

# **Planning Proposal to amend the Great Lakes Local Environmental Plan 2014**

## **Foreshore Building Line Maps for the Forster Keys, Forster and Jonnel Cove, Tuncurry**

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Version	Purpose of Document	Author	Checked	Date
1	For Gateway Determination	AK	RB	11 January 2017
2	For Public Exhibition	AK	RB	6 March 2017

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## INTRODUCTION

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The Planning Proposal has been prepared by the MidCoast Council Gloucester Office in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and the relevant Department of Planning and Environment (Department) Guidelines, including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

The Planning Proposal seeks to amend the *Great Lakes Local Environmental Plan (LEP) 2014* by the addition of Two (2) Building Line Foreshore Maps into the LEP Mapping.

This Planning Proposal outlines the intended effect of, and justification for the proposed amendments to the *Great Lakes LEP 2014*.

The proposed amendments were the subject of a report to Midcoast Council, Ordinary Meeting 28 September 2016. A copy of the agenda report, which discusses the background and need for the proposed amendment, is attached as Appendix A. A copy of the Minutes of the meeting, including Council's resolution to prepare the Planning Proposal and seek a Gateway Determination under section 56 of the EP&A Act, is attached as Appendix B. The report, annexures and resolution relevant to this Planning Proposal are available on MidCoast Council's website (<http://www.midcoast.nsw.gov.au/Minutes-Agendas>). It should be noted that the agenda report and associated minutes also include another unrelated item to this specific Planning Proposal.

Council requests that the Department issue delegations to Council to make these amendments.

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## PART 1 - OBJECTIVES OR INTENDED OUTCOMES

*(s.55(2)(a) A statement of the objectives or intended outcomes of the proposed instrument)*

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The objectives of the Planning Proposal are to:

1. To protect and maintain the character and amenity of the Forster Keys and Jonnel Cove canals by ensuring that established controls that have resulted in the current character and amenity can continue to be applied.
2. To ensure that Community expectations continue to be met in relation to the setback controls that have been applied on development in this area.

The intention is to amend the *Great Lakes Local Environmental Plan 2014* by the addition of two (2) foreshore building line maps to the suite of existing foreshore building line maps already contained within the LEP. This will have the effect of allowing minor development between houses and the canal only with consent from Council. Currently, State Environmental Planning Policy (Exempt and Comply Development Codes) 2008 operates to allow this type of development without consent or with an Application for Complying Development.

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## PART 2 - BACKGROUND

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This Planning Proposal applies two (2) existing residential canal estates in the former Great Lakes local government area; Forster Keys and Jonnel Cove (Tuncurry) both established circa. 1970's.

Both estates are fully developed with established dwellings and infrastructure.

Many lots within the Forster Keys Estate and Jonnel Cove have waterfront access to a number of artificial canals which, similar to other canal estates in New South Wales, have been dedicated as drainage reserve.

Both estates are shown in Figures 1 and 2.

**Figure 1 - Forster Keys, Forster**

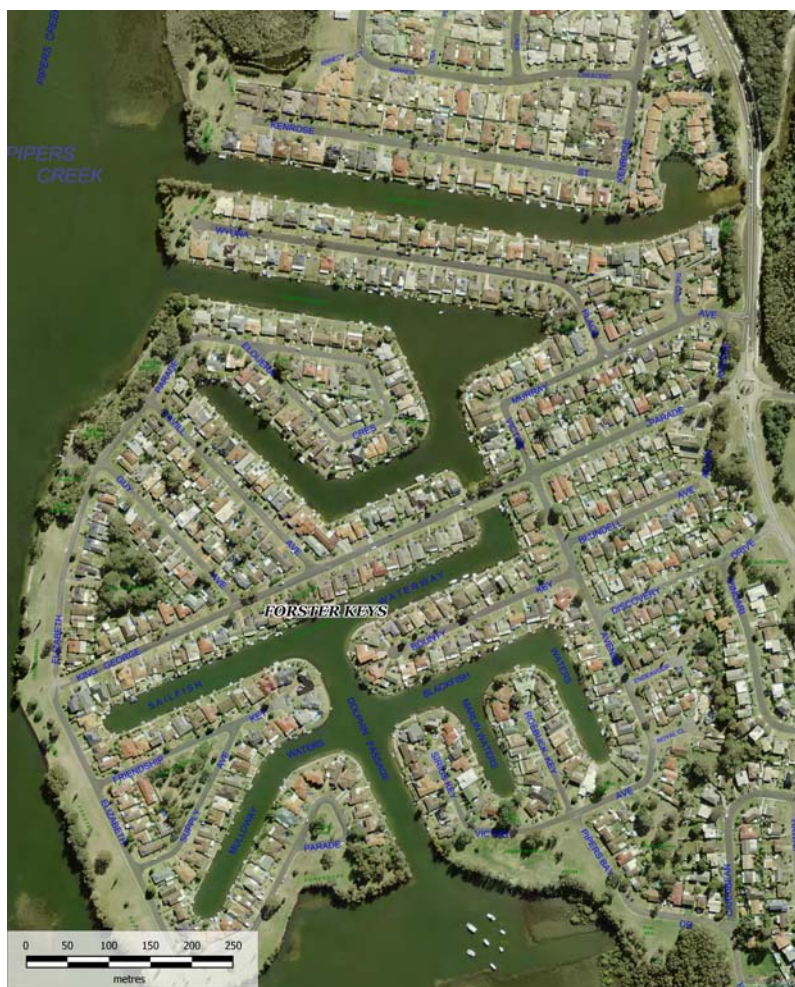


Figure 2 - Jonnel Cove, Tuncurry





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## PART 2 - EXPLANATION OF PROVISIONS

