



Regional Manager
Department of Planning
PO Box 1226
NEWCASTLE NSW 2300

Our Ref: SP-LEP-73

Your ref: N04/00009

Contact: Mr Roger Busby
Telephone: (02) 6591 7254

13 September 2010

Dear Sir

**RE: PLANNING PROPOSALS FOR CURRENT LEPs – DRAFT AMENDMENT
NO. 73, FAIRVIEW WEST SOUTH FORSTER**

Reference is made to the letter from the Department of 16 March 2010 setting out the transitional provisions for current LEPs.

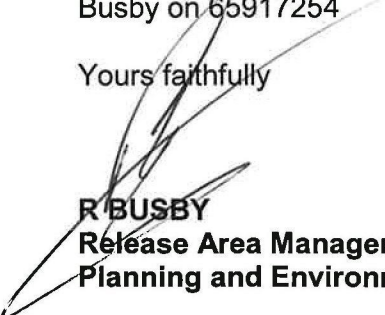
Council seeks a review of the considerable work undertaken for above draft LEP and requests that the draft plan be brought into the current Part 3 process. The draft LEP has been exhibited in accordance with the Authorisation to Exercise Delegations dated 30 December and Council consider submissions in October 2010. It is likely that the draft LEP will not be made by 1 January 2011.

Council believes that it is important to the implementation of its strategic plans that the pending amending LEP to continue as a Planning Proposal under the Gateway process. In this regard a Planning Proposal for this area is attached.

Given the considerable effort that has already been devoted to this area over recent years Council believes that the rezoning should now be finalised in as short a timeframe as possible. Rather than lose the current momentum by incorporation of the rezoning in the new Principal LEP for Great Lakes Council believes that it is appropriate for the deferred areas to continue as a separate amending LEP.

Should you have inquiries regarding Council's proposal please contact Mr Roger Busby on 65917254

Yours faithfully


R. BUSBY
Release Area Manager
Planning and Environmental Services



Planning Proposal – Draft Amendment No. 73 to Great Lakes Local Environmental Plan 1996

Background

This Planning Proposal is for the transfer of draft Amendment No. 73 to Great Lakes Local Environmental Plan 1996 to the gateway process.

Draft Amendment No. 73 provides for urban expansion in the South Forster Release Area by rezoning about 23ha of land from the current 1(c) Future Urban Investigation and 6(a) Open Space zones to 2(a) Low Density Residential, 2(b) Medium Density Residential, 3(a) General Business, 5(a) Community Purposes, 5(a) Drainage and 6(a) Open Space.

The land has been identified in the adopted Forster/Tuncurry Conservation and Development Strategy as a release area and the rezoning is consistent with the South Forster Structure Plan that was adopted by Council in 2007.

Residential development adjoins the land to the north, east and south and Great Lakes College Junior Campus adjoins the land to the west.

Property Details

The draft LEP applies to Lot 1 DP 729734 and Lot 303 1099114 Cape Hawke Dr, Forster.

A locality plan is contained in Attachment 1 and aerial images are contained in Attachment 2.

Status of Current Draft LEP

The Director-General of the Department of Planning issued an Authorisation to exercise delegations on 30 December 2009. Council on 14 April sought confirmation from the Department that inconsistencies with s117 Directions No. 1.2, 1.5, 2.1 and 4.1 were justified. The Department on 18 June 2010 advised Council that the inconsistencies were accepted.

The draft LEP was exhibited at Council's offices for 32 days from 21 July to 20 August 2010. To ensure that the community was aware of the exhibition and that they were welcome to make inspect the draft plan and make submissions Council also:

- Issued a media release on the rezoning.
- Directly notified 160 nearby residents of the draft LEP.
- Conducted radio and television interviews.
- Undertook further consultation with the Hunter central Rivers CMA, DECCW and MidCoast Water.

At the end of the exhibition period 2 public submissions had been received as well a submission from MidCoast Water and two submissions from persons acting for the proponents of the rezoning. These will be considered by Council in October.

INFORMATION REQUIRED TO BE SUBMITTED WITH PLANNING PROPOSALS

Part 1 Objectives or Intended Outcomes

The objectives are to:

- A. Provide for the growth and efficient functioning of the future South Forster urban release area in accordance with Council's adopted Strategic Planning framework.
- B. Ensure sufficient land is available for a variety of housing types for the growth of the Forster/Tuncurry community.
- C. Ensure community and recreational facilities are available to meet the needs of the broader Forster/Tuncurry community.

