

I INTRODUCTION

This is a Planning Proposal for land known as the Stage 2 Pacific Palms Study Area (deferred area). The total site is approximately 400 hectares in size and is shown in Attachment 1.

In 2007 a Local Environmental Plan for part of the Study (Stage 1) area was gazetted with the remainder of the area being deferred under s68(5) of the Act. A copy of this gazetted LEP is contained in Attachment 2. There were two main reasons for deferring some of the land from the draft plan. The first of these was that there was an urgent need to achieve the protection of those areas proposed to be zoned 7(a1) Environmental Protection whilst at the same time providing for some further development opportunities in an area of limited land supply.

Secondly, there was no dispute from the landowners as to the rezoning of their land and it was reasonable to proceed with the LEP so that the owner's and Council's land use planning objectives for a significant part of an area, that has been under investigation for over twenty years, could be finalised.

This Planning Proposal provides justification to continue with the deferred matter.

The Proposal seeks to rezone approximately 17 ha of land to allow development for the purposes of residential and business and to conserve the remainder of land for environmental protection. Approximately 340ha of the conserved area will be zoned environmental protection. A development offset is also proposed whereby some 240 ha of land, comprising threatened species habitat, SEPP14 Wetlands, core Koala habitat, regional fauna corridors and endangered ecological communities, will be transferred to the Department of Environment and Climate Change as National Park.

The proposal also includes the rezoning of the existing village area from 2 Village to appropriate urban zones.

1.1 Background

The site has been the subject of extensive investigations, including an independent review of all ecological investigations and an independently facilitated dispute resolution session, over the last 6 years. This Planning Proposal re-iterates the results of the extensive site investigations and the outcomes from the LES and independent reviews.

1.2 A Statement of Objectives or Intended Outcomes of the Proposed Instrument

The proposed outcomes are:

To provide for some urban expansion in the Pacific Palms area whilst delivering an environmental offset that will protect significant ecological areas into perpetuity and which will result in the creation of a regional fauna corridor to link substantial areas of National Park.

2. To ensure that land of high ecological value is protected into perpetuity by transfer to the National Park estate. Attachment 3 shows the indicative area proposed to be transferred to DECCW.
3. To provide for the rational and coordinated growth of the Pacific Palms and to give a higher level of certainty on the types of development that can occur by applying appropriate zones to the current village area.

The objectives will be achieved by:

- Enabling low density residential development in the 2(a) zone.
- Enabling a range of housing types, such as units and residential flat buildings as well as other suitable uses, such as restaurants, tourist facilities and motels by rezoning some land to 2(b) Medium Density Residential.
- Enabling, in an accessible location, a small neighbourhood shopping centre to support and service the surrounding residential areas.
- Application of an environmental protection zone over the part of the land that, according to the Local Environmental Study and reinforced by an independent review, is of high environmental value.
- Establishment of legally binding mechanisms, including a Planning Agreement to ensure that the land of highest ecological value is transferred to DECCW.

1.3 Provisions to be included in the Proposed Instrument

The proposed instrument will include a reference, in the Dictionary, to the mapping amendment to Great Lakes Local Environmental Plan 1996.

Included in the instrument will also be provisions to ensure the protection of wildlife movement corridors.

1.4 Justification for the Planning Proposal

The land is predominately zoned 1(c) Future Urban Investigation and has been the subject of intensive study for at least 15 years. In 2007 a Local Environmental Plan for about 90 ha of the study area was made. The remaining 290ha was deferred under s68 (5) of the Act for further consideration. The current zones are shown in Attachment 3.

Since the finalisation of the Stage 1 rezoning there have been substantial negotiations with the main landowners in the deferred area. These negotiations have been undertaken with a view to achieving a sustainable development/conservation outcome for the deferred land. Council and the owners have reached in principle agreement for about 17 ha of land to be rezoned for residential development if about 240ha is protected into perpetuity by transfer to the National Park Estate. A draft Planning Agreement, to deliver the offset, has been prepared by Council for DECCW to review. Advice from DECCW, dated 27 April 2010, is that the draft Planning Agreement is generally satisfactory subject to some revisions. They have *also "re-confirmed the Department's commitment to progressing with*

the Planning Agreement and the equitable resolution of the Pacific Palms Local Environmental Plan”.

The Study Area has been subject to exhaustive scientific studies and independent reviews which have clearly identified the significant environmental characteristics of the Study Area.

