

I INTRODUCTION

This is a Planning Proposal for land known as North Hawks Nest Study Area. The total site is approximately 696 hectares in size and is shown in Attachment 1.

A draft Local Environmental Plan for this area has been exhibited in accordance with the EP&A Act and Council has adopted the draft for submission to the Director-General under s68.

This Planning Proposal provides justification to amend Great Lakes Local Environmental Plan 1996 by the way of adding a reference to 'Great Lakes Local Environmental Plan 1996 (Amendment No. 27)' to the definition of "Map" in the Great Lakes Local Environmental Plan 1996 "Dictionary".

The Proposal seeks to rezone approximately 90 ha of land to allow development for the purposes of residential, business and special uses and to conserve the remainder of land for environmental protection. Approximately 500 ha will be zoned environmental protection. A development offset is proposed whereby some 300 ha of land, comprising threatened species habitat, SEPP14 Wetlands, core Koala habitat and endangered ecological communities, will be transferred to Myall Lakes National Park including.

1.1 Background

The site has been the subject of extensive investigations, including a Public Inquiry by the Office of Commissioners of Inquiry for Environment and Planning, in recent years to examine the potential of the land for urban use and conservation. Subsequent to the Inquiry RPS Harper Somers O'Sullivan Pty Ltd (herein referred to as RPS) was commissioned by Great Lakes Council to prepare a Local Environmental Study (LES) for the site. The LES, along with a draft LEP, was placed on public exhibition in 2009. This Planning Proposal re-iterates the results of the extensive site investigations and the outcomes from the LES, dated November 2008.

1.2 A Statement of Objectives and Intended Outcomes

The objectives of the proposed instrument are to:

1. Provide for the ecologically sustainable, efficient and coordinated growth of the Hawks Nest and Tea Gardens sub region by rezoning all the land between Hawks Nest village and Myall Lakes National Park the 2 (a) Low Density Residential, 2(b) Medium Density Residential, 3(a) General Business, 5 Special Uses and 7(a1) Environmental Protection zones under Great Lakes Local Environmental Plan 1996. A copy of the draft LEP map adopted by Council in October 2009 is contained in Attachment 2
2. Ensure that land of high ecological value is protected into perpetuity by transfer to

Myall Lakes National Park. Attachment 3 shows the land proposed to be transferred to DECCW.

The objectives will be achieved by:

- Enabling low density residential development in the 2(a) zone
- Enabling medium density residential development, such as units and residential flat buildings as well as other suitable uses, such as restaurants, tourist facilities and motels, in the 2(b) zone.
- Enabling, in a central location, a range of retail and commercial uses to support and service the surrounding residential areas.
- Reinforcement of the MiddCoast Water sewerage treatment plant by application of a 5(a) Special Uses zone.
- Enabling some modifications to the layout of the existing golf course by application of a 5(a) Golf Course over a narrow strip in the southern part of the study area. The modifications will improve the safety and standard of the golf course 5(a) Golf Course zone is intended to allow.
- Application of an environmental protection zone over the part of the land that, according to a Public Inquiry by the Office of Commissioners of Inquiry for Environment and Planning and the Local Environmental Study, is of high environmental value. It is of high value because it contains a great diversity of plants and animals, including rare and threatened species (notably the endangered Hawks Nest Koala population) and endangered vegetation communities.
- Establishment of legally binding mechanisms (Planning Agreements and an LEP clause) to ensure that about 300 ha of the land of highest ecological value is transferred to DECCW for protection into perpetuity.

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

The Department of Planning has advised Council "..... that prior to finalising the LEP, there will need to be resolution of an appropriate environmental offset and a legally enforceable mechanism, including triggers and timing, for the transfer of the land to the conservation reserve at no cost to the Government. As set out in the Departments letter of 17 April 2009, this will require the inclusion of an appropriate 'satisfactory arrangements' clause into the draft LEP once the new Part 5B provisions take effect."

Consultation is occurring with the Department of Planning on an appropriate clause.

1.4 Need for the Planning Proposal

The site is predominately zoned 1(c) – Future Urban Investigation and has been the subject of intensive study for at least 12 years. In 1998 a LES for 440 hectares of land

was exhibited and in 2002 the same area was subject of a Public Inquiry into the ecological issues, conducted by the Office of Commissioners of Inquiry for Environment and Planning.

The Study Area has been subject to exhaustive scientific studies which have clearly identified the significant environmental characteristics of the Study Area. These were clearly defined in the Report stemming from the Public Inquiry. Mechanisms, such as LEP Provisions and Planning Agreements will be established to ensure the delivery of the most significant land to the Myall Lakes National Park.

The benefit of the Planning Proposal is that the whole of the North Hawks Nest locality can be rezoned in a strategic manner with linkages to the Myall Lakes National Park and Hawks Nest township. The LES has 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.

2 DESCRIPTION

2.1 Site Location, Zoning and Description

Property Description:

The subject site is known as North Hawks Nest Study Area.

Site Ownership and Existing Land Use:

The site contains over 30 separate land parcels with various owners.

The majority of the site is vegetated and vacant although a number of existing dwellings and outbuildings are present on the eastern side of Mungo Brush Road. A closed down and rehabilitated mineral sand processing plant and depot is located at the northern end of the affected area. At the southern end of the area is a parcel of land containing the clubhouse building and car park associated with the Hawks Nest Golf Club.

Site Access:

The site can be accessed from Mungo Brush Road.

Site Area:

The subject site is approximately 696 hectares in size.

Land Zone:

The land is predominately zoned 1(c) – Future Urban Investigation under Great Lakes Local Environmental Plan 1996. Some lots to the west of Mungo Brush Road are also partly zoned 7(a) zone – Wetlands and Littoral Rainforests. Lot 25 DP 753 166 in the south-west of the site is part zoned 2(a) Low Density Residential and part 6(a) Open Space and Recreation zone. The current zones are shown in Attachment 4.

Surrounding Development:

Myall Lakes National Park adjoins the land to the north, the Pacific Ocean forms the eastern boundary and the residential zonings of Hawks Nest adjoin to the south. Hawks Nest Golf Club adjoins, and forms part of, the southern portion of the subject site.

3 STRATEGIC PLANNING FRAMEWORK

The following is an assessment of the relevant strategic and regional plans to establish the strategic planning context and guidelines for the Great Lakes and the subject site.

3.1 Tea Gardens/Hawks Nest Conservation and Development Strategy

The Tea Gardens / Hawks Nest Conservation and Development Strategy, adopted by Council in September 2003, was prepared to guide conservation and development in the sub-region over the next 20 to 30 years.

