



MIDCOAST
council

Planning Proposal to amend the Great Lakes Local Environmental Plan 2014

- **Item 1**
Rezoning of Publicly acquired land
- **Item 2**
Rezoning of Lot 52 DP 708662 – Macwood Road and Matthew Road, Smiths Lake
- **Item 3**
Rezoning of Lot 26 DP 1120907 – Warrina Circuit, Minimbah

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Version 3 / Date: 29 November 2018

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Version	Purpose of Document	Author	Date
1	For Gateway Determination	AK	23 January 2018
2	For NSW Office of Resources and Geoscience comment	AK	19 September 2018
3	For Public Exhibition	AK	29 November 2018

INTRODUCTION

The Planning Proposal has been prepared by the *MidCoast Council in accordance with Section 3.33 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*.

This Grouped Planning Proposal seeks to amend the *Great Lakes Local Environmental Plan 2014* (GLLEP 2014) to:

1. Amend several Zoning maps in the LEP for a number of properties that Council has recently acquired as public land. The properties are to be rezoned to E2 Environmental Conservation or E3 Environmental Management to adequately reflect the purchase of these allotments for environmental protection purposes and where necessary, amend the relevant minimum lot size, floor space ratio and building height maps to adequately reflect the environmental zonings.
2. The realign the Zoning boundary within Lot 52 DP 708662. The property is located on the corner of Macwood Road and Matthew Road, Smiths Lake, and the realignment of the Rural Landscape (RU2) Zone and Large Lot Residential (R5) Zone will give certainty to the development potential of the land.
3. Rezone privately owned land identified as Lot 26 DP 1120907, Warrina Circuit, Minimbah. The land is to be rezoned from R5 Large Lot Residential to E2 Environmental Conservation due to its environmental significance and the need for the land to be managed as conservation lot.

The Grouped Planning Proposal can more succinctly be considered as there (3) separate items as follows:

Item 1

Rezoning of Public Lands

Item 2

Zone Boundary Realignment – Macwood and Matthew Road, Smiths Lake;

Item 3

Rezoning – Warrina Circuit, Minimbah, which also includes the associated mapping amendment to the minimum lot size map for this land.

The proposed amendments for Item 1 have been the subject of a number of reports to both the (former) Great Lakes Council and MidCoast Council meetings following the gradual purchase and acquisition of public land and associated Council resolutions.

Reports to the Council were tabled as follows:

- Great Lakes Council Ordinary Meeting 24 July 2012;
- Great Lakes Council Ordinary Meeting 27 May 2014;

- Great Lakes Strategic Committee Meeting 10 June 2014;
- Ordinary MidCoast Council Meeting 25 May 2016;
- Ordinary MidCoast Council Meeting 23 June 2015;
- Ordinary MidCoast Council Meeting 26 April 2016;
- Ordinary MidCoast Council Meeting 28 September 2016;
- Ordinary MidCoast Council Meeting 14 December 2016;
- Ordinary MidCoast Council Meeting 28 June 2017.

Copies of the reports and minutes are attached in Appendix D.

Due to the dealings of land acquisition and the perceived possible commercial advantage that may arise from these dealings, several of these reports and associated resolutions were tabled as confidential and were not discussed at an open meeting.

In this regard it is noted that the following matters were tabled as confidential reports and therefore the report and minutes for these items are documented separately:

Item 2 was the subject of a Report to the Great Lakes Strategic Committee Meeting 12 November 2013, which is provided in Appendix E.

Item 3 was the subject of a Report to the MidCoast Strategic Committee Meeting 26 July 2017 which is provided in Appendix F.

The proclamation of 12 May 2016 ratified the merger of the Local Government Areas of Gloucester Shire, Greater Taree and Great Lakes Council into MidCoast Council. The *Great Lakes Local Environmental Plan 2014* still stands as a separate environmental planning instrument.

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

PART 1 - OBJECTIVES OR INTENDED OUTCOMES

(s.3.33(2)(a) A statement of the objectives or intended outcomes of the proposed instrument)

The objectives of the Planning Proposal are to:

- To ensure recently publicly acquired land in high value conservation areas is appropriately zoned to reflect its ecological conservation values and to restrict permissible development within these lands;
- To clarify the development potential on a specific site by realigning a zoning boundary to reflect the location of existing buildings on the site;
- To ensure a specific parcel of land is appropriately zoned due to its environmental significance and the need for land to be managed as a conservation lot;
- To ensure the development standards of minimum lot sizes, height of buildings and floor space ratios of the rezoned lands are generally consistent with other environmentally zoned lots in the Great Lakes region.

As a result of this Planning Proposal, it is proposed to make the following mapping amendments to *Great Lakes Local Environmental Plan 2014*:

- A total of five (5) Land Zoning Maps, incorporating a total of 33 lots, are to be amended to reflect the rezoning of publicly acquired land to the appropriate E2 Environmental Conservation or E3 Environmental Management Zones. The Minimum Lot Size, Floor Space Ratio and Height of Building map layers shall also be amended to reflect these rezonings where appropriate and necessary consistent with adjacent environmentally zoned land;
- The Land Zoning Map including Lot 52 DP 708662, on the corner of Macwood Road and Matthew Road, Smiths Lake is amended to realign the existing boundary between the RU2 Rural Landscape Zone and the R5 Large Lot Residential Zone. The Minimum Lot Size, Floor Space Ratio and Height of Building map layers shall also be amended to reflect the rezoning.;
- The Land Zoning Map including Lot 26 DP 1120907, Warrina Circuit, Minimbah, is amended to indicate a rezoning from the R5 Large Lot Residential Zone to the E2 Environmental Conservation Zone. The Minimum Lot Size, Floor Space Ratio and Height of Building map layers shall also be amended to reflect the rezoning; in particular the Lot Size Map will be amended to increase the Minimum Lot Size from 1 hectare to 40 hectares.

In summary, the Planning Proposal incorporates a total number of 29 mapping changes.

The Master List for the proposed lots to be rezoned, including those which require changes to the applicable minimum lot size, floor space ratio and building height maps, as part of Item 1 of this Planning Proposal is included in [Appendix G](#) (Items 1 through to 15).

A summary of the proposed mapping amendments with each lot highlighted is included in [Appendix H](#).

PART 2 - EXPLANATION OF PROVISIONS

(s.3.33(2)(b) An explanation of the provisions that are to be included in the proposed instrument)

Rezoning of Public Lands

The MidCoast Council area comprises many natural areas of high ecological, scientific, cultural or aesthetic values. The Great Lakes area of MidCoast Council specifically has many areas of significant wetlands and habitat corridors throughout its myriad of lake systems and catchment areas. The majority of this land is appropriately zoned having regard for these values. Some are not.

Over a number of years the former Great Lakes Council invested significant resources into the protection and management of its natural environment with a particular focus on water quality. To underpin this investment, the former Great Lakes Council adopted a number of strategies and plans with a focus on water quality provisions underpinning wetland conservation and management. The 2009 Great Lakes Water Quality Improvement Plan (WQIP) is one such plan which outlines the water quality improvement actions required to protect and rehabilitate Wallis, Smiths and Myall Lakes. As part of the WQIP a protection action of the Wallis Lake and Myall catchments the plan included a program for wetland protection:

“The acquisition of wetlands, and undertaking management and / or rehabilitation as required (e.g. fencing, establishing property vegetation plans, management plans, reinstating natural hydrology). The program also involves assisting landholders to protect natural wetlands, with advice, training and on-ground works to control stock access. More generally, the program involves with the community, including raising the profile of wetlands and their role in providing environmental services, as well as encouraging participation in management and restoration”

Arising from this action was the development of the Wallis Lake Wetland Strategy. Adopted by Council in 2010, the strategy sets out the vision, guiding principles and actions to protect, manage, and where required, restore wetlands across the Wallis Lake Catchment. As a consequence of both the Wallis Lake Wetland Strategy and Great Lakes WQIP, the former Great Lakes Council and now MidCoast Council, have been progressively acquiring or in some cases negotiating the dedication of strategic land within or adjacent to wetlands, foreshore areas and adjacent to areas of high ecological, scientific, cultural or aesthetic values.

In addition to acquiring such lands, an action from the Wallis Lake Wetland Strategy was to consider the zoning of wetlands and their buffers within the operating Local Environmental Plan. While SEPP 14 Coastal Wetlands are zoned for environmental protection, many other wetlands are currently inappropriately zoned for Rural, Residential or Open Space purposes. Wetlands located within the National Park estate are appropriately zoned National Parks and Nature Reserves (E1).

This Planning Proposal seeks to rezone these acquired lands either Environmental Protection (E2) or Environmental Management (E3) depending on the existing condition, quality and the functional importance of these areas.

Where necessary, a number of lots that have recently been acquired will also be amended as part of this proposal to reflect the consistent lot sizes, floor space ratio and building heights that are applicable for adjacent environmental zones. It is noted that whilst the Council Resolutions contained in [Appendix D](#) did not actively seek to also change lot sizes, floor space ratio and building height provisions for such lots, it is considered that this was the intention of the resolution for such lots to have consistent land use provisions with other environmentally zoned land in the region.

Zone Boundary Re-alignment - Macwood and Matthew Road, Smiths Lake

A request by an individual land owner to rectify the location of a zone boundary was lodged with the former Great Lakes Council during the Public Exhibition of *GLLEP 2014*. The submission sought to have the entire lot rezoned to allow:

- The establishment of a museum/gallery and associate café within the existing office building;
- Tourist and visitor accommodation facilities; and
- The subdivision of one portion of the property fronting Matthew Road to finance the proposed development.

The site has been identified as having two zones since 1996. The primary purpose of the *GLLEP 2014* was the transitioning of the existing zones and provisions of the *Great Lakes Local Environmental Plan 1996* and *Manning LEP No.1* to the Standard Principle Instrument LEP template. In this instance the existing 1(a) Rural and 1(b) Small holdings zones were transitioned to the RU2 Rural Landscape and R5 Large Lot Residential, without any amendment to their location or extent.

The site was subject to a Development Application seeking Consent for a museum/gallery, café and associated signage lodged with the former Great Lakes Council in November 2014 which highlighted issues associated with the split zoning.

This Planning Proposal is seeking to realign the existing zones to more logically reflect the location of existing buildings and structures on the site.

Rezoning - Warrina Circuit, Minimbah

The 71.16 hectare Lot 26 DP 1120907 located at Warrina Circuit, Minimbah is currently zoned R5 Large Lot Residential under the provisions of the *GLLEP 2014*.

It is proposed to rezone this land E2 Environmental Conservation in recognition of the high ecological values contained within the lot. This ecological significance includes but is not limited to threatened biodiversity and regionally-significant native vegetation. This significance has been recognised by the NSW Land and Environment Court, Council, independent ecological consultants and the landholder. The subject land was put forward as a conservation offset for the adjoining rural residential subdivision and the consent for that subdivision endorses and permanently protects the subject land as a conservation area. This is achieved via s88 instruments under the Conveyancing Act 1919. As such, the LEP should also recognise the ecological significance of the land by applying the most appropriate and applicable conservation zone.

As a result of the rezoning the minimum lot size map for the site will also be amended, increasing the minimum lot size from one (1) hectare to 40 hectares which has been applied as a consistent development standard across the E2 Environmental Conservation Zone at the time of gazettal of *GLLEP 2014*.

A more detailed history of the conservation measures, past development and need for the rezoning is summarised in the Officers Report to the MidCoast Council General Meeting 26 July 2017 as included in Appendix F.

PART 3 - JUSTIFICATION

(s.3.33(2)(c) Justification for the objectives or intended outcomes and the process for their implementation)

Section A – Need for the Planning Proposal

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

Rezoning of Public Lands

The rezoning of public lands (and associated amendments to lot size, building height and floor space ratio maps where necessary) is a direct result of Great Lakes Water Quality Improvement Plan (2009) and Wallis Lake Wetland Strategy (2010).

The dedication and public acquisition of land of strategic environmental importance; and its zoning reflective of its high ecological, scientific, cultural or aesthetic values, are direct recommendations of these plans.

Zone Boundary Re-alignment - Macwood and Matthew Road, Smiths Lake

The proposed zone boundary realignment is not the result of a strategic study or report but rather the result of a direct request from an individual landowner during Public Exhibition of the *GLLEP 2014*.

Rezoning of Warrina Circuit, Minimbah

The proposed rezoning of 71.16 hectares of land at Warrina Circuit Minimbah is not the result of any strategic study or report but rather the result of a number of investigations over the site over a prolonged period of time.

As a result of these investigations, coupled with a number of flora and fauna assessments relating individual development applications, the preparation of Habitat Management Plan (HMP) and a number of other factors it became clear that the subject lot has significant conservation value and an appropriate environmental zoning should also be applied via *GLLEP 2014*.

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

Rezoning of Public Lands

The progressive rezoning of wetlands and wetland buffers is needed to recognise, protect and manage wetland systems. The zoning of areas that allow for the landward expansion/ migration of wetlands affected by the impacts of climate change is also a very important management and land use planning consideration. The highest possible level of environmental protection can to be achieved through the progressive rezoning of wetlands across the Wallis Lake catchment.

The Environmental Conservation (E2) provides the highest level of protection, management and restoration for such lands whilst allowing a limited number of land uses compatible with those values. The intent of the E2 Zone in the *GLLEP 2014* is that prescribed by the Standard Instrument:

- *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*

- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*

Areas where a broader range of uses is required (whilst retaining environmental protection) may be more appropriately zoned E3 Environmental Management.

It is therefore considered that the proposed rezoning of these lands within the local environmental plan is consistent with the intention of the acquisition.

Zone Boundary Re-alignment - Macwood and Matthew Road, Smiths Lake

The proposed re-alignment of the existing zone boundary over the subject site is the best way of achieving the intended outcomes of clarifying the permissibility of development over the land given the location of existing buildings and structures.

Rezoning of Warrina Circuit, Minimbah

A rezoning the subject land at Warrina Circuit, Minimbah represents the best way to enhance and protect the high ecological values of the land.

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)?

All three (3) components of the Planning Proposal are considered to be generally consistent with the objectives and actions contained within the Hunter Regional Plan 2036. A summary of the Planning Proposal's consistency is provided in Appendix A of this Planning Proposal.

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

Key Direction 2 of the Great Lakes Community Strategic Plan 2010-2030, "Our Environment" states the following objective:

"Objective 2: Ensure that development is sensitive to our natural environment."

Strategy 2.1 states that:

2.1 Base strategic land use planning on ecologically sustainable principles."

The rezoning of properties to reflect their environmental value is in accord with this part of the Great Lakes Community Strategic Plan 2010-2030.

Further to this, Objective 4 of the MidCoast Council Operational Plan 2017-2018 in recognises the need for land-use planning tools and controls that are based on ecologically sustainable principles.

An activity in the 2017-2018 Operational Plan includes for ensuring that:

"the three existing LEPs (Great Lakes, Greater Taree and Gloucester) remain current and deliver on community expectations for sustainable outcomes through preparation of high priority strategic planning proposals for amendments."

The environmental rezonings and individual request for the rectification of an existing zone boundary in this Proposal are ensuring the relevant planning instrument is in line with community expectations of achieving sustainable outcomes.

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 B of this Planning Proposal.

3.B.4 Is the Planning Proposal consistent with applicable Ministerial Directions (s9.1 directions)?

The Planning Proposal is considered to be generally consistent with applicable s9.1 Ministerial Directions.

A summary of the Planning Proposal's consistency with relevant s9.1 Ministerial Directions is provided in Appendix C 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?

The environmental rezoning of publicly acquired land within this Planning Proposal seek to further protect lands of ecological importance which will have positive effects on critical habitat, threatened species and their populations, ecological communities and their habitats.

The realignment of an existing zoning boundary on one private allotment at the corner of Macwood Road and Matthew Road, Smiths Lake is a specific and isolated proposal and is not expected to have any 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?

Protecting land through zoning controls on lot considered to have environmental conservation significance and enhancing environmental corridors is seen to have a range of positive environmental effects. Such zoning will restrict development that has the potential to cause harm to areas of high ecological value.

The private individual rezoning of Macwood Road and Matthew Road, Smiths Lake will have minimal environmental effects on the environment as it reflects the location of existing buildings and structures on the site. A more comprehensive assessment of any environmental effects would be undertaken as part of the development assessment process for any development requiring consent on the allotment.

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

Social

The environmental rezoning of land will have positive social effects throughout the Great Lakes community as it relates to the preservation and protection of lands considered to have high ecological importance. Council has been open and transparent in acquiring the public land and is continuing to deliver on the expectations of the community in preserving this land.

The rezoning of Macwood Road and Matthew Road, Smiths Lake will have positive social effects in that Council will be seen to assist a landowner clarify the development potential of the site and rectifying an inconsistency in the LEP relating to an existing zone boundary.

Economic

As it the case with publicly acquired land, Council has ensured that in addition to the public acquisition process it is rezoning the properties in a manner consistent with the purpose of acquisition - environmental protection and/or management. In this regard it is noted that the development potential of the individual sites were already limited due to the environmental value and/or constraints that are present.

Whilst the rezoning of Warrina Circuit, Minimbah could be considered a 'back zoning', historic Development Applications over the property revealed the extent of threatened flora and fauna over the site which significantly reduce the development potential of the site irrespective of the zone.

The rezoning of Macwood Road and Matthew Road, Smiths Lake will result in positive economic effects for the landowner who will be given security as to the development potential in and around the zoning boundary.

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?

Consultation has been undertaken with the following State and Commonwealth agencies:

- NSW Office of Environment and Heritage;
- The NSW Planning and Environment, Resources and Geoscience;
- NSW Rural Fire Service

NSW Office of Environment and Heritage

By response letter dated 23 May 2018 the NSW Office of Environment and Heritage state no overall objections with the proposed Rezoning as part of the Planning Proposal. The Office indicates support of the Proposal and the consistency of the rezonings with the relevant Section 9.1 Ministerial Directions.

The NSW OEH response is included in [Appendix I](#).

NSW Planning and Environment, Resources and Geoscience

A response letter has been received from the NSW Office of Resources and Geoscience dated 21 May 2018 indicating inconsistency of the Planning Proposal with Section 9.1 Ministerial Directions 1.3 relating to Mining, Petroleum and Extractive Industries.

Crucially, the response indicates that six (6) of the publicly acquired lots in the Minimbah area that are proposed to be rezoned for environmental purposes are either partially or wholly included within the Nabic Sand Potential Resource Area which was notified to Council in the Mineral Resource Audit of the Great Lakes LGA in August 2014. This area is identified as a potential regionally significant long-term supply of locally sourced construction sand for infrastructure and housing in the local government area. This resource area covers land area of approximately 4,895 Hectares. An operational sand mine exists in this mapped area.

The NSW Resources and Geoscience response, including the potential resource area map as it relates to the proposed rezonings is included in [Appendix J](#).

The Planning Proposal is inconsistent with the Section 9.1 Ministerial Direction in that it a rezoning of the said lots to the E2 Environmental Conservation Zone will prohibit Agriculture and Extractive Industries on the land and alter the effect of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industry) 2007. In addition to this, Extractive Industries are prohibited development in the E2 and E3 Zones under the provisions of the *Great Lakes Local Environmental Plan 2014*.

The following comments provide a justification to this inconsistency:

- The former Great Lakes Council has progressively been acquiring these properties as part of the recommendations and actions arising from the Wallis lake Wetland Strategy and the Great Lakes Water Quality Improvement Plan (WQIP) to further aid in the conservation of environmentally significant wetlands in the area.

Appendix D highlights Council's Resolutions as it relates to the acquisition and purchase of each of these properties. Specifically, each resolution also provides that Council both:

- (i) That Council classify the land as community land, natural area, wetland and that each parcel is added to Council's Plan of Management for Community Land;
- (ii) That Council undertake a rezoning of each site for the relevant environmental purposes (E2 or E3) at the next available opportunity for an LEP amendment.

Retaining the rural zoning for the lots Council has recently acquired is inconsistent with this resolution and conflicts with Council's implementation of the WQIP and Wetland Strategy.

- Of the 4,895 Hectares of total potential extractive sand resource area only 183.46 Hectares is proposed to be rezoned for environmental purposes representing 3.75% of the total land area. Approximately 4,711.54 Hectares of land within the potential resource area will remain available in the RU2 Zone if required for development for extractive industry purposes permissible with Consent under the provisions of the Great Lakes LEP 2014 and therefore subject to the provisions of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industry) 2007.

It is noted that regardless of the proposed E2 zoning of portions of the land that the provisions of State Environmental Planning Policy (State and Regional Development) 2011 will apply in that the mining of construction sand on land where extractive industries are not permitted with consent that meets the thresholds stated in Item 7 of Schedule 1 (Extractive Industries) can proceed as State significant development.

- Four (4) of the six (6) lots within the potential extractive sand resource area are also partially identified as Coastal Wetlands under the provisions of State Environmental Planning Policy (Coastal Management) 2018 (previously SEPP 14).

Clause 16 of the SEPP provides for the protection of Coastal Wetlands from development in addition to indicating such development in Coastal Wetlands is designated development for the purposes of the *Environmental Planning and Assessment Act 1979* and would require the preparation of an environmental impact statement (EIS).

Subclause 4 of Clause 16 indicates that:

“(4) A consent authority must not grant consent for development referred to in subclause (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.”

The environmental, social and economic importance of the Wallis Lake Wetlands is summarised in the Great Lakes Council 2010 Wallis Lake Wetlands Strategy, in that they:

- (i) Improve and manage water quality (eg. sediment control, nutrient uptake, etc);
- (ii) Regulate water levels, recharge groundwater and maintain stream flows;
- (iii) Provide significant and important plant and wildlife habitat and support biodiversity;

- (iv) conservation (wetlands in NSW provide habitat for at least 550 native plant species, 52 fish species and 194 animal species, including rare, threatened and migratory species – NSW Government 1996);
- (v) Provide flood mitigation and control;
- (vi) Assist shoreline stabilisation and protection;
- (vii) Contribute to biological productivity and nutrient cycling;
- (viii) Contain cultural values and provide for cultural activities, including Aboriginal values;
- (ix) Contribute significantly to the economy (fish, crab and prawn nurseries and breeding grounds, tourism);
- (x) Assist climate change adaptation by providing significant carbon sinks and flood outwash areas;
- (xi) Provide for recreation and aesthetic values;
- (xii) Facilitate research and education; and
- (xiii) Provide a range of other ecosystem services functions and processes, some of which are not well-described or understood.