*(s.55(2)(b) An explanation of the provisions that are to be included in the proposed instrument)*

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### 2.1 Existing Foreshore Area Set Back Controls

The former Great Lakes Council area affords the opportunity for many residences to have waterside living. These properties, which have rear boundaries to artificial canals and drainage reserves offer a variety of water-based recreational pursuits with direct access to the water via jetties, pontoons and the like. These properties are further enhanced in that existing views and vistas, across the waterways, are maintained from the rear boundary.

To control the setback of dwellings and other ancillary structures to these canals and drainage reserves the former Great Lakes Council has had in place set back provisions within its Development Control Plan. The main purpose of the setback controls is to protect existing sight lines and views from adjacent properties and to maintain residential amenity.

### 2.2 Great Lakes Development Control Plan 2014

Clause 5.5.2.6 of the *Great Lakes Development Control Plan* (Version 17 August 2016) includes building line setbacks for single dwellings, dual occupancies, villas and townhouses, which includes ancillary development where they concern properties which are adjacent to drainage reserves, viz:

#### **“5.5.2.6 Reserves Setback Controls**

- (1) *Generally a minimum setback of 3m applies to any part of a residential building or ancillary structure adjoining a reserve.*

*Note: This includes drainage reserves.*

#### **Forster Keys Setback Controls**

- (1) *Any part of a residential building or ancillary structure adjoining a drainage reserve in Forster Keys has a minimum setback of 9m.*

#### **Tuncurry Setback Control**

- (1) *Any part of a residential building or ancillary structure adjoining a reserve in Tuncurry has a minimum setback of 6m.*

*Note: This includes drainage reserves.*

This DCP provision was created on 8 July 2014.

### 2.3 State Environmental Planning Policy 2008

Since the introduction the introduction of the *State Environmental Planning Policy (Exempt and Comply Development Codes) 2008* it has been more difficult for local Council's to control setbacks to the rear boundaries of properties adjacent to drainage reserves. The difficulty of this within the SEPP is that both Exempt Development and Complying Development can be undertaken without reference to the setback requirements contained within the Development Control Plan.



Since Exempt and Complying Development under the SEPP are exempt from Council's DCP setback provisions it has become necessary for Council to counter the SEPP to prevent undesirable development adjacent to drainage reserves. A specific measure to achieve such is the introduction of foreshore building lines into the *Great Lakes Local Environmental Plan 2014*.

Clause 1.5 – Interpretation - General of the SEPP provides the following definition of foreshore areas and foreshore building line:

***“foreshore area** means the land between a foreshore building line and the mean high water mark of an adjacent water body (natural).*

***foreshore building line** means the foreshore building line identified by:*

- (a) A development control plan before 12 December 2008, or*
- (b) An environmental planning instrument.*

The DCP provisions for the setback area to drainage reserves were introduced in 2014 and therefore not recognised by the SEPP. To be able to enforce the setbacks in the former Great Lakes Council area the Foreshore Building Line must be identified on maps in the environmental planning instrument (the LEP).

The SEPP outlines the requirements for Exempt Development, which is essentially a range of minor works that can be undertaken without Council's approval unless they are undertaken in a foreshore area. The following uses are not Exempt Development if they are constructed or installed on land in a foreshore area mapped in the LEP:

- Animal Shelters;
- Aviaries;
- Balconies, decks, patios, pergolas, terraces and verandahs;
- Cabanas, cubby houses, ferneries, garden sheds, gazebos and greenhouses;
- Carports;
- Clothes hoists and clothes lines;
- Driveways and hard stand spaces;
- Fences (residential zones);
- Fences (business and industrial zones);
- Fowl and poultry houses;
- Garage bin storage enclosure;
- Landscaping structures;
- Portable swimming pools and spas and child-resistant barriers;
- Privacy screens;
- Rainwater tank's (above ground);
- Shade structures of canvas, fabric, mesh and the like;

- Sculptures and artworks.

Parts 3 through to 8 of The SEPP also provides for Development that can be specified as Complying Development under the following Codes:

- (a) The General Housing Code;
- (b) The Rural Housing Code;
- (c) The Housing Alterations Code;
- (d) The General Development Code;
- (e) The Commercial and Industrial Alterations Code;
- (f) The Commercial and Industrial (New Buildings and Additions) Code;
- (g) The Subdivisions Code;
- (h) The Demolition Code;
- (i) The Fire Safety Code.