The benefit of the Planning Proposal is that the whole of the Pacific Palms locality can be rezoned in a strategic manner with linkages to the Booti Booti National Park and Wallingat National Park. The LES and facilitated dispute resolution session have identified an urban footprint and environmental conservation package that has been strategically compiled and reflects a holistic approach to managing future growth and conservation in the area.

Prior to and in the early stages of the rezoning process the land was subject to numerous degrading activities. These activities were having a significant impact upon the area's sensitive ecology. Resolution of this planning proposal will curtail these activities and ensure that the ecologically sensitive land is protected into perpetuity.

The rezoning proposal and associated development/conservation arrangement have reached the point where it is crucial for the process to keep moving forward rather than incur the delay that would be involved if it had to be incorporated into the new Great Lakes Principal LEP.

Council has adopted an amended draft Local Environmental Plan for the deferred areas for exhibition, a copy of which is contained in Attachment 4.

1.5 Mid North Coast Regional Strategy

Parts of the Pacific Palms area have been identified on the Growth Areas Maps within the as a Proposed Future Urban Release Area. Some departures from the maps can be justified by the substantial environmental investigations that have been undertaken and the fact that one of the main departures is a site upon which a tourist facility was approved in the current 1(c) zone by the Land and Environment Court in 2006.

Council and DECCW support the proposal that has now been prepared on the basis of the substantial ecological offset that is proposed.

1.6 Section 117 Ministerial Directions

The Minister for Planning, under section 117(2) of the EP&A Act, issues directions that relevant planning authorities such as local councils must follow when preparing planning proposals for new LEPs. The Table below contains a response to each of the directions relevant to the Planning Proposal.

Table 1-1: Compliance with Section 117 Directions

Direction	Response
1.1 Business and Industrial Zones	The proposed rezoning includes a business zone for a

	small village centre, which will be centrally located and accessible to residents as a social gathering point and source for some retail and commercial activity. Implementing a central business zone on site will also encourage employment growth in the area to further satisfy the objectives of this direction.
1.2 Rural Zones	The Direction states: <i>"A Planning proposal must:</i> <i>(a) not rezone land from a rural zone to a residential, business, industrial, village or tourism zone"</i> and <i>A Planning Proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director General of the Department of Planning that the provisions of the Planning Proposal that are inconsistent are:</i> <i>In accordance with the relevant Regional Strategy or sub-regional strategy prepared by the Department of Planning which gives consideration to the objectives of the direction."</i> As stated previously the part of the site subject of this Planning Proposal is identified on the growth areas maps within the Mid Coast Regional Strategy as a Proposed Future Urban Release Area. The small departures can be justified by the ecological investigations that have been undertaken, the fact that the main additional area is the site of a tourist facility approved by the court and the substantial ecological offset that has been negotiated
1.3 Mining, Petroleum Production and Extractive Industries	This direction is not applicable to the Planning Proposal.
1.4 Oyster Aquaculture	This direction is not applicable to the Planning Proposal.
1.5 Rural Lands	The land is class 4 and 5 Agricultural capability and the rezoning will be consistent with the principles of the Rural Lands SEPP.
2.1 Environment Protection Zones	The proposal will facilitate the protection of about 90% of environmentally sensitive areas with over half of these areas intended to be added to the National Park estate. The loss of some small areas is of minor significance in the context of the substantial gains from the protection of the majority of the sensitive areas.
2.2 Coastal Protection	The proposal will implement the principles of the NSW Coastal Policy.
2.3 Heritage Conservation	No heritage sites of significance will be affected by development.
2.4 Recreation Vehicle Areas	In accordance with this direction, the Environmental Protection zone lands will not permit a recreational vehicle area.
3.1 Residential Zones	The proposal is consistent with this Direction.
3.2 Caravan Parks and Manufactured Home Estates	This direction is not applicable to the Planning Proposal.
4.1 Acid Sulfate Soils	The direction requires consideration of the Acid Sulfate Soils (ASS) Planning Guidelines when Council prepares a