The Strategy classifies the North Hawks Nest precinct as a Category 1 precinct. Any development within the North Hawks Nest precinct must have a sustainable relationship with the environment that maintains the ecological integrity of the area.

The Strategy classifies the North Hawks Nest precinct as a Category 1 precinct. A Category 1 precinct is defined as an area where there is a relatively high degree of certainty that development can occur in those parts identified as being suitable for development due to a lack of capability or suitability constraints. Any development within the North Hawks Nest precinct must have a sustainable relationship with the environment and which maintains the ecological integrity of the area. The recent LES which this Planning Proposal is based upon has addressed how this will be achieved.

3.2 Mid North Coast Regional Strategy

The North Hawks Nest area is identified on the growth areas maps within the Strategy as a Proposed Future Urban Release Area. Appendix 2 of the Strategy identifies the site as a Growth Area requiring significant issues to be resolved and these are listed as:

- *The extent of development potential is to be based on the completion of environmental and urban capability assessments which address the findings and recommendations of the 2001 Commission of Inquiry Report.*
- *The extent of development potential will also be subject to the resolution of an appropriate environmental offset:*
 - *Allowing the transfer of a major part of the site (as identified and agreed to by the Department of Environment and Climate Change) to create an effective extension of the Myall Lakes National Park.*
 - *That has a legally enforceable mechanism including triggers and timing for the transfer of the land to the conservation reserve at no cost to the government*

The recent LES addresses all aspects of the 2001 Inquiry Report and investigates thoroughly the development potential of the site having regard for the need for appropriate

environmental offsets. The Planning Proposal is based upon the recent LES and hence is entirely consistent with the Mid North Coast Regional Strategy. The Department of Environment Climate Change and Water supports the draft LEP provided the legal mechanism to give effect to the offset is delivered by the time the LEP is made. A copy of the advice from DECCW is contained in Attachment 4.

3.3 NSW Coastal Policy 1997 and NSW Coastal Design Guidelines

The NSW Coastal Policy 1997 and NSW Coastal Design Guidelines detail present and future challenges and opportunities for coastal villages. Site relevant challenges include:

- ensure development builds on the settlement's existing structure;
- strengthen the original structure of the settlement and its relationship to the surrounding natural features;
- retain close visual and physical boundaries between natural and built environments;
- protect the areas surrounding ecological integrity;

The development footprint suggested in the Planning Proposal is separated from the existing settlement footprint of Hawks Nest due to the location of the golf course and the Sewage Treatment Plant. A DCP will be prepared to prescribe the built form and to emulate the character and amenity of the existing Hawks Nest urban area.

The extensive areas dedicated for conservation will ensure that Hawks Nest relationship with surrounding natural features located to the north of the village are strengthened and maintained. The proposed urban development footprint will retain close visual and physical boundaries between natural and built environments and the Environmental Protection zoning that will be established will protect the areas ecological integrity.

The *NSW Coastal Policy 1997* integrates four principles of ecological sustainable development (ESD) into a policy and planning framework that provides for population and economic growth while protecting the natural, cultural and heritage values of the coastal environment. In order to provide expression for the ESD principles, nine goals (principles) have been adopted:

- Protecting, rehabilitating and improving the natural environment of the coastal zone;
- Recognising and accommodating the natural processes of the coastal zone;
- Protecting and enhancing the aesthetic qualities of the coastal zone;
- Protecting and conserving the cultural values of the coastal zone;
- Providing for ecological sustainable human settlement in the coastal zone;
- Providing for appropriate public access and use;

- Providing information to enable effective management of the coastal zone;
- Providing for integrated planning and management of the coastal zone.

The proposed rezoning is consistent with the ESD goals of the Policy.

3.4 State Environmental Planning Policies (SEPPs)

A number of SEPPs may apply to the site. This includes:

- SEPP 11 – Traffic Generating Developments
- SEPP 14 – Coastal Wetlands
- SEPP 44 – Koala Habitat Protection
- SEPP 55 – Remediation of Land
- SEPP 71 – Coastal Protection
- SEPP (Rural Lands) 2008
- Draft SEPP 66 – Integrated Land Use and Transport

The LES has undertaken a thorough assessment of the proposal against the relevant SEPPs

3.4.1 SEPP 14 – Coastal Wetlands

SEPP 14 Wetland number 717 extends along and within the western boundary of the site. The proposal results in no development along the western side of Mungo Brush Road and provides a minimum 100m buffer zone around this wetland to afford an appropriate level of protection to the wetland values. The proposed 100m buffer may incorporate a bushfire protection zone where the land is not identified as critical habitat. However because the development footprint is located on the eastern side of Mungo Brush Road bushfire protection zones will not be need to be implemented within the 100m buffer.

The lands containing the SEPP 14 Wetland (717) are currently zoned 7(a) Wetlands and Littoral Rainforest and the zone covers approximately 74 hectares of the Site. This zone and the lands that it covers will remain. Areas immediately adjacent to the 7(a) Wetlands and Littoral Rainforest zone will be protected through an environmental protection zoning. Much of the lands zoned 7(a) Wetlands and Littoral Rainforest and environmental protection will be dedicated to the DECC for inclusion within the Myall Lakes National Park.

3.4.2 SEPP 44 Koala Habitat Protection

The provisions of SEPP 44 mostly apply to development applications. However with respect to amendments to a local environment plan and preparation of LES's clauses 15 and 16 of SEPP 44 are relevant.

Assessment of Koala habitat was a major issue addressed in the Public Inquiry and the findings have been augmented and incorporated in the LES and proposed draft LEP.

All relevant clauses of SEPP 44 were considered during the preparation of *Draft Amendment No. 27 to the Great Lakes LEP 1996*.

3.5 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. Table 3-1 contains a response to each of the relevant directions in relation to the Planning Proposal.