Complying Development generally allows development under the above Codes to progress through the issue of a Complying Development Certificate providing the development meets the specific development standards of each Code. These Development Standards, for example, include building setback provisions that prevail over Council's DCP setback provisions. A Complying Development Certificate sets standard Conditions of approval prescribed under the Schedules of the SEPP.

The Forster Keys and Jonnel Cove residential canal estates are all included in the Low Density Residential Zone (R2) under the provisions of the *Great Lakes Local Environmental Plan 2014* and have land parcel areas up to 1,000 square metres. The majority of the lots, within both estates, contain single dwellings which are Permissible with Consent in the Zone.

Generally, Complying Development could only realistically be carried under the General Housing Code, Housing Alterations Code, General Development Code and Demolition Code within the SEPP.

Primarily concerned with ancillary development associated with dwellings, Clause 1.19 of the SEPP applies land based exclusions for Complying Development, viz:

***“1.19 Land on which complying development may not be carried out***

***(1) Specific land exemptions for General Housing Code and Rural Housing Code***

*To be complying development specified for the General Housing Code or the Rural Housing Code, the development must not be carried out on:*

- (g) *land in a foreshore area;”*

Therefore, Complying Development under the provisions of the General Housing Code cannot be undertaken in an area with a Building Foreshore Line in the LEP and proponents will be required to lodge an Application for Development Consent with Council.

This land based exclusion however does not apply to works carried out under the Demolition Code, Housing Alterations Code and General Development Code.

## 2.4 Great Lakes Local Environmental Plan 2014

The *Great Lakes Local Environmental Plan 2014* is the environmental planning instrument in place for the former Great Lakes Council area. In particular, Clause 7.10 of the instrument has the effect of only permitting development within mapped foreshore building lines with the consent of Council. Forster Keys and Jonnel Cove are not covered by a mapped building line under LEP 2014 and they are therefore not exempt from the SEPP. The intention of clause 7.10 is to limit impacts on natural foreshore processes and maintain amenity, viz:

### ***“7.10 Limited development on foreshore area***

- (1) The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.*
- (2) Development consent must not be granted for development on land in the foreshore area except for the following purposes:*
  - a. the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area,*
  - b. the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so,*
  - c. boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*
- (3) Development consent must not be granted under subclause (2) unless the consent authority is satisfied that:*
  - a. the development will contribute to achieving the objectives for the zone in which the land is located, and*
  - b. the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
  - c. the development will not cause environmental harm such as:*
    - (i) pollution or siltation of the waterway, or*
    - (ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
    - (iii) an adverse effect on drainage patterns, and*
  - d. the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*
  - e. opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
  - f. any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*
  - g. in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*
  - h. sea level rise or change of flooding patterns as a result of climate change has been considered.*

4. In this clause, **foreshore area** means the land identified as “Foreshore Area” on the Foreshore Building Line Map.”

Accordingly, a number of Building Foreshore Line Maps are currently included in the *Great Lakes LEP 2014* but crucially however these maps only include areas to the south of the former Great Lakes Local Government Area where properties have direct frontage to Port Stephens in localities such as Pindimar, North Arm Cove and Carrington (Map References FBL\_006A to FBL\_006D and FBL\_010A to FBL\_101B).

## 2.5 Intent of Planning Proposal

The intent of this Planning Proposal is to insert two (2) additional Building Line Foreshore Maps in the *Great Lakes Environmental Plan 2014* to enable the effect of Clause 7.10 – Limited development on foreshore area, in both the Forster Keys and Jonnel Cove residential canal estates. This will have the effect of requiring consent for any development in the foreshore area. A merits assessment can then be undertaken of the amenity and privacy impacts of the structures.

The Foreshore Building Line is indicated in both Figures 3 and 4 below. The detailed LEP Maps are included in Appendices E and F. The proposed building foreshore line width will be consistent with the existing development controls in place for the *Great Lakes Development Control Plan 2014*. A Nine (9) metre building foreshore line is proposed for the Forster Keys whilst for Jonnel Cove six (6) metres will apply.

**Figure 3**

### **Forster Keys**

#### **Proposed 9m Building Foreshore Line**



**Figure 4**

**Jonnell Cove**

**Proposed 6m Building Foreshore Line**



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## PART 3 - JUSTIFICATION

(s.55(2)(c) Justification for the objectives or intended outcomes and the process for their implementation)

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### Section A – Need for the Planning Proposal

#### 3.A.1 Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is not linked directly to any strategic study or report.

This Planning Proposal has arisen due to the implications for Council continuing to maintain appropriate setback controls in the foreshore areas of both the Forster keys development and Jonnel Cove as a consequence of the introduction of the *State Environmental Planning Policy Exempt and Complying Development Codes* 2008.

#### 3.A.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

It is considered that the extension of clause 7.10 to the two canal estates represents the most appropriate and indeed only alternative to maintain foreshore building line development controls and meet community expectations for amenity in regards to this issue.