The Wallis Lake Wetland areas are listed as Wetlands of National Importance in The Directory of Important Wetlands in Australia (first published in 1993). It is regarded as an outstanding example of an estuarine wetland, with large areas of seagrass in healthy condition, important habitat for fish, crustacean and molluscs and extensive habitat for shorebirds.

It is considered that extractive industry within the areas proposed to be rezoned as part this Planning Proposal would seriously compromise the biophysical, hydrological and ecological integrity of this wetland area.

- All six (6) lots within the potential extractive sand resource area map are also identified in the Acid Sulfate Soils map under the provisions of the *Great Lakes Local Environmental Plan 2014*.
- It is considered any further extractive industry in the area will have a significant detrimental impact on groundwater quality. The potential extractive sand resources map locates within the Nabiac Sandbed, a smaller portion of the Great Lakes Coastal Sands Groundwater Source. Surface flow also contributes to this groundwater.

In 2015 MidCoast Water commenced construction of the Nabiac Inland Dune Aquifer Water Supply system to augment the Manning District Water Supply. The project is critical in that it will assist in reducing the volume of water from the Manning River of which will be subject to stricter environmental flows in the future, as well as provide important water security for the major water supply for the MidCoast area. The system includes:

- (i) extraction borefield including 14 groundwater bores
- (ii) the Nabiac Water Treatment Plant with capacity to treat up to 10 million litres of water per day
- (iii) the Darawank Reservoir and Pump Station

Construction commenced in 2015 and is expected to be completed in November 2018.

A locality map of the project is included in Figure 1 below.

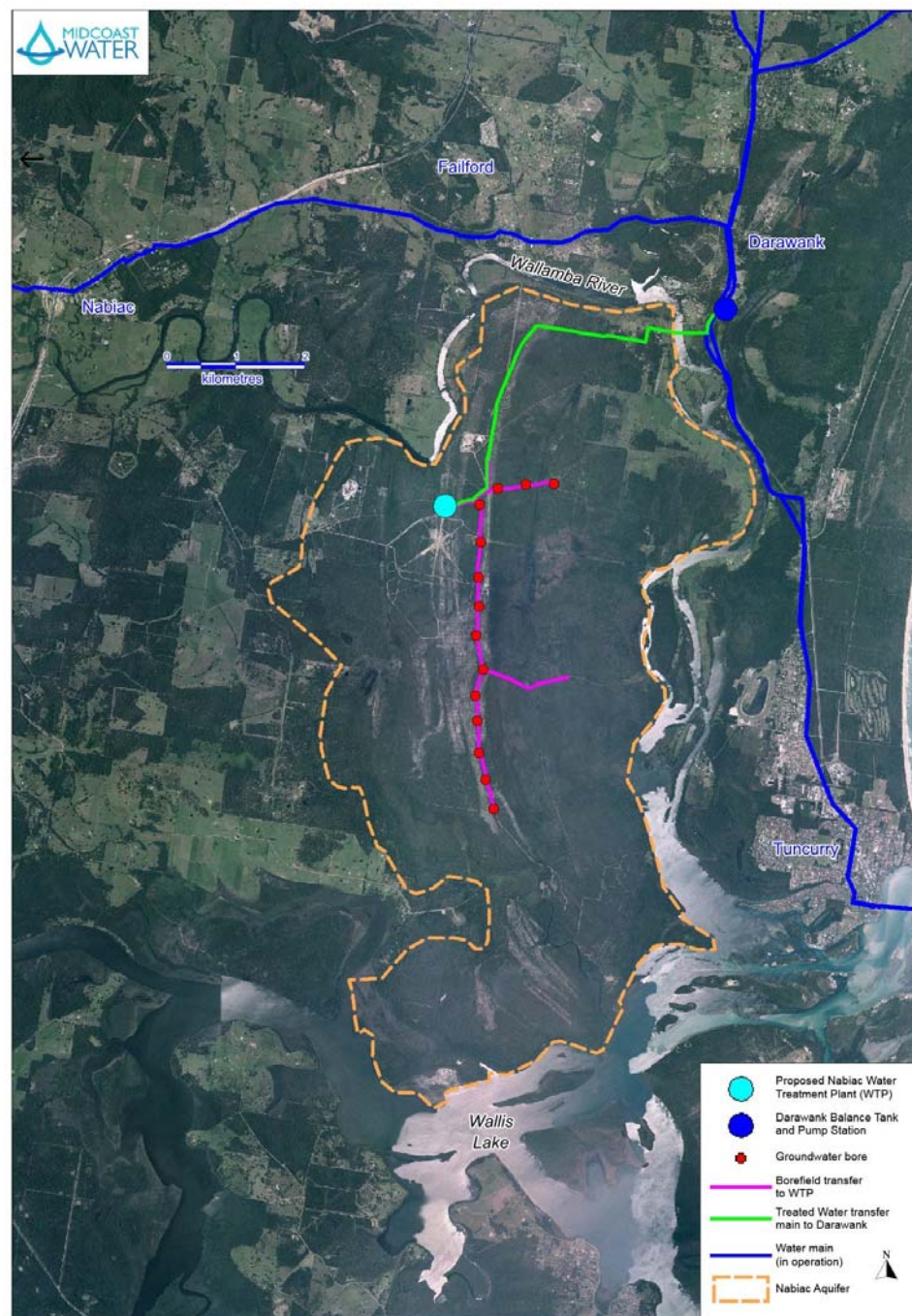


Figure 1- Nabiac Inland Dune Aquifer Water Supply System

Sand mining for construction sand in the dune aquifer area has the potential to compromise this water supply scheme through contamination of the aquifer either by:

- interference with the coffee rock by separation of the top and bottom layers and subsequent seepage of contamination from mining activities; and/or
- Allowing contaminated surface flows from sand mining activities to infiltrate the aquifer naturally.

Whilst an Environmental Impact Statement (EIS) would be required to address such issues should extractive industries in this location expand this has the potential to seriously affect MidCoast Council's water security in a sensitive groundwater environment. The mining of sand for construction is different from that for mineral sands in that large bulky quantities at significant depths would be excavated.

A revised Planning Proposal was forwarded to the NSW Office of Resources and Geoscience detailing the above matters and addressing the inconsistency of the Planning Proposal with State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industry) 2007 and Section 9.1 Ministerial Direction 1.3 – Mining, Petroleum and Extractive Industries respectively.

As a result of this correspondence an amended response was received dated 25 September indicating that the NSW Office of Resources and Geoscience is satisfied that potential for sand resource sterilisation has been considered by Council and that the pertinent s9.1 Directions and State Environmental Planning Policy have been addressed.

The amended response is included in [Appendix K](#).

NSW Rural Fire Service

A response letter has been received from the NSW Rural Bushfire Service dated 21 June 2018 indicating no objection to the Planning Proposal.

The NSW Rural Fire Service response is included in [Appendix L](#).

PART 4 - MAPPING

(s.3.33(2)(d) Maps to be adopted by the proposed instrument)

Rezoning of Publicly Acquired Land

As a result of the rezoning of publicly acquired land this Planning Proposal seeks to amend a total of five (5) Land Zoning Map Sheets within the *Great Lakes Local Environmental Plan 2014*, referenced as follows:

- 3320_COM_LZN_009_080_20140117
- 3320_COM_LZN_011_080_20140220
- 3320_COM_LZN_011E_020_20160801
- 3320_COM_LZN_012_080_20140117
- 3320_COM_LZN_012A_040_20140220

Associated with these changes to the land Zoning Maps, to reflect the consistency of the environmental zoning of these lands where necessary, the following Minimum Lot Size, Floor Space Ratio and Height of Building Maps will require an amendment:

- 3320_COM_LSZ_011E_020_20160801
- 3320_COM_FSR_011E_020_20160801
- 3320_COM_HOB_011E_020_20160801

Rezoning of Macwood and Matthew Road, Smiths Lake

As a result of the proposed re-alignment of the split zone boundary at Macwood Road and Matthew Road, Smiths Lake, the following Zoning Map Sheet within the *Great Lakes Local Environmental Plan 2014* will require an amendment:

- 3320_COM_LZN_012A_040_20140220

Rezoning of Warrina Circuit, Minimbah

As a result of the rezoning of the land at Warrina Circuit Minimbah, this Planning Proposal seeks to amend the Zoning Map Sheet within the *Great Lakes Local Environmental Plan 2014*, referenced as follows:

- 3320_COM_LZN_011_080_20140220

Also associated with Council's resolution for this item was a proposed change to the Minimum Lot Size Map which will require an amendment to remain consistent with the standardised lot sizes for land in E2 Environmental Conservation Zones:

- 3320_COM_LSZ_011_080_20151013

PART 5 - COMMUNITY CONSULTATION

(s.3.33(2)(e) Details of proposed community consultation)

In accordance with Section 56(2)(c) and 57 of the *Environmental Planning and Assessment Act 1979*, this Planning Proposal will be made publicly 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;
- Exhibition material and all relevant documents will be available at Council's Forster, Stroud, Tea Gardens and Gloucester District Offices;
- Exhibition material and all relevant documents will be available on Council's website.

PART 6 - PROJECT TIMELINE

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	-	Various (2012 – 2017)
Lodgement of Planning Proposal for Gateway Determination	Council	1 month	January 2018
Gateway Determination Issued	Minister for Planning	1 month	March 2018
Public Agency Consultation	NSW RFS, NSW Industry (Geoscience and Resources), OEH	1 month	April 2018
Public exhibition of Planning Proposal	Council	Minimum 28 days	December 2018 – February 2019
Report to Council	Council	1 months	March 2019
Lodgement of Planning Proposal (with any amendments as a result of submissions)	Council	2 months	April 2019
Making of local environmental plan	Minister for Planning	6 – 8 weeks	May 2019

PART 7 - CONCLUSION

The primary aims of the Planning Proposal are to amend *GLLEP 2014* to:

1. Amend several Zoning maps in the LEP for a number of properties that Council has recently acquired as public land. The properties are to be rezoned to E2 Environmental Conservation or E3 Environmental Management to adequately reflect the purchase of these allotments for environmental protection purposes.
2. The realign the Zoning boundary within Lot 52 DP 708662. The property is located on the corner of Macwood Road and Matthew Road, Smiths Lake, and the realignment of the Rural Landscape (RU2) Zone and Large Lot Residential (R5) Zone to give certainty to the development potential of the land.
3. Rezone privately owned land identified as Lot 26 DP 1120907, Warrina Circuit, Minimbah. The land is to be rezoned from R5 Large Lot Residential to E2 Environmental Conservation due to its environmental significance and the need for the land to be managed as conservation lot.
4. Where necessary, amend the relevant minimum lot size, floor space ratio and building height maps to adequately reflect the environmental zonings.

The Proposal is considered to have strategic merit in that:

- The proposal aims to apply a consistent standard instrument approach to the zoning of publicly acquired land that is of strategic ecological and environmental importance.
- The proposal aims to rectify the boundary of an existing zone boundary to clarify the development potential of an existing split-zoned site.
- The proposal aims to enhance community partnerships and illustrate the civic leadership of MidCoast Council by rezoning land acquired for environmental benefit, to the most appropriate environmental protection or management zone.

Appendix A Consistency with Hunter Regional Plan Goals, Directions & Actions

Goal 1 – the leading regional economy in Australia

Direction 4 – Enhance inter-regional linkages to support economic growth

	Item 1	Item 2	Item 3
	Rezoning of Public land	Macwood Road and Matthew Road, Smiths Lake	Warrina Circuit, Minimbah
<p>Action 4.9 Balance competing interests and deliver conservation, transport and land use planning objectives in the national pinch point area by:</p> <ul style="list-style-type: none"> Identifying preferred habitat corridors and priorities for investment in conservation to sustain habitat connectivity; and Developing an integrated management plan for the area. 	The rezoning of publicly acquired lands to appropriate environmental zone increase habitat connectivity in accord with management plans in place for wetlands in the Great Lakes region.	N/A	The rezoning of this land in recognition of the need for the site to be actively managed and protected as a conservation area meets this objective.

Goal 2 – A biodiversity-rich natural environment

Direction 14 – Protect and connect natural areas

Action 14.1 Identify terrestrial and aquatic biodiversity values and protect areas of high environmental value to sustain the lifestyle, economic success and environmental health of the region.	Each publicly acquired parcel of land that is proposed to be rezoned for environmental purposes has been identified as an area of high environmental value in accord with a number of wetland and conservation strategies in place in the Great Lakes region.	N/A	A number of environmental studies have identified the subject land as an area of significant conservation value that must be actively protected and managed.
Action 14.3 Improve the quality of, and access to, information relating to high environmental values.	Achieved.	N/A	Achieved.
Action 14.4 Protect biodiversity by maintaining and, where possible, enhancing existing protection of high environmental value areas; implementing appropriate measures to conserve validated high environmental value areas;	The publicly acquired land to be rezoned for environmental purposes is the direct result of a	N/A	Achieved. The rezoning of this land ensures the protection and enhancement of the high

<p>developing local strategies to avoid and minimise the impacts of development on areas of high environmental value and biodiversity corridors; and identifying offsets or other mitigation measures for unavoidable impacts.</p>	<p>number of existing Great Lakes strategies including the Water Quality Improvement Plan and Wallis lake Estuary and Catchment Management Plan.</p>		<p>environmental values that have been identified in a range of independent studies carried out on the land.</p>
<p>Action 14.5 Secure the long term protection of regionally significant biodiversity corridors.</p>	<p>Parts of the publicly land that are proposed to be rezoned lie within the Barrington to Myall Lakes proposed regional biodiversity corridor.</p>	<p>N/A</p>	<p>N/A</p>

Appendix B Consistency with State Environmental Planning Policies

State Environmental Planning Policy (SEPP)	Consistency		
	Item 1	Item 2	Item 3
	Rezoning of Public Land	Macwood Road and Matthew Road, Smiths Lake	Warrina Circuit, Minimbah
SEPP No 1 —Development Standards	Will not affect SEPP provisions		
SEPP No 14—Coastal Wetlands	Not applicable		
SEPP No 19—Bushland in Urban Areas	Not applicable.		
SEPP No 21—Caravan Parks	The rezoning of some specific sites will affect the permissibility of consent for caravan parks. However, Council has acquired these lots for environmental purposes.	The split zoning boundary re-alignment will not affect the SEPP for Caravan parks.	Caravan Parks were not permissible from the current R5 Large Lot Residential Zone which will remain unchanged as a result of the new E2 Environmental Conservation Zone.
SEPP No 26—Littoral Rainforests	Any littoral rainforest covered on any lot proposed to be zoned appropriately for environmental purposes.	SEPP does not apply to this land. 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		

State Environmental Planning Policy (SEPP)	Consistency		
	Item 1	Item 2	Item 3
	Rezoning of Public Land	Macwood Road and Matthew Road, Smiths Lake	Warrina Circuit, Minimbah
SEPP No 44—Koala Habitat Protection	The environmental rezonings however will enhance koala protection in the Great Lakes region.	Not applicable	The land has been identified as koala habitat as part of various ecological studies and is proposed to be rezoned due to its need to be protected and managed as a conservation lot.
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 Housing (Revised Schemes)	Not applicable		

State Environmental Planning Policy (SEPP)	Consistency		
	Item 1	Item 2	Item 3
	Rezoning of Public Land	Macwood Road and Matthew Road, Smiths Lake	Warrina Circuit, Minimbah
SEPP No 71—Coastal Protection	A number of sites proposed to be rezoned occur in and around coastal lakes and are included in various management plans for estuaries and wetlands.	Not Applicable	Not Applicable. The site does not locate in a coastal zone.
SEPP (Affordable Rental Housing) 2009	Not applicable	Not applicable	Not applicable
SEPP (Building Sustainability Index: BASIX) 2004	Not applicable	Not applicable	Not Applicable
SEPP (Exempt and Complying Development Codes) 2008	The proposed rezoning of publicly acquired land to either E3 or E2 Zones will substantially reduce the extent to which exempt and complying development will be able to be carried out on these lands. This is the intention due to the Council ownership and high environmental values of such sites that have been acquired.	A minor split boundary adjustment will retain the permissibility of exempt and complying development on the subject land.	The rezoning of the site will substantially reduce the extent to which exempt and complying development will be able to be carried out. The site is recognised for its high environmental values and the need to be protected and managed as a conservation lot and as such tighter development controls are necessary.
SEPP (Housing for Seniors or People with a Disability) 2004	Not applicable		
SEPP (Infrastructure) 2007	Not applicable		

State Environmental Planning Policy (SEPP)	Consistency		
	Item 1	Item 2	Item 3
	Rezoning of Public Land	Macwood Road and Matthew Road, Smiths Lake	Warrina Circuit, Minimbah
SEPP (Integration and Repeals) 2016	Not applicable		
SEPP (Kosciuszko National Park—Alpine Resorts) 2007	Not applicable		
SEPP (Kurnell Peninsula) 1989	Not applicable		

State Environmental Planning Policy (SEPP)	Consistency		
	Item 1	Item 2	Item 3
	Rezoning of Public Land	Macwood Road and Matthew Road, Smiths Lake	Warrina Circuit, Minimbah
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	<p>The Rezoning of publicly acquired land to E2 Environmental Conservation effectively prohibits extractive industries both in the Great Lakes LEP 2014 and therefore the Mining SEPP.</p> <p>In particular, these rezonings conflict with the Napiac Sand Potential Resource Area notified to the former Great Lakes Council in August 2014 by way of preventing access to an identified regionally significant resource.</p> <p>However, despite the above it is considered the conflict with the SEPP with the proposed environmental rezonings is justified.</p> <p>Further comment on this matter is in Part 3 Section D of this report as it relates to the view of state government interests to the proposal.</p>	Not applicable	Not applicable

State Environmental Planning Policy (SEPP)	Consistency		
	Item 1	Item 2	Item 3
	Rezoning of Public Land	Macwood Road and Matthew Road, Smiths Lake	Warrina Circuit, Minimbah
SEPP (Miscellaneous Consent Provisions) 2007	Not applicable		
SEPP (Penrith Lakes Scheme) 1989	Not applicable		
SEPP (Rural Lands) 2008	The rezoning of publicly acquired lands for environmental purposes will be consistent with the rural subdivision principles of the SEPP. The proposed rezonings will not be detrimental to agricultural productivity.	Not Applicable.	Not Applicable. The land is currently included in the R5 large Lot Residential Zone.
SEPP (State and Regional Development) 2011	Not applicable		
SEPP (State Significant Precincts) 2005	Not applicable		
SEPP (Sydney Drinking Water Catchment) 2011	Not applicable		
SEPP (Sydney Region Growth Centres) 2006	Not applicable		
SEPP (Three Ports) 2013	Not applicable		
SEPP (Urban Renewal) 2010	Not applicable		

State Environmental Planning Policy (SEPP)	Consistency		
	Item 1	Item 2	Item 3
	Rezoning of Public Land	Macwood Road and Matthew Road, Smiths Lake	Warrina Circuit, Minimbah
SEPP (Western Sydney Employment Area) 2009	Not applicable		
SEPP (Western Sydney Parklands) 2009	Not applicable		

Appendix C Consistency with s9.1 Ministerial Directions

No.	Direction	Consistency		
Employment and Resources				
		Item 1	Item 2	Item 3
		Rezoning of Public Land	Macwood Road and Matthew Road, Smiths Lake	Warrina Circuit, Minimbah
1.1	Business and Industrial Zones	Not Applicable.		
1.2	Rural Zones	The delegate of the Secretary for the Minister of Planning has agreed to the Planning Proposals inconsistency with this direction and the justification thereto.		

1.3	Mining, Petroleum Production and Extractive Industries	<p>The Planning Proposal to rezone a number of publicly acquired lots to E2 Environmental Conservation is inconsistent with this direction in that the environmental rezonings prohibits extractive industries within a regionally significant potential extractive resource area for sand mining.</p> <p>Council intends to obtain the agreement from the delegate of the Secretary for the Minister of Planning as it relates to this inconsistency.</p> <p>Further comment on this matter is in Part 3 Section D of this report as it relates to the view of state government interests to the proposal.</p>	Not Applicable.	Not Applicable.
1.4	Oyster Aquaculture	Not Applicable.		
1.5	Rural Lands	Complies.		

Environment and Heritage

2.1	Environmental Protection Zones	The Planning proposal, which facilitates the protection and conservation of environmentally sensitive areas, complies with this direction	N/A	The Planning Proposal complies with this direction for a lot that has been identified as environmentally sensitive and will be rezoned to highlight these values to be managed and protected as a conservation lot.
2.2	Coastal Protection	Not applicable. No lot as part of the Planning Proposal is included in the Great Lakes CZMP area.		
2.3	Heritage Conservation Aims to conserve items and places of heritage significance and indigenous heritage significance	The Office of Environment and heritage (NSW OEH) did not make comment in relation to this direction as part of the public agency consultation process. To satisfy this direction further the local Aboriginal Land Council will be consulted for further commence during the Public Consultation stage.		
2.4	Recreation Vehicle Areas	Not Applicable.		
2.5	Application of E2 and E3 Zones and Environmental Overlay in Far North Coast LEPs	Not Applicable.		

Housing, Infrastructure and Urban Development

3.1	Residential Zones	<p>The Planning Proposal to rezone publicly acquired land for environmental purposes is inconsistent with this direction in that it includes a lot currently zoned R3 Medium Density Residential. Council will take ownership of this parcel of land.</p> <p>The Gateway Determination for the Planning Proposal dated 23 March 2018 has indicated that the delegate for the Minister of Planning agrees to the justification for this inconsistency.</p>	<p>The proposed split zone boundary alignment is inconsistent with this direction and that it will create additional areas to be zoned R5 large Lot Residential. This area will be well serviced by infrastructure and will increase the permissibility of development upon the land.</p> <p>The Gateway Determination for the Planning Proposal dated 23 March 2018 has indicated that the delegate for the Minister of Planning agrees to the justification for this inconsistency.</p>	<p>The Planning Proposal “back-zones” large Lot Residential land for environmental purposes in recognition of the high ecological values on the land and is therefore inconsistent with this direction. It is considered that there is sufficient supply of Large Lot Residential land in the Great Lakes region.</p> <p>The Gateway Determination for the Planning Proposal dated 23 March 2018 has indicated that the delegate for the Minister of Planning agrees to the justification for this inconsistency.</p>
3.2	Caravan Parks and Manufactured Home Estates	Not Applicable.		
3.3	Home Occupations	Not Applicable.		
3.4	Integrating Land Use & Transport	Not Applicable.		
3.5	Development Near Licensed Aerodromes	Not Applicable.		
3.6	Shooting Ranges	Not Applicable.		