The objectives will be achieved by rezoning the land for a neighbourhood shopping centre, community facilities, recreational facilities and for residential purposes.

The facilities will not only cater for the South Forster area but also for the

Part 2 Explanation of provisions

The land use zones proposed to be applied to the land are :-

- Approximately 13ha of 2(a) Low Density Residential – located in the western and southern sections of the site.
- Approximately 2ha of 2(b) Medium Density Residential – located in the northern section of the site near the neighbourhood shops, playing fields and community facilities.
- Approximately 3,000m² of 3(a) General Business – located fronting the Southern Parkway.
- Approximately 3ha of 6(a) Open Space and Recreation – located in the eastern section of the site and adjoining an existing public open space area.
- Approximately 5(a) Community Purposes – comprises Community Facilities area adjoining the playing fields and neighbourhood shopping centre.
- Approximately 3ha of 5(a) Drainage for stormwater management and treatment facilities.

No special provisions are proposed in the draft LEP.

The draft LEP exhibited by Council is contained in Attachment 3.

Part 3 Justification

Section A - Need for the Planning Proposal

Is the planning proposal a result of any strategic study or report?

In 1992 the land was identified as an area for urban expansion in the South Forster Planning Study. Since this time Council's subsequent strategies have reinforced the growth opportunities for the land. The Forster/Tuncurry Conservation and Development Strategy, adopted by Council in 2003 again nominated the land for urban expansion. In 2007 Council adopted the South Forster Structure Plan which updated the 1992 South Forster Planning Study. The Structure Plan provided guiding principles and a more detailed framework for development of the land.

The Forster/Tuncurry Conservation and Development Strategy, adopted by Council in 2003 nominated the land for urban expansion. In 2007 Council adopted the South Forster Structure Plan which updated the 1992 South Forster Planning Study. The Structure Plan provided guiding principles and a more detailed framework for development of the land.

The Precinct Plan from the South Forster Structure Plan for the draft LEP study area is contained in Attachment 4.

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

There is only a limited amount of zoned residential land currently available for development in Forster and Tuncurry.

In 2005 the Forster/Tuncurry Housing Strategy estimated that at that time, there was about 7 to 8 years of land available for residential development. This included all existing residential lots, areas zoned but not subdivided and assumed that rezonings to allow a further 530 lots would be finalised in the next 2 to 3 years. The Housing Strategy stated that if not all the areas were released there would be a need to rezone further land in the next 2 to 3 years. Since this time not all the areas identified in the Housing Strategy have been released and the rezonings referred to in the Strategy have not been finalised. Therefore, if the market were more buoyant there would be a critical shortage of residential land in Forster and Tuncurry.

Rezonings currently underway in Forster/Tuncurry will yield about 800 lots if the full potential of each area is realised. This will still only cater for about 5 to 6 years in an average market.

To facilitate growth and to enable choice in housing locations and styles and to cater for the various markets further land needs to be made available in different locations as soon as possible. Rezoning and development of the land will yield about 145 residential lots.

Rezoning of the land will result in a sound outcome for the community and will implement a key component of the South Forster Structure Plan. Not only will it provide for additional residential land but it will also create a central precinct of community focus and activity by rezoning land for community facilities, open space and neighbourhood shopping. These facilities will provide for the future needs of the broader Forster/Tuncurry community as well as the residents of South Forster.

Rezoning of the land is the only way to give a sound social, economic and environmental outcome for the community and to implement a key component of the South Forster Structure Plan.

Studies and Reports

The following studies, reports and investigations were drawn upon to prepare the draft LEP:

- Flora and Fauna Assessment for Lot 303 DP 1099114 and Lot 1 DP 729734, Cape Hawke Dr, South Forster, Conacher Travers, July 2007.
- Comments on Independent Review of Stormwater Management Strategy for Great Lakes Council, BMT WBM Pty Ltd, February 2009.
- Lot 303 DP 1099114, South Forster, Stormwater Management Strategy, Worley Parsons and EcoNomics, November 2008.
- Advice to Lidbury Summers & Whiteman from Midcoast Water - Concept Servicing Plans, August 2007.
- Traffic Impact Assessment of Lot 303 DP 1099114, Myall Dr, Forster, Geolyse, September 2007.
- Geotechnical Investigations, Lot 303 DP 1099114, The Lakes Way, Forster, Coffey Geotechnics Pty Ltd, October 2007.
- Forster Local Aboriginal Land Council, Approval of Archaeological Assessment, June 2007.
- Lot 303 DP-1099114 and Lot 1 DP 729734, Aboriginal Cultural heritage Assessment, ERM, March 2007.