	Draft LEP. Council will incorporate ASS provisions in its Principle LEP.
4.2 Mine Subsidence and Unstable Land	The subject site is not located within a proclaimed mine subsidence district.
4.3 Flood Prone Land	This direction requires that a draft LEP shall have provisions consistent with the Floodplain Development Manual and the NSW Governments Flood Prone Land Policy. Restrictions apply on rezoning flood prone land. Some of the urban zones will require filling above the 1 in 100 year ARI event. This can be achieved without unreasonable impact.
4.4 Planning for Bushfire Protection	The LES has concluded that appropriate bush fire mitigation can be implemented for the proposed urban zones.
5.1 Implementation of Regional Strategies	As stated previously the part of the site subject of this Planning Proposal is identified on the growth areas maps within the Mid Coast Regional Strategy as a Proposed Future Urban Release Area. The small departures can be justified by the ecological investigations that have been undertaken, the fact that the main additional area is the site of a tourist facility approved by the court and the substantial ecological offset that has been negotiated
6.2 Reserving Land for Public Purposes	The Planning Proposal intends on rezoning an existing sports reserve under Council's control from 2 Village to 6(a) Open Space.

1.7 Net Community Benefit Assessment

A planning proposal must consider the net community benefit or cost of a Planning Proposal. The Net Community Benefit Criteria is identified in the NSW Government's publication *The Right Place for Business and Services*. Compliance with the Net Community Benefit Assessment Criteria is addressed in Table 3-2.

Table 1-2: Compliance with Net Community Benefit Assessment Criteria

Criteria	Compliance with Criteria
The degree to which the policy and its objectives can be satisfied.	The subject site seeks to amend the LEP to allow sensible coastal development and conservation of environmentally sensitive areas. The policy document <i>The Right Place for Business and Services</i> is mainly focused on ensuring growth within existing centres.
The proposed level of accessibility to the catchment of the development by public transport, walking and cycling.	The nature of the proposed rezoning is unlikely to affect the development of public transport, walking and cycling.
The likely effect on trip patterns, travel demand and car use.	One of the intentions is to create a more self sustaining community by the augmentation of retail facilities so that trip generation and car use are reduced.
The likely impact on the economic performance and	The proposal is not thought to impact on the economic performance of existing centres as it is anticipated that new

viability of existing centres (including the confidence of future investment in centres and the likely effects of any oversupply in commercial or office space on centres — see section B of the explanatory notes).	businesses will predominately augment those that are already available .
The amount of use of public infrastructure and facilities in centres, and the direct and indirect cost of the proposal to the public sector.	There is likely to be minimal cost to the public sector as a result of this proposal. The upgrade of infrastructure will be at the cost of the proponent and incorporates design measures to ensure waste and water services match seasonal tourist influxes.
The practicality of alternative locations, which may better achieve the outcomes, the policy is seeking.	The LES has explored all constraints and opportunities and the proposal is the best way to deliver the desired results.
The ability of the proposal to adapt its format or design to more likely secure a site within or adjoining a centre or in a better location.	This is not relevant given the small size of the land to be zoned for a neighbourhood centre.

1.8 Community Consultation

It is Council's intention to re-exhibit the draft LEP for the deferred areas. This re-exhibition will comprise notification in the local newspaper, letters to all landowners in the Pacific Palms area and exhibition at Council's offices of the draft rezoning proposal and LES. Council will also further consult relevant Government Agencies on the proposal.

It is relevant to note that considerable consultation has already occurred with the stage 1 LEP and this has informed the revised proposals for the deferred areas.

CONCLUSION

This Planning Proposal seeks to amend Great Lakes Local Environmental Plan 1996 (Great Lakes LEP) by finalising the rezoning of an area at Pacific Palms that was deferred from Amendment No. 13 to Great Lakes Local Environmental Plan 1996.

The proposal will provide for protection of significant ecological areas by rezoning a vast majority of the site to 7(a1) Environmental Protection. The proposal, through a Planning Agreement between the landowners and the DECCW will result in some 240 being added to the National Park estate.

The location and extent of the urban footprint and the environmental protection zone is a result of extensive investigations and considerations which culminated in an independent review of the LES by consultants SMEC Australia. Council also engaged Dr Carleton, previously of the Office of Commissioners of Inquiry, to conduct a dispute resolution session with the main landowners.

All the studies, investigations and consultation have informed the current draft LEP for the deferred areas and Council submits that transfer to the "Gateway LEP" amendment process is an appropriate course of action.