Hazard & Risk

4.1	Acid Sulfate Soils	Not Applicable.		
4.2	Mine Subsidence and Unstable Land	Not Applicable.		
4.3	Flood Prone Land	Not Applicable.		
4.4	Planning for Bushfire Protection	Complies.	Complies. Any future development application rising from the permissibility of the land will undergo the process of integrated development with the NSW RFS.	Complies. The environmental rezoning of the site will reduce bushfire risk of any further large lot residential development.

Regional Planning

5.1	Revoked			
5.2	Sydney Drinking Water Catchments	Not Applicable.		
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	Not Applicable.		
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	Not Applicable.		
5.5	Revoked			
5.6	Revoked			
5.7	Revoked			

5.8	Second Sydney Airport: Badgerys Creek	Not Applicable.
5.9	North West Rail Link Corridor Strategy	Not Applicable.
5.10	Implementation of Regional Plans	Not Applicable.

Local Plan Making

6.1	Approval and Referral Requirements	Complies.
6.2	Reserving Land for Public Purposes	Complies.
6.3	Site Specific Provisions	Not Applicable.

Metropolitan Planning

7.1	Implementation of the Metropolitan Plan for Sydney 2036	Not Applicable.
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Various Council Officer's Reports and Meeting Minute Extracts

D1 Extracts of Officer's Recommendation and Minutes of Great Lakes Ordinary Council Meeting Held on 24 July 2012

Lot Item No. in Master list:

7. Lot 1 DP 1199088

23 PESCONF - Acquisition Report - Part Lot 16 DP 870415

Index: NS-CATCH-WL-WETLAND

Author: Manager Natural Systems - Gerard Tuckerman

Ordinary Meeting: 24 July 2012

Report Extract/Recommendation

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(C) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

It is considered that it would be contrary to the public interest for this matter to be discussed in an open meeting. The disclosure of information such as valuation ranges and negotiated prices prior to acceptance may disadvantage Council in ensuring that only a reasonable price is paid for land and that ratepayers are not impacted by Council having to pay a premium.

RECOMMENDATION:

That Council:

1. Approves the purchase of 71 ha (subject to final survey) of part Lot 16 DP 870415, 1189 Minimbah Road, Minimbah, based on the independent valuation advice and agreed to by the owner and that the Common Seal of Council be affixed to all necessary documents relating to the purchase of part Lot 16 DP870415.
2. Register the land as community land under the Local Government Act 1993.
3. Register MidCoast Water on title as having an interest in the land for protection of the groundwater quality.
4. Approve the signing of a Property Vegetation Plan (PVP) as per condition of Hunter Central Rivers CMA grant funds to provide long term security regarding protection the ecosystem service value of the land and approve the future zoning of the land as appropriate to E(2) or E(5) in recognition of its land use.

1 RESOLUTION

(Moved L Roberts/Seconded K Hutchinson)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Cr J McWilliams, Cr M Tuffy, Cr C McCaskie, Cr L Roberts, Cr J Stephens, Cr K Hutchinson, Cr L Vaughan

ABSENT. DID NOT VOTE - Cr L Gill, Cr J Weate

D2 [Extracts of Officer's Recommendation and Minutes of Great Lakes Ordinary Council Meeting Held on 27 May 2014](#)

Lot Item No. in Master list:

10. *Lot 44 DP 1209958*

19 **PESCONF - Darawank Land Acquisition**

Index: NS-CATCH-WL-Wetland
Author: Manager Natural Systems - Gerard Tuckerman
Ordinary Meeting: 27 May 2014

Report Extract/Recommendation

RECOMMENDATION:

It is recommended that:

1. Council authorise the compulsory acquisition by consent of Lot 44 being part of current Lot 22 DP1100089, under the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of exercising its functions under the Local Government Act 1993, being environmental conservation, protection and improvement services and facilities for purposes of implementing the Wallis Lake Wetland Strategy and Great Lakes Water Quality Improvement Plan to improve water quality discharged to Wallis Lake.
2. Council authorise the making of an application to the Minister for Local Government and/or Governor to acquire Lot 44 by compulsory acquisition processes under the Land Acquisition (Just Terms Compensation) Act 1991.
3. The Common Seal of Council be affixed to all necessary transfers and contract documents associated with the acquisition of Lot 44.
4. Authorise payment of all reasonable costs associated with the issuing of new title deeds for the acquired and residue property.

5. Pursuant to Section 31(2) of the Local Government Act 1993, classify the land as community land, natural area, wetland and add the acquired land to Appendix C of Council's Plan of Management - Community Land.
6. Rezone the acquired property to E(2) at the next LEP amendment.

An **AMENDED RECOMMENDATION** was tabled at the meeting:

It is recommended that:

1. The parcel of land identified as being part of Lot 22 DP 1100089, Manns Road, Darawank, being private land and shown on the attached plan marked Annexure 'A' be acquired by agreement under the Land Acquisition (Just Terms Compensation) Act 1991, and by authority contained in the Local Government Act 1993, for the purpose of implementing the Wallis Lake Wetland Strategy and Great Lakes Water Quality Improvement Plan to improve water quality discharged into Wallis Lake.
2. Minerals to be excluded from this acquisition.
3. The acquisition is not for the purpose of resale.

Resolution / Minutes

2 RESOLUTION

(Moved K Hutchinson/Seconded L Roberts)

The above amended recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Cr J McWilliams, Cr J Morwitch, Cr L Roberts, Cr C McCaskie, Cr A Summers, Cr K Hutchinson, Cr L Gill.

ABSENT. DID NOT VOTE - Cr L Vaughan, Cr J Weate.

D3 [Extracts of Officer's Recommendation and Minutes of Great Lakes Ordinary Council Meeting Held on 27 May 2014](#)

Lot Item No. in Master list:

8. *Lot 83 DP 753207*

18 PESCONF - Acquisition of Land - Wallis Lake Wetland Strategy

Index: NS-Catch-wetland

Author: Manager Natural Systems - Gerard Tuckerman

Ordinary Meeting: 27 May 2014

Report Extract/Recommendation

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

It is considered that it would be contrary to the public interest for this matter to be discussed in an open meeting. The disclosure of information such as valuation ranges and negotiated prices prior to acceptance may disadvantage Council in ensuring that only a reasonable price is paid for land and that ratepayers are not impacted by Council having to pay a premium.

RECOMMENDATION:

That Council:

- 1) Approves the purchase of Lot 83 DP 753207 and that the Common Seal of Council be affixed as required to the contract relating to the purchase of Lot 83 DP 753207.
- 2) Pursuant to Section 31(2) of the Local Government Act 1993, classify the land as community land, natural area, wetland and that the parcel of land acquired be added to Appendix C of Council's Plan of Management - Community Land.
- 3) Enter into a Property Vegetation Plan with Local Land Services to provide for the long-term protection of the property as required as a condition of grant funding.
- 4) Rezone the site to E(2) in the next available amendment to Great Lakes LEP 2014.

Resolution / Minutes

3 RESOLUTION

(Moved L Gill/Seconded K Hutchinson)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Cr J McWilliams, Cr J Morwitch, Cr L Roberts, Cr C McCaskie, Cr A Summers, Cr K Hutchinson, Cr L Gill.

ABSENT. DID NOT VOTE - Cr L Vaughan, Cr J Weate.

D4 Extracts of Officer's Recommendation and Minutes of Great Lakes Council Strategic Committee Meeting Held on 10 June 2014

Lot Item No. in Master list:

1. Lots 102, 103 & 201 DP 753212
2. Lots 76, 77 & 78 DP 753212

3. *Lot 72 & 111 DP 753212*
4. *Lot 141 DP 1043081 and Lot 6179 DP 1151512*
5. *Lot 601 DP 1171576*
6. *Lot 21 DP 1127893 and Lot 42 DP 1185122*

2 PES - Programmed Amendments to Local Environmental Plan 2014

Index: SP-PP-LEP 2014 Am2
Author: Senior Strategic Land Use Planner - Alexandra Macvean
Strategic Committee Meeting: 10 June 2014

Report Extract / Recommendation

Planning Proposal of General Amendments

It is recommended that the following matters relating to development assessment be consolidated into one 'general amendments' planning proposal, the draft content of which is provided in Attachment A to this report. These matters include:

1. Mapping Amendments - Council land to be rezoned for environmental protection purposes

The following properties have come into Council ownership since exhibition of the new comprehensive LEP. These properties have demonstrated high environmental value and are to be rezoned to an appropriate environmental zone. Council has already resolved to proceed with four of these rezonings, while an additional five have arisen since Council's initial decision. The two groups are as follows

Four (4) endorsed rezonings:

1. Lots 102, 103 & 201 DP753212 Minimbah Road, Nabiac: RU2 Rural Landscape to E2 Environmental Conservation
2. Lots 76, 77 and 78 DP 753212 Gareeba Island, Tuncurry: E2 Environmental Conservation and E3 Environmental Management to E2 Environmental Conservation
3. Lot 141 DP 1043081 The Southern Parkway, Forster: R3 Medium Density Residential to E3 Environmental Management
4. Lot 6179 DP 1151512 The Southern Parkway, Forster: RE1 Public Recreation to E3 Environmental Management

Five (5) additional rezoning's proposed:

- Lot 101 DP 1178278 Myall Way Tea Gardens: E3 Environmental Management to E2 Environmental Conservation
5. Lot 601 DP 1171576 Bulahdelah: RU2 Rural Landscape to E2 Environmental Conservation and E3 Environmental Management to E2 Environmental Conservation
 6. Lot 72 and Lot 111 DP 753212 Wallamba Island: E3 Environmental Management to E2 Environmental Conservation

7. Lot 21 DP 1127893 Darawank Close, Darawank: E2 Environmental Conservation to E1 National Parks and Nature Reserves
8. Lot 42 DP 1185122 The Lakes Way, Darawank: RU2 Rural Landscape to E2 Environmental Conservation

These parcels are already classified as Community Land and rezoning these allotments to an appropriate environmental zone is not expected to cause community concern. Maps identifying the location of all of these properties are provided in Attachment A to this report.

RECOMMENDATION:

Planning Proposal of General Amendments

- A. In accordance with Section 55 of the Environmental Planning and Assessment Act 1979 Council resolve to prepare a Planning Proposal to undertake General Amendments to Great Lakes Local Environmental Plan (LEP) 2014 incorporating:
 1. Map Amendments - Rezoning Council land for environmental protection
 2. New Local Clause - Short-term rental accommodation
 3. Additions to Schedule 5 - Heritage Items on Council and Crown land
 4. New Local Clause - Development near zone boundaries on land known as Riverside, Tea Gardens; and
 5. New Local Clauses - Boundary realignment and subdivision which may create lots less than the minimum lot sizeand once prepared, the planning proposal be submitted to NSW Planning and Environment for a Gateway Determination.
- B. In accordance with Section 59 of the Environmental Planning and Assessment Act 1979 Council request written authorisation from NSW Planning & Environment to exercise its plan making delegations to undertake the Planning Proposal of General Amendments.
- C. If NSW Planning & Environment grant a Gateway Determination to proceed with the Planning Proposal of General Amendments, consultation be undertaken with the community and government agencies in accordance with Section 57 of the Environmental Planning and Assessment Act 1979 and any directions of the Gateway Determination.

Planning Proposal to rezone Lot 22 DP 843479 The Southern Parkway (Lampo Pty Ltd)

- M. In accordance with Section 55 of the Environmental Planning and Assessment Act 1979 Council resolve to prepare a Planning Proposal to amend Great Lakes Local Environmental Plan (LEP) 2014 by rezoning Lot 22 DP 843479 The Southern Parkway, Forster to E2 Environmental Conservation and once prepared, the planning proposal be submitted to NSW Planning and Environment for a Gateway Determination.
- N. If NSW Planning & Environment grant a Gateway Determination to proceed with the Planning Proposals to amend undertake General Amendments to Great Lakes Local Environmental Plan (LEP) 2014 by rezoning Lot 22 DP 843479 The Southern Parkway, Forster to E2 Environmental Conservation, consultation be undertaken with the community and government agencies in accordance with Section 57 of the Environmental Planning and Assessment Act 1979 and any directions of the Gateway Determination.

Resolution / Minutes

2 PES - Programmed Amendments to Local Environmental Plan 2014

Index: SP-PP-LEP 2014 Am2
Author: Senior Strategic Land Use Planner - Alexandra Macvean
Strategic Committee Meeting: 10 June 2014

134 RESOLUTION

(Moved K Hutchinson/Seconded L Gill)

That the above recommendation be adopted subject to:

Item 1A1 being amended to state:

"The rezoning of Lot 101 DP 1178278, owned by Council, from E3 Environmental Management to E2 Environmental Conservation be deferred for further consideration":

Item 1A5 being amended to state:

"New Local Clauses - to permit boundary adjustments (where no additional lots are created) and to permit subdivisions that will create additional lots only in circumstances where there will be no land use conflicts, no adverse impact on the agricultural viability or natural values of the land and will not unreasonably increase the demand for services and infrastructure".

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

The results of this division were as follows:

FOR VOTE: Cr J McWilliams, Cr J Morwitch, Cr L Roberts, Cr C McCaskie, Cr A Summers, Cr K Hutchinson, Cr L Vaughan, Cr L Gill

ABSENT DID NOT VOTE: Cr J Weate

D5 [Extracts of Officer's Recommendation and Minutes of Great Lakes Council Strategic Committee Meeting Held on 23 June 2015](#)

Lot Item No. in Master list:

4. *Lot 3 DP 1220179*

Report Extract / Recommendation

CLOSED COUNCIL

Subject: PESCONF - Acquisition of Part Lot 6181 DP

Index: NS-Catch-wetland, NS-Storm-PIPERS
Author: Manager Natural Systems - Gerard Tuckerman
Ordinary Meeting: 23 June 2015

Report Extract / Recommendation

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

RECOMMENDATION:

That Council:

1. Approves the purchase of part Lot 6181 DP 1151512 (proposed lot 3 on Plan of Proposed Subdivision of Lot 1681 DP1151512) and that the Common Seal of Council be affixed as required to the contract relating to the purchase of the identified property.
2. Pursuant to Section 31(2) of the Local Government Act 1993, classify the land as community land, natural area, wetland and that the parcel of land acquired be added to Appendix C of Council's Plan of Management - Community Land.
3. Rezone the site to E(2) at the next LEP amendment.

Resolution / Minutes

RESOLUTION

(Moved K Hutchinson/Seconded L Gill)

That the above recommendation be adopted.

D6 [Extracts of Officer's Recommendation and Minutes of Great Lakes Ordinary Council Meeting Held on 26 April 2016](#)

Lot Item No. in Master list:

9. *Lot 90 & 242 DP 753212*

Report Extract/Recommendation

CLOSED COUNCIL

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

It is considered that it would be contrary to the public interest for this matter to be discussed in an open meeting. The disclosure of information such as valuation ranges and negotiated prices prior to acceptance may disadvantage Council in ensuring that only a reasonable price is paid for land and that ratepayers are not impacted by Council having to pay a premium.

RECOMMENDATION:

That Council:

- 1) Approves the purchase of part Lots 90 and 242 DP 753212 and that the Common Seal of Council be affixed as required to the contract relating to the purchase of the identified property.
- 2) Pursuant to Section 31(2) of the Local Government Act 1993, classify the land as community land, natural area, wetland and that the parcel of land acquired be added to Appendix C of Council's Plan of Management - Community Land.
- 3) Rezone the acquired property and immediately adjacent crown reserve to E(2) at the next LEP amendment.

Resolution / Minutes

425 RESOLUTION

(Moved K Hutchinson/Seconded L Gill)

That Council:

- 1) Approves the purchase of part Lots 90 and 242 DP 753212 and that the Common Seal of Council be affixed as required to the contract relating to the purchase of the identified property.
- 2) Pursuant to Section 31(2) of the Local Government Act 1993, classify the land as community land, natural area, wetland and that the parcel of land acquired be added to Appendix C of Council's Plan of Management - Community Land, and that MidCoast Water's interests are fully acknowledged and maintained in the acquisition process and included in the Plan of Management.
- 3) Rezone the acquired property and immediately adjacent crown reserve to E(2) at the next LEP amendment.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE – Cr L Roberts, Cr J Morwitch, Cr C McCaskie, Cr A Summers, Cr K Hutchinson, Cr L Gill, Cr L Vaughan.

ABSENT. DID NOT VOTE - Cr J McWilliams

D7 Extracts of Officer's Recommendation and Minutes of MidCoast Council Meeting Held on 25 May 2016

Lot Item No. in Master list:

1. Lot 36 DP 822638, Lot 230 753212, Lot 7321 DP 1162400 & Lot 7314 DP 1163862

Report Extract/Recommendation

CLOSED COUNCIL

17 PESCONF - Acquisition of Lot 36 DP822638 & Lot 230 DP753212 - Minimbah

Index: NS-Catch-WL-Wetland
Author: Manager Natural Systems - Gerard Tuckerman
Ordinary Meeting: 25 May 2016

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

It is considered that it would be contrary to the public interest for this matter to be discussed in an open meeting. The disclosure of information such as valuation ranges and negotiated prices prior to acceptance may disadvantage Council in ensuring that only a reasonable price is paid for land and that ratepayers are not impacted by Council having to pay a premium.

Resolution / Minutes

44/16 **RESOLVED** (Turner)

That Council:

1. Approves the purchase of Lot 36 DP 822638 and Lot 230 DP 753212 and that the Common Seal of Council be affixed as required to the contract relating to the purchase of the identified property.
2. Pursuant to Section 31(2) of the Local Government Act 1993, classify the land as community land, natural area, wetland and that the parcel of land acquired be added to Appendix C of Council's Plan of Management Community Land.
3. Rezone the acquired property and immediately adjacent Crown foreshore reserve to E(2) Environmental Conservation at the next LEP amendment.
4. Enter into a Property Vegetation Plan (PVP) or similar protective covenant to provide for the long term protection of the property.

D8 [Extracts of Officer's Recommendation and Minutes of MidCoast Council Meeting Held on 14 December 2016](#)

Lot Item No. in Master list:

1. *Lot 75 & Part Lot 74 DP 753212*

Report Extract/Recommendation

CLOSED COUNCIL

17 **WALLAMBA RIVER WATER QUALITY IMPROVEMENT LAND ACQUISITION CONFIDENTIAL**

Report Author **Gerard Tuckerman, Manager Natural Systems, (Forster)**

File No. / ECM Index **NS-CATCH-WL-WETLAND**

Date of Meeting **14 December 2016**

REASON FOR CONFIDENTIALITY

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

It is considered that it would be contrary to the public interest for this matter to be discussed in an open meeting. The disclosure of information such as valuation ranges and negotiated prices prior to acceptance may disadvantage Council in ensuring that only a reasonable price is paid for land and that ratepayers are not impacted by Council having to pay a premium.

Resolution / Minutes

126/17 RESOLVED (Turner) *(as per recommendation)*

It is recommended that:

1. Approves the purchase of Lot 75 DP753212 and part Lot 74 DP 753212 (proposed Lot 2 DP1222029) and that the Common Seal of Council be affixed as required to the contract relating to the purchase of the identified property;
2. Pursuant to Section 31(2) of the Local Government Act 1993, classify the land as community land, natural area, wetland and add the acquired land to Appendix C of Council's Plan of Management - Community Land.
3. Rezone the acquired property to E(2) at the next LEP amendment.

D9 [Extracts of Officer's Recommendation and Minutes of MidCoast Council Meeting Held on 28 June 2017](#)

Lot Item No. in Master list:

- 12. *Lot 47 & Part Lot 45 DP 753141*

CLOSED COUNCIL

21 WALLIS LAKE WETLANDS - WATER QUALITY IMPROVEMENT LAND ACQUISITION

Report Author Gerard Tuckerman, Manager Natural Systems
File No. / ECM Index NS-CATCH-WL-WETLAND
Date of Meeting 28 June 2017

Report Extract/Recommendation

REASON FOR CONFIDENTIALITY

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

It is considered that it would be contrary to the public interest for this matter to be discussed in an open meeting. The disclosure of information such as valuation ranges and negotiated prices prior to acceptance may disadvantage Council in ensuring that only a reasonable price is paid for land and that ratepayers are not impacted by Council having to pay a premium.

Resolution / Minutes

126/17 RESOLVED (Turner) (as per recommendation)

1. Council approves the purchase of Lot 47 DP753141 and part Lot 45 DP 753141 identified as future lot 2 in Attachment A (Note - Lots 45 and 47 DP 753141 are to be consolidated prior to the acquisition and proposed Lot 2 will be identified as the wetland acquisition area) and that the Common Seal of Council be affixed as required to the contract relating to the purchase of the identified property;
2. Pursuant to Section 31(2) of the Local Government Act 1993, classify the land as community land, natural area, wetland and add the acquired land to Appendix C of Council's Plan of Management - Community Land.
3. Rezone the acquired property to E(2) at the next LEP amendment

Appendix E Item 2 - Rezoning of Macwood Road and Matthew Road, Smiths Lake

Council Officer's Report and Meeting Minute Extracts

Great Lakes Council Strategic Committee Meeting 12 November 2013

Lot Item No. in Master list:

13. Lot 52 DP 708662

Report Extract/Recommendation

Subject:

Index: SP-LEP-54; Comprehensive Planning Instrument Shire Wide LEP

Author: Senior Strategic Land Use Planner - Alexandra Macvean

Strategic Committee Meeting: 12 November 2013

SUMMARY OF REPORT:

This report summarises the deferred rezoning requests received during public exhibition of Draft Great Lakes Local Environmental Plan 2012 (Draft LEP 2012) and is to be read in conjunction with the information provided in Attachment A to this report.

Individuals who submitted rezoning requests during the public exhibition of Draft LEP 2012 have been invited to make oral presentations at the meeting. This report and the Attachment provide some background to the presentations.

SUMMARY OF RECOMMENDATION:

Council note the information in the report, the attachment to the report and the oral presentations.

Recommendations on each rezoning request be tabled at a future Strategic Committee meeting.

FINANCIAL/RESOURCE IMPLICATIONS:

There are significant resource implications for the Strategic Land Use Planning, Natural Systems and Information Technology (GIS Mapping) sections of Council.

POLICY IMPLICATIONS:

Applications for the rezoning of land must be undertaken in accordance with Council Policy PL-PLN-003 Procedure for Preparation and Processing of Planning Proposals.

LEGAL IMPLICATIONS:

Not determined at this stage.

LIST OF ANNEXURES:

Nil.