The introduction of building line foreshore maps for the Forster keys and Jonnel Cove development areas is consistent with the current intention of only allowing appropriate development in other foreshore areas adjacent to Port Stephens in the south of the former Great Lakes LGA.

## Section B – Relationship to Strategic Planning Framework

### 3.B.1 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Planning Proposal, essentially a specific localised issue.

### 3.B.2 Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The Great Lakes 2030 Community Strategic Plan (GL 2030) is a future planning document which aligns the community's vision with a clear strategic direction for the Great Lakes region over the long term. The plan provides a blueprint for Council to ensure the delivery of infrastructure and services to meet the needs of the community.

A key direction of GL 2030 is for Council to be a leader within the community. Specifically, Objective 9 provides for the need to "Plan for sustainable growth and development". To achieve this, Strategy 9.2 states that Council must:

*"Manage urban development and ensure it respects the character of the area in which it is located."*

The planning proposal responds to the community expectations of maintaining a clear building foreshore line within both the Forster Keys and Jonnel Cove states. Currently, under *State Environmental Planning Policy Exempt and Complying Development Codes) 2008*, the setback requirements contained within the *Great Lakes Development Control Plan 2014* are not applicable to such development that meets the development criteria for Exempt or Complying Development. Through this Planning Proposal Council is demonstrating its leadership by ensuring the protection of residential amenity on the foreshore of these residential states.

Overall, this Planning Proposal is consistent with the Key Directions of the Great Lakes Community Strategic Plan 2030 and the associated Objectives and Strategies therein.

### 3.B.3 Is the Planning Proposal consistent with applicable state environmental planning policies?

The Planning Proposal is considered to be generally consistent with applicable state environmental planning policies.

A summary of the Planning Proposal's consistency with applicable State Environmental Planning Policies is provided in Appendix C of this Planning Proposal.

### 3.B.4 Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?

The Planning Proposal is considered to be generally consistent with applicable S.117 Ministerial Directions.

A summary of the Planning Proposal's consistency with relevant s.117 Ministerial Directions is provided in Appendix D of this Planning Proposal.



## Section C – Environmental, Social and Economic Impact

### 3.C.1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

This Planning proposal will have no effect on critical habitat or threatened species, populations or ecological communities, or their habitats.

### 3.C.2 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

There will be minimal environmental effects as result of this Planning Proposal. The introduction of building setback lines towards waterways within both the Forster Keys and Jonnel Cove residential estates has the additional benefit of preventing undesirable development within the foreshore line that may have the potential to cause harm to the environment.

### 3.C.3 Has the Planning Proposal adequately addressed any social and economic effects?

The Planning Proposal is expected to have minimal social and economic effects.

## Section D – State and Commonwealth Interests

### 3.D.1 Is there adequate public infrastructure for the Planning Proposal?

There are no public infrastructure implications with the Planning Proposal.

### 3.D.2 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

It is not intended as part of this Planning Proposal to undertake any Consultation with State and Commonwealth agencies.

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## PART 4 - MAPPING

*(s.55(2)(d) Maps to be adopted by the proposed instrument)*

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The proposed amendment the *Great Lakes LEP 2014* will require the insertion of two (2) new Building Line Foreshore Maps referenced as follows:

- FBL\_011E (Forster Keys) ;
- FBL\_011C (Jonnel Cove).

The proposed Maps have been included an Appendices E and F.

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## PART 5 - COMMUNITY CONSULTATION

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In accordance with Section 56(2)(c) and 57 of the *Environmental Planning and Assessment Act* 1979, this Planning Proposal will be made publically available for a minimum of 28 days.

In accordance with Council's adopted consultation protocols the following will also be undertaken:

- Notices in the local newspaper;
- Direct mail notification to affected land owners, ie. Those land owners with parcels directly adjoining drainage reserve land in the Forster Keys and Jonnel Cove Estates;
- Exhibition material and all relevant documents will be available at Council's Administrative and District Offices;
- Exhibition material and all relevant documents will be available on Council's website.

Any further consultation required by the Gateway Determination will also be undertaken.

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## PART 6 - PROJECT TIMELINE

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In accordance with the Department of Planning and Environment guidelines, the following timeline is provided, which includes the tasks deemed necessary for the making of this local environmental plan.

Task	Responsibility	Timeframe	Date (approximate)
Council resolution to support the Planning Proposal	Council	-	28 September 2016
Lodgement of Planning Proposal for Gateway Determination	Council	3 months	January 2017
Gateway Determination Issued	Minister for Planning	2 months	6 February 2017
Public exhibition of Planning Proposal	Council	Minimum 28 days	March 2017
Report to Council	Council	2 months	May 2017
Lodgement of Planning Proposal (with any amendments as a result of submissions)	Council	2 months	July 2017
Making of local environmental plan	Minister for Planning	6 – 8 weeks	September 2017

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## PART 7 - CONCLUSION

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The primary aim of the Planning Proposal is insert two (2) additional building foreshore line maps to the existing building foreshore line maps in the *Great Lakes Local Environmental Plan (LEP) 2014* within the residential estates at the Forster Keys, Forster and Jonnel Cove, Tuncurry.