Net Community Benefit

The Department, in issuing an Authorisation to exercise Delegations and in accepting the s117 inconsistencies must have been satisfied that there was a net community benefit stemming from the draft LEP.

Section B - Strategic Planning Framework

Is the planning proposal a result of any strategic study or report?

In 1992 the land was identified as an area for urban expansion in the South Forster Planning Study. Since this time Council's subsequent strategies have reinforced the growth opportunities for the land. The Forster/Tuncurry Conservation and Development Strategy, adopted by Council in 2003 again nominated the land for urban expansion. In 2003 Council adopted the South Forster Structure Plan which updated the 1992 South Forster Planning Study. The Structure Plan provided guiding principles and a more detailed framework for development of the land.

Is the proposal consistent with Council's Community Strategic Plan?

Council has not as yet produced its final Community Strategic Plan but has exhibited a draft plan that was prepared after considerable community engagement. The draft LEP is consistent with two of the two Key Directions that emerged as critical issues from the community engagement process. The two Key Directions are "Embracing and Protecting Our Natural Environment" and "Planning for Balance".

State and Regional Planning Framework

The land is nominated in the Mid North Coast Regional Strategy Growth Area Maps as an urban area with the low lying parts of land demonstrating some constraints.

Council has already obtained the approval of the Director-General to the inconsistencies with s117 Directions.

There is one SEPP that is of relevance to the subject land, namely SEPP No 71 – Coastal Protection.

Clause 2 of SEPP No 71 requires Council to take into account the aims of the Policy and a range of matters outlined in Clause 8. The following table provides a list of the matters to be considered and identifies an appropriate land use strategy response as applicable to the subject land.

SEPP No.71 Matters	Land Use Strategy Response
Aims (Clause 2)	
a) To protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and	A Draft LEP that permits sustainable residential development on the land identified for future growth in local and regional land use strategies accords with this objective.
b) To protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshores.	There will be no impact as the land does not adjoin a coastal foreshore.
c) To ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore.	The land is removed from any coastal foreshore.
d) To protect and preserve Aboriginal cultural heritage and Aboriginal places, values, customs, beliefs and traditional knowledge.	Existing Aboriginal cultural heritage will not be compromised by the rezoning.
e) To ensure that the visual amenity of the coast is protected.	There are no significant visual qualities associated with the land. Urban development will be consistent with the current nearby urban character.
f) To protect and preserve beach environments and beach amenity, and	The distance of the subject land from the beach will ensure the impacts upon the amenity and environment are not affected.
g) To protect and preserve native coastal vegetation, and	The land does not comprise significant native coastal vegetation as identified in the flora/fauna assessments.
h) To protect and preserve the marine environment of New South Wales.	Measures to control and improve stormwater quantity and quality will ensure the marine and estuarine environments are protected. See also a) above.
i) To protect and preserve rock platforms.	Future development of this land will have no impact upon any rock platforms.
j) To manage the coastal zone in accordance with the	The principles of ecologically

principles of ecologically sustainable development (within the meaning of section 6(2) of the Protection of the Environment Administration Act 1991.	sustainable development underpin the determination of appropriate landuses for the subject land.
k) To ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area.	Council's existing DCPs will apply to the future development of the land.
l) To encourage a strategic approach to coastal management	The subject land is identified as a future urban investigation area under Council's growth strategy and has been identified as a core release area in Great Lakes Council's strategic planning documents. The land has also been identified in the Department of Planning's Growth Area Maps as a growth area. A Draft LEP allowing residential development, open space, community and neighbourhood facilities is in keeping with a strategic approach to coastal management.
Matters for Consideration (Clause 8)	Land Use Strategy Response
a) The aims of this Policy set out in clause 2	A Draft LEP that zones the land to permit sustainable residential development is a balanced land use strategy than can meet this objective.
b) Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.	No coastal foreshore will be affected by the draft LEP.
Matters for Consideration (Clause 8)	Land Use Strategy Response
c) Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,	There will be no impact upon foreshore access.
d) The suitability of development given its type, location and design and its relationship with the surrounding area	Based on environmental assessments undertaken and its location adjoining existing urban development, the land is suited to residential development.
e) Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	Residential development will have no adverse impact on the amenity of Wallis Lake nor create overshadowing of this asset.
f) The scenic qualities of the New South Wales coast, and means to protect and improve these qualities	Controls on building location and design imposed by the existing DCPs will ensure the scenic qualities of the New South Wales coast are protected.
g) Measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats.	No threatened species have been identified on the land.
h) Measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine	The imposition of water quality objectives and controls for a