Table 3-1: Compliance with Section 117 Directions

Direction	Response
1.1 Business and Industrial Zones	The proposed rezoning includes a business zone for a village centre, which will be centrally located and accessible to residents as a social gathering point and source for retail and community facilities, restaurants, a etc. The centre will be an appropriate scale to ensure that it complements rather than detracts from the viability of existing centres in Hawks Nest and Tea Gardens. Implementing a central business zone on site will also encourage employment growth in North Hawks Nest, 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 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. Therefore the Planning Proposal represents a justifiable inconsistency to this Direction.
1.5 Rural Lands	The development will rezone approximately 523 hectares of land to 7(a1) Environmental Protection zone coupled with the existing 74 hectares of land within the currently zoned 7(a) Wetlands and Littoral Rainforest, resulting in a total of 597 hectares of the site contained within environmental protection / wetland zones. The draft LEP will be consistent with the Rural Planning Principles listed in SEPP (Rural Lands) 2008, as described in Section 8.4.5 of this study. The rezoning therefore complies with this

	s117 direction.
2.1 Environment Protection Zones	Approximately 74 ha or 11% of the site is currently zoned 7(a) Wetlands and Littoral Rainforest. This zone and the lands that it covers will remain within an environmental protection / wetland zone. The vast majority of the land outside this zone will be rezoned 7 (a1) Environmental Protection to protect and conserve environmentally sensitive areas in fulfilment of the objectives of this Direction. As a result of the draft LEP approximately 86% of the site will be zoned 7(a) / 7(a1) and the rezoning fulfils direction 2.1. The proposal is a conservation / development "package" that meets the requirements of the Public Inquiry of retaining 70% Blackbutt and 70% Heath communities over the entire site, while providing a compact urban footprint suitable for implementing sound neighbourhood design.
2.2 Coastal Protection	The proposal will implement the principles of the NSW Coastal Policy.
2.3 Heritage Conservation	The proposal will facilitate the conservation of heritage significance, Aboriginal objects, areas of Aboriginal heritage significance or an Aboriginal place.
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 will result in a compact, useable development footprint that will encourage a variety of and choice of housing types to provide for existing and future housing needs. A conservation / development package will help to minimise the impact of residential development on the environment and resource lands.
4.1 Acid Sulfate Soils	The direction requires consideration of the Acid Sulfate Soils (ASS) Planning Guidelines when Council prepares a Draft LEP. Acid Sulfate Soils have been addressed in the LES.
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. The urban zone has an AHD higher than the 1 in 100 year ARI event, while flood prone land west of Mungo Brush Road will be rezoned Environmental Protection and eventually be dedicated to Myall Lakes National Park, fulfilling the objectives of this Direction.
4.4 Planning for Bushfire Protection	Bushfire investigations has found that the issues and strategies relevant to future bushfire planning for the North Hawks Nest Study Area have been adequately researched and if carried out in accordance with Planning for Bushfire Protection (2006) will provide a framework with which to progress the bushfire planning within the area. The LES has addressed how the proposal fulfils the objectives of this direction.
5.1 Implementation of Regional Strategies	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies. As stated previously 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 Planning Proposal is therefore consistent with this direction.
6.1 Approval and Referral Requirements	The objective of this direction is to ensure that state agencies are appropriately involved in consultation and concurrence roles. Consultation with relevant State agencies has been addressed in the LES.
6.2 Reserving Land for Public Purposes	The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition. The draft LEP does not propose to reserve any land for public purposes, so therefore this Direction does not apply. However some of the Environmental Protection lands will be dedicated to the Myall Lakes National Park.
6.3 Site Specific Provisions	It is not proposed to implement any site specific planning controls over the North Hawks Nest Study Area as part of the draft LEP. The objectives of this Direction will be further fulfilled because the draft LEP shall not contain or refer to drawings showing details of a development proposal.

3.6 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 3-2: 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 development footprint is separated from the existing settlement footprint of Hawks Nest due to the location of the golf course and the Sewage Treatment Plant. However the proposal emulates the existing settlement structure of Hawks Nest and promotes reduced travel demand by providing a 3(a) General Business zone which would allow a range of retail and commercial uses close to residential uses. The geographic location of the site will also allow future residents to enjoy the coastal elements that attract people to the Hawks Nest area, without necessarily having to use vehicles or public transport.
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. Some recreation facilities will be provided on site.
The likely effect on trip patterns, travel demand and	The likely affect on trip patterns, travel demand and car use has been explored in the recent LES. The development footprint

car use.	provides good opportunities to integrate housing, employment and services within a walkable catchment to reduce the reliance on fossil fuel based transport and improve accessibility for pedestrians and cyclists.
The likely impact on the economic performance and 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).	The proposal is not thought to impact on the economic performance of existing centres as it is anticipated that new businesses will predominately service the new resident population.
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.	Due to the geographic location of Hawks Nest being located on the northern side of the Port Stephens waterway and nestled between the Myall River and the coastline, opportunities for urban development are limited. North Hawks Nest is identified in the Tea Gardens / Hawks Nest Conservation and Development Strategy as a site for urban development. The LES demonstrates that part of the land (approximately 90 hectares) is highly suitable for urban development and majority of the site (approximately 523 hectares) is suitable for environmental protection.
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.	Footprint Variations have been explored and are documented in the LES.

4 ENVIRONMENTAL CONSIDERATIONS

4.1 Vegetation

The North Hawks Nest area is biologically diverse, exhibiting high biodiversity at a regional and local level. The area includes at least 15 forest types of which some communities are not well represented outside the public reserve system in the Great Lakes. Significantly, the area includes Holocene forests, which are not well represented elsewhere between Newcastle and Smiths Lake and particular species that are rare elsewhere in the Fens embayment.

Extensive flora investigations and vegetation mapping has been undertaken throughout the site. The vegetation assessments indicate that five main vegetation associations exist within the site, grading from coastal heath communities behind the dune system to the east, through Dry and Intermediate Forests through to Swamp Forests and Estuarine communities on the foreshores of the Myall River to the west. Most of the site is still in a relatively natural state, although modification of some parts has occurred due to past sand-mining and ongoing clearing. At the time of the various studies for the draft LES in 1998, the mined areas to the east of Mungo Brush Road had substantially regenerated, while the sand mining path to the west of the road were still in a disturbed state.

The existing vegetation on the site has been thoroughly investigated and considered during the development of the proposal and is discussed in detail in the recent LES. These considerations have resulted in approximately 523 hectares of the site being proposed as 7(a1) Environmental Protection zone coupled with the existing 74 hectares of land within the site is currently zoned 7(a) Wetlands and Littoral Rainforest, resulting in a total of 597 hectares of the site contained within environmental protection / wetland zone.

4.2 Bushfire

Bushfire investigations has found that the issues and strategies relevant to future bushfire planning for the North Hawks Nest Study Area have been adequately researched and if carried out in accordance with Planning for Bushfire Protection (2006) will provide a framework with which to progress the bushfire planning within the area. This is discussed further in the recent LES.

4.3 Heritage

There are no heritage items on the site.

