown in Map 7.2. LAPs aim to establish a desired future character for the land that is contained within the Investigation Zone. LAPs contain locality based performance criteria and controls which are designed to address key issues and achieve the desired character.

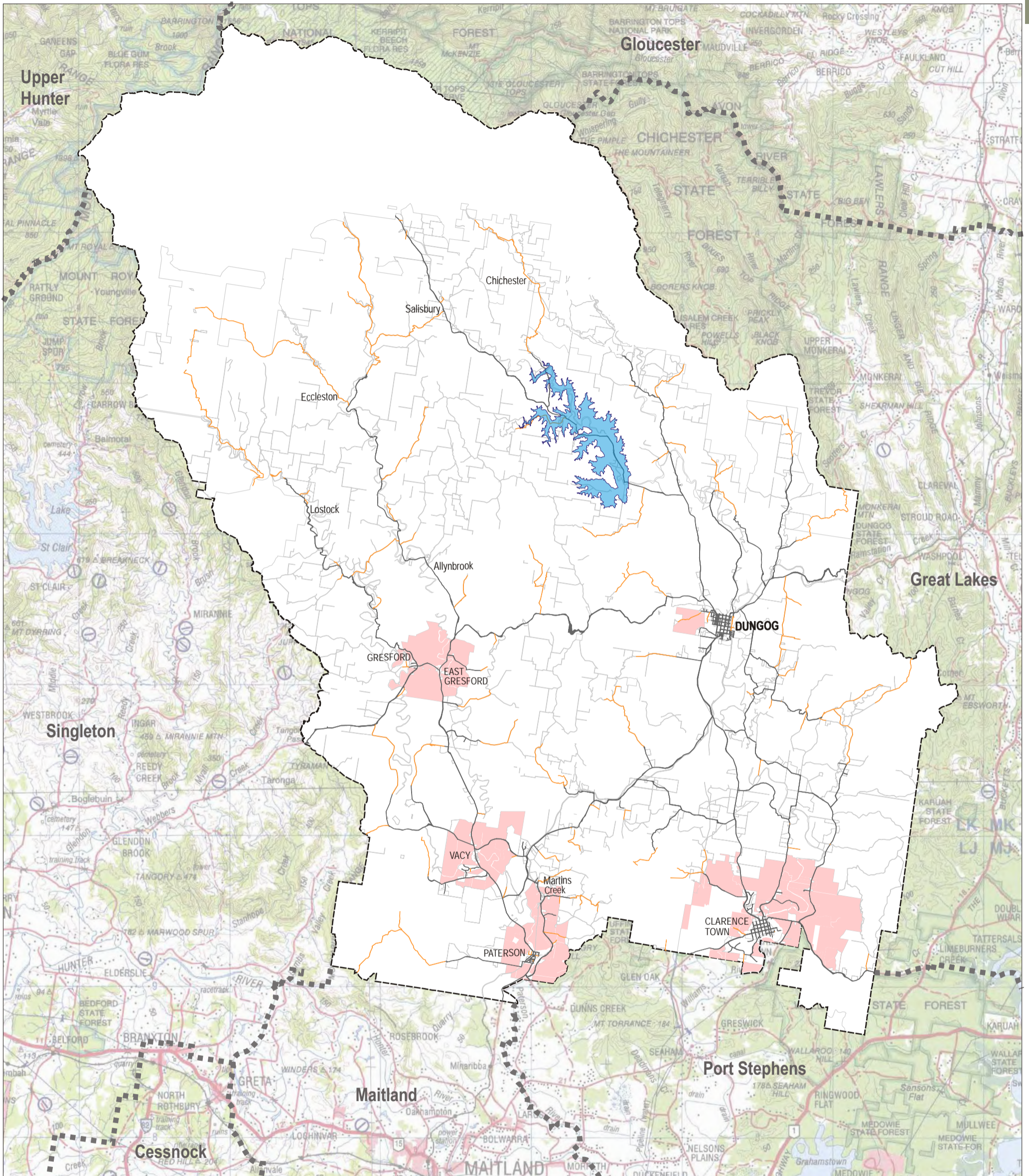
In preparing the LAPs, Council took the following matters into consideration:

- Community Vision - the views expressed by the local community to which the Plan applies,
- The physical and cultural features of the land within the Investigation Zone, including factors such as slope and stability, hydrology and flooding, flora and fauna, bushfire, views and visual impact, sites of cultural or heritage significance,
- The existing road network - hierarchy, road alignment and condition etc,
- Access - vehicle, pedestrian and cycle - to and within the Investigation Zone and between land within the Investigation Zone and the adjoining village,
- Existing pattern of subdivision (size and shape of allotments),
- Existing land use and settlement patterns and the characteristics of the neighbourhood,
- The need for environmentally sustainable development, and
- The desired future character of development.

The LAPs recognise that at some stage in the future, the land within the Investigation Zones may be needed to accommodate the growth of the village and may potentially be rezoned for rural living, residential and/or other uses such as recreation, commercial or special uses.

The LAPs also contain principles in relation to road networks and subdivision layout that will have the capacity to support closer subdivision patterns in the future.

In 2003, Dungog Shire Council undertook a process to establish a number of transition zones across the LGA. These zones are displayed in Map 7.2. The zones currently apply to Clarence Town, Vacy, Paterson, and Martins Creek. However, there was no zone established for Dungog. In 2007 a decision was made to review the transition zones and work was undertaken in early 2008. At the time of publication of this document the reviewed documents were on public exhibition. The process was expected to be complete by December 2008.



DISCLAIMER:
 This map has been produced to assist individuals in determining land details within Dungog Shire Council, the information contained is made in good faith but on the basis that Council or its staff are not liable (whether by reason of negligence, lack of care or otherwise) to any person for any damage or loss whatsoever which has occurred or may occur in relation to that person taking or not taking (as the case may be) action in respect of representation, statement or advice referred to above.

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This map has been prepared for Dungog Shire Council for the purposes of the Tillegra Dam Situation Analysis and should be read in conjunction with the report.

- LEGEND**
- DUNGOG LEP 2006 - TRANSITION ZONE
 - PROPOSED TILLEGRA DAM
 - ROADS - SEALED / UNSEALED

Transition Zones



7.6 Dungog LGA Development Control Plan

Council has a LGA wide Development Control Plan (DCP). The DCP represents the policies of Dungog Shire Council with regard to certain types of development, together with guidelines designed to assist developers in achieving its adopted aims and objectives.

Parts A to C of the DCP came into effect on 2 August 2005 and Part D came into effect on 28 June 2006.

7.7 Dungog LGA Section 94 Contributions Plan

Where Council is satisfied that development for which development consent is sought will (or is likely) to require the provision of or increase the demand for public amenities and public services within the area, Council may grant the development consent subject to a condition (referring to Section 94 of the Environmental Planning and Assessment Act 1979) requiring:

- (a) the dedication of land free of cost, or*
- (b) the payment of a monetary contribution, or both.*

Council's Section 94 plan outlines the circumstances in which contributions will be required from developers, and the form which this contribution should take. Council adopted its Section 94 Contributions Plan on 29 September 2004. The current contributions plan needs updating and the scope of this may need to be considered in the Strategy.

To inform this consideration, Section 94 catchments nominated by the Council have been examined as 'special interest precincts' within Section 8.5 of this Analysis and as identified in Map 3.6.