vegetation (within the meaning of that Part), and their habitats	'treatment train' of measures will result in the maintenance of the existing quality of water that leaves the subject land. This will conserve the marine vegetation associated with Wallis Lake.
i) Existing wildlife corridors and the impact of development on these corridors	The land does not contain any wildlife corridors.
j) The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards	The land is not susceptible to any coastal hazards.
k) Measures to reduce the potential for conflict between land-based and water-based coastal activities	There will be such conflict arising from the rezoning as the land is removed from any water body.
l) Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	There are no items of cultural heritage on the land.
m) Likely impacts of development on the water quality of coastal waterbodies.	Water quality modelling has revealed that sensitive development with appropriate water quality management facilities can maintain the quality of Wallis Lake.
n) The conservation and preservation of items of heritage	There are no cultural heritage items on the land.
o) Only in cases in which a council prepares a draft local environmental plan that applies to land to which this policy applies	The proposal is in keeping with urban development strategies for the sub-region and specifically the South Forster Structure Plan.

NSW Coastal Policy 1997

The NSW Coastal Policy 1997 is applicable to development in the coastal zone, in which the subject land is located. The following strategic actions and the land use strategy responses are relevant.

Strategic Action	Land Use Strategy Response
Local environmental plans will be prepared with appropriate zonings and other provisions for areas of recognised conservation value.	The subject land has no long term conservation value.
Problems of non-point source pollution (e.g. resulting from urban development) will be addressed through a range of actions including the setting of ambient water quality objectives; the development of stormwater management plans; the promulgation of environmental guidelines; and encouraging the adoption and implementation by industry and developers of "best management practices" for minimising pollution.	A Water Quality Management Strategy has been prepared which demonstrates that Council's objective of not net increase in pollutants from development of the land leaving the site, when compared to pre-development levels, will be met.
Coastline, estuary and floodplain management plans will continue to be prepared by local councils and integrated into local environmental plans to address planning and development issues in accordance with the Coastline, Floodplain and Estuary Management	The proposed rezoning is in keeping with the management strategies for Wallis Lake.

Manuals.	
Provisions to protect areas or items of high aesthetic value will continue to be considered when preparing planning instruments and plans of management.	There will be no impact upon areas of high aesthetic value.
The use of good design principles will be encouraged to ensure more compact, human scale towns are developed with their own character within the constraints of existing infrastructure.	The future development of the land which is essentially urban infill will be consistent and compatible with existing, adjoining village development within South Forster.
In preparing and amending regional and local environmental plans and development control plans and when assessing development applications, consideration of the design and locational principles contained in the Coastal Policy will be required.	The relevant principles of the Policy have been satisfied by the rezoning process.
Management plans prepared for coastal areas will be considered in the preparation of REPs, LEPs and DCPs so as to achieve integrated, responsible and ecologically sustainable development and use of resources.	The rezoning of the subject land is consistent with Council's adopted Conservation and Development Strategies for the land.
Strategic Action	Land Use Strategy Response
Planning instruments and development control plans will define the boundaries of urban areas and indicate the amount and form of development which is appropriate for each location taking into account the environmental and servicing implications.	The boundaries and form of urban development will be controlled by the LEP and existing DCPs applying to the land.
The design of town and buildings should have regard to energy efficient principles, for example compact town form related to transport networks, in order to reduce energy dependency.	Future building on the subject land will be subject to BASIX requirements.

Section C- Environmental, Social and Economic Impact

The social and economic benefits are apparent from the strategic framework within which the rezoning is being undertaken and the objectives set out in Part 1.