The following key steps have already been completed

- S54 resolution by Council to prepare a draft Local Environmental Plan
- Preparation of a Local Environmental Study and independent review of the LES by independent consultants appointed by Council.
- Extensive consultation and negotiation with Government Agencies
- Issuing of a s65 certificate by the Department of Planning
- Community consultation, including a dispute resolution session facilitated by a previous Commissioner of Inquiry.
- Exhibition of a draft LEP
- Consideration of submissions
- Making of a Local Environmental Plan for about 90 ha of the study area and deferral of the balance of the area.
- Adoption by Council, for exhibition, of an amended draft LEP for the deferred area
- Preparation of proposed PA –reviewed by DECCW

Council believes that given the considerable effort that has already been devoted to this area over recent years that it is reasonable to resolve the entire study area in a strategic manner. Rather than lose the current momentum by awaiting the incorporation of the deferred areas in the new Principal LEP for Great Lakes Council believes it is appropriate for the deferred areas to continue as a separate amending LEP.

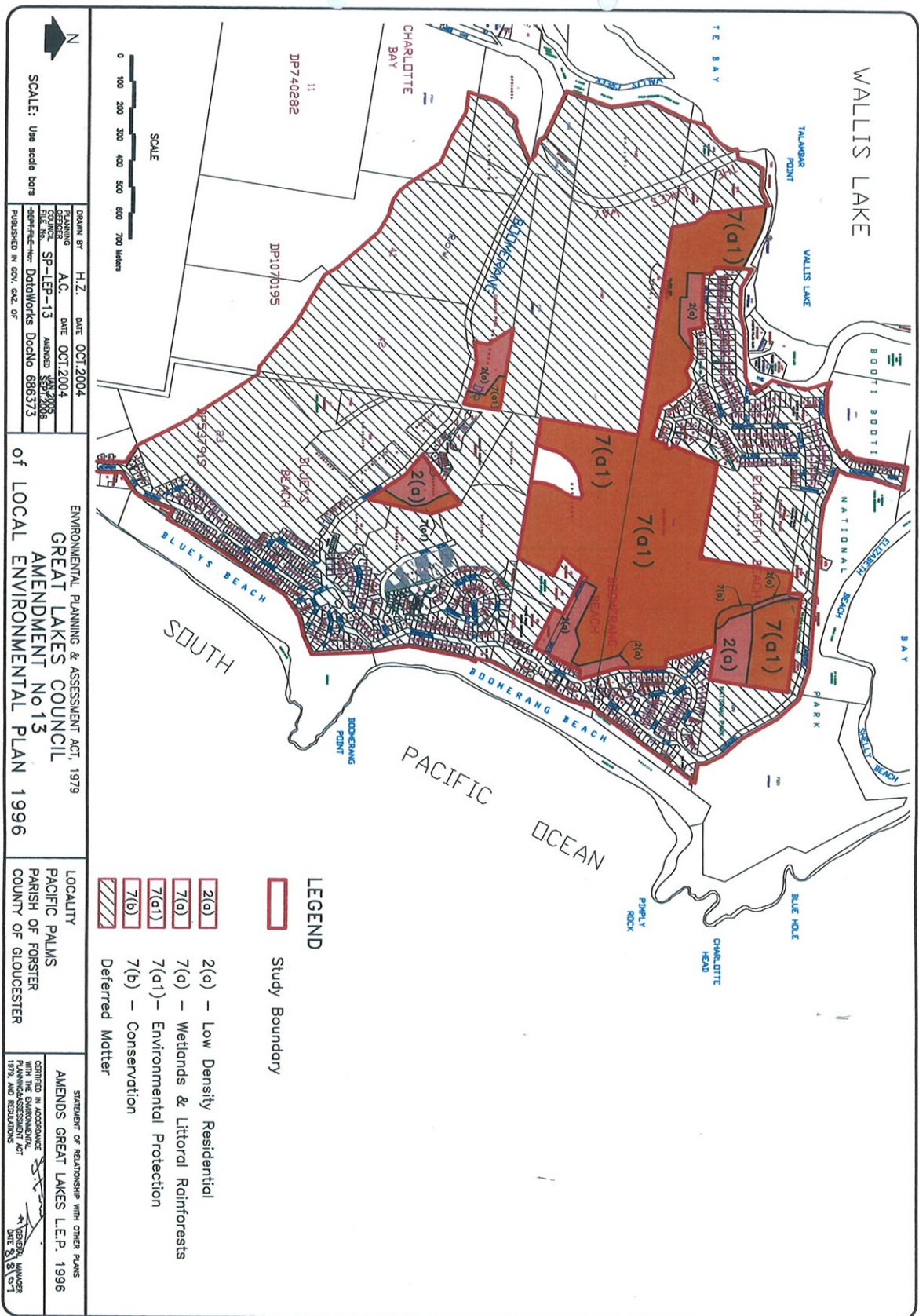
Council intends on exhibiting a revised draft LEP for the deferred area subject to a proposed Planning Agreement, to guarantee the transfer of the land to DECCW being supported, in principle, by the affected landowners, Council and DECCW.