4.4 Aboriginal Archaeology

The findings of an archaeological investigation undertaken on the site show the site does not have a high degree of potential for significant Aboriginal or European archaeological sites or items. The development footprint of the preferred option is not expected to impact

on any archaeological significance within the site. This is further discussed in the recent LES.

4.5 Stormwater and Hydrology

A Flood Study for the site calculated a maximum 100 year ARI flood level of 2.25m AHD. The development footprint identified in the preferred option is located to the east of Mungo Brush Road. All land east of Mungo Brush Road is above 4m AHD and therefore above the identified 100 year ARI flood level. The preferred option ensures land west of Mungo Brush Road will eventually be dedicated to Myall Lakes National Park. This is further discussed in the recent LES.

4.6 Services

The existing electricity infrastructure is due to be upgraded by Country Energy and will be adequate to supply the needs of development within the preferred option.

The development will be supplied by water from the Tea Gardens water reticulation scheme, with plans to augment this system to meet future needs. Development within the site will be able to connect to the water system on the north side of the Myall River in Hawks Nest.

Midcoast Water operates a waste water treatment plant to the south of the site. The development will be serviced by a vacuum sewerage system. The proposal will potentially result in the development of 800 new lots. The sewerage treatment plant can be augmented to cope with the additional load from the development.

4.7 Access and Traffic

Generally speaking, the existing road infrastructure is capable of accommodating the predicted future traffic levels in North Hawks Nest. Some sections of road will require improvements such as road widening, provision of kerb and guttering, modified intersection layouts and sealing road shoulders.

Traffic management solutions, such as maximum designated speed limit of 60 km/h along the length of Mungo Brush Road, lighting and approved vehicle-calming devices at points where Potential and Core Koala habitat currently cross Mungo Brush Road, will be necessary to ensure the impact of the development footprint from the preferred option is minimised.

4.8 Soils

Soil investigations have revealed that the soils over the centre and east of the site consist of medium to coarse grained siliceous sands, while soils over the western portion are

extremely saline, slightly dispersive, are prone to flood inundation and in some areas remain waterlogged. The development footprint is over a soil type that is capable of accommodating urban development.

The development footprint is located in an area with a low probability of acid sulphate soils. The majority of the land east of Mungo Brush Road is not expected to contain acid sulphate soil materials. However, highly localised occurrences may be found on land west of Mungo Brush Road, especially near boundaries with areas of high probability. Disturbance of these soil materials will result in environmental risk that will vary with elevation and depth of disturbance. Disturbance of the first metre of soil in the development footprint is unlikely to cause acid sulphate soil problems.

The soils over the western portion of the site are protected from development by the rezoning of land to Environmental Protection 7(a1). Therefore, the proposal provides the best mechanism to protect the existing soils from disturbance and development and consequently reduces the environmental risk associated with these areas. This is further addressed in the recent LES.

4.9 Groundwater

Groundwater modelling has been updated to expand upon on information gathered from the previous groundwater modelling of the location and describes its extent and interrelationship with dependent ecosystems. It provides directions and rates of flow of groundwater and determines the physical and chemical characteristics of the system. The Study concludes that there are no significant hydraulic reasons that are likely to prevent the operation of the expanded exfiltration scheme at the Hawks Nest Waste Water Treatment Plant at "full" capacity, where full capacity refers to the acceptance of waste water from all development, current and future (including development within North Hawks Nest), within the Tea Gardens Hawks Nest Region. This is largely because of the high permeability and the depth of the sand aquifer within the site and also assumes two additional exfiltration ponds are constructed (as is proposed) and that on-site storage is incorporated into the scheme. The Study recommends that further research be conducted by MidCoast Water to determine the likelihood, magnitude and consequence of any long term decrease in infiltration capacity. It is understood that such research by MidCoast Water is about to commence.

It can therefore be concluded that the proposal will not have a significant impact on the groundwater regime.

Constraints and opportunities maps are contained in Attachment 5 and a Principles Plan, derived from the numerous studies and investigations adopted by Council is contained in Attachment 6.

5 COMMUNITY AND GOVERNMENT AGENCY CONSULTATION

Draft Amendment No. 27 to the Great Lakes LEP 1996 and the supporting LES were publicly exhibited in 2009 for a period of two months. Having regard to the extensive consultation that has already occurred and it is recommended that "re-exhibition" of the proposal will not be necessary.

Given the considerable debate over past years on the future of the North Hawks Nest area the following advertising and promotion, over and above the statutory requirements, was undertaken so as to inform the community on the draft LEP and to gauge the community's reaction to the draft LEP:

- Council staff gave a presentation to the community early in the exhibition period and about 40 people were in attendance.
- Letters advising of the exhibition of the draft LEP and its availability on Council's web site were sent to:
 -
 - All landowners in the study area
 - Interest groups in Hawks Nest/Tea Gardens
 - All absentee landowners
- The draft LEP and other relevant documentation were placed on Council's web site.
- The LES, draft LEP, plain English explanations and other supporting documents were displayed at Council's Tea Gardens and Forster offices.
- Media releases were published in the NOTA newspaper.
- Council's Release Area Manager gave two interviews with ABC Radio.

Council has extensively consulted all relevant Government Agencies during the preparation of the draft LEP/Planning proposal. Importantly DECCW supports the draft proposal on the basis that the conservation offset is delivered. DoP is also supportive of the draft LEP and has been assisting Council and DECCW in resolving the legal mechanism for transfer of the land to DECCW.

One of the reasons for the time taken to prepare the current proposal to this point is the extensive consultation that has occurred with Government Agencies and the effort that has been directed to delivering a satisfactory ecological offset.

5.1 Results of Community Consultation

A total of six (6) public submissions were received, three of which support the draft proposal and three were objections. Submissions in support were made by the Myall Koala and Environmental Support Group, Hawks Nest/Tea Gardens Progress Association and Hawks Nest Golf Club. Although the two community groups have indicated their support for the draft LEP they have both expressed concern at the retention of the

residential zone over Lot 25 DP 753166, in the south western corner of the study area, owned by the Department of Lands. This property is an important movement corridor for the Koala and both groups have requested that it be zoned environmental protection as soon as possible.

Submissions were also made by three Government Agencies.

A development control plan will be prepared and exhibited to help guide development within the proposed urban zones. Development applications will also need to be lodged after gazettal of the Planning Proposal and these will also be placed on public exhibition.

6 CONCLUSION

This Planning Proposal seeks to amend Great Lakes Local Environmental Plan 1996 (Great Lakes LEP) by the way of adding a reference to 'Great Lakes Local Environmental Plan 1996 (Amendment No. XX)' to the definition of "Map" in the Great Lakes Local Environmental Plan 1996 "Dictionary".

