

[Agenda Report](#)

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Resolved Items Action Statement

Action is required for the following item as per the Council Decision or Resolution Under Delegated Authority.

Subject: PES - Rezoning of Blueys Estate, Charlotte Bay
Index: SP-PP-09; Rezoning of Bluey's Estate, Charlotte Bay
Author: Senior Strategic Land Use Planner - Alexandra Macvean
Strategic Committee Meeting: 10 March 2015

RECOMMENDATION:

In relation to the planning proposal that refers to land generally known as Blueys Estate that:

- A. Council, pursuant to s59 of the Environmental Planning and Assessment Act, 1979, adopt the Planning Proposal for the purpose of seeking a Gateway Determination to rezone land known as Bluey's Estate as detailed in Attachment A to this report.
- B. Council submit the Planning Proposal to the Department of Planning and Environment for a Gateway Determination;
- C. Upon the Department of Planning and Environment issuing a Gateway Determination, Council officers meet with the proponent to determine the program for processing the Planning Proposal in accordance with the Gateway Determination and any conditions imposed by the Department of Planning and Environment.
- D. In the event the adopted Planning Proposal is significantly amended as a result of the gateway Determination or as a result of additional post gateway studies the matter be the subject of a separate Council report prior to the commencement of any public exhibition process.
- E. In the event there are no changes of significance, community engagement be undertaken on the planning proposal in accordance with the Gateway Determination.
- F. The proposed Planning Agreement to be entered into in association with the changes to Great Lakes Local Environmental Plan 2014 be the subject of a further report to Council for endorsement for exhibition.

RESOLUTION

(Moved L Gill/Seconded K Hutchinson)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Cr J McWilliams, Cr J Morwitch, Cr L Roberts, Cr C McCaskie, Cr A Summers, Cr K Hutchinson, Cr L Gill, Cr L Vaughan, Cr J Weate

Subject: PES - Rezoning of Blueys Estate, Charlotte Bay
Index: SP-PP-09; Rezoning of Bluey's Estate, Charlotte Bay
Author: Senior Strategic Land Use Planner - Alexandra Macvean
Strategic Committee Meeting: 10 March 2015

SUMMARY OF REPORT:

This report outlines the Planning Proposal to rezone land known as Bluey's Estate Charlotte Bay from RU2 Rural Landscape to residential, recreation and environmental zones. This report is to be considered in conjunction with the Planning Proposal provided in Attachment A and the presentation that will be made to Council at the meeting.

SUMMARY OF RECOMMENDATION:

That council endorse the Planning Proposal to rezone land known as Bluey's Estate Charlotte Bay for lodgement with the Department of Planning and Environment for a Gateway Determination.

FINANCIAL/RESOURCE IMPLICATIONS:

The preparation and processing of the Planning Proposal is being undertaken in accordance with Council's Policy PL-PLN-003 for the Procedure for Preparation and Processing of Planning Proposals as a developer-funded application and is being accommodated within the Strategic Planning section work program.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

Nil.

LIST OF ANNEXURES:

- A. Great Lakes Local Environmental Plan 2014 Land Zoning Map of Site.
- B. Draft Amendment to Great Lakes Local Environmental Plan 2014 Land Zoning Map.
- C. Strategic Concept Plan for Charlotte Bay Precinct, east of The Lakes Way.
- D. Ecological Protection Framework of Pacific Palms - Smiths Lake.

LIST OF ATTACHMENTS:

- A: Planning Proposal to Rezone Land Known as Bluey's Estate Charlotte Bay

Due to its large size, Attachment A has been circulated to Councillors and Senior Staff in electronic format only. However, this Attachment is publicly available on Council's Website.

REPORT:

SUBJECT SITE:

This Planning Proposal (Proposal) outlines a land-owner initiated application to rezone two properties, Lots 110 & 112 DP 1091944, The Lakes Way Charlotte's Bay, known as Bluey's

Estate and five adjoining allotments nominated by Council as part of a strategic approach to the rezoning of land in this location.

Lot 110 and 112 represent a significant holding of approximately 351.5 hectares located to the east of The Lakes Way, between the villages of Pacific Palms and Smiths Lake.

The application to rezone Lots 110 and 112 was prepared on the basis of preliminary environmental, flooding and water quality management investigations and anticipates that the land which is currently zoned RU2 Rural Landscape, may be rezoned for residential, recreation and environmental purposes.

The application also outlined a clear intention to dedicate high value ecological land in order to protect this land into perpetuity. The dedication of this land will be achieved through the preparation of a Planning Agreement.

In conjunction with the application to rezone Lots 110 and 112, Council is proposing to rezone five adjoining allotments. Lot 111 DP 1091944, Lot 122 DP 1163892, Lot 121 DP 1163892 and Lot 7050 DP 1074972 are located between the Bluey's Estate holding and The Lakes Way and range in size from 1 hectare to 1.8 hectares. Lot 1 DP1172370 is identified as a closed road within Lot 110 and is owned as part of the Bluey's Estate holding.