Attachment 1

Pacific Palms Study Area

Attachment 2

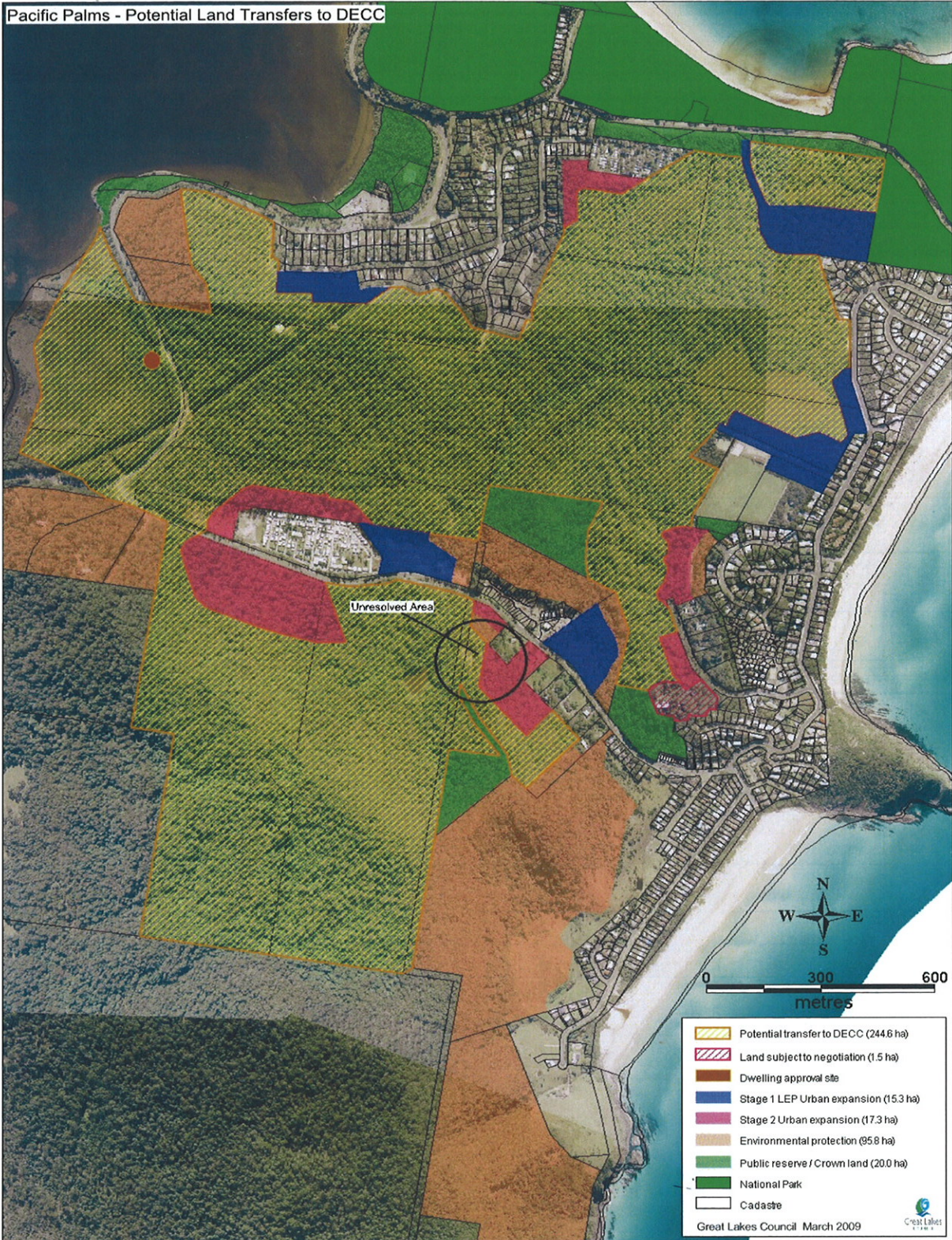
Gazetted Draft LEP for Part of Pacific Palms Study Area



