

DEPARTMENT OF PLANNING AND ENVIRONMENT

Planning Services

GREATER TAREE LOCAL ENVIRONMENTAL PLAN 2010 (AMENDMENT NO 9) **PP-2014-GTARE-003-00**

PURPOSE

- To request that the Director Regions, Hunter & Central Coast, as the Minister's delegate, make *Greater Taree Local Environmental Plan 2010 (Amendment No 9)* ('the draft LEP') being *PP_2014_GTARE_003_00* Housekeeping LEP including Big Swamp Environmental Incentive Clause.

RECOMMENDATION

It is RECOMMENDED that the Director Regions, as delegate of the Minister for Planning:

- **notes** the Proposal Summary Report Tab A the Planning Proposal Tab B; and the Gateway Determination Tab C;
- **notes** Parliamentary Counsel's Opinion that the draft LEP can be legally made, and that no changes have been made to the draft LEP since obtaining this Opinion Tag PC;
- **makes** the draft LEP under section 59(2)(a) of *Environmental Planning and Assessment Act 1979* ('EP&A Act'), by **signing** the instrument Tab LEP and map cover sheet Tab Map; and
- **notes** the letter to Greater Taree Council, Tab Council advising of this decision. The letter will be sent after it is published on the NSW Legislation website.

CURRENT POSITION

- The draft LEP proposes to make a number of minor heritage description amendments, to make various site specific spot rezonings and introduces an environmental incentive clause to manage and facilitate the remediation of acid sulfate contaminated lands (known as the Big Swamp Area).
- The proposed environmental incentive clause is justified by the Big Swamp Feasibility Study 2010 and the Big Swamp Capability Study, Tab D. The feasibility study identified the extent of acid sulfate contaminated lands (ie, land generally below 2m AHD) and investigated options to improve the water quality of the Manning River. The 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 constraint considerations.
- The 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".
- Drafting the environmental incentive clause was complex because it is not possible to require the dedication of land through a Local Environmental Plan. To address this issue, Council revised its dedication of land policy on 17 February 2016, Tab E, to provide the mechanism to facilitate development and the dedication of significant environmental lands.
- The planning proposal is generally consistent with the goals and directions of the Hunter Regional Plan 2036. 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 Coopernook State Forests and Coorabakh National Park).
- The Proposal Summary Report, Tab A and Planning Proposal, Tab B, explain and provide the justification for the draft LEP. The Department's GIS team has checked the maps and they are ready for notification.

- 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 relevant SEPPs and Section 117 Directions.

BACKGROUND

- Council received Planning Reform Funding (Round 3) 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 published on the NSW Legislation website.
- Council has complied with all the conditions of the Gateway determination. The planning proposal is due for completion before 24 April 2017.
- 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 been 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.
- Council exhibited the Planning Proposal from 7 November 2014 to 4 December 2014 and received two submissions. 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.
- In accordance with the Gateway determination, Roads and Maritime Services and NSW Rural Fire Service were consulted and did not raise any issues.
- There have been no meetings with lobbyists.
- Under s59(1) of the EP&A Act, Council was consulted on the terms of the draft instrument. Council accepted the drafting of the Planning Proposal on 20 January 2017, Tab E.
- The PC Opinion was issued on 24 January 2017. No changes to the amendment have been made since the PC opinion was issued.

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26/2/2017

Monica Gibson

**Director Regions, Hunter and Central Coast
Planning Services**



Mr Glenn Handford
Interim General Manager
MidCoast Council
PO Box 482
TAREE NSW 2430

Our ref: PP_2014_GTARE_003_00
Your ref: SP671/02

Attention: Michael Griffith

Dear Mr Handford

**Greater Taree Local Environmental Plan 2014 (Amendment No 9),
Housekeeping LEP including Big Swamp Environmental Incentive Clause.**

I refer to Council's submission under the *Environmental Planning and Assessment Act 1979* ('EP&A Act'), requesting that the Minister makes *Greater Taree Local Environmental Plan 2014 (Amendment 9)*.

I am pleased to advise that the Minister's delegate, made the Local Environmental Plan under section 59(2) of the *EP&A Act*, and under section 34(5) it was published on the NSW Legislation website on ###. Please find enclosed a signed copy of the amending LEP.

Should you have any questions regarding this matter, please contact the undersigned at the Department's Newcastle Office on 4904 2716.

Yours sincerely

Trent Wink
Senior Planner, Hunter and Central Coast
Planning Services