

Southern Parkway Forster - Amendment to Great Lakes LEP 2014

Proposal Title : **Southern Parkway Forster - Amendment to Great Lakes LEP 2014**

Proposal Summary : **The proposal seeks to rezone land at The Southern Parkway, Forster from RU2 Rural Landscape to E2 Environmental Management in order to protect the ecological values of the site and maintain the water quality of Wallis Lake.**

The proposal responds to a 2013 pre-Gateway review recommendation by the Hunter and Central Coast Joint Regional Planning Planning to have the site zoned for environmental protection purposes.

PP Number : **PP_2014_GLAKE_003_00** Dop File No : **14/15880**

Proposal Details

Date Proposal Lodged with DOP : **18-Sep-2014** Date Proposal Uploaded to Public Website : **25-Sep-2014**

Proposal Assessment

Is Public Hearing Required by PAC? **No**

Agencies Requested to Consult : **Office of Environment and Heritage**

Gateway Determination

Decision Date : **25-Sep-2014** Gateway Determination : **Passed with Conditions**

Due Date of LEP : **02-Oct-2015**

Implementation

Implementation Start Date : **02-Oct-2014** Exhibition Duration : **29**

Agency consultation consistent with recommendation : **Yes**

If No, comment : **AGENCY CONSULTATION**

The Office of Environment and Heritage was consulted as required by the Gateway and indicated support for the proposed rezoning as it will contribute to the conservation of the significant biodiversity values of the site

Agency Objections : **No**

If Yes, comment :

Documentation consistent with Gateway : **Yes**

If No, comment : **PROPOSAL**

The Planning Proposal proposes to rezone approximately 11.75 hectares of land at The Southern Parkway Forster, currently zoned RU2 Rural Landscape to E2 Environmental Management.

The current proposal is the result of a previous Pre-Gateway Review

PGR_2013_GLAKE_001_00 which considered a proposed rezoning of seven sites, including the subject site, in the Southern Parkway area to allow urban development. The Hunter and Central Coast Joint Regional Planning Panel found that the subject site has very high ecological and water management qualities and recommended the site be zoned for conservation purposes. The Panel's decision is consistent with the findings of independent site studies

The initial planning proposal subsequently stalled. Council in response to the JRPP's recommendation and concern about the potential clearing of the site under the existing rural zoning, resolved to rezone the site E2 Environmental Management. Following exhibition of the Proposal and after consideration of submissions, Council now requests the Department make the plan.

GATEWAY DETERMINATION

The Planning Proposal is consistent with the Gateway Determination 25 September 2014.

TIMEFRAME

The timeframe for completing the LEP is 12 months. The Department received Council's request that the planning proposal be finalised on 3 March 2015 and a request for legal drafting was made on 10 March 2015.

The first draft written instrument was sent to Council on 7 April 2015 and Council agreed to drafting on 7 April 2015.

PUBLIC PARTICIPATION

The Planning Proposal was exhibited for a total of 29 days from 29 October to 26 November 2014. Thirteen submissions were received, twelve (12) in support and (1) one against.

The reasons identified in support of the proposal in summary relate to the ecological value of the land, including protecting fauna corridors and Squirrel Glider habitat and maintaining the water quality of Wallis Lake.

The submission objecting to the proposal was received from Stacks, solicitors acting for the current landowners. It cites a Deed of Agreement between a previous landowner, Mrs A Toohey and Council that was entered into in 1992, as the basis for the objection. Council has provided detailed information and discussion on the Deed and its applicability to the current proposed rezoning in the Planning Proposal.

Council advises that its own legal advice is that the rezoning of the land to E2 Environmental Conservation is not constrained in any way by the deed. Since the Agreement was entered into in 1992 there have been two (2) changes of ownership of the subject land (Lot 22). Council solicitors have advised "the current owners of Lot 22 are not party to the deed, and there is no evidence of the deed having been assigned in law or equity to the current owner".

The concerns raised in this submission are considered to have been adequately addressed by Council in the Planning Proposal and the report to Council, included as Attachment 3 to the Proposal. Council has the authority, under the Environmental Planning and Assessment Act, to act in the community's interest and may rezone land without the consent of the landowner. There does not appear to be a legal impediment to the Planning Proposal and rezoning proceeding.

AGENCY SUBMISSIONS

There is no agency objection to the proposal and the final draft LEP accords with

the outcome of consultation with agencies, notably OEH.

CHANGES MADE TO THE PLANNING PROPOSAL AFTER EXHIBITION

Other than Parliamentary Counsel drafting amendments, no changes have been made to the aims and intent of the proposal or the area subject to change.

CONSISTENCY WITH STATE POLICIES AND S.117 DIRECTIONS

The Proposal is consistent with applicable State Environmental Planning Policies (SEPPs) and s117 Directions. Notably the proposal accords with SEPP 71 Coastal Protection and s117 directions 2.1 Environmental Protection zones and 2.2 Coastal Protection.

It seeks to preserve habitat and wildlife corridors, limit impacts of development on the water quality of coastal waterbodies and protect and conserve an environmentally sensitive area by zoning the land to E2 Environmental Conservation.

CONCLUSION

It is recommended that the Planning Proposal proceed.

The land is not identified in the Mid North Coast Regional Strategy for urban development and proposal is consistent with the Strategy's key aims to:

- protect high value environments, including significant coastal lakes, estuaries, aquifers, threatened species, vegetation communities and habitat corridors by ensuring new development avoids these important areas and their catchments;
- limit development in places constrained by coastal processes, flooding, wetlands, and landscapes of high scenic and conservation value; and
- the Strategy's key action for local environmental plans to protect and zone land with high environmental, vegetation, habitat, riparian, aquatic, coastal or corridor values for environmental protection.

Council has complied with the conditions of the Gateway Determination. The Planning Proposal PP_2014_GLAKE_003_00 is supported. All necessary changes requested by Council, the Department and Agencies have been made. The PC opinion has been issued and there has been no change to the LEP since the PC opinion was issued.

NSW Government Lobbyist Code of Conduct: At this point of time 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 : **03-Mar-2015**

LEP Determination

Date Publish Notification

Date sent to Parliamentary Council to Draft LEP :

Determination Date : **03-May-2015**

Determination Decision : **Approved**

Notification Date : **08-May-2015**