The study area has been cleared for grazing except for some scattered trees on the slight knoll in the north western corner. The vegetation mainly consists of exotic weed species with regenerating *Casaurina glauca* and *Melaleuca quinquenervia* on the low lying eastern section. There is a narrow line of remnant trees along the eastern boundary of the site. The understorey of the remnant trees consists of regenerating *Casaurina* and juvenile *Melaleuca* species.

Consultants found that remnant regrowth and regenerating Swamp oak forest on coastal floodplain in the floodplain of the NSW north coast, Sydney basin and southeast corner bioregion EECs existed in the eastern portion of the study area. A small area of modified freshwater wetland on floodplain of the NSW north coast, Sydney basin and south coast bioregions EECs also occupied the centre of the southern boundary. Five discrete categories were identified within these EECs which were differentiated by varying levels of disturbance and regeneration potential.

Most of the vegetation in the study area is classified as regrowth under the Native vegetation Act. The remnant vegetation to be removed is in low and degraded condition having been modified by landuse disturbances, including pastoral activities, slashing and drainage alterations for many years. The remnant vegetation could not reasonably be rehabilitated to a natural state due surrounding urban development and weed infestation. As such the consultant considered that the study area was of low ecological value.

Notwithstanding this Council has negotiated an ecological offset with the proponents of the rezoning. This offset involves the proponents funding, to the value of \$200,000.00, the purchase by Council of an area of EEC of greater ecological value (both in condition and interconnectivity values) and securing the offset site into perpetuity.

Furthermore, in a strategic sense, the study area was considered crucial to an efficient and cohesive release and development of land in the South Forster area.

The DECCW have formally advised Council that it does not object to the removal of 1.57ha of Class 1(a) EEC on the subject land provided that it is clearly demonstrated that any loss in biodiversity value is adequately mitigated/offset. The DECCW have advised that the offset whereby the proponents of the rezoning will provide \$200,000.00 to Council for acquisition and protection into perpetuity of compensatory habitat elsewhere is satisfactory.

A water quality management strategy has been prepared for the land to demonstrate that Council's "maintain or improve" water quality objective will be met.

No items of features of aboriginal or archaeological significance exist on the land.

Section D – State and Commonwealth Interests

Infrastructure is available or can be augmented to service the development of the land.

During the preparation of the draft LEP for the study area, Council consulted the agencies set out in the table below. The comments from each agency are also summarised in the table as well as responses. Where no response was received this is noted.

Agency	Comment	Response
Department of Environment and Climate Change	Council to be satisfied that there is unlikely to be impact on significant native vegetation.	Addressed in Flora & Fauna Assessment.
	Climate change impacts to be considered.	Addressed in Stormwater Strategy.
	Appropriate Aboriginal Heritage Investigations undertaken.	Addressed in Aboriginal Heritage Cultural Assessment.
	LEP considers threatened species legislation.	Addressed in Flora & Fauna Assessment.
	Sustainable management of stormwater.	Addressed in Stormwater Strategy.
	Impacts on high conservation values.	Addressed in Flora & Fauna Assessment.
	European & Aboriginal heritage items to be identified on site.	Aboriginal Heritage/Cultural Assessment undertaken by ERM

	Support the ecological offset proposed whereby the proponent of the rezoning will provide Council with \$200,000.00 to acquire suitable habitat elsewhere for protection.	with FLALC supporting the report. Noted
Heritage Council	Requests that Heritage Assessment be undertaken which addresses both Aboriginal and European Heritage.	There are no items of significance on the land.
Department of Education & Training	No response received.	There are adequate school facilities in Forster/Tuncurry
NSW Department of Housing	No response received.	
Forster Local Aboriginal Land Council	Support the Aboriginal Cultural Heritage Report prepared for the rezoning.	
Optus Communications	No response received.	
NSW Rural Fire Service	No specific concerns with the rezoning. Future development may be subject to specific requirements and therefore should be assessed by RFS at planning stage of development.	Noted Noted
Country Energy	No objection to rezoning. Additional infrastructure required to cater for future development.	Noted Noted
Midcoast Water	Recommend that Integrated Water Cycle Management (IWCM) study be prepared. Satisfactory water supply capacity to service development. Local water service strategy required as part of IWCM for site. Easement required over 600mm trunk main which is adjacent to site. Infrastructure construction to be consistent with MCW requirements & at developer's cost. Sufficient capacity in Forster sewerage treatment plant to accommodate development. Local sewerage servicing strategy	To be prepared at DA stage. Noted Has been prepared by proponent and Midcoast has advised that it is satisfactory. Noted Noted Noted To be prepared at DA stage.