The Proposal is considered to have merit in that:

- The insertion of Building Line Foreshore Maps in both the Forster Keys and Jonnel Cove residential estates will allow Council to maintain existing setback development controls to existing artificial waterways held as drainage reserves.
- The insertion of such Building Line Foreshore Maps will prevent undesirable development within the foreshore area as exempt development under the provisions of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* that may impact on natural systems and processes and existing residential amenity maintaining views and vistas along the foreshore.
- The insertion of such Building Line Foreshore Maps is consistent with the expectations of the community as it relates to maintain setback controls to drainage reserves.

**Planning Proposal - Group 3 of General Amendments to Great Lakes LEP 2014**

**Report Author** Louise Morris, Strategic Landuse Planner

**File No. / ECM Index** SP-PP-29

**Date of Meeting** 28 September 2016

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**SUMMARY OF REPORT**

This report outlines additional items to be added to the third group of general amendments to Great Lakes Local Environmental Plan 2014. The items include; six (6) additional lots of publicly owned land proposed for rezoning for environmental purposes and the addition of a foreshore building line along the drainage reserves in Forster Keys, Forster and Jonnel Cove, Tuncurry.

These items will be added to a list of general amendments to the Great Lakes LEP 2014 that have already been supported by Council to progress to a Gateway Determination. Due to the relative minor nature of these amendments they have been grouped together in one Planning Proposal to streamline the process and more efficiently utilise resources. The other amendments include:

- Updating the Heritage Schedule of Great Lakes LEP 2014 with new Heritage Items as a result of the review of Great Lakes Heritage Study.
- Rezoning of other publically owned land for environmental purposes as part of implementing the Wallis Lake Estuary and Catchment Management Plan (2014).
- Realignment of a split-zone boundary within a property at Macwood Road, Smiths Lake to give certainty to the development potential of the land.

**SUMMARY OF RECOMMENDATION**

That Council endorse the additional items within this report for inclusion in the Planning Proposal being prepared for the third group of general amendments to the Great Lakes LEP 2014.

**FINANCIAL/RESOURCE IMPLICATIONS**

Preparation and processing of the planning proposal has been accommodated within the existing Strategic Planning work program.

**LEGAL IMPLICATIONS**

Nil.

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**BACKGROUND**

The third group of general amendments to the Great Lakes Local Environmental Plan 2014 (LEP 2014) have been progressively supported by Council over a number of meetings. Due to the relative minor nature of these amendments they have been grouped together in one Planning Proposal to streamline the process and more efficiently utilise resources.

Currently the third group of general amendments includes the following;

- Updating the Heritage Schedule of Great Lakes LEP 2014 to include new Items as a result of the review of Great Lakes Heritage Study.
- Rezoning of other publically owned land for environmental purposes as part of implementing the Wallis Lake Wetland Strategy (adopted 2010) and the Great Lakes Water Quality Improvement Plan (2009).

- Realignment of a split-zone boundary within a property at Macwood Road, Smiths Lake to give certainty to the development potential of the land in question.

This report is seeking support for the final items to be added to the Planning Proposal;

- Six (6) additional lots of publicly owned land for rezoning for environmental purposes; and
- the addition of a foreshore building line along the drainage reserves in Forster Keys, Forster and Jonnel Cove, Tuncurry.

## DISCUSSION

### 1. Six (6) additional lots of publically owned land proposed for rezoning to environmental protection

Lot 44 DP 1209958 located on Manns Road Darawank was purchased by Council in July 2014 as part of the implementation of the Wallis Lake Wetland Strategy adopted in 2010 and the Great Lakes Water Quality Improvement Plan (2009). The site, as shown in Attachment A, is a low lying wetland that is currently zoned RU2 Rural Landscape under Great Lakes LEP 2014. It is proposed to rezone this site E2 Environmental Conservation in keeping with Council's plan to rehabilitate the site to achieve improved water quality outcomes and preserve it into the future as a community conservation area.

The remaining five (5) sites are located along the foreshore reserve from Coomba Park around to Booti Booti National Park. These can also be seen in Attachment A. The majority of the sites are currently zoned E4 Environmental Management with one zoned RU2 Rural Landscape. It is proposed to rezone these lots to E3 Environmental Management to be consistent with the surrounding foreshore area.

In addition, the proposed rezoning is considered to be more suitable for maintaining the public space and access whilst preserving an important natural asset. This is reflected in the objectives of the E3 Environmental Management zone which are to;

- protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values; and
- provide for a limited range of development that does not have an adverse effect on those values.

### 2. The addition of a foreshore building line along the drainage reserves in Forster Keys, Forster and Jonnel Cove, Tuncurry.