These lots would otherwise represent isolated areas of land zoned RU2 Rural Landscape that are unsuitable for agricultural purposes due to the size of the allotments and site constraints. An excerpt of the Great Lakes Local Environmental Plan 2014 Land Zoning Map is provided in Annexure A to the report.

The five lots identified by Council have not been subject to the detailed environmental investigations associated with Lots 110 and 112. Preliminary investigations reveal they are affected by a range of natural hazards and development constraints including flooding, bushfire, slope, environmentally significant vegetation and restricted access to The Lakes Way.

Aerial Photograph of Land Affected by Planning Proposal including Council nominated allotments (hatched in red).



The total land area affected by the Proposal is approximately 359 hectares.

DEVELOPMENT HISTORY of Lot 110 DP 1091994:

Development Application 5057/1991 - Golf Course and Clubhouse

Development Application DA 5057/1991 was granted deferred development consent on 28 May 1997 for the construction of Stage 1 of a nine-hole golf course and associated shop/clubhouse and car parking facilities. The deferred commencement conditions were satisfied and construction of the fairways and water hazards commenced.

Rezoning Application SP-LEP-71 - Lot 110 DP 1091944

Council has considered the rezoning potential of the site for development and conservation purposes since it was identified as part of the "Charlotte Bay Precinct" in the Forster-Tuncurry Development and Conservation Strategy (2003). In November 2006 discussions were held between Council and the Citta Property Group and rezoning investigations were commenced as part of Council's Release Area Program.

A Rezoning Submission was lodged with Council in May 2007 by ERM on behalf of the Citta Property Group outlining the proposed rezoning and development of Lot 110.

This was reported to the Ordinary Meeting on 27th March 2007 where Council resolved to: *prepare a draft Local Environmental Plan over Lots 1 - 3 DP 605026, Lots 110 - 112 DP 1091944, Lot 12 DP 740282, Lot 1 DP 729771 and Lot 7050 DP 1074972 as identified in Forster/Tuncurry Conservation and Development Strategy so as to enable residential development, larger urban or rural residential lots, employment and environmental protection purposes.*

The resolution included advice that Council will not proceed to the exhibition of a Local Environmental Plan unless catchment nutrient export and estuarine circulation modelling can conclusively indicate that there will be no net increase in pollutants discharged to Wallis Lake from the area the subject of the LEP; and that a Local Environmental Study will be required over the entire area and that the LES is to be prepared at no cost to Council.

A Section 54 notification of a Council resolution to prepare an amendment to the local environmental plan was submitted to the Department of Planning & Environment on 22 May 2007 where the concept was summarised as follows:

The land to be investigated by the LES has an area of approximately 400ha. It is likely that at least half of this will be zoned for environmental protection. The remainder will be zoned for a combination of residential, large lot urban, open space (or other appropriate zone to facilitate a golf course) and employment purposes. In the vicinity of 100ha could be zoned for residential/large lot urban purposes giving a possible population of about 1,500 - 2,000 people.

The Department of Planning and Environment responded on 5 September 2007 advising that the S54 application was not supported at that time given the status of the Growth Management Strategy for the Great Lakes and the draft Mid North Coast Regional Strategy.

Council subsequently resolved at the Ordinary Council meeting on 25th September 2007 to *await the growth area maps that are to be produced as part of the Mid North Coast Regional Strategy before proceeding with any strategic investigations for the area.*

The Mid North Coast Regional Strategy (2009) did not identify the subject site as a Growth Area or Proposed Future Urban Release Area.

Development Application 444/2011 - Subdivision of Lot 110 DP 1091944 into 6 allotments

The development application lodged on 17 March 2011 proposed subdivision of Lot 110 into six allotments. During the process of assessing the application Council officers entered into discussions with the land owner regarding the environmental significance of the site for local and regional wildlife corridors and the development/conservation potential of the land.

These discussions were based on the identification of Charlotte Bay as a Stage 2 Land Release Area within the Forster/ Tuncurry Conservation and Development Strategy (2003) subject to resolution of water quality, stormwater management and ecological issues.

The land owner and Council officers progressed negotiations to a stage where there was general agreement regarding the merits and possible scale of a development/conservation plan for the site to deliver on strategic land use outcomes, with commensurate and significant community environmental benefits.

It was determined during these discussions that there was a need for preliminary investigations to assist in defining the scale of potential development opportunities and the appropriateness and details of the conservation offset. These investigations would assist in determining the compatibility of the development proposal with the major site constraints particularly ecological and water quality constraints.

These studies would comprise the first stage investigations and would assist to inform the eventual preparation of a Planning Proposal. In this regard, a Flora and Fauna Brief and a Water Quality Brief were prepared to guide the necessary first stage investigations.