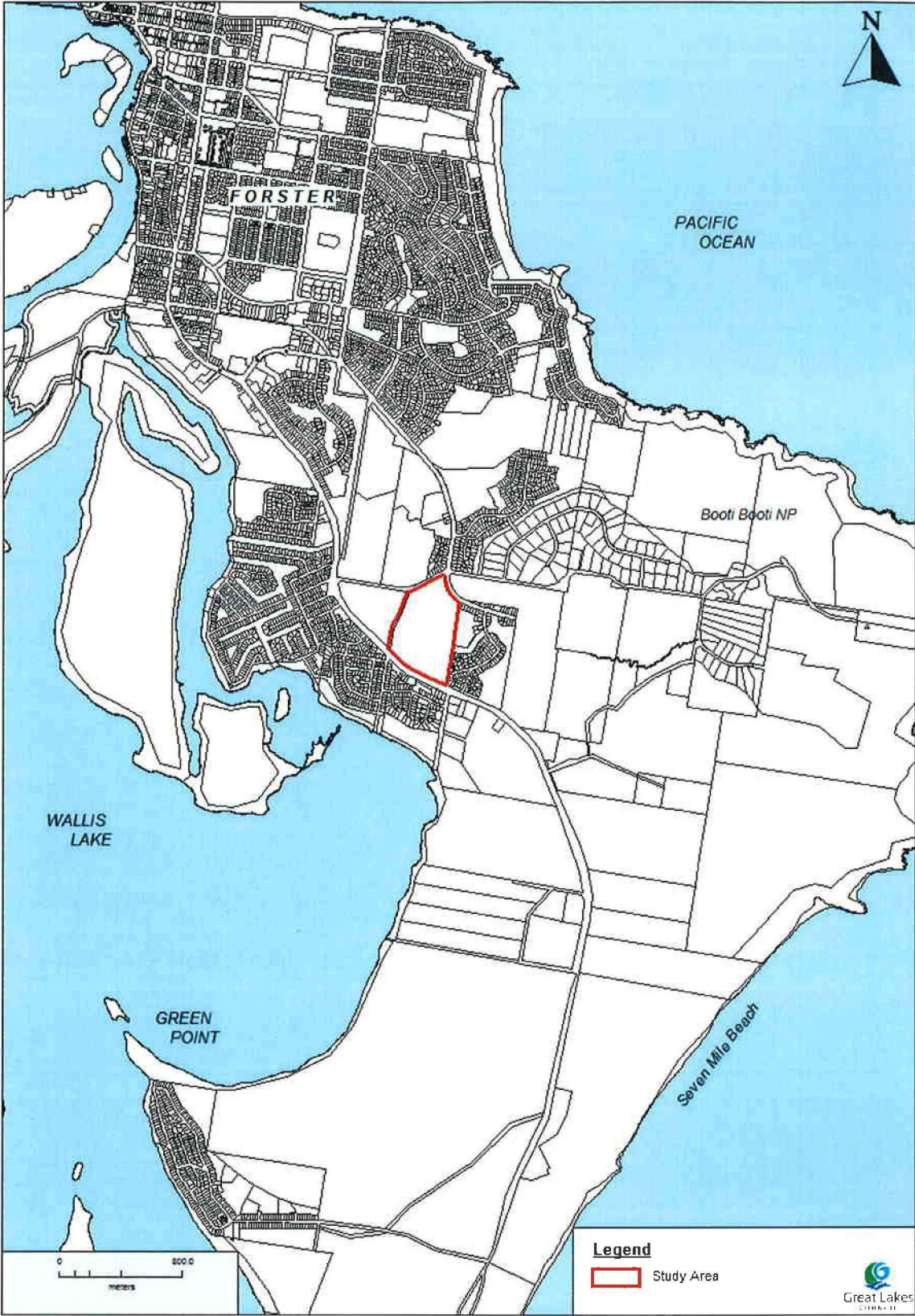
	required as part of IWCM for site. Have advised the proponent's consultant that servicing plan is satisfactory and that the development can be serviced with water and sewerage.	Noted
Department of Primary Industries	No specific issues or concerns for LES.	
Roads & Traffic Authority	No objection to the rezoning after considering Traffic Study. Suggest classified road clause be included in LEP.	Clause not necessary as no access is to be gained to The Lakes Way and there will be adequate separation between future dwellings and The Lakes Way.
NSW Department of Natural Resources (Department of Water & Energy)	No objection to rezoning. Consider relevant legislation & policies. Protection of groundwater aquifers & adoption of precautionary principle. Consider impacts on groundwater dependent ecosystems (GDEs), high conservation areas & provision of appropriate buffers. Protection of riparian areas & adoption of appropriate buffers.	Noted. To be addressed at future development stage. Noted. No GDEs of conservation significance will be affected by the rezoning. No riparian areas of significance to be affected.
Hunter New England Health Services	Dust & noise control measures on residents & high school. Stormwater Management plans to address insect breeding. Recommend consideration by Council of a range of specific issues which constitute/encourage a liveable community.	Noted Noted
Hunter Central Rivers Catchment Authority	LES to address Native Vegetation Act. Consideration to be given to Hunter Central Rivers Catchment Action Plan.	Most of the vegetation is classified as regrowth under the Native vegetation Act. The remnant vegetation to be removed is in low and degraded condition having been modified by landuse disturbances, including pastoral activities, slashing and drainage alterations for many years. The remnant vegetation could reasonably be rehabilitated to a natural state due surrounding urban development and weed infestation. Notwithstanding this an offset for the loss of native vegetation is to be provided.