LIST OF ATTACHMENTS:

A: Rezoning Request Summary Document.

Due to its large size, Attachment A has been circulated in hard copy to Councillors and Senior Staff only as a paper conservation measure. However, this Attachment is publicly available on Council's Website, copies are available at Council offices and copies are available on request.

PUBLIC EXHIBITION

Public exhibition of Draft Great Lakes Local Environmental Plan 2012 and Draft Great Lakes Development Control Plan 2012 was held between 14 June and 24 August 2012.

Council, in considering rezoning submissions to draft LEP 2013, resolved to defer those rezoning requests that could not be dealt with as amendments to the draft LEP. It was Council's intention to defer these matters until after the draft LEP had been finalised. Council also resolved to hear oral presentations from the people who made rezoning requests and these presentations would be scheduled once draft LEP 2013 has been finalised.

This report addresses the deferred matters by inviting individuals and company representatives to make oral presentations to Council so that the rezoning requests may be considered for possible inclusion into Council's future work program of amendments to LEP 2013.

Any amendments to LEP 2013 that originate from landowner rezoning requests or applications, must be undertaken in accordance with Council's policy (PL-PLN-003) Procedure for Preparation and Processing of Planning Proposals.

The following properties were the subject of requests for rezoning but are being addressed through a separate process and therefore have not been included in this report:

- Various land holdings within Forster that are owned by Lampo Pty Ltd, Garhawk Pty Ltd, and Bombala Pty Ltd are being addressed through a separate planning proposal process;
- Lot 141 DP1043081 The Southern Parkway Forster, has now been purchased by Council and rezoning of this land for environmental protection shall be undertaken as part of the first round of rezoning amendments to LEP 2013; and
- Lot 108 DP260058 Mungo Brush Road, Hawks Nest is being considered as part of the larger North Hawks Nest conservation and development planning proposal.

REPORT:

This report provides a summary of the deferred rezoning requests received during the public exhibition of Draft Great Lakes LEP 2012 only and is to be read in conjunction with the additional information provided in Attachment A to this report.

Information in the handout includes notes from the rezoning requests received as submissions to draft LEP 2013 and planning matters identified by Council officers that require further consideration.

Recommendations on the priority of each rezoning request within the context of the Strategic Land Use Planning work program of local environmental plan amendments will be tabled at a future Strategic Committee meeting.

14. **Smiths Lake, Lot 52 DP708662 corner of Macwood Road & Matthew Road**

LEP 2013 will transition the existing dual-zoning of the allotment from 1(a) Rural and 1(d) Small Holdings to RU2 Rural Landscape and R5 Large Lot Residential and it is requested that the entire allotment be rezoned to allow:

- Establishment of a museum/gallery and associated café within the existing office building;
- Tourist and visitor accommodation facilities; and
- The subdivision of one portion of the property fronting Matthew Road to finance the proposed development.

RECOMMENDATION:

- A. Council note the information in the report, the attachment and the oral presentations.
- B. Recommendations on each rezoning request be tabled at a future Strategic Committee meeting.

Resolution / Minutes

RESOLUTION

(Moved K Hutchinson/Seconded C McCaskie)

That the points 1-15 and 17-19 contained in the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Cr J McWilliams, Cr J Morwitch, Cr L Roberts, Cr C McCaskie, Cr K Hutchinson, Cr L Gill, Cr L Vaughan, Cr J Weate

ABSENT. DID NOT VOTE - Cr A Summers

Cr McCaskie declared a pecuniary interest and left the meeting and took no part in discussion or voting.

Lot Item No. in Master list:

14. Lot 26 DP 1120907

Officer's Report

2 ENVIRONMENTAL REZONING - CONSERVATION LOT - MINIMBAH

Report Author Mathew Bell, Senior Ecologist
File No. / ECM Index Conservation & Development Strategies
Date of Meeting 26 July 2017

SUMMARY OF REPORT

Lot 26 DP1120907 Warringa Circuit Minimbah is of recognised significant conservation value and must be actively protected and managed under the terms of development consent DA491/2005 as a conservation area.

The registered proprietor of the land has an obligation to care and protect, restore and nurture Lot 26 outside the area of a specified one (1) hectare designated building envelope.

Given the ecological values and recognised significance of the land, it is evident that Lot 26 is not appropriately zoned currently as R5 Large Lot Residential land. There is satisfactory planning and scientific evidence now documented that Lot 26 in its entirety should be zoned E2 Environmental Conservation land under the applying LEP. This would appropriately and adequately reflect the ecological values and character of the land.

As such, this report proposes that a future planning proposal be prepared at the first opportunity to zone all of Lot 26 DP1120907 to E2 Environmental Conservation.

SUMMARY OF RECOMMENDATION

That Council prepare a Planning Proposal at the first available opportunity to rezone Lot 26 DP1120907 Warringa Circuit Minimbah to E2 Environmental Conservation, and amend the Minimum Lot Size Map to increase the lot size to 40 hectares, due to its conservation significance and the need for the land to be managed as a conservation lot.

FINANCIAL/RESOURCE IMPLICATIONS

There would be some resource implications for Council staff in preparing the future planning proposal. This would be undertaken in-house and accommodated within existing staff work programs. There is satisfactory information available to support the planning proposal and new investigations are not deemed required. Consequently, financial and resourcing implications are minimal.

LEGAL IMPLICATIONS

There are no special legal implications.

DISCUSSION

The land that is the subject of this report is Lot 26 DP1120907 Warrina Circuit Minimbah (hereafter referred to as the "Lot 26"). Lot 26 is 71.16 hectares in size and is presently zoned R5 Large Lot Residential under the Great Lakes Local Environmental Plan 2014. A plan of Lot 26 is provided in Annexure A to this report.

Lot 26 has been consistently recognised by Council, state government authorities, the NSW Land and Environment Court and consultants acting for the landowner as an area of very high ecological significance.

It was referred to as a "conservation area" in the development consent that created Lot 26 (71 hectares) and which provided for the large lot residential subdivision that has been formed on land west of Lot 26.

Lot 26 has, by conditions of development consent DA491/2005, a one (1) hectare nominated dwelling footprint and bushfire asset protection zone area, with the residue of Lot 26 being required to be managed by the registered proprietor for conservation purposes, by avoiding clearing works and other damaging activities such as grazing and by implementing an approved Habitat Management Plan for the area. The dwelling envelope area on Lot 26 from the plan of subdivision is provided as Annexure B in this report.

Despite its high ecological value Lot 26 is still zoned R5 Large Lot Residential in the Great Lakes LEP 2014 (LEP 2014) and the zoning should be amended to E2 Environmental Conservation to reflect the high ecological values of the land. The Minimum Lot Size Map of LEP 2014 also currently indicates a minimum lot size of 1ha and this should also be increased to 40 hectares which is the standard for the E2 Environmental Conservation Zone.

The ecological values of Lot 26, combined with the registered proprietor's obligations to conserve and manage Lot 26, indicate that E2 Environmental Conservation is the appropriate zoning category that should be applied to the land. The ecological significance of Lot 26 precludes further development for the purpose of large lot residential development. DA491/2005 has resolved the appropriate development and conservation balance of the land. An aerial image of Lot 26 is provided in Annexure C to this report.

Despite the inherent significance of Lot 26, there has been a history of actual and alleged unlawful clearing and harm to threatened species, native vegetation and ecological values.

This history is detailed below:

- In 1996, the current landowner, Mr Ronald George Mr Wilkinson (Hockitt Pastoral Company Pty Ltd) commissioned Ecotone Ecological Consultants who prepared a report entitled "Threatened Fauna Species Assessment for the Proposed Rural Residential Subdivision Lots 1, 2 & 3 DP259966 Minimbah Road" for Degotardi, Smith & Partners Pty Ltd. They identified the presence of six (6) threatened fauna species (brush-tailed phascogale, koala, squirrel glider, little bentwing-bat, osprey and masked owl) and reported that the land contained habitats and features of high ecological significance, including:
 - many hollow-bearing trees,
 - inter-connectivity of habitat with proximal and adjoining lands,
 - poorly-conserved vegetation types and fauna habitats,
 - significant large tree resources,

- relatively high faunal species diversity,
 - a significant, viable, breeding population of the threatened species, brush-tailed phascogale,
 - the presence of a breeding female koala,
 - a very diverse arboreal mammal faunal species assemblage including two (2) threatened species (koala and squirrel glider) and the locally-significant greater glider,
 - a good reptile and amphibian species diversity, and
 - a nest site for the threatened osprey.
- In 1999, the registered proprietor undertook activities on the land that cleared native vegetation and harmed threatened species habitats.
 - The land on which these offences occurred was at the time described as Lot 22 DP871233. The current Lot 26 (the subject of this report) was part of that original Lot 22.
 - In the Land and Environment Court prosecution that related to the clearing work, the relevant facts agreed to and discussions of the Court included:
 - In July 1996, Mr Wilkinson lodged an application with the Department of Land and Water Conservation under SEPP46 seeking consent for the clearing of 58 hectares of native vegetation on Lots 21 and 22. At the time of this application, approximately 10% of Lots 21 and 22 were cleared of native vegetation. The previously cleared land was not included in the SEPP46 application.
 - On 22 January 1997, Degotardi, Smith & Partners lodged a Development Application for Lot 22 and the adjoining Lot 21 871233 with Great Lakes Council on behalf of Mr Wilkinson for a 73 lot rural residential subdivision and inclusive of a central conservation area.
 - On 27 February 1997, Great Lakes Council requested that a Species Impact Statement be prepared to support the Development Application.
 - On 17 March 1997, Mr Wilkinson amended the SEPP46 clearing application.
 - On 28 October 1997, a Species Impact Statement was submitted to Great Lakes Council. The Species Impact Statement found:
 - two (2) broad vegetation community types occur on the land, namely mixed dry eucalypt forest and cleared/ modified areas,
 - large mature trees were well represented and large numbers of hollow-bearing trees occurred on the land,
 - the land provided habitat for a very well-developed native species assemblage from all fauna groups and particularly in relation to arboreal mammal diversity and abundance, and
 - the land contains populations of and habitat known to be used by six (6) threatened fauna species.

- On 5 March 1998, the Development Application was amended seeking consent for a 64 lot rural residential subdivision and a conservation area.
- Following further discussions with Great Lakes Council, the Development Application was further amended to create a 48 lot rural residential subdivision and 45 hectare conservation allotment.
- On 17 June 1998, Mr Wilkinson further amended the SEPP46 clearing application so that it was consistent with the revised development application lodged with Great Lakes Council.
- On 14 July 1998, Great Lakes Council granted deferred commencement consent for a further amended application to create a 47 lot rural residential subdivision and a conservation allotment. This consent never became operative because the deferred commencement conditions were not fulfilled.
- On 17 July 1998, the Department issued a Notice of Determination in respect of the application to clear native vegetation subject to conditions. Consent was granted to clear approximately 15 hectares of land for the purpose of the rural residential subdivision. An area of approximately 70 hectares was required to be retained in an undisturbed state to conserve habitat and mitigate impacts on threatened species including the brush-tailed phascogale, squirrel glider and koala, as well as other resident and seasonal fauna. A 100 metre protection zone was established around the osprey nest tree. Under the consent granted by the Department, approximately 27 rural residential lots could have been created on Lots 21 and 22.
- Between January 1999 and November 1999, Mr Wilkinson with two (2) other people acting under Mr Wilkinson's instructions, cleared native vegetation from 34.3 hectares of the land, of which 25.6 hectares was on land that was required to be retained as conservation within the Department's consent, 6.9 hectares that was cleared contrary to the conditions of the consent and 1.8 hectares cleared outside the area included in the application.
- The clearing referred to above was undertaken by removing ground cover, understorey vegetation and canopy trees and involved the use of bulldozers. The felled vegetation was pushed into windrows using a rake and some of it was burnt. In general, larger trees were not harmed. The clearing generally was restricted to ridges and adjoining slopes and it avoided drainage lines.
- Departmental investigations into the clearing activity were undertaken and which described the change to the vegetation of the land in the period between October 1996 and October 2000. The investigation identified:
 - a loss of native vegetation that would have been greater than 10 years of age being Eucalyptus and Corymbia canopy trees, including hollow-bearing and roost trees,
 - a loss of almost all of the Allocasuarina understorey trees,
 - a loss of Eucalyptus species in the understorey, some of which would have been older than 10 years of age,
 - a change in vegetative structure from open forest in 1996 to tall woodland in 2000,

- a loss of ground refugia, including native vegetation ground cover, hollow logs and leaf litter,
 - evidence of a fire after the clearing,
 - an increase in the occurrence and number of exotic species,
 - an increase in floristic diversity of the groundcover and shrub layer,
 - an increase in shrub cover, primarily of coloniser species, and
 - disturbance of the surface soil by bulldozer tracks and an increase in the percentage of bare ground
 - the native vegetation of the land prior to clearing was of conservation significance and biodiversity value and the clearing activities had "removed a sizeable area of Spotted Gum/ Ironbark forest community which was of good condition and integrity" and had "significantly reduced fauna diversity, biodiversity and conservation values".
- In April 2001 and May 2001, the land was inspected by independent witnesses with expertise relating to various threatened species. These witnesses identified a range of serious, negative consequences on the little bentwing-bat, brush-tailed phascogale and squirrel glider as a consequence of the effects of the clearing activities.
 - The parties' respective expert witnesses discussed and made comment on the timeframe over which habitat equivalent to that which existed on the land prior to the clearing would be achieved.
 - Mr Wilkinson provided full and frank cooperation with prosecutors and made certain admissions in relation to the matter in that:
 - the land had been purchased for the purpose of rural residential subdivision development (which was permitted with approval under the land's zoning) but the Department's consent for 24 lots was less than the 106 lots he sought and was *"not a viable proposition for development"*, and
 - he *"took the matter into his own hands to clear vegetation from the land regardless of the Department's conditions"*
 - Mr Wilkinson entered into a 10 year Conservation Property Agreement under Part 5 of the Native Vegetation Conservation Act 1997 over the area of land to be retained for conservation purposes as identified in the Department's clearing consent conditions. The Property Agreement expiry date was 27 September 2012. The Property Agreement established certain obligations pertaining to the management and protection of the conservation area. This included the provision of habitat restoration works and annual weed inspection and removal as well as the active preclusion of any damaging activities. The Agreement provided for one (1) single house site, with the conservation area to be fenced with plain wire, stock-proof fencing.
 - On 27 September 2002, the NSW Land and Environment Court of New South Wales issued a judgment in the matter Director General of National Parks and

Wildlife v Mr Wilkinson & Anor and Director General of the Department of Land and Water Conservation v Mr Wilkinson & Anor [2002]; NSWLEC 171.

- The defendant was charged with "*knowingly causing damage to the habitat of threatened species between 25 March 1999 and 30 November 1999, contrary to s118D(1) of the National Parks and Wildlife Act 1974*". The charges related to separately-affected species, brush-tailed phascogale, squirrel glider and little bentwing-bat.
- The defendant was also charged with clearing native vegetation between 1 January 1999 and about 14 November 1999 contrary to s21(2) of the Native Vegetation Conservation Act 1997.
- The offences were considered to be significant and serious and had affected important and sizeable area including habitat for threatened fauna species, with the effects of the impact to be ongoing (over a long-term) until the habitat is fully re-established. Adding to the seriousness of the impact of the clearing, was the fact that clearing had been caused by bulldozing and which resulted in a "large change" including to the extent of bare soil and tree density in the canopy layer. Further, the clearing was carried out "wilfully, in the full knowledge that it was unlawful" and "motivated by a desire for commercial profit".
- Mr Wilkinson was convicted of various offences and ordered to pay fines totalling \$43,500 and costs of \$50,000.
- After the resolution of the Court matter, a development consent (DA464/2004) was issued by Great Lakes Council to subdivide Lot 22 into eight (8) rural residential lots and one (1) residue lot (Lot 8). Lot 8 contained the area of conservation (and the area that was unlawfully cleared - including the current Lot 26).
- Two ecological reports were submitted as part of the development application:
 - Anne Clements & Associates, 2003, Flora Assessment (attached as Document 4), and
 - Ambrose Ecological Services, 2003, Fauna Survey and Assessment (attached as Document 5).
- On 29 November 2004, Great Lakes Council received a further development application to further subdivide Lot 8 (part of Lot 22 DP871233) into eighteen (19) rural residential lots and one residue lot (Lot 26). The residue lot was proposed as a conservation lot and totalled approximately 70 hectares. According to the Statement of Environmental Effects (Coastplan Consulting), "*the central southern and eastern parts of the site, encompassing an area of approximately 70-hectares is a 'conservation area' which is the subject of a property agreement that arose from legal proceedings instituted by the former NSW Department of Land and Water Conservation for the clearing of land... The Land and Environment Court, in its judgment ... noted that the landowner had entered into a property agreement with the Director-General of DLWC under Part 5 of the Native Vegetation Conservation Act in relation to land to be retained for conservation purposes. The Court subsequently made orders pursuant to s118E of the NP&W Act 1974 requiring the restoration of threatened species habitat. Those orders incorporated the property agreement... The creation of an allotment is proposed which is in keeping with that agreement.*

It should be noted that the property agreement sets aside an area (dwelling-site) of approximately one (1) hectare that may be developed for the purposes of a single dwelling with the relevant approvals...

This development application does not include any proposal for the development or use of that part of the one hectare area of proposed Lot 26 that is set aside by the property agreement for development for the purposes of a single dwelling with the relevant approvals".

- At Council's request, the Applicant provided a new Flora and Fauna Assessment for the proposed subdivision. This was prepared by Conacher Travers (July 2005). The Conacher Travers study detected the presence of the brush-tailed phascogale and the squirrel glider on the Land. It also detected Varied Sitella, which was not listed as threatened at the time of that report, but is currently listed as a threatened species in New South Wales.
- Following comments from Great Lakes Council, the proposed subdivision plan was amended to include a 1.0 hectare dwelling area inclusive of a dwelling envelope and bushfire asset protection zone, which was located to in the west of proposed Lot 26, to the north of the battle-axe access handle. The Statement of Environmental Effects was also amended.
- Great Lakes Council considered that the detection during the Ambrose Ecological Surveys (2003) field surveys of only two (2) of the six (6) threatened fauna species that had been identified by Ecotone Ecological Consultants in 1996 as well as the failure to detect the greater glider on the land was evidence of the "true ecological implications of the illegal clearing event" on the land (memo of Bell to May, dated 25 October 2005).
- The aforementioned memo noted that the development application could be approved subject to conditions that "effectively and meaningfully conserved and managed in perpetuity following the completion of the current 10 year Registered Property Agreement. This land has demonstrated ecological significance for threatened species and hence should not be subjected to any ability to modify or clear habitat outside the 1-hectare dwelling envelope". A Restriction as to Use/ Public Positive Covenant under s88B and s88E of the Conveyancing Act 1919 was put forward as the appropriate condition to protect the significant threatened species habitats.
- Notice of determination granting consent subject to conditions for DA491/2005 was issued by Great Lakes Council on 17 November 2005. The consent was granted with a condition (Condition 19b) that required the establishment of a Public Positive Covenant under s88E of the Conveyancing Act 1919 to protect the habitats on Lot 26 outside the 1 hectare development area. This condition stated:
 19. The following Restrictions as to User are to be entered onto the title of the specified Lots (s88B or s88E Instrument, where appropriate), with Great Lakes Council nominated as the body empowered to modify or waive such requirements:
 - c) s88E Instrument restricting the clearing, removal, modification of or damage to native vegetation from any vegetative strata (trees, shrubs, groundcovers, wetland plants or vines) and excluding development (as defined by the EP&A Act) except for the establishment and maintenance of boundary fencing, from all of Lot 26 outside the 1-ha development area

and from the 50m Pacific Highway buffer zone on Lot 8. These areas shall be allowed to naturally regenerate and mature. The provisions of the Instrument shall not preclude the removal of invasive noxious or environmental weeds from the lands, provided that such weeds are removed in accordance with best practice management and do not negatively impact upon natural vegetation. On Lot 26, this shall be in addition to the current Registered Property Agreement that applies to part of this land, but which expires in September 2012.

- Other conditions were adopted that established a dwelling envelope on Lot 26 (Condition 19a), restricted the keeping of cats and control of dogs on Lot 26 (Condition 19d) and required that, at the time of lodgement of a development application for the purpose of the establishment of a dwelling, shed or other structure on Lot 26, that a Habitat Management Plan be prepared for the conservation area (Condition 19e). Condition 21 required that trees and shrubs removed from the land be used in landscaping in log form or as mulch and that no such material was to be burnt.
- Great Lakes Council received correspondence from Low Doherty & Stratford Lawyers dated 13 March 2006 representing Hockitt Pastoral Company (Mr Wilkinson) which sought a s82A review of the consent for DA491/2005 and specifically seeking that Conditions 19c and 19e be deleted from the consent.
- On 11 April 2006, an application to modify the consent for DA491/2005 such that Conditions 19c and 19e be deleted from that consent was lodged with Great Lakes Council.
- The modification application was forwarded to Council's Solicitor, Mr Peter Rees for legal advice (dated 22 May 2006). A response to the seeking of legal advice in the matter was received in correspondence from Peter Rees to Great Lakes Council dated 9 August 2006. This refuted the deletion of Conditions 19c and 19e and proposed revised wording and maintenance of those conditions.
- The Department of Natural Resources provided correspondence to Council dated 27 July 2006, which supported Council's legal ability to apply Conditions 19c and 19e.
- Hockitt Pastoral Company Pty Ltd commenced Class 1 proceedings in the NSW Land and Environment Court on the 17 October 2006 against Great Lakes Council in which it appealed against or objected to Conditions 19c and 19e of the development approval.
- A memo of Bell to May dated 8 November 2006 was prepared which recommended that Conditions 19c and 19e not be deleted, but be replaced with amended wording as advised by Council's Solicitor, Mr Peter Rees.
- A report was on the application to modify consent for DA491/2005 was considered by Great Lakes Council at its meeting on the 28 November 2006. Council resolved:
 - That the application to modify Development Consent No 491/2005 to delete Conditions 19c and 19e be refused for the reasons as contained in the report.
 - That Development Consent No 491/2005 be modified by substituting Conditions 19c and 19e with the conditions as outlined in the report.
- The Applicant and the Respondent in the Court matter appointed expert witnesses, being Dr Andrew Smith for the Respondent and Dr David Robertson for the Applicant.

