

**Greater Taree Local Environmental Plan 2010 Amendment No.9- Housekeeping LEP
including Big Swamp Environmental Incentive Clause**

Proposal Title :	Greater Taree Local Environmental Plan 2010 Amendment No.9- Housekeeping LEP including Big Swamp Environmental Incentive Clause		
Proposal Summary :	The planning proposal aims to amend Greater Taree Local Environmental Plan 2010 to make a number of minor heritage description amendments, to make various spot rezonings and to provide a environmental incentive mechanism to manage and facilitate the remediation of acid sulfate contaminated lands (known as the Big Swamp Area).		
PP Number :	PP_2014_GTARE_003_00	Dop File No :	13/15150

Proposal Details

Date Proposal Lodged with DOP :	23-Sep-2014	Date Proposal Uploaded to Public Website :	21-Oct-2014
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Proposal Assessment

Is Public Hearing Required by PAC?	No
Agencies Requested to Consult :	NSW Rural Fire Service Transport for NSW - Roads and Maritime Services

Gateway Determination

Decision Date :	17-Oct-2014	Gateway Determination :	Passed with Conditions
Due Date of LEP :	24-Apr-2017		

Implementation

Implementation Start Date :	24-Oct-2014	Exhibition Duration :	28
Agency consultation consistent with recommendation :	Yes		
If No, comment :	Council consulted Roads and Maritime Services (RMS) and the NSW Rural Fire Service (RFS) in accordance with the Gateway determination. RMS supported the proposed rezonings and the removal of unnecessary acquisition layers for the Pacific Highway upgrade. RFS raised no objections.		
Agency Objections :	No		
If Yes, comment :			
Documentation consistent with Gateway :	Yes		
If No, comment :	GATEWAY DETERMINATION On 17 October 2014 the General Manager, Hunter and Central Coast as delegate of the Minister of Planning, determined that an amendment to the Greater Taree LEP 2010 to make a number of minor heritage description amendments, to make various site specific spot rezonings and to provide a mechanism to manage and facilitate the remediation of acid sulfate contaminated lands (known as the Big Swamp Area) should proceed.		

TIMEFRAME

The Gateway determination issued a 9 month completion time-frame. The completion timeframe has been extended a number of times because there has been delays in drafting the proposed Big Swamp Incentive clause. Drafting the environmental incentive clause has been complex because it is not possible to require the dedication of land through a Local Environmental Plan. To address this issue, Council has revised its dedication of land policy to facilitate development and the dedication of acid sulfate contaminated lands.

Recently, the Director Regions, Hunter and Central Coast altered the Gateway Determination to extend the time-frame to complete the proposal by an additional 9 months. The planning proposal is due for completion before 24 April 2017.

HERITAGE AMENDMENTS

Amending the LEP 2010 to insert the correct property addresses for the War Memorial and Memorial Park in Coopernook (I22), The Maitland Building (I243), Johns River Community Hall (I294) and adjusting the Literary Institute (I282) from Part 1 Heritage items to Part 3 archaeological sites under Schedule 5 is supported.

SITE SPECIFIC SPOT REZONINGS

The Department supports the following site specific spot rezonings:-

- a) Rezoning eleven properties with existing dwelling houses at Johns River Village, from RU1 Primary Production to RU5 Village. This rezoning is justified by the Johns River Urban Design Report (2008) which advises that these properties form part of the village core.
- b) Rezoning Lot 220, Alpine Drive, Tinonee from RU4 Primary Production Small Lots to SP2 (Infrastructure- Water Supply System) because the site has been acquired by the water authority for inclusion in the Bootawa Dam.
- c) Rezoning Lot 41 Pacific Highway, Moorland from RU1 Primary Production and SP2 Infrastructure to RU3 Forestry to reflect the proposed future use. The land was originally acquired by NSW Roads and Maritime Services as part of the Pacific Highway upgrade project. At completion of the road upgrade the land was transferred to the NSW Forestry Corporation for compensation for acquiring other State Forest land. The land has been appropriately assessed and is now accredited plantation under the Plantations and Reafforestation Act, 1999. The Forestry Corporation requested the proposed RU3 Forestry zoning.
- d) Rezoning Lot 23 DP812829 and Lot 3 DP229405 Jericho Road, Moorland from SP2 Infrastructure to RU1 Primary Production. Lot 23 was acquired by NSW Roads and Maritime Services as part of the Pacific Highway upgrade. The land is now surplus government lands and has a total area of 3.4ha and contains a dwelling house. Lot 3 is a thin sliver of privately owned land adjoining a larger parcel of land owned by the same person. RMS also own land to the north of the subject land. Rezoning the land back to RU1 Primary Production is considered compatible with surrounding land uses.

BIG SWAMP

PLANNING REFORM FUNDING (Round 3)

Council received planning reform funding of \$25,000 plus GST. The original Memorandum of Understanding (MOU) signed on 30 November 2005 required Council to develop an incentive based process to protect areas of conservation significance. The MOU was later revised to fund the preparation of this planning

proposal to implement the Big Swamp environmental incentive clause. The final installment payment is due when this planning proposal is notified.