Attachment 3

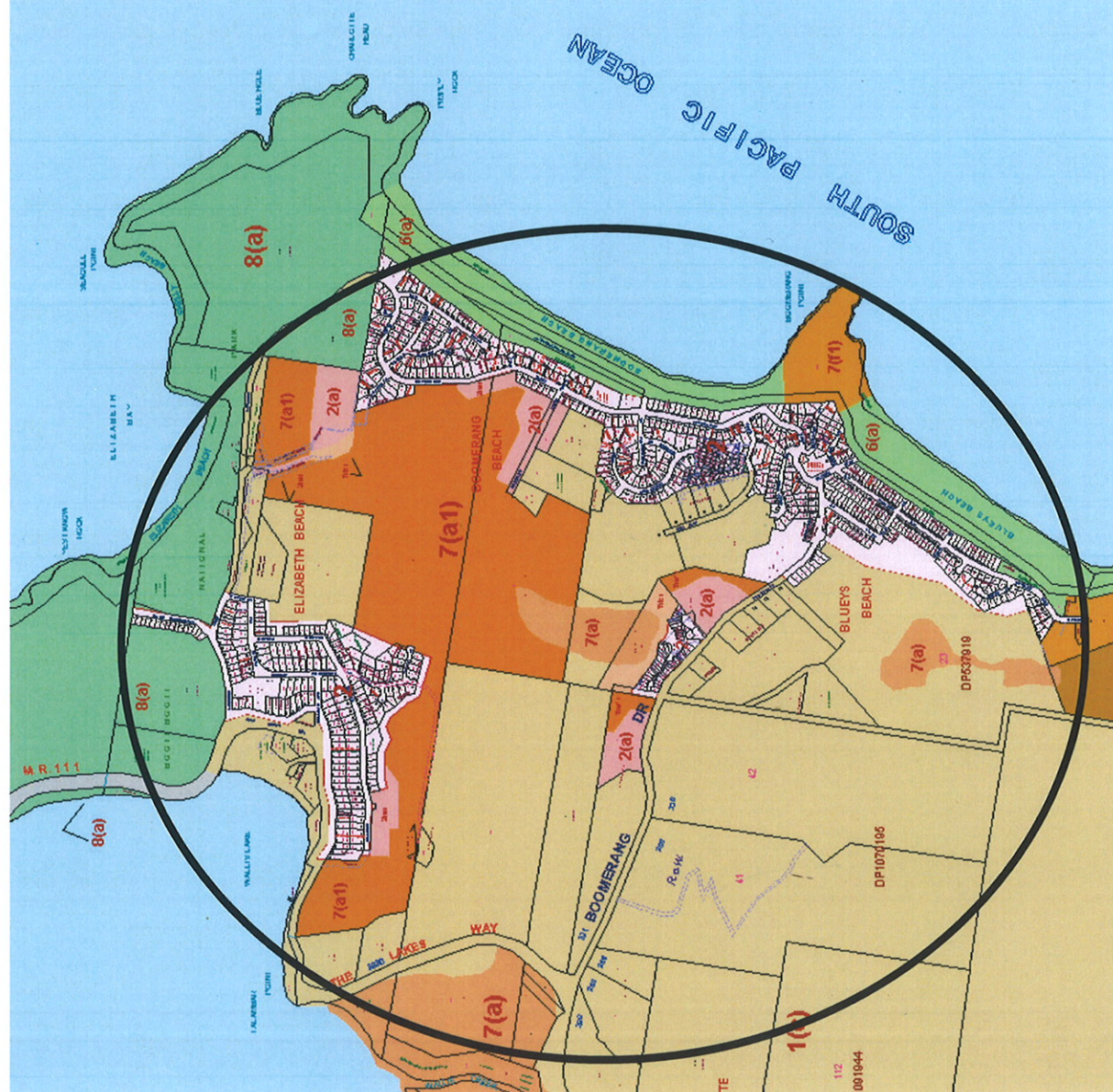
Indicative Potential Area to be Transferred to the National Park Estate

Pacific Palms - Potential Land Transfers to DECC



Attachment 3

Current Zones Under Great Lakes Local Environmental Plan 1996



Attachment 4

Draft LEP for Deferred Areas Adopted by Council for Re - exhibition