A joint statement was prepared and filed with the Court on 14 May 2007. The matter was heard by the Court on the 5 July 2007. A judgment was issued on the 17 August 2007 (Document 13). Pertinent findings of the judgment are presented below:

- The experts agreed that the site had high ecological significance before it was cleared and the land has habitat for threatened fauna species, which is possible to conserve in the long term (paragraph 23).
- I consider it a separate matter that other reasonable conditions of consent should be imposed on the subdivision development, which protect the ecological qualities of the designated "conservation" Lot 26, so as to satisfy the planning controls, particularly the environmental protection objectives in DCP 31. This is consistent with the approach that the development consent for the subdivision provides certain benefits in the form of additional allotments for residential use, but there is an associated burden that the conservation status of the adjoining Lot 26 be protected (paragraph 30).
- I rely on the details submitted by the applicant in the various Statements of Environmental Effects, which identify the conservation status of Lot 26 as part of the overall development of the subject land. This proposition was then confirmed in the Conacher Travers 'Flora and Fauna Assessment - July 2005', which recommended remedial conditions that would obviate the necessity for a Species Impact Statement (paragraph 31).
- I am satisfied that there is a direct connection between the approved subdivision, which contains the designated 'conservation' Lot 26 and the reasonableness of conditions of consent that protect the ecological features of this lot, in addition to the provisions of the Registered Property Agreement. Accordingly, I do not accept ... that the original conditions 19c and 19e should be deleted (paragraph 33).
- Insofar as Council prefers the imposition of an s88E covenant on the land... I consider that this intention can be adequately covered by appropriate conditions of consent (paragraph 34).
- It seems to me that the ecological evidence requires the implementation of additional management strategies to aid in the minimisation of impact of the development upon the habitats of threatened species. I am satisfied that such a condition is reasonable to impose to comply with the provisions of the LEP and DCP 31, on the basis that it will run with the land (paragraph 37).
- The Court ordered that the conditions of consent 19c and 19e be varied in accordance with court-approved wording. This essentially amended the conditions from an s88 requirement to conditions of the consent. Development consent for DA491/2005 was therefore modified by the Court Orders.
- Council received copies of a Habitat Management Plan for Lot 26 Minimbah Road Nabitac during September 2007. The Habitat Management Plan was prepared by Conacher Travers. Great Lakes Council did not accept the September 2007 version of the Habitat Management Plan and sought certain amendments. Council subsequently approved the Conacher Travers Habitat Management Plan of November 2007.
- The approved Habitat Management Plan addressed Conditions 19c and 19e of the consent for DA491/2005. In summary, it required a range of protective and restorative

actions on the area of Lot 26, including prohibition of certain activities (clearing/harming of native vegetation or habitat, modification of watercourses, entry of any livestock, disturbance of rocks or soil, removal of timber including fallen timber), access by unauthorised persons, etc), weed control, bushfire management, signage and fencing, control of pest animals, protection of threatened species habitat and monitoring. The conditions required that the Habitat Management Plan be fully implemented on Lot 26.

- Great Lakes Council notated the file that Conditions 19a - f, as well as Conditions 20, 21, 22 and 23 had been appropriately satisfied by the date of 19 November 2007.
- On 13 February 2014, I prepared a memo (Mat Bell to Lisa Schiff, dated 13 February 2014), which sought to identify whether there had been "compliance with proactive ecological conditions associated with DA491/ 2005" (Document 15). I concluded that:
 - *"The HMP commenced on the date it was accepted by Council, namely 15 November 2007".*
 - *"There is no evidence anywhere within Council files or the personal knowledge of relevant Council staff that any of the requirements of the approved HMP have been implemented by the Registered Proprietor of Lot 26".*
 - *"Mr Wilkinson is responsible for the implementation of the stated requirements of the HMP."*

Thus, it is evident that Mr Wilkinson has a responsibility under development consent to actively protect, restore and care for the land of Lot 26 and deliver the Habitat Management Plan for that land.

In 2017, MidCoast Council Regulatory Officers received reports that Lot 26 had been further cleared and harmed by the use of machinery and there had been significant pile burning occurring. Council has referred the matter to the NSW Office of Environment and Heritage and has commenced investigations in respect of contravention of the requirements of the development consent DA491/2005 and further alleged clearing of native vegetation and harming of threatened species habitats on Lot 26. These investigations are currently ongoing.

CONSULTATION

This matter has been discussed with officers from the NSW Office of Environment and Heritage who have expressed verbal support for the proposed planning proposal and rezoning. Community engagement will be undertaken when a planning proposal to amend the Land Use Zone and Minimum Lot Size of Lot 26 is prepared.

COMMUNITY IMPACTS

The future planning proposal would benefit the community by zoning the subject land in accordance with its conservation significance and ecological values and thus ensuring that the land is recognised and protected by the planning framework into the future.

The proposed rezoning does not burden the registered proprietor of the land because the land is regarded as a conservation lot in conditions of consent in DA491/2005 and has no further development potential. The proposed E2 zoning reflects the current and future use of the land for conservation purposes.

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

The Great Lakes Community Strategic Plan Key Direction 1 Our Environment includes the following objectives: protect and maintain the natural environment so it is healthy and diverse, and ensure that development is sensitive to our natural environment.

The rezoning of land of high conservation significance to E2 Environmental Conservation (such as is proposed in this report) assists Council meet these objectives.

TIMEFRAME

The recommendation seeks that at the first opportunity, a planning proposal be prepared that rezones the subject land to E2 Environmental Conservation under the Great Lakes Local Environmental Plan 2014. As such, the timing of the action is responsive to Council staff work programs and will realise efficiencies by being timed with other planning proposals in preparation at that time.

BUDGET IMPLICATIONS

The planning proposal will be prepared internally by Council staff from the Natural Systems and the Strategic Planning Branches of the Planning and Natural Systems Division.

Relevant officers will schedule appropriate time into their work programs.

The funding requirements are minimal and confined to costs associated with advertising as all pertinent information justifying the planning proposal have been previously published and have been collated.

RISK CONSIDERATION

There are no special legal or risk considerations for this matter.

CONCLUSION

Lot 26 is of recognised significant conservation value and must be actively protected and managed under the terms of development consent DA491/2005 as a conservation area.

Given the ecological values and recognised significance of the land, it is evident that Lot 26 is not appropriately zoned as R5 Large Lot Residential land. There is satisfactory planning and scientific evidence now documented to demonstrate that Lot 26 in its entirety should be zoned E2 Environmental Conservation land under the applying LEP.

Also, given the history of attempts to undertake further development on this conservation area and its' clear ecological value as recognised by Council, ecological consultants, NSW government agencies and the NSW Land and Environment Court, the zoning should be amended to reflect these values.

RECOMMENDATION

That Council prepare a Planning Proposal at the first available opportunity to rezone Lot 26 DP1120907, Warrina Circuit, Minimbah to E2 Environmental Conservation, and to amend the Minimum Lot Size Map to increase the lot size to 40 hectares, so as to reflect its conservation significance and the need for the land to be managed as a conservation area.

Resolution / Minutes

2 ENVIRONMENTAL REZONING - CONSERVATION LOT - MINIMBAH **Report Author Mathew Bell, Senior Ecologist**

158/17 **RESOLVED (Turner)** *(as per recommendation)*

That Council prepare a Planning Proposal at the first available opportunity to rezone Lot 26 DP1120907, Warrina Circuit, Minimbah to E2 Environmental Conservation, and to amend the Minimum Lot Size Map to increase the lot size to 40 hectares, so as to reflect its conservation significance and the need for the land to be managed as a conservation area.

Appendix G Rezoning Masterlist

Item No		DP	Description	Land Owner	Current Zone	Proposed Zone	Endorsed by Council	LEP Map Sheet
1.	102	753212	Minimbah Road, Nabiac <u>Note:</u> Lot 36 includes rezoning of roads that dissect the parcels.	MCC	RU2	E2	Strategic Meeting 10 June 2014	LZN_011
	103							
	201							
	36	822638						
	230	753212		Private (Purchase by Council in process)	RU2	E2	Ordinary meeting 25 May 2016	
	7321	1162400		Crown Land	E3	E2		
7314	1163862	Foreshore Reserve in front of Lots 36 and 230						
2.	Pt 74	753212	Gereeba Island, Tuncurry	MCC	E3 and E2	E2	MCC 14 December 2016	LZN_011
	75						Strategic Meeting 10 June 2014	
	76							
	77							
	78							
3.	72	753212	Wallamba Island	MCC	E2 & E3	E2	Strategic Meeting 10 June 2014	LZN_011
	111							
4(A)	141	1043081	The Southern Parkway, Forster	MCC	R3	E2	Strategic Meeting 10 June 2014	LZN_011E
4(B)	6179	1151512			RE1	E3	Strategic Meeting 10	Notes:

Item No		DP	Description	Land Owner	Current Zone	Proposed Zone	Endorsed by Council	LEP Map Sheet
							June 2014	<ul style="list-style-type: none"> Road reserve to be rezoned R2 to be consistent with surrounding zone. Minimum Lot Size, Floor Space Ratio and Height of Building maps also to be amended to reflect adjacent environmentally zoned lands
4(C)	3	1220179	The Southern Parkway, Forster <u>Note:</u> resolution refers to part Lot 6181 DP 1151512, which is parent lot.		R2	E2	Ordinary Meeting 23 June 2015	
5.	601	1171576	Bulahdelah	MCC	RU2, E2 & E3	E2	Strategic Meeting 10 June 2014	LZN_009
6.	21	1127893	Darawank Close, Darawank	National Parks & Wildlife Service	E2	E1 National Park	Strategic Meeting 10 June 2014	LZN_011
	42	1185122	The Lakes Way, Darawank	MCC	RU2	E2	Strategic Meeting 10 June 2014	
7.	1	1199088	Minimbah Road, Nabitac <u>Note:</u> resolution refers to Lot 16 DP 870415, which was parent lot.	MCC	RU2	E2	Ordinary Meeting 24 July 2012	LZN_011
8.	83	753207	Failford Road, Failford	MCC	RU2	E2	Ordinary Meeting 27 May 2014	LZN_011
9.	90	753212	682 Aerodrome	MCC	RU2	E2	Ordinary Meeting 26	LZN_011

Item No		DP	Description	Land Owner	Current Zone	Proposed Zone	Endorsed by Council	LEP Map Sheet
	242		Road, NABIAC				April 2016	
	7015	1072477	Pt Minimbah Nature Reserve	National Parks & Wildlife Service	E1 & E3	Rezone E3 zone foreshore in front of Lot 90 and Lot 242 to E2 (E1 zoning is unchanged)	Ordinary meeting 26 April 2016 resolved to rezone E2	
10.	44	1209958	Lot 44 Manns Road Darawank <u>Note.</u> Resolution refers to Lot 22 DP1100089 which was subdivided 23/12/14. Resultant Lot 221 DP1203040 subdivided 13/07/2015 to make Lot 44.	MCC	RU2	E2	Ordinary Meeting 27 May 2014 Recommendation amended MCC 28 September 2016	LZN_011
11(A)	7306	1146324	Foreshore Reserve	Crown Land	E2 & E4	E4 rezoned to E3 (existing E2 unchanged)	MCC 28 September 2016	LZN_012 LZN_012A
11(B)	7307	1167336			E4	E3		
11(C)	7327				E4	E3		
11(D)	7328				RU2, E2 & E3	RU2 rezoned to E3 (existing		

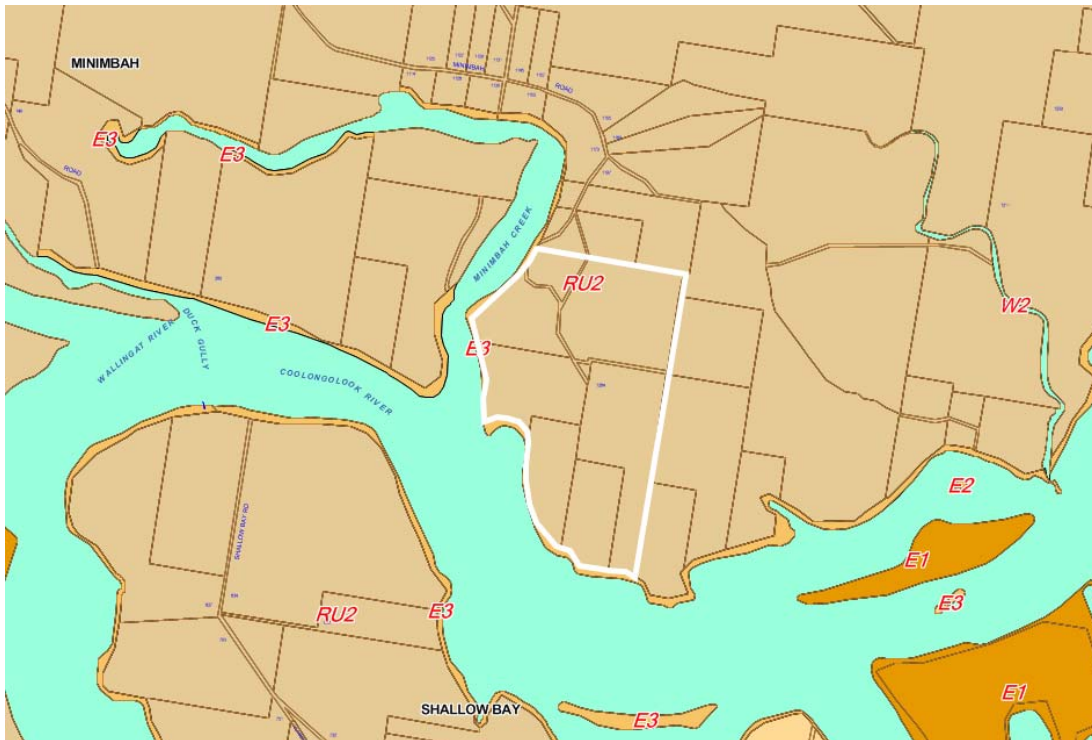
Item No		DP	Description	Land Owner	Current Zone	Proposed Zone	Endorsed by Council	LEP Map Sheet
						E2 and E3 unchanged)		
11(E)	7109	1066304			RU2	E3		
12.	47 Pt 45	753141	Locketts Crossing Road, Coolongolook (Wallingat River)	MCC	RU2	E2	MCC 28 June 2017	LZN_012
13.	52	708662	Macwood Road and Matthew Road, Smiths Lake	Private	R5 and RU2 (Split Zone Boundary)	Extension and Re-alignment of R5	GLC 12 November 2013	LZN_012A
14.	26	1120907	Warrina Circuit, Minimbah	Private <i>Min Lot Size Change</i>	R5 1 Hectare	E2 40 Hectares	MCC 26 July 2017	LZN_011

Appendix H Summary of Lots to be Rezoned

1. **Lots 102, 103 & 201 DP 753212 and Lot 36 DP 822638 & Lot 230 DP 752212 (inc. Road Reserve), Minimbah Road, NABIAC – proposed rezoning from RU2 Rural Landscape to E2 Environmental Conservation**



LEP 2014 Zone: RU2 Rural Landscape



Foreshore Lots 7321 DP 1162400 & Lot 7314 DP 1163862 - proposed rezoning from E3 Environmental Management to E2 Environmental Conservation of that part of the foreshore reserve that fronts Lots 36 & 230.



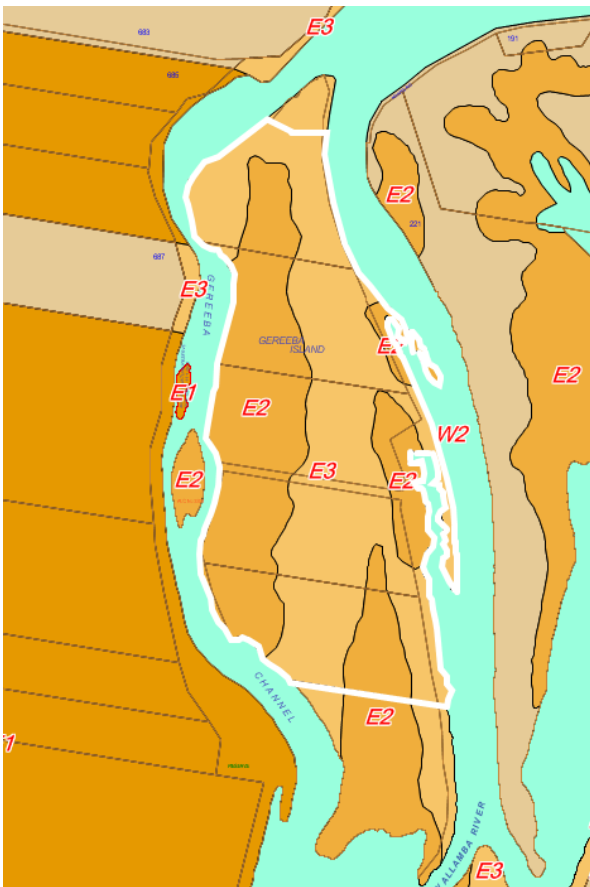
LEP 2014 Zone: E3 Environmental Management



2. Lots Part 74, 75, 76, 77 and 78 DP 753212 (inc. Road Reserve) Gareeba Island, Tuncurry - proposed rezoning from E3 Environmental Management to E2 Environmental Conservation



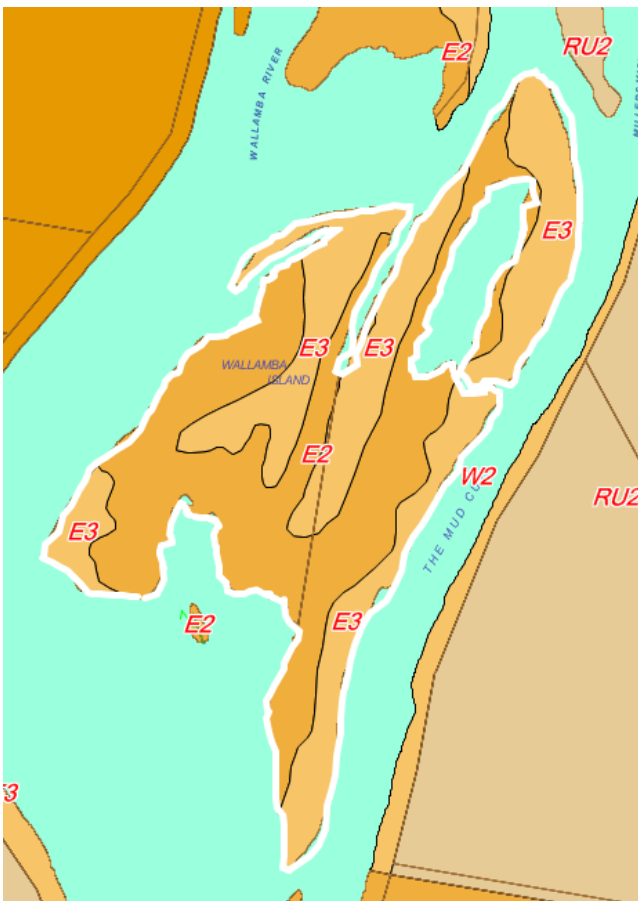
LEP 2014 Zone: E2 Environmental Conservation and E3 Environmental Management



3. Lot 72 and Lot 111 DP 753212 Wallamba Island - proposed rezoning from E3 Environmental Management to E2 Environmental Conservation



LEP 2014 Zone: E2 Environmental Conservation and E3 Environmental Management

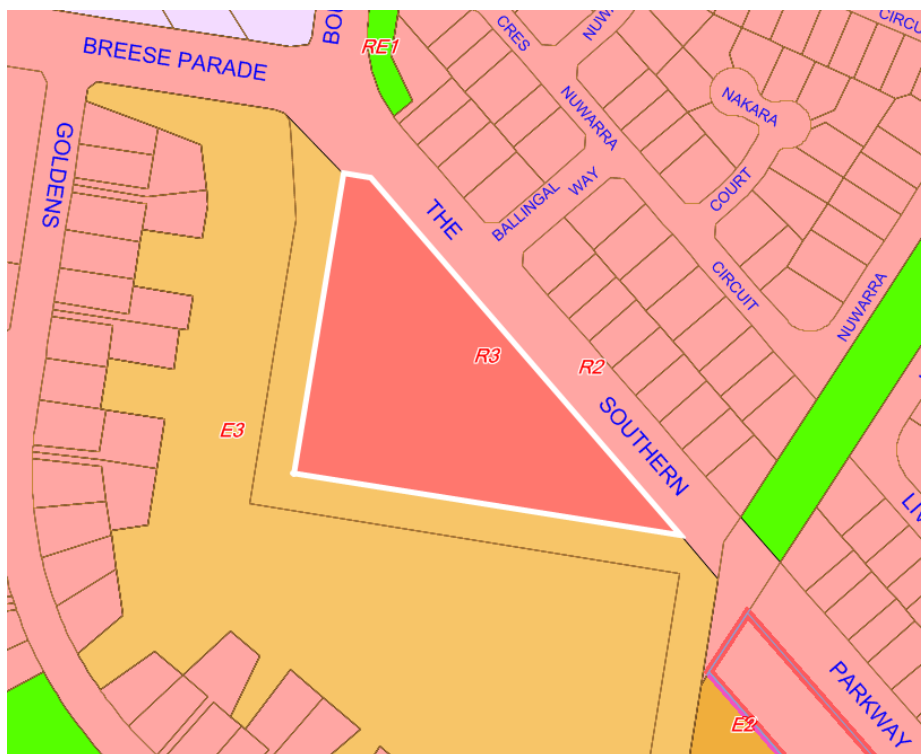


4A Lot 141 DP 1043081 The Southern Parkway, Forster

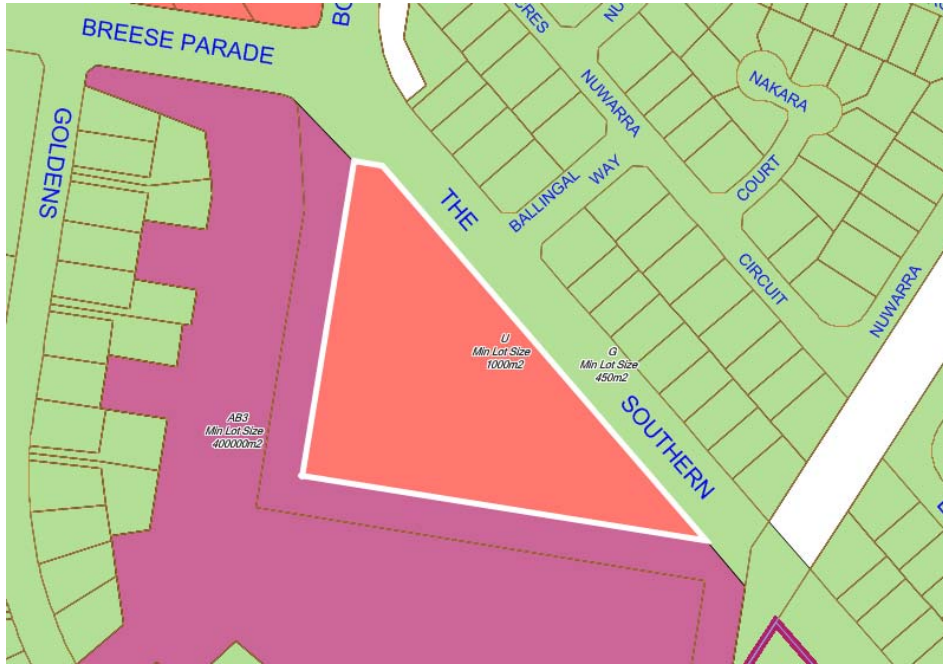
- (a) proposed rezoning from R3 Medium Density Residential to E3 Environmental Management
- (b) proposed amendment to Minimum Lot Size Map – 1,000m² to 40 Hectares
- (c) proposed amendment to Floor Space Ratio Map – 1:1 to 0.4:1
- (d) proposed amendment to Height of Buildings Map – 12 metres to 8 metres