		The land is ideally suited for urban expansion being on the periphery of an existing urban area. Rezoning of this area will take the development pressure off other areas that are in a more natural state. Addressed through the preparation of groundwater and Flora and Fauna investigations.
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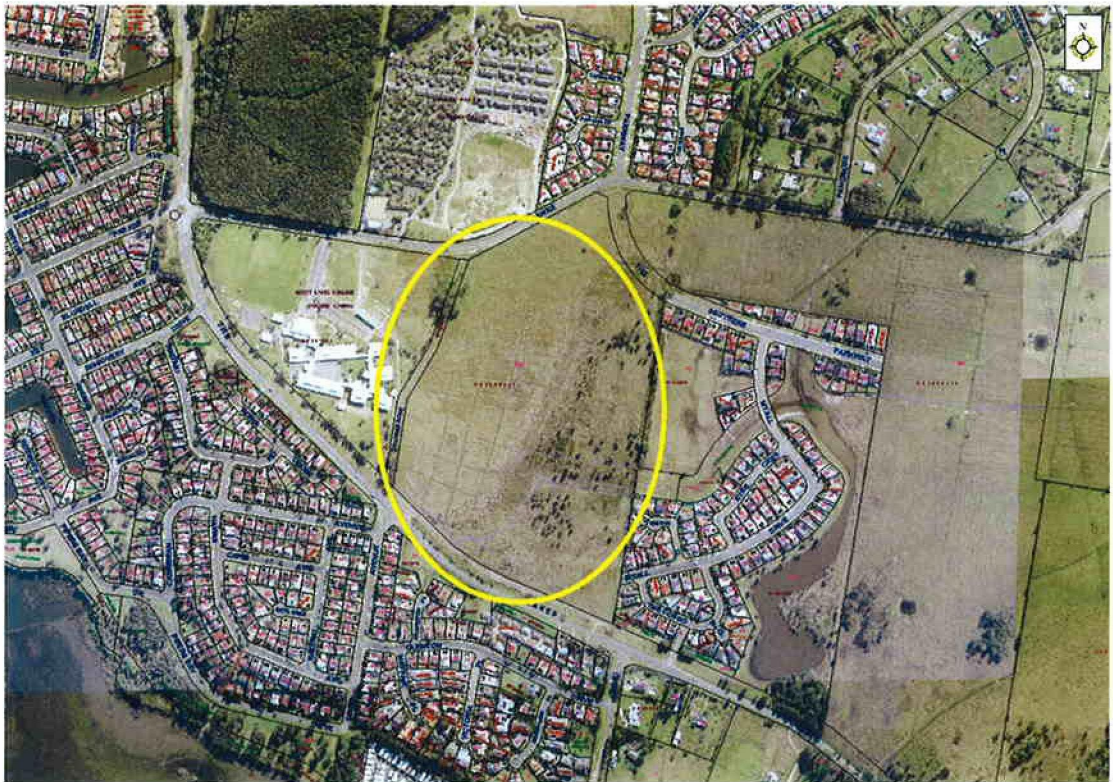
Part 4 - Community Consultation

This has been addressed under the heading "status of Current Draft LEP" above.