The proposal will provide 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 and a suitable LEP clause to be advised by DoP will result in some 300ha being added to the Myall Lakes National Park. These mechanisms will also provide the fully funded rehabilitation of much of the area degraded by past mining activities. Limited site responsive coastal development will be permitted over about 90 ha of the study area.

The proposal is consistent with the relevant Regional and Local strategic plans for the site and surrounding areas, namely the Mid North Coast Regional Strategy and the Hawks Nest / Tea Gardens Conservation and Development Strategy.

The location and extent of the urban footprint and the environmental protection zone is a result of extensive investigations and considerations which culminated in a Public Inquiry and LES for the site. Council and the Department of Planning can be confident that sufficient information exists from these investigations and that the transfer to the "Gateway LEP" amendment process is an appropriate course of action.

The following key steps that have already been completed

- S54 resolution by Council to prepare a draft Local Environmental Plan
- Holding of a Public Inquiry by the Office of Commissioners of Inquiry for Environment and Planning
- Preparation of a Local Environmental Study
- Extensive consultation and negotiation with Government Agencies
- Issuing of a s65 certificate by the Department of Planning
- Community consultation (see section 5 above)
- Exhibition of a draft LEP
- Consideration of submissions
- Preparation of proposed PA – being reviewed by DECCW
- Adoption by Council

6.1 Current Position with Plan Preparation

Council has adopted a draft Local Environmental Plan for submission to the department under s68 of the Act. The decision to submit the draft proposal is subject to:

1. The insertion in the draft LEP of an appropriate clause, as advised by the Department

of Planning, which will ensure satisfactory arrangements are made for the transfer of the privately owned land shown in Annexure "C" to the National Park estate.

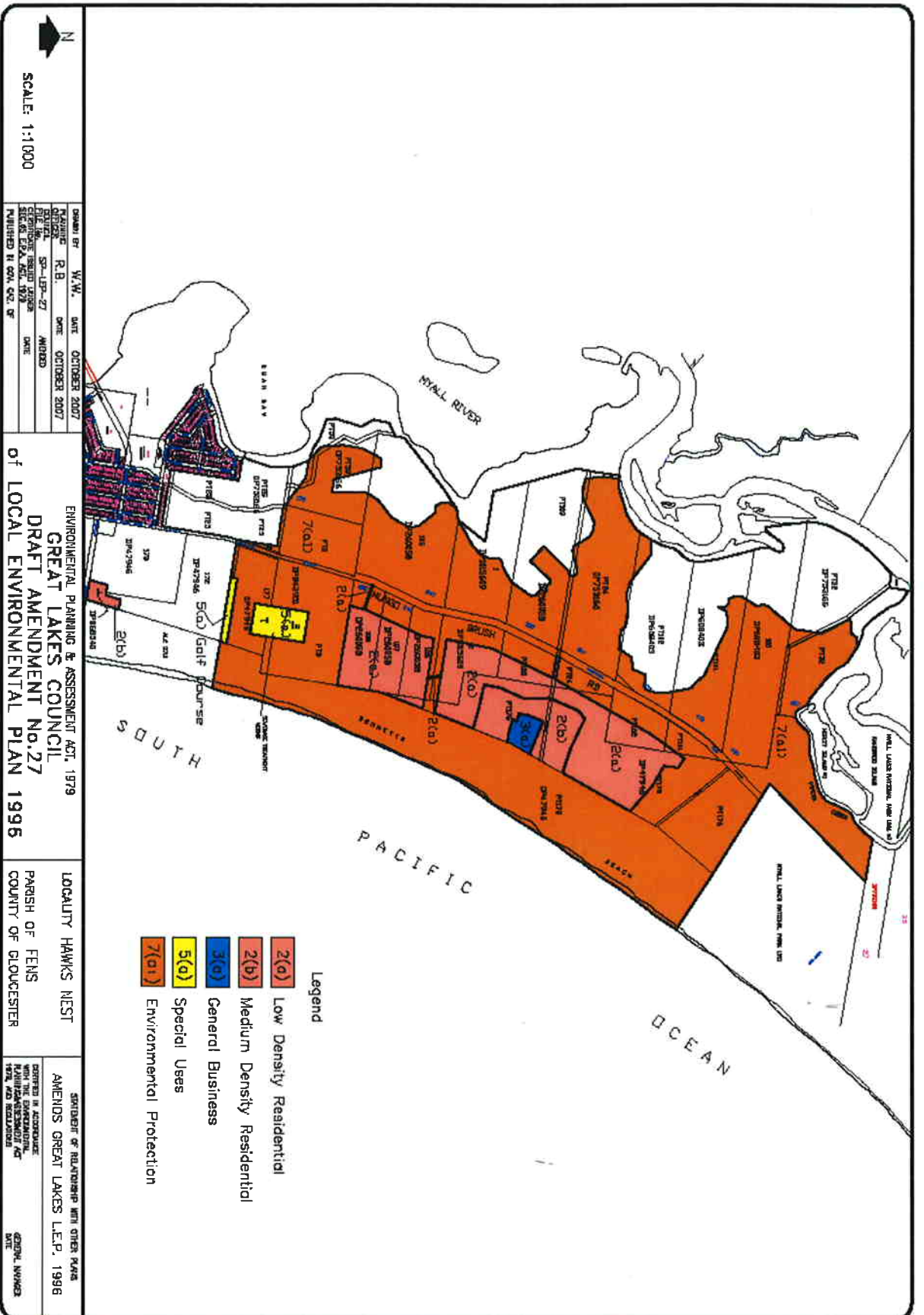
2. The Department of Environment of Climate Change and Water advising Council that the Voluntary Planning Agreement to give effect to the transfer of land to the National Park estate has been executed by all relevant parties and registered upon the title of all properties the subject of the transfer.
3. The execution of the proposed Voluntary Planning Agreement between Council and whereby funds will be provided to Council to purchase Lot 53 DP 753166 if the opportunity should arise at some stage in the future.
4. The exhibition of a draft Development Control Plan for the area.