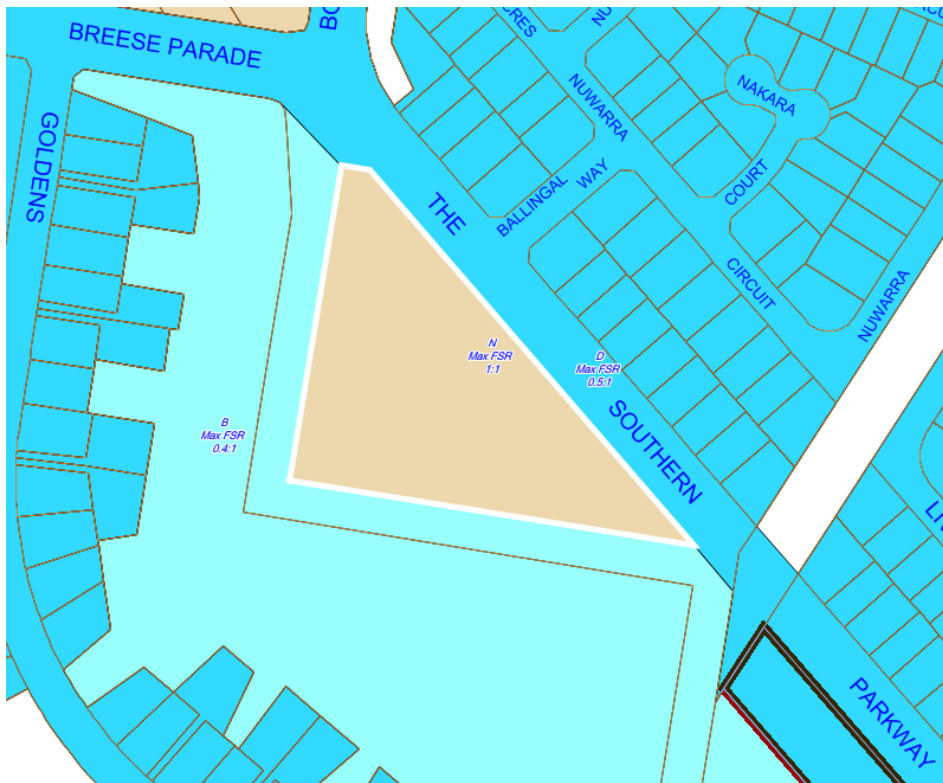
LEP 2014 Zone: R3 Medium Density Residential



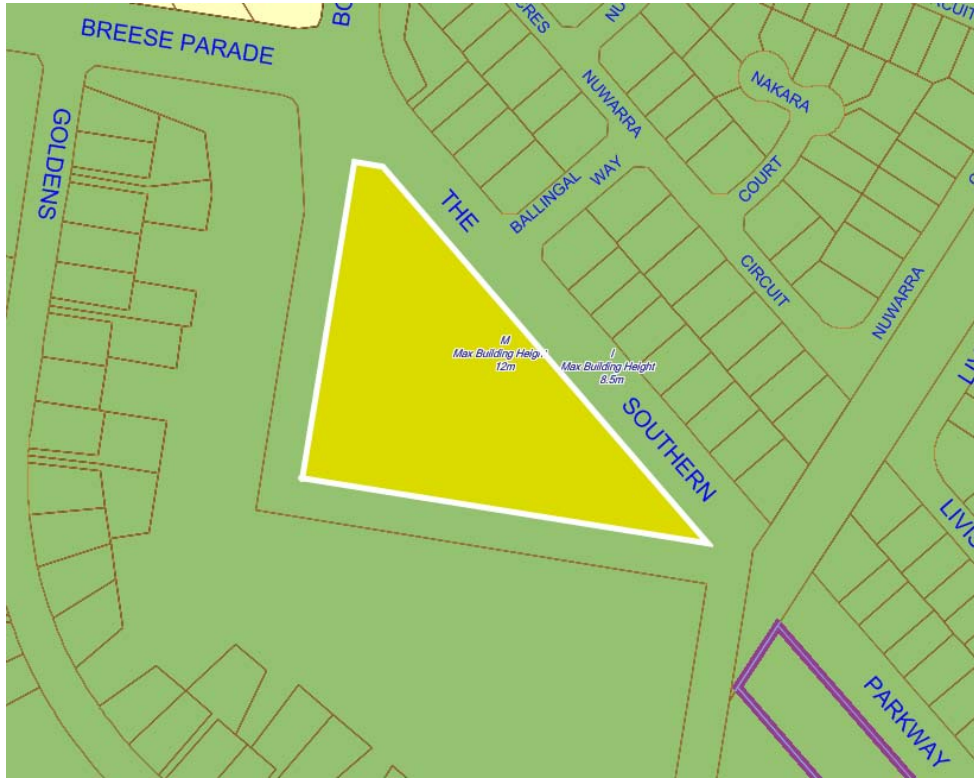
LEP 2014 Minimum Lot Size: 1,000m²



LEP 2014 Maximum Floor Space Ratio: 1:1



LEP 2014 Maximum Height of Buildings: 12 metres

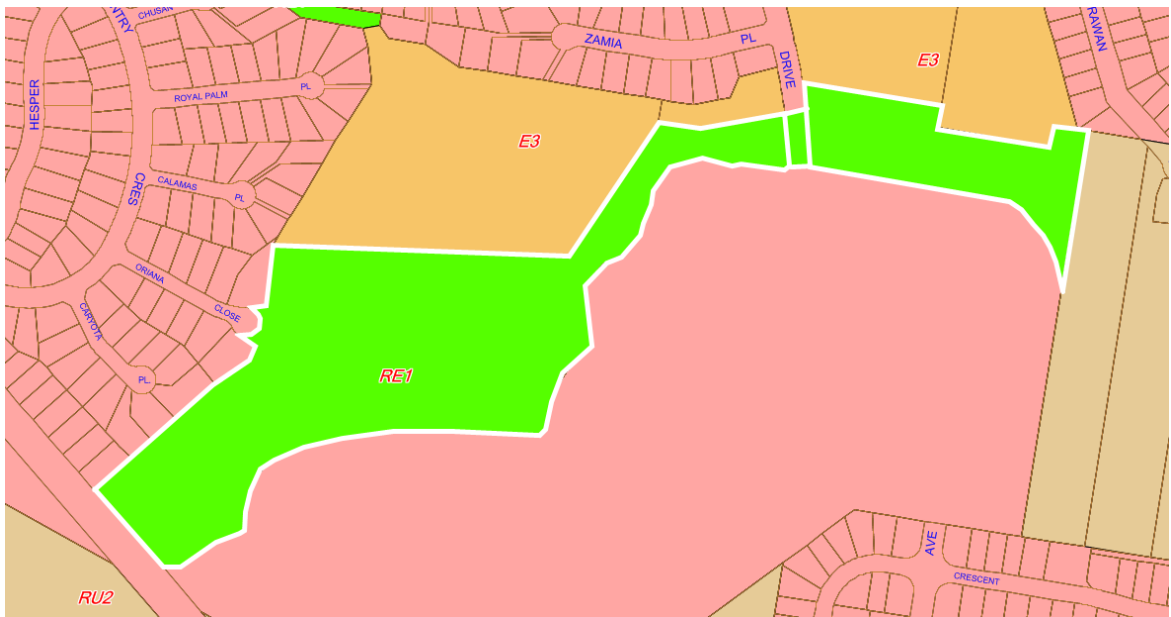


4B Lot 6179 The Southern Parkway, Forster

- (a) proposed rezoning from RE1 Public Recreation to E3 Environmental Management
- (b) proposed amendment to Minimum Lot Size Map – Not specified to 40 Hectares
- (c) proposed amendment to Floor Space Ratio Map – Not specified to 0.4:1



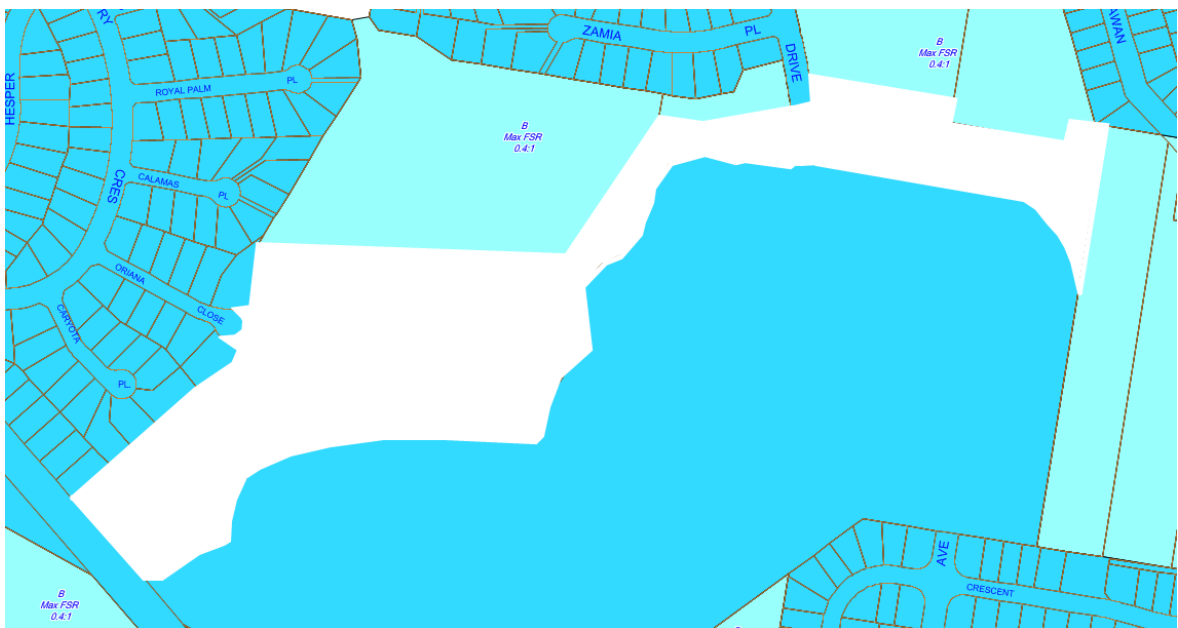
LEP 2014 Zone: RE1 Public Recreation



LEP 2014 Minimum Lot Size: Not specified



LEP 2014 Maximum Floor Space Ratio: Not specified

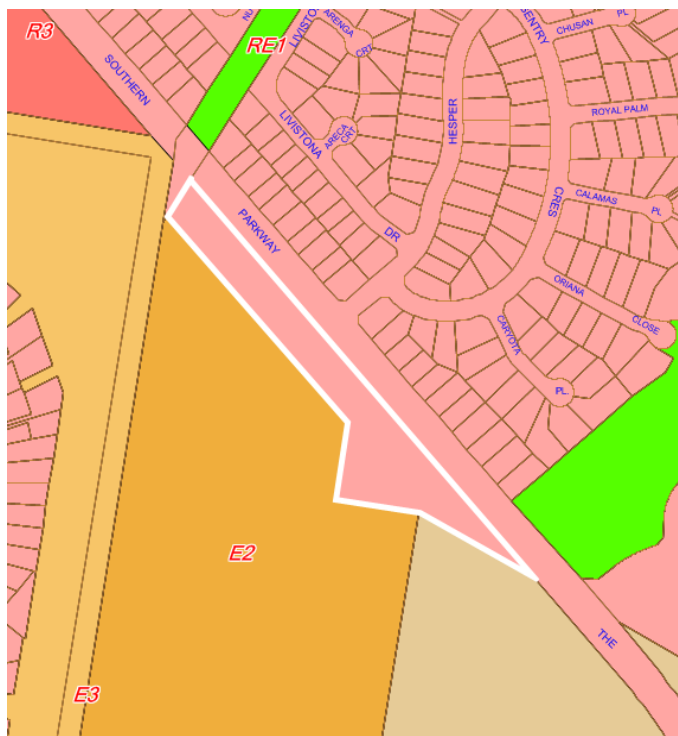


4C Lot 3 DP 1220179 The Southern Parkway, Forster

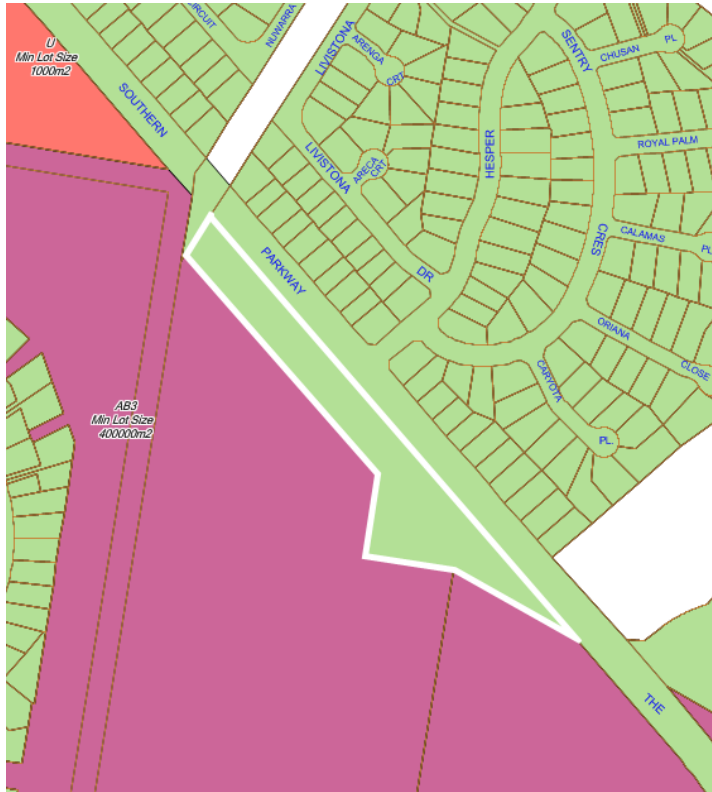
- (a) proposed rezoning from R2 Low Density Residential to E2 Environmental Conservation
- (b) proposed amendment to Minimum Lot Size Map – 450m² to 40 Hectares
- (c) proposed amendment to Floor Space Ratio Map – 0.5:1 to 0.4:1



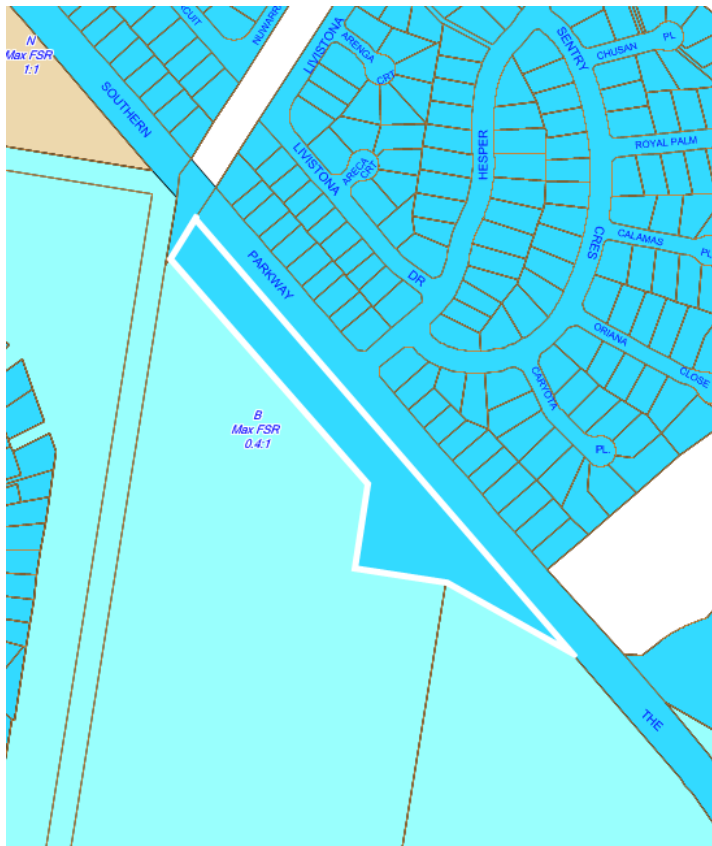
LEP 2014 Zone: R2 Low Density Residential



LEP 2014 Minimum Lot Size: 450m²



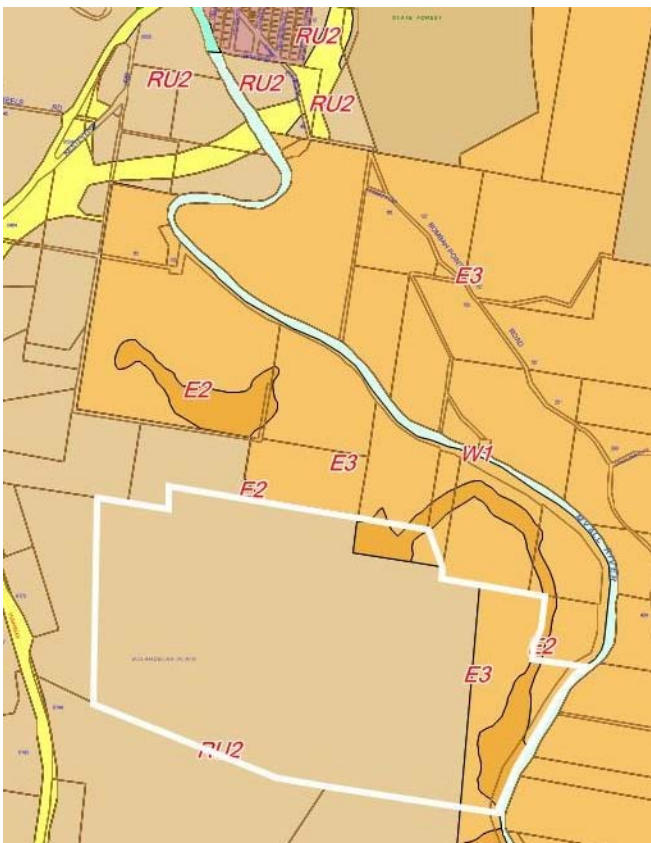
LEP 2014 Maximum Floor Space Ratio: 0.5:1



5. **Lot 601 DP 1171576 Bulahdelah** - proposed rezoning from RU2 Rural Landscape to E2 Environmental Conservation and E3 Environmental Management to E2 Environmental Conservation



LEP 2014 Zone: RU2 Rural Landscape E2 Environmental Conservation, E3 Environmental Management

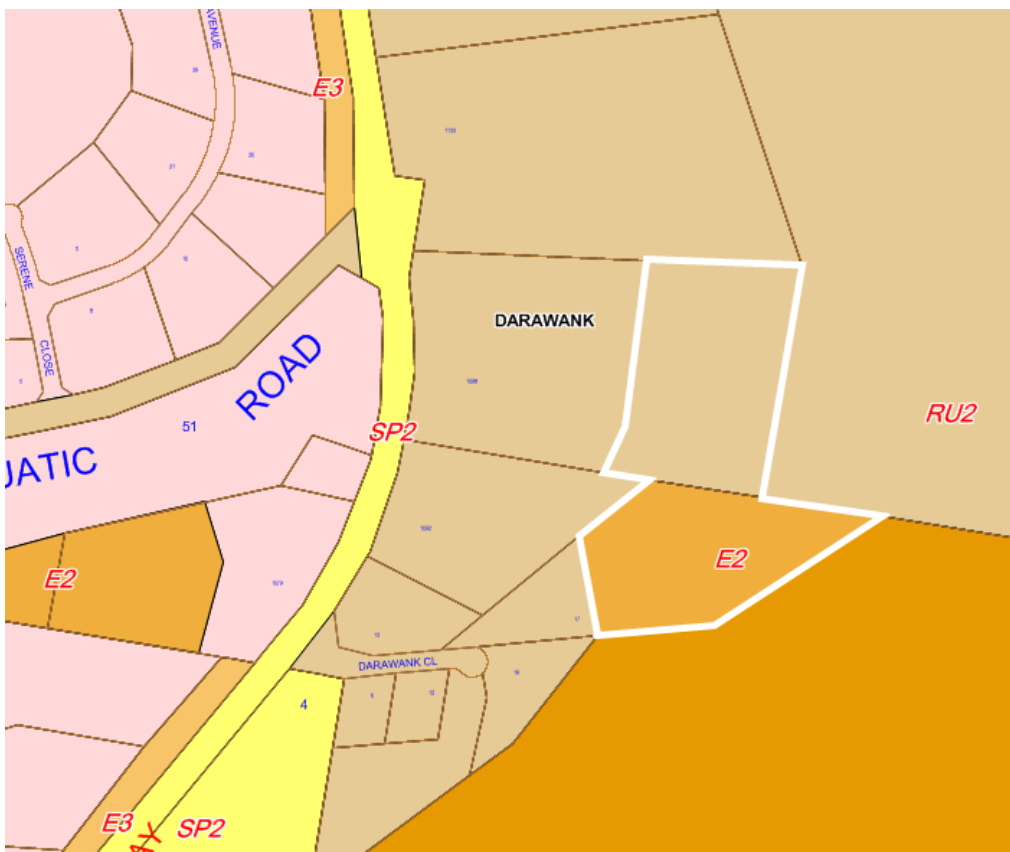


6. **Lot 21 DP 1127893, Darawank** - proposed rezoning from E2 Environmental Conservation to E1 National parks and Nature Reserves