Council has supported the following setback controls for the drainage reserves in Forster and Tuncurry within its Great Lakes Development Control Plan (DCP) for a number of years;

- *Any part of a residential building or ancillary structure adjoining a drainage reserve in Forster Keys has a minimum setback of 9m.*
- *Any part of a residential building or ancillary structure adjoining a reserve in Tuncurry has a minimum setback of 6m.*

The objective of the setback controls, as stated in the DCP is *to ensure residential buildings have sufficient separation to provide privacy, solar access, landscaping opportunities and amenity for occupants.*

With the introduction and subsequent amendments to State Legislation, the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, it is now necessary to transfer these existing setback controls for drainage reserves into the Great Lakes LEP 2014 to ensure that



structures such as gazebos and sheds cannot be erected within the setback area as 'exempt' development i.e. development that does not require Council approval.

The specific amendment to Great Lakes LEP 2014 is to add a Foreshore Building Line as seen in Attachments B and C. These lines create a foreshore building area down to the water line and ensure that development can only occur in this space with Council's approval. This amendment is designed to support Council's current development controls and ensure that Community expectation is continued to be met in relation to the setback controls that have been applied on development in this area.

## **CONSULTATION**

Public and other Government Agency consultation will be undertaken as part of the formal Planning Proposal process following the Department of Planning & Environment's positive Gateway Determination. The Determination may also include other specific consultation that is to occur. At a minimum the Planning Proposal will be placed on public exhibition giving everyone an opportunity to view the changes and make comment and affected landowners will be directly contacted to ensure they are aware of the proposed changes. Internal feedback will also be sought during the public exhibition period.

## **COMMUNITY IMPACTS**

There is minimal or no impact to the community as the proposed amendments to the rezoning of foreshore land to E3 Environmental Management and the introduction of a Foreshore Building Line are aimed at reinforcing and maintaining Council's current development controls.

## **ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN**

The ongoing review and improvement of Council's planning documents is part of the Strategic Planning's operational plan.

## **TIMEFRAME**

If supported, these items will be added to the Planning Proposal of group three (3) general amendments to the Great Lakes LEP 2014 which is scheduled to progress as follows;

- October 2016 - Planning Proposal for is submitted to the Department of Planning & Environment for a Gateway Determination.
- October / November 2016 - assuming a positive Gateway Determination, the Planning Proposal will be publically exhibited.
- November 2016 - report back to Council for final adoption of the Planning Proposal, including any submissions received during the exhibition period and subsequent amendments.
- November / December - once the proposal is finalised it will be submitted to the Department of Planning & Environment for gazettal. It is expected that the entire process will be finalised by the end of the year.

## **BUDGET IMPLICATIONS**

No additional costs to Council as this project has been accommodated within the existing Strategic Planning work program.

## **RISK CONSIDERATION**

The aim of the general amendments to the Great Lakes LEP 2014 is to reduce Council's risk by adapting and clarifying the planning controls to deliver improved development outcomes.

## **RECOMMENDATION**

1. That Council support the inclusion of the following items into the Planning Proposal for group three (3) general amendments to the Great Lakes Local Environmental Plan 2014;
    - six (6) additional lots of publically owned land for rezoning to environmental proposes as seen in Attachment A; and
    - the addition of a foreshore building line along the drainage reserves in Forster Keys, Forster and Jonnel Cove, Tuncurry.
  2. The Planning Proposal, once prepared, be submitted to the Department of Planning & Environment for a Gateway Determination.
  3. Assuming a positive Gateway Determination, a further report be presented to Council following public exhibition of the proposal.
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## **ATTACHMENTS**

A: Location of publically owned land proposed to be rezoned for Environmental purposes.

B: Proposed Foreshore Building Line at Forster Keys, Forster.

C: Proposed Foreshore Building Line at Jonnel Cove, Tuncurry.

21 **Planning Proposal - Group 3 of General Amendments to Great Lakes LEP 2014**

**Louise Morris, Strategic Land Use Planner (Forster)**

**141/16 RESOLVED (Turner)** *(as per recommendation)*

That:

1. Council support the inclusion of the following items into the Planning Proposal for group three (3) general amendments to the Great Lakes Local Environmental Plan 2014:
  - six (6) additional lots of publicly owned land for rezoning to environmental purposes as seen in Attachment A; and
  - the addition of a foreshore building line along the drainage reserves in Forster Keys, Forster and Jonnel Cove, Tuncurry.
2. The Planning Proposal, once prepared, be submitted to the Department of Planning & Environment for a Gateway Determination.
3. Assuming a positive Gateway Determination, a further report be presented to Council following public exhibition of the proposal.