Attachment 1

North Hawks Nest Study Area

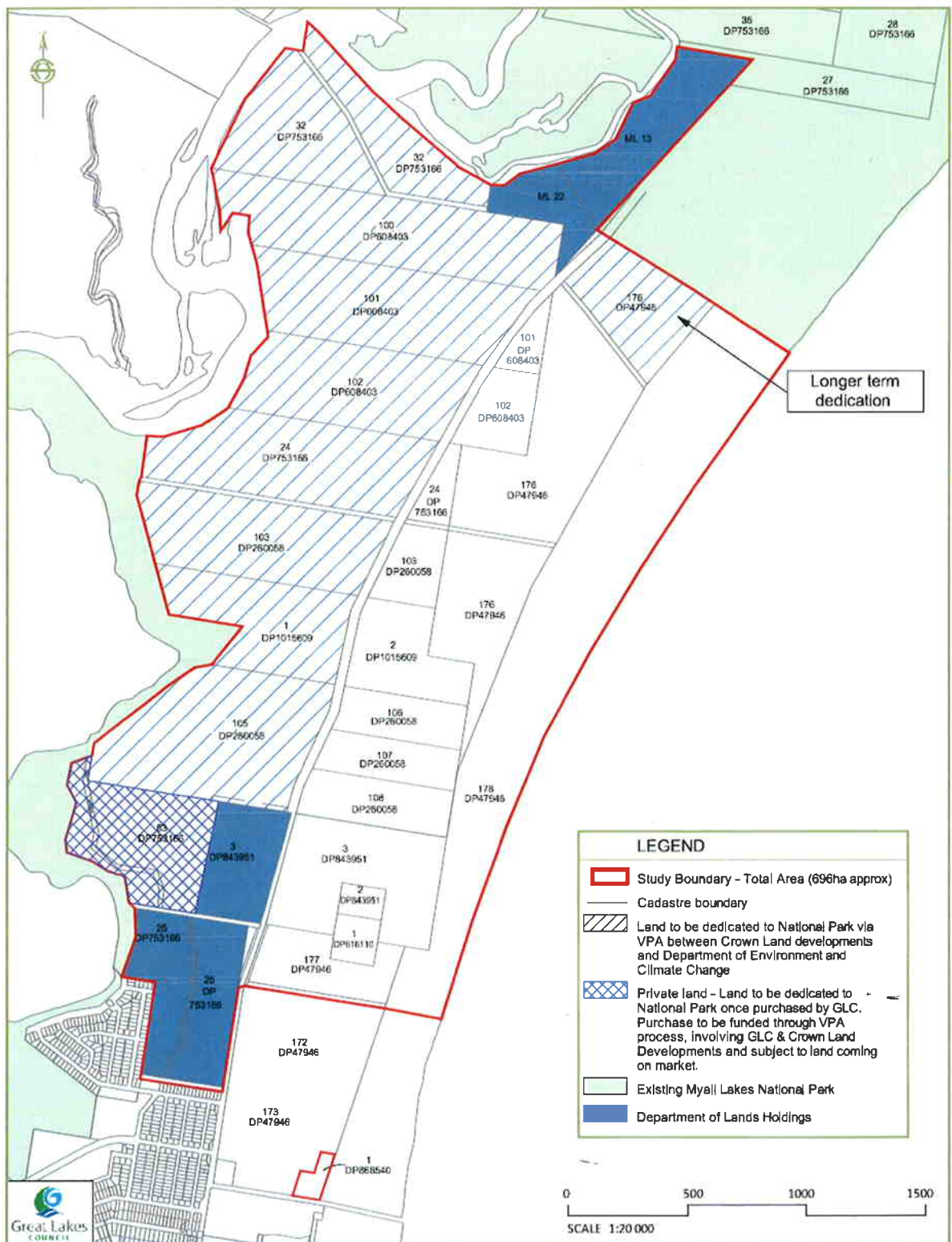
Attachment 2

Draft Local Environmental Plan Adopted by Great Lakes Council



Attachment 3

Land Proposed to be Added to Myall Lakes National Park



TITLE: LAND TO BE DEDICATED TO NATIONAL PARK **LOCATION:** NORTH HAWKS NEST LOCAL ENVIRONMENTAL STUDY **DATUM:** PROJECTION MGA **DATE:** 18TH JUNE 2009 **CAD REF:** 22252-14H **VERSION (PLAN #):** FIGURE 8-2(2)

CLIENT: GREAT LAKES COUNCIL **JOB REF:** 22.252

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Attachment 4

Advice from Department of Environment Climate Change and Water

Our reference: DOC08/27654; FIL07/12879 - 02
Contact: Karen Thumm, 4908 6829

Mr Keith O'Leary
General Manager
Great Lakes Council
PO Box 450
FORSTER NSW 2428

GREAT LAKES COUNCIL

23 JUN 2009

RECEIVED RECORDS

Attention: Mr Roger Busby

Dear Mr O'Leary,

Re: Exhibition of North Hawks Nest draft Local Environmental Plan

I refer to a telephone conversation between Roger Busby of Council and Karen Thumm of Department of Environment and Climate Change (DECC) on 9 June 2009 regarding the exhibition of the North Hawks Nest draft Local Environmental Plan (LEP) expected at the beginning of July 2009.

I acknowledge that DECC's letter of the 19 December 2008 states that we raise no objection to the exhibition of the draft LEP. This was based on DECC's original understanding that the Voluntary Planning Agreement (VPA) would be concurrently exhibited with the draft LEP. It is now evident that the VPA, which is presently under DECC review, will not be ready for exhibition by the beginning of July. DECC has received only part of the additional information it requested from the applicant, despite ongoing requests and discussions since 19 December 2008. Provision of a timeframe for completion of the review of the draft VPA is therefore not possible at this time.

DECC acknowledges that the exhibition of a draft LEP may precede that of an associated VPA. In order for DECC to continue to raise no objection to the exhibition of the afore mentioned draft LEP, DECC would need to be satisfied that, should merit exist for the making of an LEP, said LEP is not made until such time as a relevant VPA is made,

DECC now seeks the written assurance of Council that should merit exist for the making of a LEP, Council will only progress the making of the said LEP when the associated VPA is also ready to be made. If you would like to discuss this matter further please contact Karen Thumm, Conservation Planning Officer, on 4908 6829.