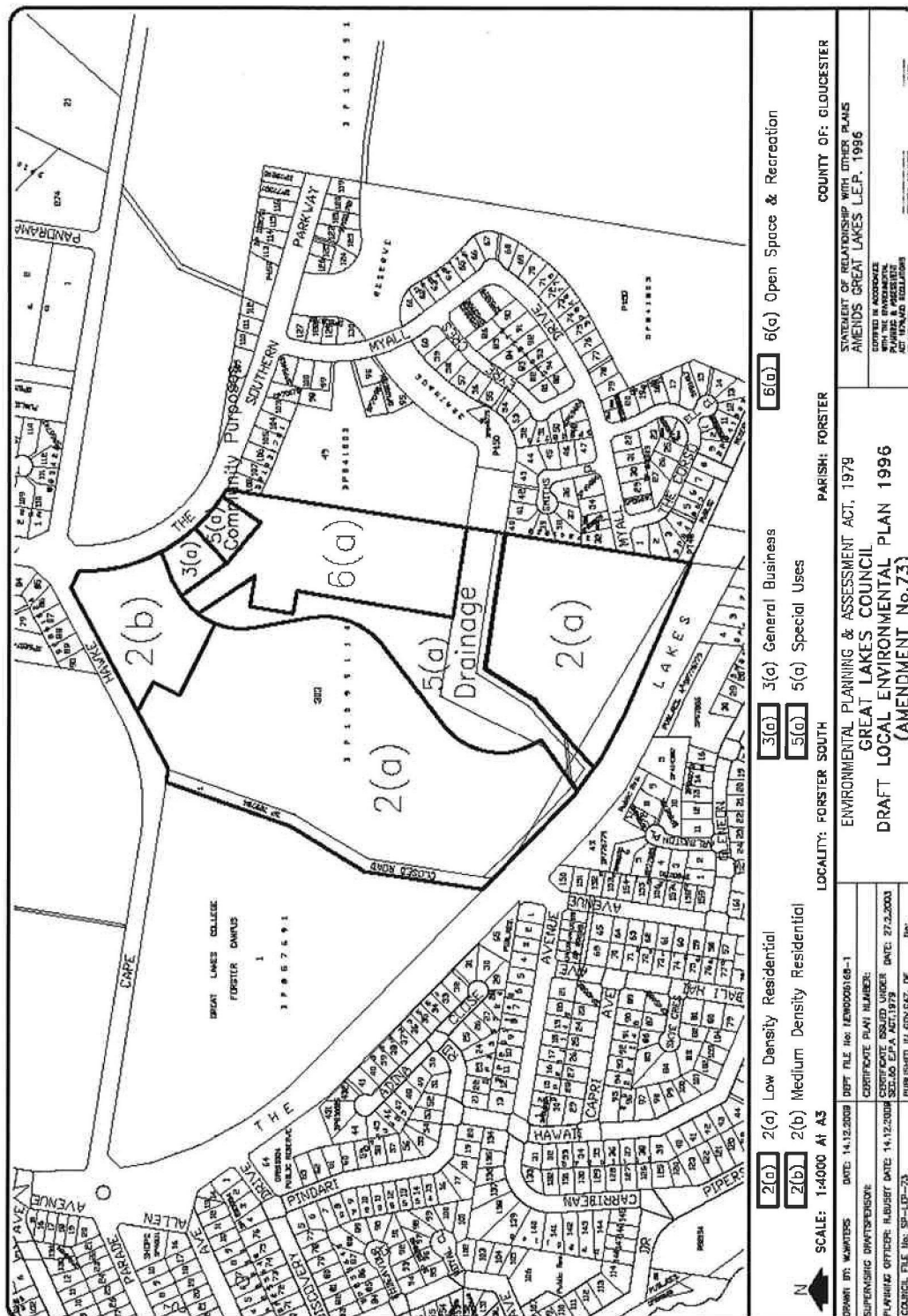
Attachment 1 – Locality Plan



Attachment 2 – Aerial Image



Attachment 3 – Draft LEP



Attachment 4 – Extract from South Forster Structure Plan