## Appendix C – Consistency with State Environmental Planning Policies

State Environmental Planning Policy (SEPP)	Consistency
SEPP No 1 —Development Standards	Not applicable
SEPP No 14—Coastal Wetlands	Not applicable
SEPP No 19—Bushland in Urban Areas	Not applicable
SEPP No 21—Caravan Parks	Not applicable
SEPP No 26—Littoral Rainforests	Not applicable
SEPP No 30—Intensive Agriculture	Not applicable
SEPP No 33—Hazardous and Offensive Development	Not applicable
SEPP No 36—Manufactured Home Estates	Not applicable
SEPP No 44—Koala Habitat Protection	Not applicable
SEPP No 47—Moore Park Showground	Not applicable
SEPP No 50—Canal Estate Development	Not applicable
SEPP No 52—Farm Dams and Other Works in Land and Water Management Plan Areas	Not applicable
SEPP No 55—Remediation of Land	Not applicable
SEPP No 62—Sustainable Aquaculture	Not applicable
SEPP No 64—Advertising and Signage	Not applicable
SEPP No 65—Design Quality of Residential Apartment Development	Not applicable
SEPP No 70—Affordable	Not applicable

State Environmental Planning Policy (SEPP)	Consistency
Housing (Revised Schemes)	
SEPP No 71—Coastal Protection	Not applicable
SEPP (Affordable Rental Housing) 2009	Not applicable
SEPP (Building Sustainability Index: BASIX) 2004	Not applicable
SEPP (Exempt and Complying Development Codes) 2008	<p>This Planning Proposal will have an effect on <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> in that the introduction of building foreshore line maps in the <i>Great Lakes Environmental Plan 2014</i> for both the Forster Keys and Jonnel Cove residential estates will disable the SEPP in the foreshore area as exempt development or complying development against the provisions of Part 3 – General Housing Code.</p> <p>It is important to note that the SEPP exemption criteria will still apply to sites where development will occur outside of the foreshore area.</p>
SEPP (Housing for Seniors or People with a Disability) 2004	Not applicable
SEPP (Infrastructure) 2007	Not applicable.
SEPP (Integration and Repeals) 2016	Not applicable.
SEPP (Kosciuszko National Park—Alpine Resorts) 2007	Not applicable
SEPP (Kurnell Peninsula) 1989	Not applicable
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Not applicable
SEPP (Miscellaneous Consent Provisions) 2007	Not applicable.
SEPP (Penrith Lakes Scheme) 1989	Not applicable
SEPP (Rural Lands) 2008	Not applicable.
SEPP (State and Regional Development) 2011	Not applicable.
SEPP (State Significant	Not applicable

State Environmental Planning Policy (SEPP)	Consistency
Precincts) 2005	
SEPP (Sydney Drinking Water Catchment) 2011	Not applicable
SEPP (Sydney Region Growth Centres) 2006	Not applicable
SEPP (Three Ports) 2013	Not applicable Not applicable
SEPP (Urban Renewal) 2010	Not applicable
SEPP (Western Sydney Employment Area) 2009	Not applicable
SEPP (Western Sydney Parklands) 2009	Not applicable

## Appendix D – Consistency with Section 117 Directions

No.	Direction	Consistency
Employment and Resources		
1.1	Business and Industrial Zones	N/A
1.2	Rural Zones Aims to protect the agricultural production value of rural lands.	N/A
1.3	Mining, Petroleum Production and Extractive Industries	N/A
1.4	Oyster Aquaculture	N/A
1.5	Rural Lands	N/A
Environment and Heritage		
2.1	Environmental Protection Zones Aims to conserve and protect environmentally sensitive areas.	The proposal is not inconsistent with this Direction. The retention of building set back controls within the foreshore area will have the further benefit of enhancing and preserving environmentally sensitive areas.
2.2	Coastal Protection	N/A
2.3	Heritage Conservation	N/A
2.4	Recreation Vehicle Areas	The Proposal is not inconsistent with this Direction.
2.5	Application of E2 and E3 Zones and Environmental Overlay in Far North Coast LEPs	N/A
Housing, Infrastructure and Urban Development		