Yours sincerely,

DL Crosdale

18/06/09

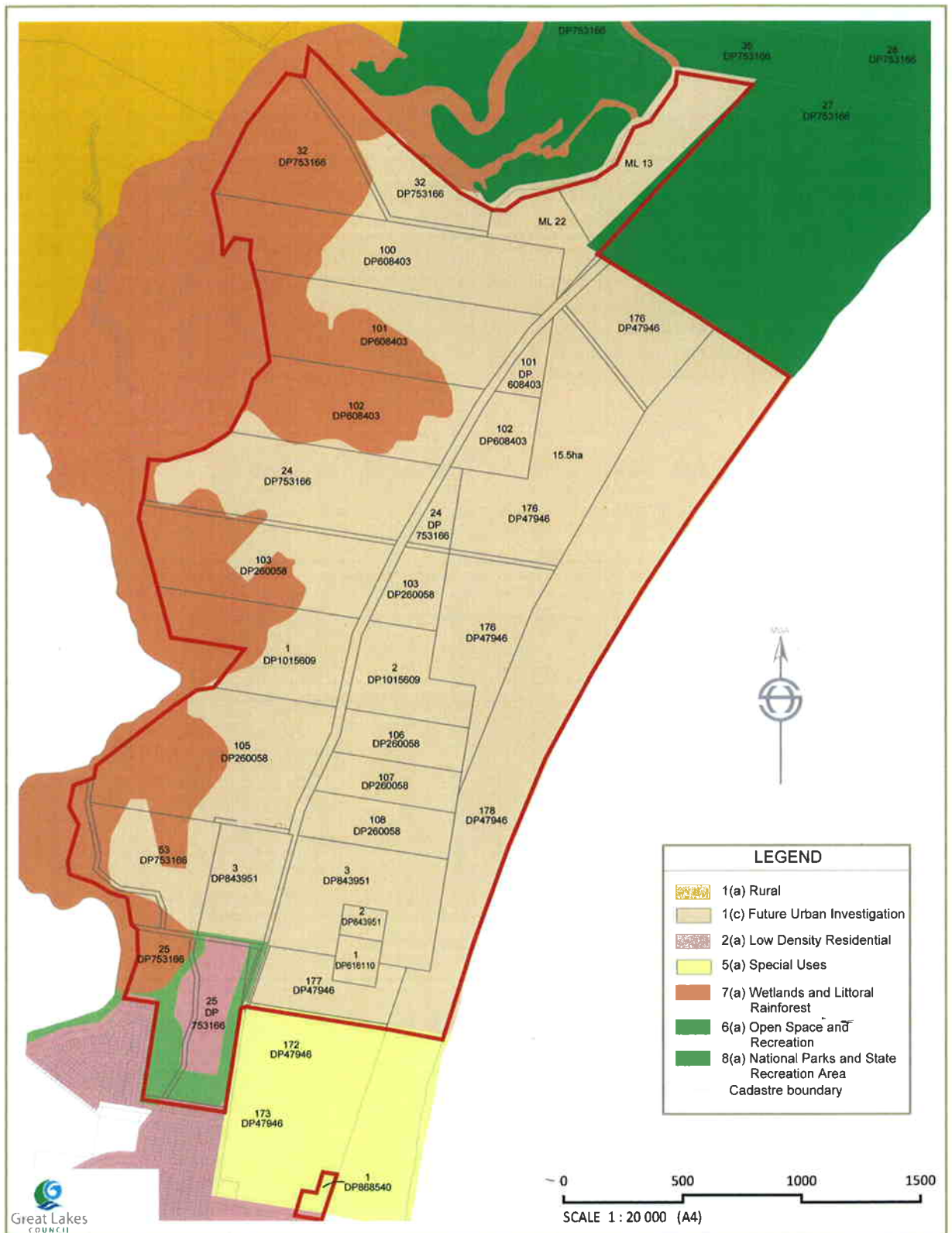
DIANE CROSDALE
Head Planning Unit - Hunter
Environment Protection and Regulation
cc Department of Planning Hunter & Central Coast (Newcastle)

PO Box 488G Newcastle NSW 2300
117 Bull Street, Newcastle West NSW 2302
Tel: (02) 4908 6800 Fax: (02) 4908 6810
ABN 30 841 387 271
www.environment.nsw.gov.au

Department of Environment and Climate Change NSW

Attachment 5

Current Zones Under Great Lakes Local Environmental Plan 1996



TITLE: CURRENT ZONING MAP

LOCATION: NORTH HAWKS NEST LOCAL ENVIRONMENTAL STUDY

DATUM: PROJECTION: MGA

DATE: 2ND DECEMBER 2008
PURPOSE:

CAD REF: 22252-FIGURES
VERSION (PLAN BY): FIGURE 1-3

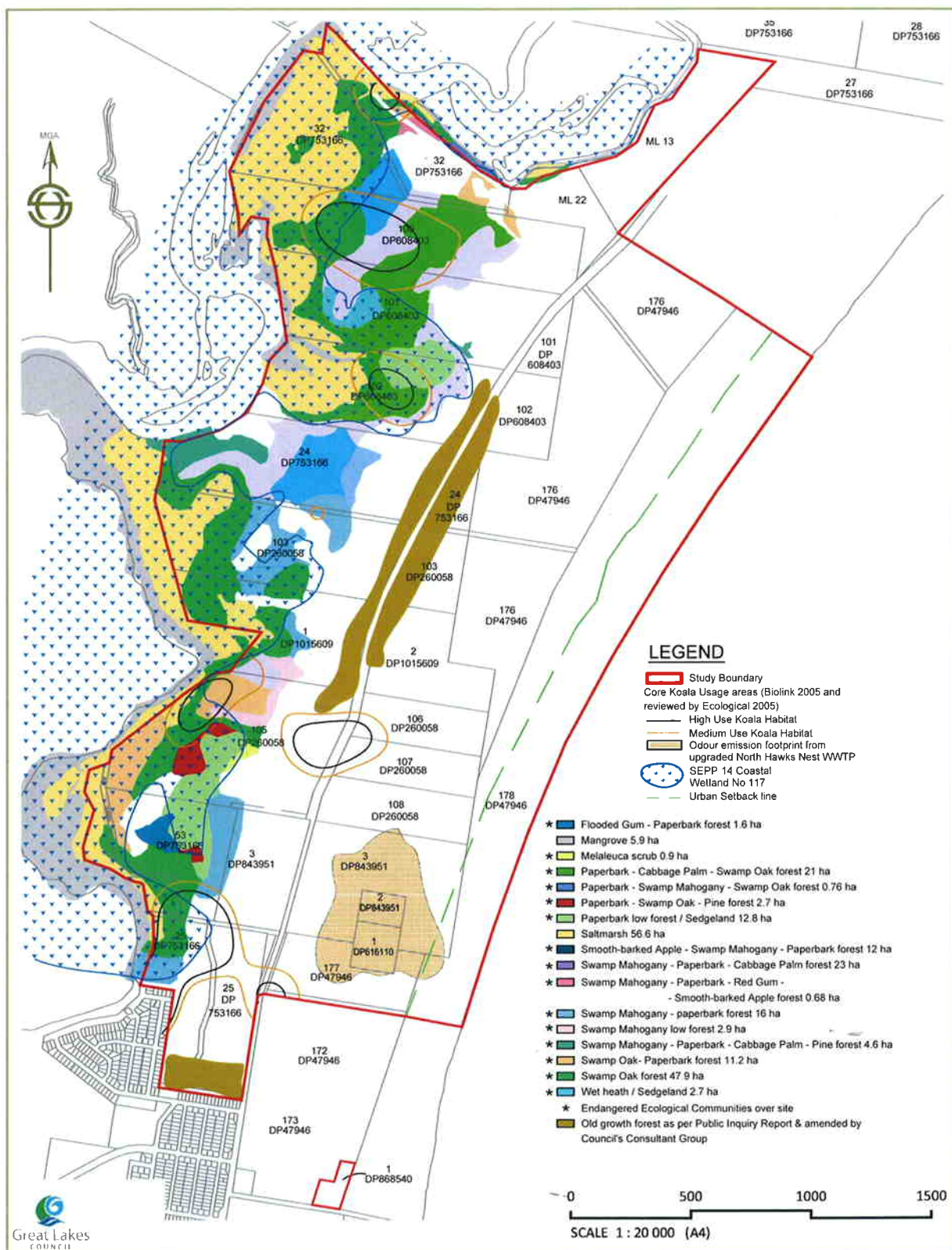
CLIENT: GREAT LAKES COUNCIL
JOB REF: 22252