BIG SWAMP FEASIBILITY STUDY 2010

The Big Swamp Area is recognised as one of top three worst acid sulfate soil hotspots in NSW. The Big Swamp Feasibility Study 2010 was prepared to identify the extent of acid sulfate contaminated lands (ie, land generally below 2m AHD) and investigate options to improve the water quality of the Manning River by remediating acid sulfate soils by restoring the natural hydrology and reinstating the coastal wetland community. Reinstating the coastal wetlands also has the potential to greatly enhance regional environmental corridors linking the mountains to the sea (through habitat/riparian links to Johns River and Coopers Creek State Forests and Coorabakh National Park). The feasibility study recommended that the acid sulfate contaminated lands should be acquired and remediated to reduce the impact of the exposed acid sulfate soils that has occurred over the past 100 years.

BIG SWAMP CAPABILITY STUDY

The Big Swamp Capability Study further refined the boundaries of the Big Swamp Area by determining whether the land identified for more intensive development was suitable after taking into key development consideration:- ecological constraints, flood inundation (1% AEP), provision of on site effluent disposal, SEPP 14 wetlands, bushfire hazard and vehicle access.

BIG SWAMP ENVIRONMENTAL INCENTIVE CLAUSE

Council does not have sufficient resources to acquire all the acid sulfate contaminated lands or required easements, so it resolved to proceed with an environmental incentive clause.

Greater Taree Local Environmental Plan 1995 had a similar incentive clause which facilitated the dedication of environmentally significant lands for the carrying out of development, which would have otherwise been prohibited. The Big Swamp incentive clause is slightly different because it is no longer possible to require the dedication of land through a Standard Instrument Local Environmental Plan. To address this issue, Council revised its dedication of land policy on 17 February 2016 to provide the mechanism to facilitate development and the dedication of significant environmental lands.

The proposed environmental incentive clause permits the creation of rural residential allotments of at least 5ha within the "Bonus development areas" provided suitable arrangements have been, or will be made for the conservation and management of that land identified as "Environmentally sensitive area". Land identified as "Exclusion area" needs to be attached to at least one of the 5ha allotments located within the "Bonus development areas".

HUNTER REGIONAL PLAN 2036

The planning proposal is generally consistent with the goals and directions of the Hunter Regional Plan 2036.

The Johns River Village rezoning proposal is consistent with Direction 21 Compact Settlements by reinforcing the village core as recommended by the Johns River Urban Design Report (2008).

The rural residential allotments created by the environmental incentive clause may not be in a location identified by any endorsed regional or local strategy but it provides significant environmental benefits by remediating acid sulfate soils and reinstating the coastal wetland community. The Gateway determination

approved this inconsistency with the Minister's S117 Direction 5.1 Implementation of Regional Strategies as being of minor significance.

The environmental incentive clause should assist in achieving Direction 14 Protect and connect natural areas and Direction 15 Sustain water quality and security of the regional plan by reinstating the coastal wetlands and improving water quality of the Manning River. Reinstating the coastal wetland also has the potential to greatly enhance regional environmental corridors linking the mountains to the sea (through habitat/riparian links to Johns River and Cooperook State Forests and Coorabakh National Park).

PARLIAMENTARY COUNSEL OPINION

A final PC Opinion was issued on 24 January 2017. There has been no change to the draft instrument since the PC opinion has been issued.

Council was consulted on the draft LEP pursuant to s.59(1) of the EP&A Act on 21 December 2016. Council accepted the drafting of the Planning Proposal on 20 January 2017.

PUBLIC PARTICIPATION

The planning proposal was exhibited from 7 November 2014 to 4 December 2014 to satisfy the Gateway determination requirement of 28 days. During the exhibition period, two submissions were received. Council has adequately responded to the issues raised in the submissions by advising it would investigate the merits of further expanding the Johns River Village area and suitability of including additional properties covered by the Big Swamp incentive clause.

PUBLIC HEARING

The Gateway Determination did not require a public hearing to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act.

CONSISTENCY WITH STATE POLICIES AND S.117 DIRECTIONS

The Gateway determination approved the planning proposal's inconsistencies with State Environmental Planning Policy (Rural Lands) 2008, Section 117 Direction 1.2 Rural Zones, Direction 1.5 Rural Lands, 5.1 Implementation of Regional Strategies and Direction 6.3 Site Specific Provisions (in relation to the Big Swamp private land dedication incentive scheme) as being of minor significance.

The planning proposal is considered consistent with all other SEPPs and Section 117 Directions.

CONCLUSION

It is recommended that this planning proposal proceed. Council has complied with the conditions of the Gateway Determination and the provisions of the Environmental Planning and Assessment Act, 1979. A PC opinion has been issued and there has been no change to the LEP since the PC opinion has been issued.

NSW Government Lobbyist Code of Code:

At this point of time, to the best of the Regional Team's knowledge, the Code has been complied with and there have been no meetings or communications with registered lobbyists with respect to this draft LEP.

LEP Assessment

Date Received from RPA : **16-Dec-2016**

LEP Determination	
	<u>DatePublishNotification</u>
Date sent to Parliamentary Council to Draft LEP :	28-Jun-2016
Determination Date :	Determination Decision :
Notification Date :	