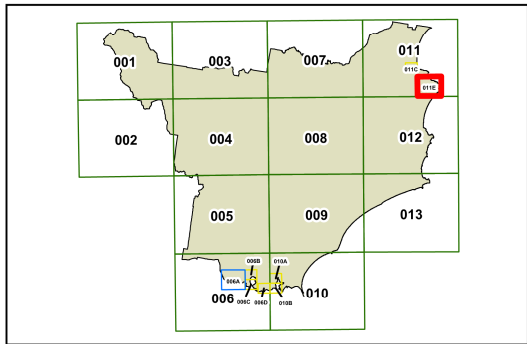
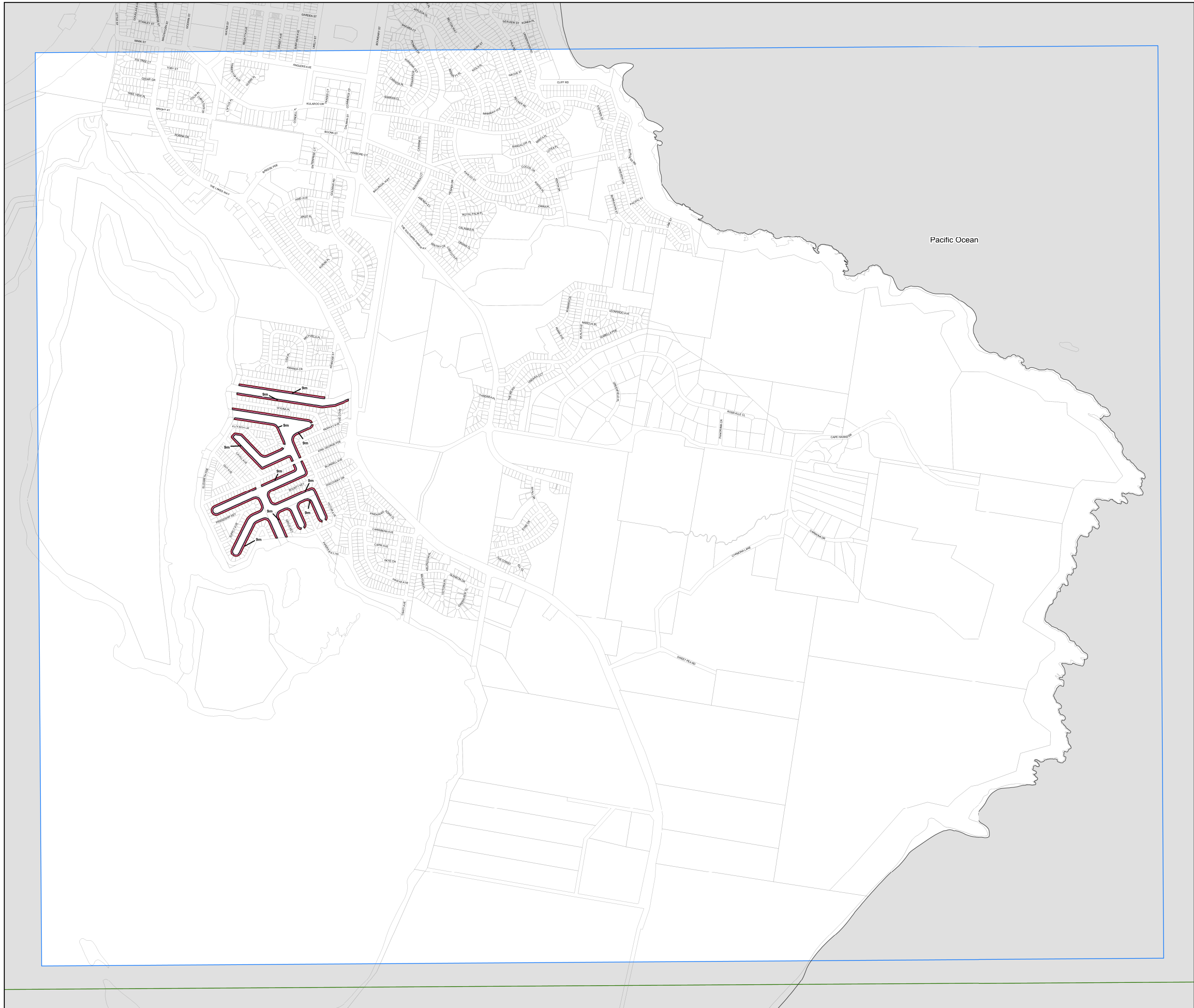
3.1	Residential Zones	N/A
3.2	Caravan Parks and Manufactured Home Estate	The Proposal is not inconsistent with this Direction.
3.3	Home Occupations	The Proposal is not inconsistent with this Direction.
3.4	Integrating Land Use & Transport	The Proposal is not inconsistent with this Direction.
3.5	Development Near Licensed Aerodromes	N/A
3.6	Shooting Ranges	N/A
Hazard & Risk		
4.1	Acid Sulfate Soils	N/A
4.2	Mine Subsidence and Unstable Land	N/A
4.3	Flood Prone Land	The Proposal is not inconsistent with this Direction.
4.4	Planning for Bushfire Protection	It is not intended to refer this Proposal to the New South Wales Rural Fire Service (NSW RFS) for their advice.
Regional Planning		
5.1	Implementation of Regional Strategies	N/A
5.2	Sydney Drinking Water Catchments	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	N/A


5.5	Revoked	
5.6	Revoked	
5.7	Revoked	
5.8	Second Sydney Airport: Badgerys Creek	N/A
5.9	North West Rail Link Corridor Strategy	N/A
5.10	Implementation of Regional Plans	The Proposal, a localised issue, is generally consistent with the Hunter Regional Plan 2036.
Local Plan Making		
6.1	Approval and Referral Requirements	This Proposal will not change any approval or referral requirements.
6.2	Reserving Land for Public Purposes	N/A
6.3	Site Specific Provisions	N/A
Metropolitan Planning		
7.1	Implementation of the Metropolitan Plan for Sydney 2036	N/A
7.2	Implementation of Greater Macarthur land Release Investigation	N/A



Foreshore Building Line Map -  
 Sheet FBL\_011E

**Foreshore Building Line**  
 Foreshore Building Line  
 Foreshore Area




 0 300 600 900  
 Metres  
 Projection: GDA 1994  
 MGA Zone 56  
 Scale: 1:20,000 @ A3