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Attachment 5

Maps of Overall Constraints for North Hawks Nest



TITLE: COMPOSITE ECOLOGICAL CONSTRAINTS PLAN

LOCATION: NORTH HAWKS NEST LOCAL ENVIRONMENTAL STUDY

DATUM: MGA
PROJECTION: MGA

DATE: 2ND DECEMBER 2008
PURPOSE:

CAD REF: 22252-FIGURES
VERSION (PLAN BY): FIGURE 6-2

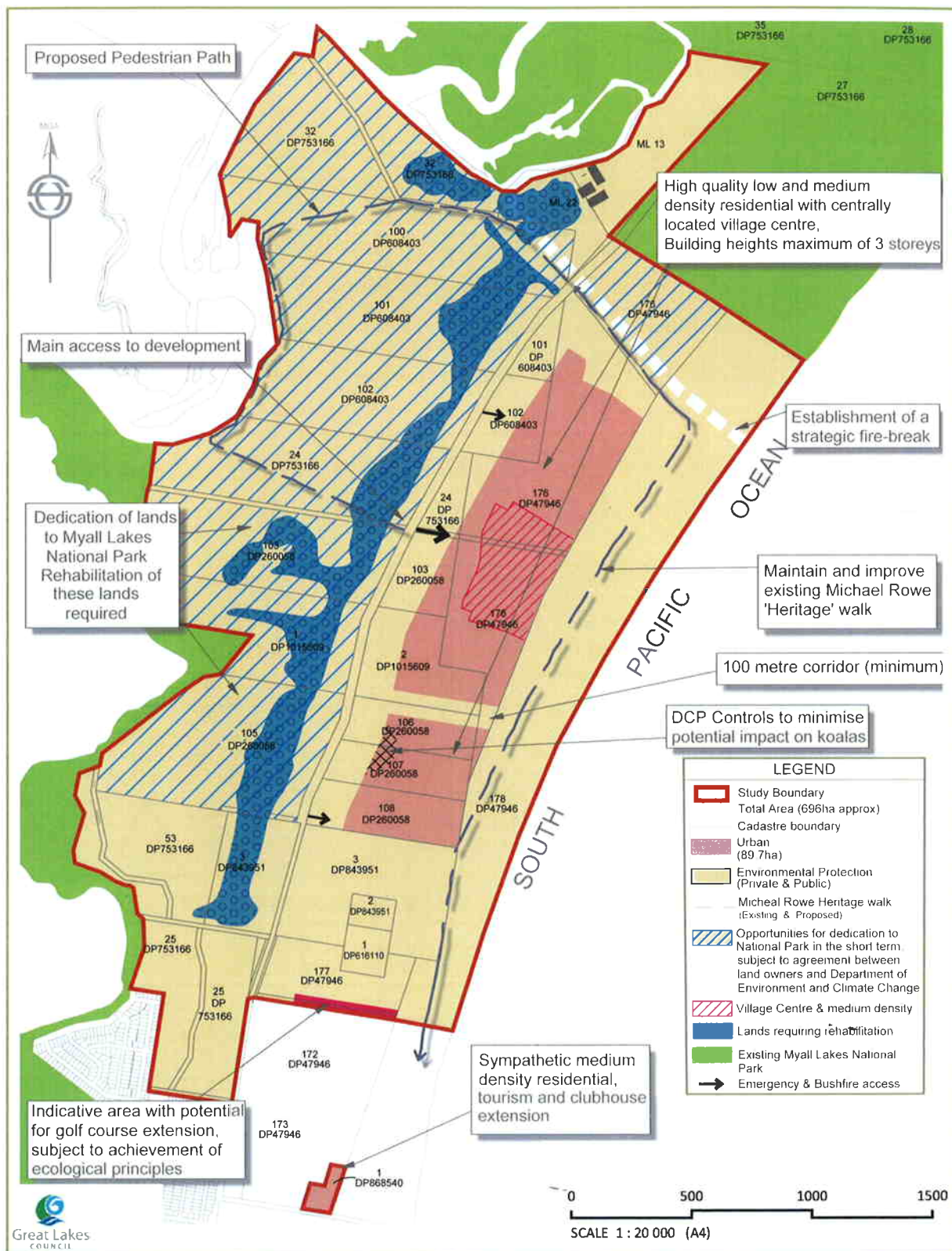
CLIENT: GREAT LAKES COUNCIL
JOB REF: 22252

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Attachment 6

Principles Plan Adopted by Council for the North Hawks Nest Study Area



TITLE: PREFERRED OPTION & PRINCIPLES PLAN

LOCATION: NORTH HAWKS NEST LOCAL ENVIRONMENTAL STUDY

DATUM: MGA

DATE: 2ND DECEMBER 2008

CAD REF: 22252-FIGURES
VERSION (PLAN BY): FIGURE 8-1

CLIENT: GREAT LAKES COUNCIL
JOB REF: 22252

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