Lot 42 DP 1185122, Darawank - proposed rezoning from RU2 Rural Landscape to E2 Environmental Conservation



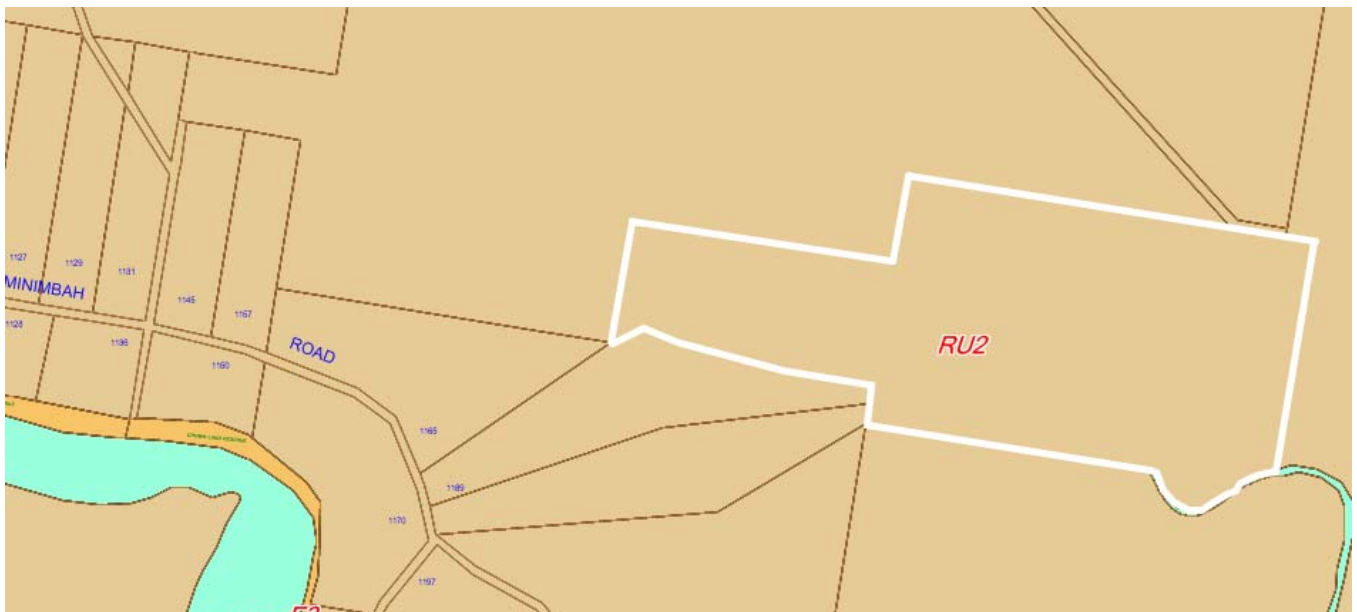
LEP 2014 Zone: RU2 Rural Landscape and E2 Environmental Conservation



7. **Lot 1 DP 1199088 Minimbah Road, Nabic** - proposed rezoning from RU2 Rural Landscape to E2 Environmental Conservation



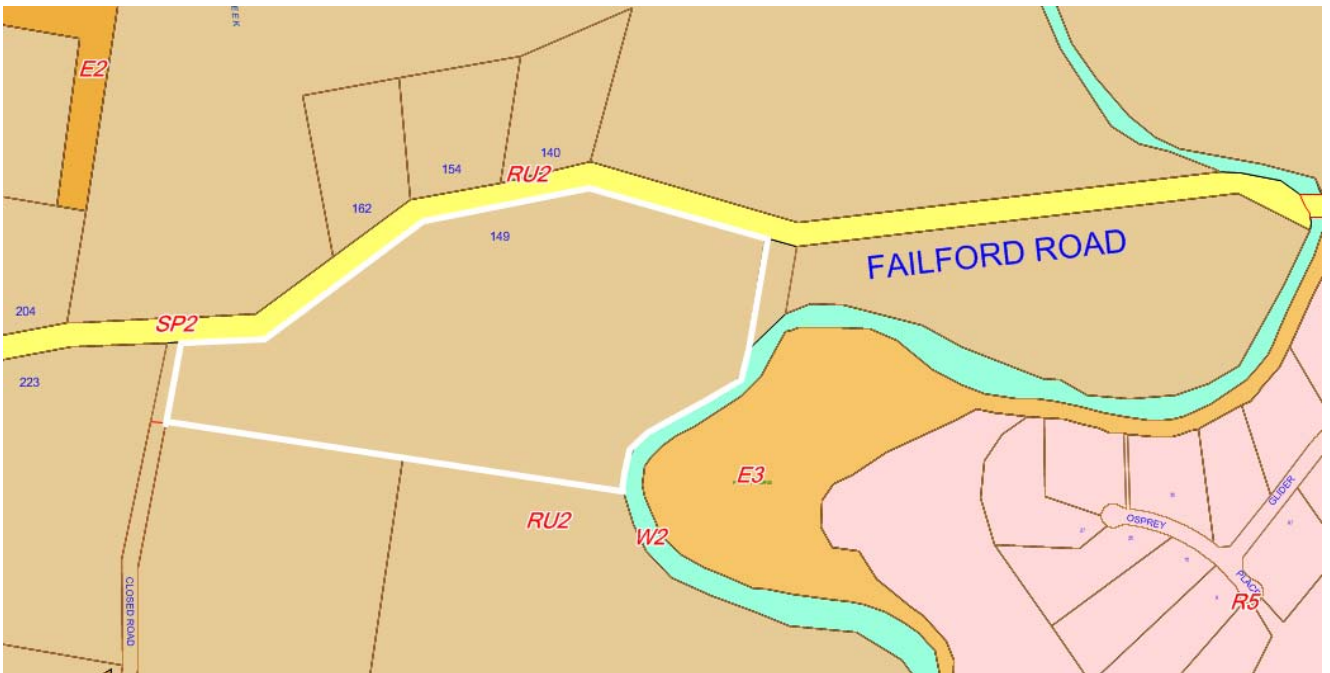
LEP 2014 Zone: RU2 Rural Landscape



8. Lot 83 DP 753207 Failford Road, Failford - proposed rezoning from RU2 Rural Landscape to E2 Environmental Conservation



LEP 2014 Zone: RU2 Rural Landscape



- 9. **Lot 90 and 242 DP 753212, Aerodrome Road, Nabic** - proposed rezoning from RU2 Rural Landscape to E2 Environmental Conservation

Part Lot 7015 DP 1072477, Foreshore reserve - proposed rezoning from E3 Environmental Management to E2 Environmental Conservation for that part of the reserve that fronts the foreshore in front of Lots 90 and 242 DP 753212



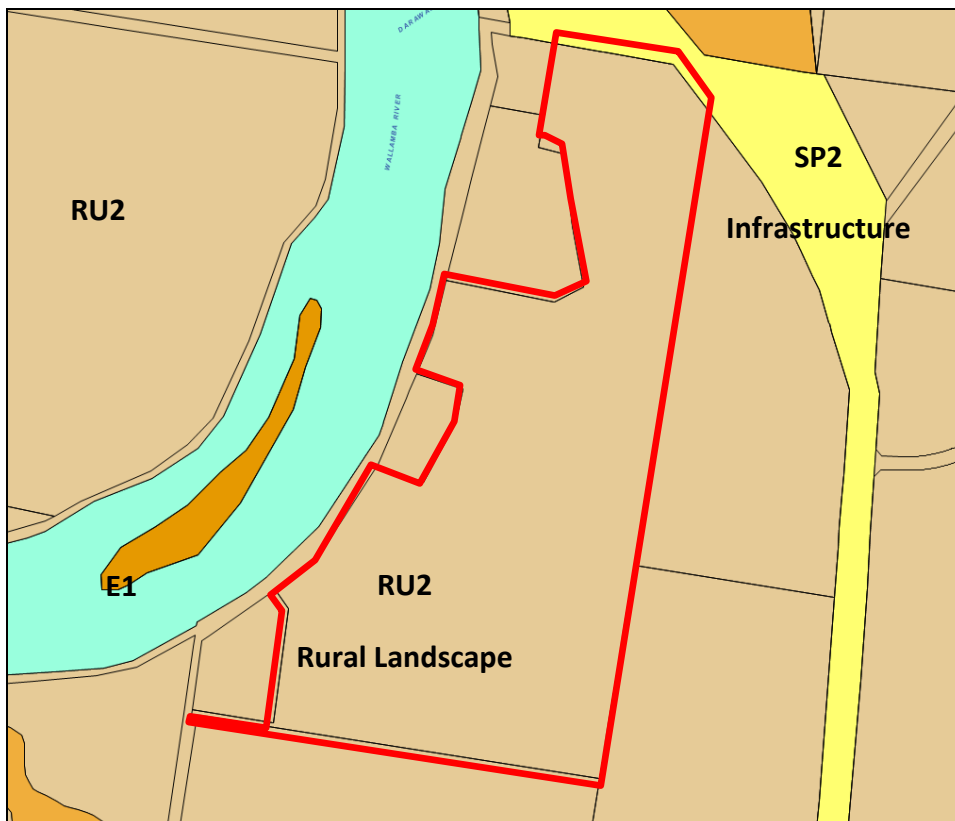
LEP 2014 Zone: RU2 Rural Landscape and E3 Environmental Management



10. Lot 44 DP 1209958, Manns Road, Darawank - Proposed rezoning from RU2 Rural Landscape to E2 Environmental Conservation



LEP 2014 Zone: RU2 Rural Landscape



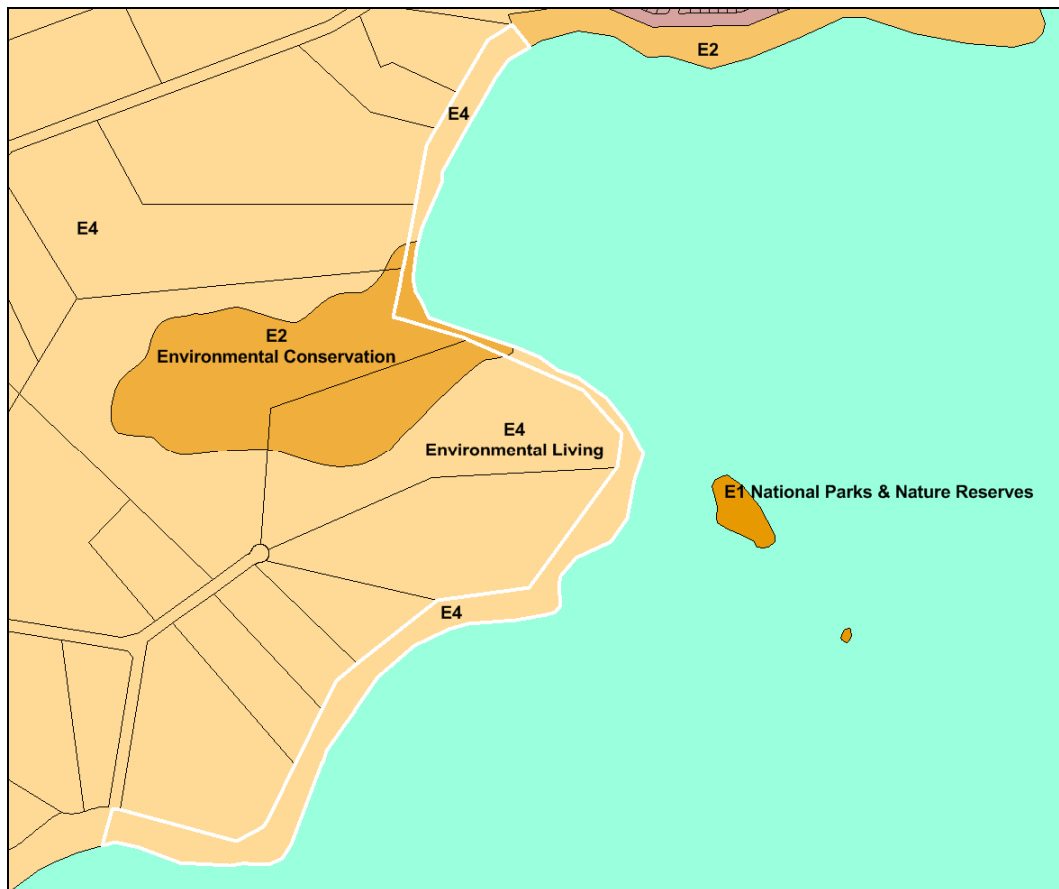
11. **Various sites along foreshore area Coomba Bay to Pacific Palms** - proposed rezoning to foreshore area to E3 Environmental Management this is consistent with surrounding foreshore area.



11A. Lot 7306 DP 1146324 - Proposed rezoning of E4 Environmental Living to E3 Environmental Management. Land currently zoned E2 Environmental Conservation remains unchanged.



LEP 2014 Zone: E4 Environmental Living



11B. Lot 7307 DP 1167336 - Proposed rezoning of E4 Environmental Living to E3 Environmental Management



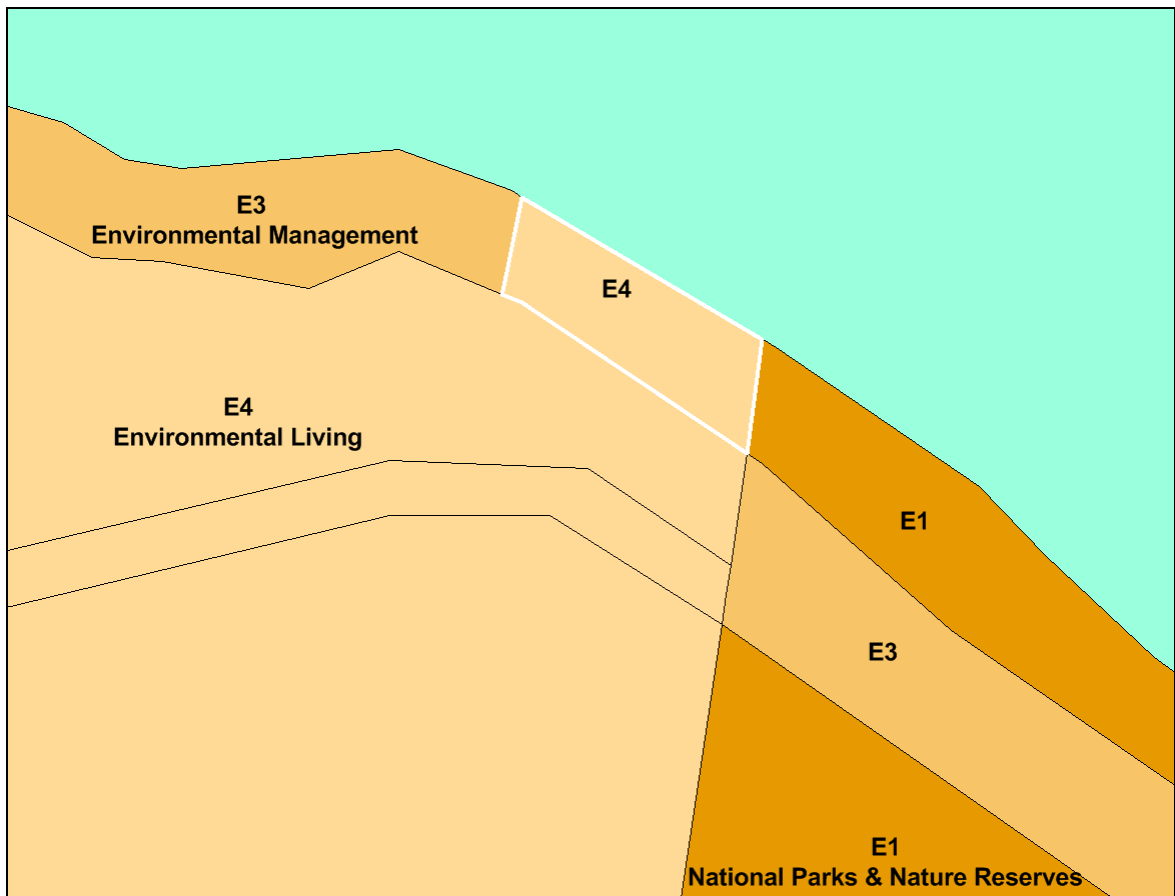
LEP 2014 Zone: RU2 Rural Landscape



11C. Lot 7327 DP 1167361 - Proposed rezoning of E4 Environmental Living to E3 Environmental Management



LEP 2014 Zone: E4 Environmental Living



11D. Lot 7328 DP 1167361 - Proposed rezoning of RU2 Rural Living to E3 Environmental Management. Land zoned E2 Environmental Conservation and existing E3 Environmental Management remain unchanged.



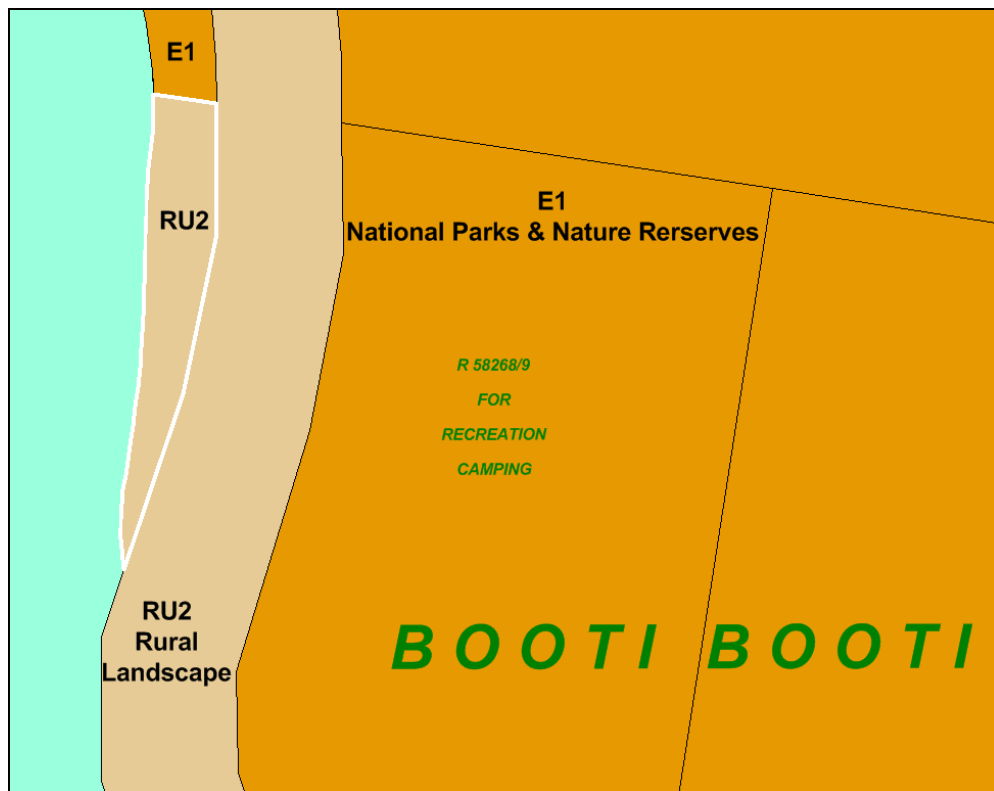
LEP 2014 Zone: RU2 Rural Landscape



11E. Lot 7109 DP 1066304 - Proposed rezoning of RU2 Rural Landscape to E3 Environmental Management



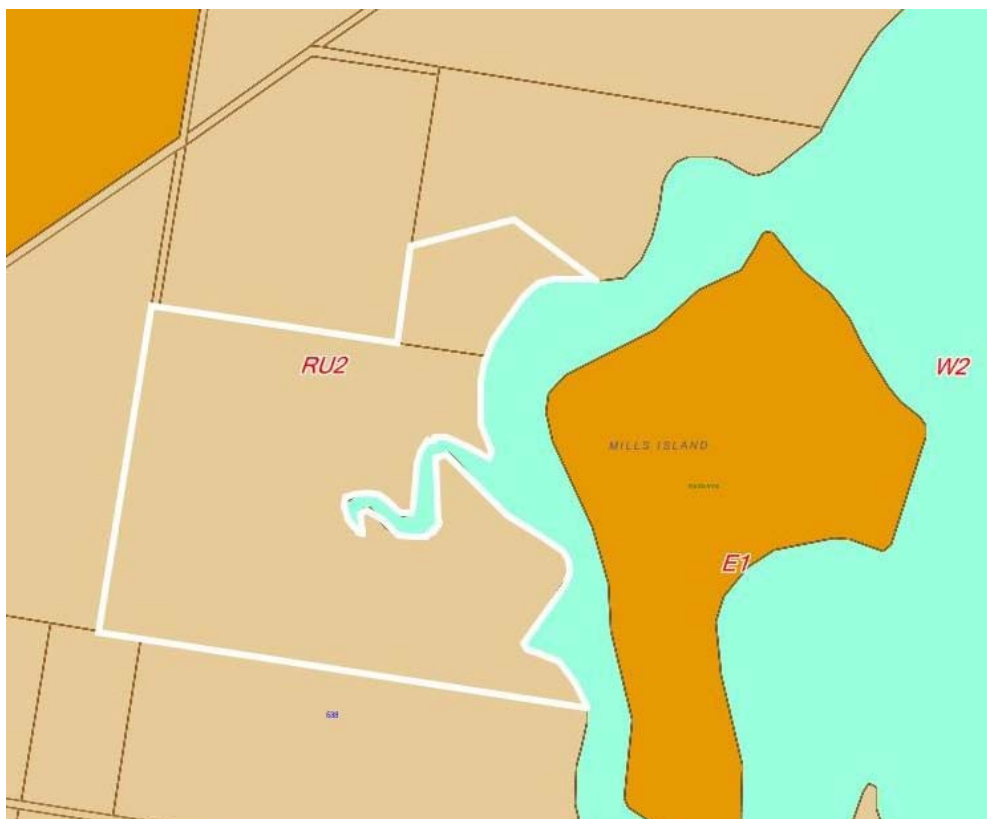
LEP 2014 Zone: RU2 Rural Landscape



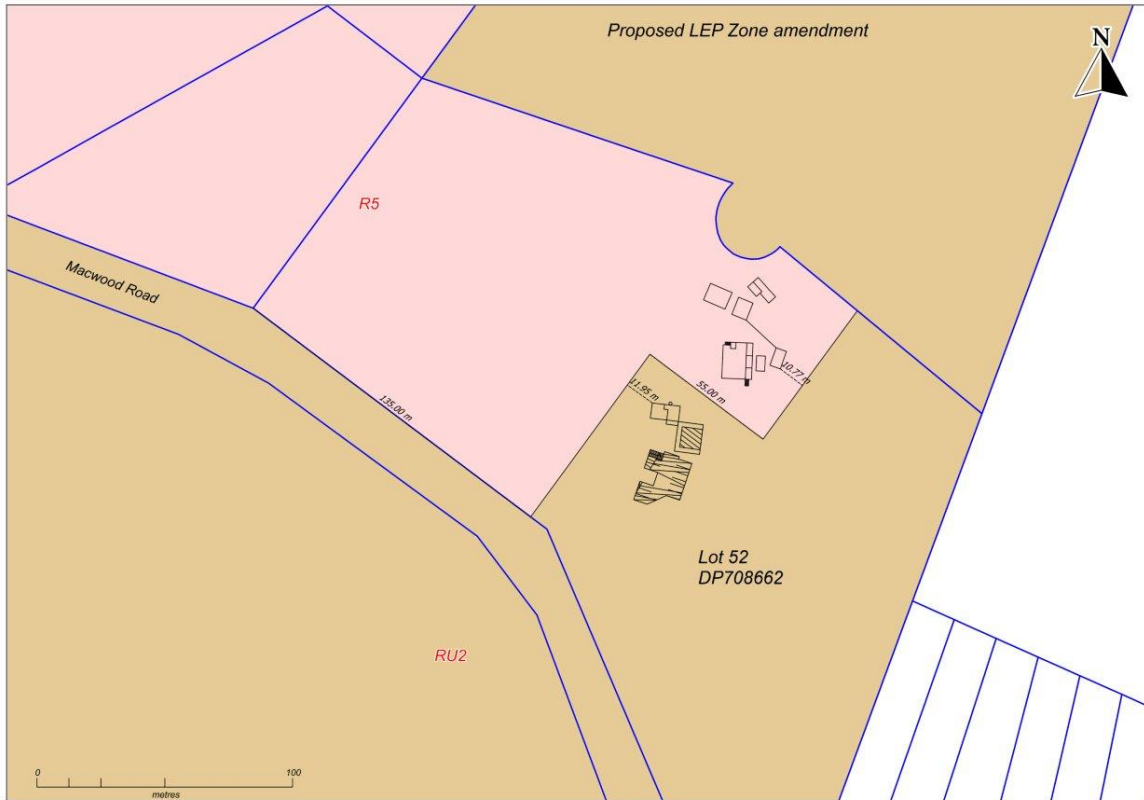
12. **Lot 75 and Part Lot 74 DP 753141** – proposed rezoning of RU2 Rural Landscape to E2 Environmental Conservation



LEP 2014 Zone: RU2 Rural Landscape



13. **Lot 52 DP 708662** – proposed re-alignment of split zone boundary increasing R5 Large Lot Residential



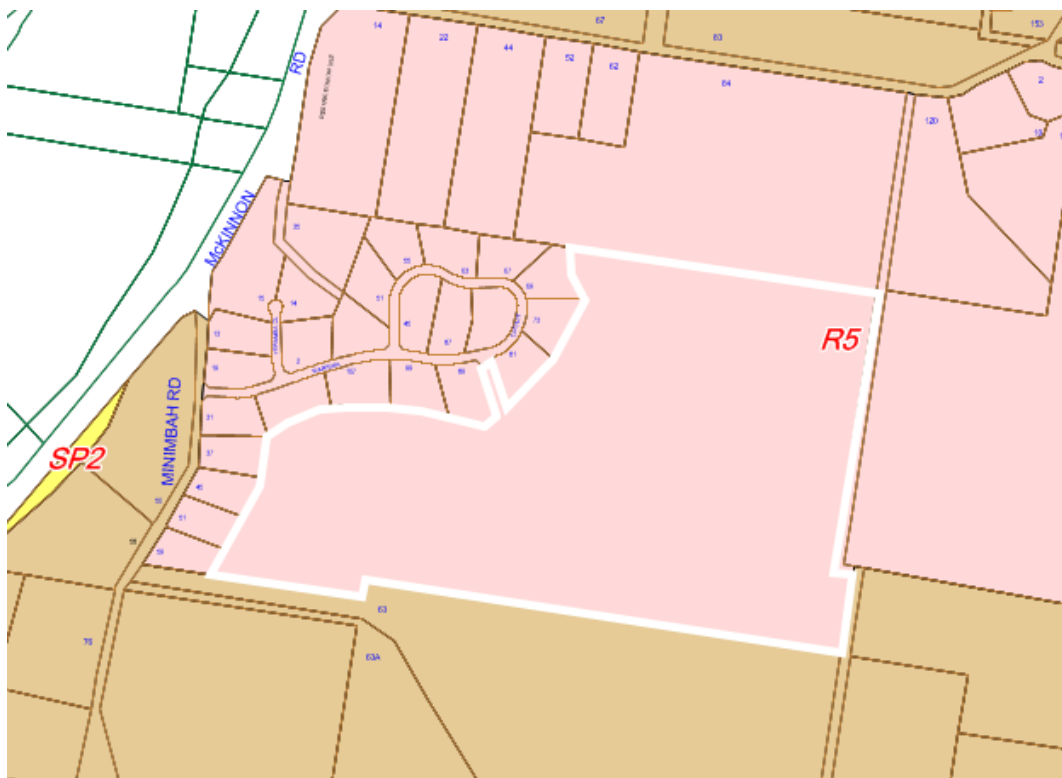
LEP 2014 Zone: R5 Large Lot Residential and RU2 Rural Landscape

14. **Lot 26 DP 1120907** - proposed rezoning of R5 Large Lot Residential to E2 Environmental Conservation

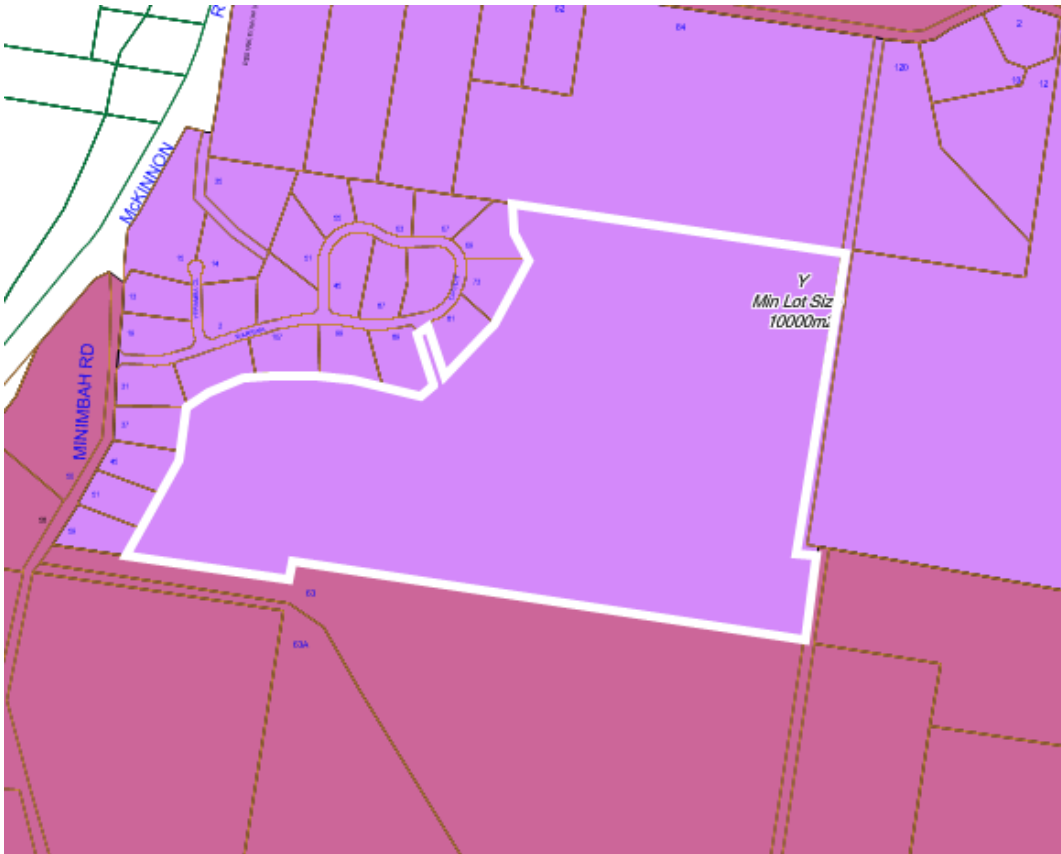
Proposed increase in minimum lot size from 1 hectare (Y) to 40 hectares (AB2)



LEP 2014 Zone: R5 Large Lot Residential



Proposed increase in minimum lot size from 1 hectare (Y) to 40 hectares (AB2)





DOC18/234546-2
SP-PP-35

Mr Aaron Kelly
Strategic Planner (Gloucester Office)
Midcoast Council
Aaron.kelly@midcoast.nsw.gov.au

Dear Aaron

Request for Agency Comments under Section 3.34(2)(d) of the EP&A Act 1979 - Agency Consultation - Planning Proposal – Great Lakes LEP

I refer to your letter dated 17 April 2018 seeking agency comment under Section 3.34(2)(d) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

OEH has reviewed the planning proposal in relation to biodiversity, Aboriginal cultural heritage, and flooding issues. OEH's recommendations are provided in **Attachment A** and detailed comments are provided in **Attachment B**. If you require any further information regarding this matter, please contact Brendan Mee, Senior Conservation Planning Officer, on 4904 2730.

Yours sincerely

STEVEN COX
Senior Team Leader Planning
Hunter Central Coast Branch
Regional Operations Division

23 May 2018

Contact officer: BRENDAN MEE
02 4904 2730

Enclosure: Attachments A and B

OEH's recommendations

Great Lakes LEP amendment – rezoning of various lands

1. OEH is satisfied that there are unlikely to be negative biodiversity impacts associated with the planning proposal.
2. OEH supports the proposal to rezone Lot 21 DP 1127893 to E1 National Parks and Nature Reserves.
3. OEH is satisfied that the planning proposal meets the requirements of the Section 9.1 Ministerial directions for flooding and the NSW Floodplain Development Manual.

OEH's detailed comments

Great Lakes LEP amendment – rezoning of various lands

Biodiversity

1. OEH has no concerns with the proposal in relation to biodiversity

The majority of the proposed zoning amendments within the planning proposal are to increase the level of environmental protection. The only exception to this is a proposed realignment of the RU2 Rural Landscape Zone and R5 Large Lot Residential zone on Lot 52 DP 708662 in Smiths Lake to reflect the location of existing buildings and structures on the site. This realignment is considered to be minimal and likely to have no impacts on biodiversity.

Recommendation 1

OEH is satisfied that there are unlikely to be negative biodiversity impacts associated with the planning proposal.

2. OEH supports rezoning Lot 21 DP 1127893 to E1 National Parks and Nature Reserves

OEH notes that the proposal includes rezoning of Lot 21 DP 1127893 from E2 Environmental Conservation to E1 National Parks and Nature Reserves. This land is owned by National Parks and Wildlife Service and is a small portion of land within the Darawank Nature Reserve, with the remainder of the nature reserve already zoned E1 National Parks and Nature Reserves. It is therefore appropriate that this land is rezoned to E1 National Parks and Nature Reserves.

Recommendation 2

OEH supports the proposal to rezone Lot 21 DP 1127893 to E1 National Parks and Nature Reserves.

Flooding and Flood Risk

3. OEH has no concerns with the proposal in relation to flooding

OEH has reviewed the planning proposal for flooding matters and is satisfied that it meets the requirements of the Section 9.1 Ministerial directions of the *Environmental Planning and Assessment Act 1979* and the NSW Floodplain Development Manual.

Recommendation 3

OEH is satisfied that the planning proposal meets the requirements of the Section 9.1 Ministerial directions for flooding and the NSW Floodplain Development Manual.

21st May 2018

Aaron Kelly
Strategic Planner – Gloucester Office
Mid Coast Council
PO Box 11
Gloucester NSW 2422

Your Reference: SP – PP - 35
Our Reference: DOC18/318121

Emailed: aaron.kelly@midcoast.nsw.gov.au

Dear Mr Kelly,

Re: Planning Proposal PP_2018_MCOAS_001_00 to Amend the Great Lakes Local Environmental Plan 2014 – Rezoning of various lots

Thank you for the opportunity to provide advice on the above matter. This is a response from the NSW Department of Planning & Environment – Division of Resources & Geoscience, Geological Survey of New South Wales (GSNSW) regarding Mid Coast Council's consultation under the Gateway determination for PP_2018_MCOAS_001_00.

The planning proposal to amend the Great Lakes Local Environmental Plan 2014 (GLLEP2014) includes rezoning various lots of publically acquired land. GSNSW has reviewed the planning proposal in regards to s9.1 Ministerial Direction 1.3 Mining, Petroleum Production and Extractive Industries, as well as State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.

According to GSNSW records, none of the proposed rezonings are in the vicinity of operating mines or quarries. The proposed rezonings of recently acquired public land from Item 1, listed below and illustrated in Figure 1, have been reviewed in relation to the Nabic Sand Potential Resource Area, a regionally significant, undeveloped resource of construction sand covering an extensive area:

- Lots 102, 103 & 201 DP 753212 and Lot 36 DP 822638 & Lot 230 DP 752212 (inc. Road Reserve), Minimbah Road, Nabic – proposed rezoning from RU2 Rural Landscape to E2 Environmental Conservation
- Lot 1 DP 1199088 Minimbah Road, Nabic - proposed rezoning from RU2 Rural Landscape to E2 Environmental Conservation
- Lot 90 and 242 DP 753212, Aerodrome Road, Nabic - proposed rezoning from RU2 Rural Landscape to E2 Environmental Conservation

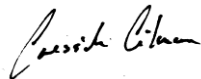
The Nabic Sand Potential Resource Area was notified to Council in the Mineral Resource Audit Great Lakes LGA (August 2014) in accordance with Section 9.1, Ministerial Direction 1.3 – Mining, Petroleum Production and Extractive Industries under the *Environmental Planning and Assessment Act 1979*. This area has been identified as having the geological potential to host extractive industries for construction sand, and includes areas of recent quarrying (Aerodrome Road Sand Quarry Figure 1) and past mineral sand mining.

Rezoning the subject lots from RU2 to E2 in the Great Lakes LEP 2014 would have the effect of prohibiting future extractive industry. Extractive Industry is permitted with consent in the RU2 zone, and prohibited by omission in the E2 zone. Agriculture and industry are not permitted within the E2 zone of GLLEP2014. As such extractive industry is not permissible with consent through the E2 zoning, or by virtue of cl.7(3)(a) of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industry) 2007.

GSNSW considers Section 9.1, Ministerial Direction 1.3 – Mining, Petroleum Production and Extractive Industries applicable as the planning proposal would have the effect of restricting the potential future development of a regionally significant resource of extractive materials. In proposing to rezone the aforementioned lots for environmental conservation, Council must consider the potential loss of future access to a regionally significant, long term supply of locally sourced construction sand for infrastructure and housing within the local government area. GSNSW recognises the planning proposal seeks to preserve ecological values and that any extraction of geological resources would be subject to environmental assessment and development consent.

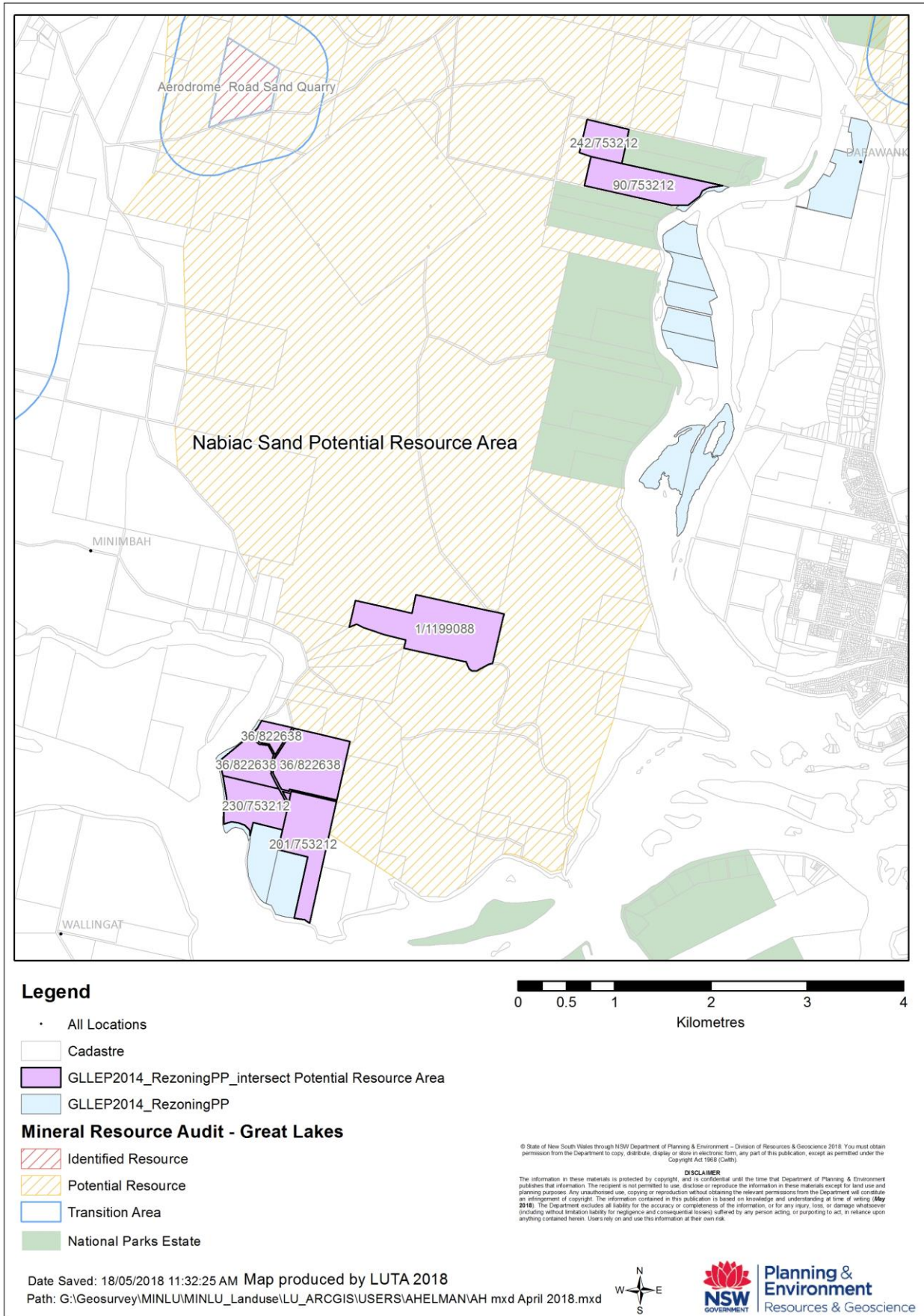
Queries regarding the above information, and future requests for advice in relation to this matter, should be directed to the GSNSW Land Use team at landuse.minerals@industry.nsw.gov.au.

Yours sincerely



Cressida Gilmore
Manager - Land Use

Figure 1: Great Lakes LEP 2014 – Rezoning of publically acquired land



25 September 2018

Aaron Kelly
Strategic Planner – Gloucester Office
Mid Coast Council
PO Box 11
Gloucester NSW 2422

Your Reference: SP – PP - 35
Our Reference: DOC18/711754

Emailed: aaron.kelly@midcoast.nsw.gov.au

Dear Mr Kelly,

Re: Planning Proposal PP_2018_MCOAS_001_00 to Amend the Great Lakes Local Environmental Plan 2014 – Rezoning of various lots – Revised Planning Proposal September 2018

Thank you for the opportunity to provide advice on the above matter. This is a response from the NSW Department of Planning & Environment – Division of Resources & Geoscience (the Division), Geological Survey of New South Wales regarding Mid Coast Council's Revised Planning Proposal (Version 2 – 19 September 2018).

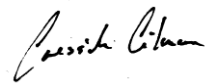
The planning proposal to amend the Great Lakes Local Environmental Plan 2014 (GLLEP2014) includes rezoning various lots of publicly acquired land. Mid Coast Council have amended the planning proposal to further address s9.1 Ministerial Direction 1.3 Mining, Petroleum Production and Extractive Industries, as well as the provisions of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007, in relation to the rezoning of land for environmental purposes having the effect of prohibiting extractive industry in an area of significant construction sand resources.

The amended planning proposal has further considered the environmental and water supply values in relation to the mineral resource values of the land and discussed environmental constraints to extractive industry development on the subject lots. The amended proposal notes the majority of the Nabiac Sand Potential Resource Area will remain zoned RU2, providing for the opportunity for development of extractive industry with development consent under GLEP2014.

The Division is satisfied the potential for construction sand resource sterilisation has been considered under s9.1 Direction 1.3 Mining, Petroleum Production and Extractive Industry as well as State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries), and has no further mineral resource issues with the planning proposal.

Queries regarding the above information, and future requests for advice in relation to this matter, should be directed to the GSNSW Land Use team at landuse.minerals@industry.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Cressida Gilmore', written in a cursive style.

Cressida Gilmore
Manager - Land Use

All communications to be addressed to:

Headquarters
15 Carter Street
Lidcombe NSW 2141

Headquarters
Locked Bag 17
Granville NSW 2142

Telephone: 1300 NSW RFS
e-mail: records@rfs.nsw.gov.au

Facsimile: 8741 5433



The General Manager
Mid-Coast Council
PO Box 450
FORSTER NSW 2428

Your Ref: SP-PP-35
Our Ref: R18/798
DA18042012754 AB

ATTENTION: Aaron Kelly

21 June 2018

Dear Mr Kelly

Planning Proposal - Planning Proposal - Great Lakes LEP 2014 - Rezoning Of Various Lands

I refer to your correspondence dated 17 April 2018 seeking advice for the above Planning Proposal in accordance with the 'Environmental Planning and Assessment Act 1979'.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and has no specific recommendations in relation to bush fire protection.

Should you wish to discuss this matter please contact Alan Bawden on 1300 NSW RFS.

Yours sincerely

A handwritten signature in black ink that reads 'John Ball'. The signature is written in a cursive style with a large, looping initial 'J'.

John Ball
Manager

For general information on bush fire protection please visit www.rfs.nsw.gov.au