The matter was reported to Council on 12 August 2012 seeking Council's in-principle support for the commencement of these first stage investigations. Council subsequently resolved to:

1. *Provide in-principle support to allow the advancement of appropriate ecological and water quality studies to investigate the potential viability and scale of development/ conservation offset outcomes for land at Lots 110 and 112 DP1091944 The Lakes Way, Pacific Palms as the first stage in ascertaining if the proposal is able to proceed to more detailed investigations as part of a Planning Proposal.*
2. *Support the engagement of water quality consultant to undertake preliminary water quality assessment as per Council's brief to determine site constraints and suitability leading to a conceptual stormwater management strategy for the land and support the engagement of an ecological consultant to undertake preliminary flora and fauna investigations for land at Lots 110 and 112 DP1091944 The Lakes Way, Pacific Palms, on the basis that the studies are fully funded by the landowner and are managed by Council.*
3. *Confirm that the in-principle support is subject to the same requirements as the Release Area Program and for the Lampo Holdings proposals whereby the landowner/developer is to fund all studies and investigations and any necessary staff/ planning consultant resources.*

The matter was progressed in accordance with this resolution and discussions between Council and the land owner have been on-going. A Planning Proposal to rezone the land known as Bluey's Estate was subsequently lodged by City Plan Services on 17 April 2014.

Development Application 444/2011 was subsequently withdrawn on the 18 August 2014, following Council's acceptance of the Planning Proposal on 17 August 2014.

PLANNING PROPOSAL:

A copy of the Planning Proposal is provided in Attachment A to this report but may be summarised as follows:

The Planning Proposal is expected to result in several Great Lakes Local Environmental Plan 2014 map layer amendments:

- Land Zoning Map
- Minimum Lot Size Map
- Floor Space Ratio Map
- Protection of Wildlife Corridors Map
- Urban Release Area Map

A copy of the Draft Amendment to Great Lakes Local Environmental Plan 2014 Land Zone Map is provided in Annexure B to the report. Additional map layer amendments may be identified through the detailed environmental investigations and agency consultation to be carried out following the Gateway Determination.

The draft zoning plan represents approximately:

- 54 hectares of land identified for rezoning to R2 Low Density Residential which would yield a minimum of 770 new residential allotments if a density of 13 dwellings per hectare is applied (Forster Tuncurry Development and Conservation Strategy p.26);
- 257 hectares of land is identified for rezoning to E2 Environmental Conservation and dedication for permanent protection;
- 14 hectares of land, representing a potential yield of one new allotment (one existing), has been identified for rezoning to E3 Environmental Management; and
- 32 hectares of land is identified for rezoning to RE2 Private Recreation to realise the partially constructed golf course and associated facilities.

The existing provisions of the Great Lakes Development Control Plan sufficiently address future subdivision and development on the subject site at this time.

However, site specific development control plan provisions or a master plan for the site may be prepared in response to additional environmental investigations and infrastructure planning requirements. The master plan would show how the land can be developed in a logical and cost-effective manner, while respecting the site's environmental features.

The Proposal provides a detailed description of the subject land, existing land use strategies, preliminary investigations and other strategic and environmental matters that have been taken into consideration when nominating proposed zone and development controls that may be applied to the land in the future.

STRATEGIC CONTEXT:

Council officers had a meeting with representatives from the Hunter-Central Coast Regional Office of the Department of Planning and Environment (Department) where the development history of the site and the current proposal were outlined.

The Department provided constructive feedback regarding the need for additional information on the strategic context of the proposal and its compliance with the Sustainability Criteria of the Mid North Coast Regional Strategy (2009) and other local strategies given the site was not identified as a Growth Area or Potential Urban Release area in the Mid North Coast Regional Strategy.

This work has been undertaken by Council officers and a Strategic Concept Plan has been prepared to illustrate how this land is central to the future planning for the broader Charlotte Bay, Pacific Palms, Smiths Lake area. A copy of the Strategic Concept Plan is provided in Annexure C to this report.

In particular the rezoning of the Bluey's Estate and future rezoning of other surrounding land in the RU2 Rural Landscape zone, represents a significant opportunity to create a more sustainable community within Charlotte Bay that supports and complements the nearby Smiths Lake and Pacific Palms villages.

The Strategic Concept Plan prepared for the Charlotte Bay Precinct which is incorporated into the Planning Proposal, identifies both development and conservation opportunities for land adjoining the subject site.

All adjoining land owners were invited to discuss the strategic planning opportunities available through this process. Two land owners, Paspaley Pearls Pty Ltd and Midcoast Water, responded and their preliminary feedback has been taken into consideration in the development of this strategic concept plan.

The Plan is expected to be reviewed and refined as additional environmental investigations, inter-agency consultation and additional engagement with adjoining land owners is undertaken following a Gateway Determination.

At this stage, it is only intended to seek the rezoning of the lots contained in the planning proposal. Consideration will be given to the other land shown in the Strategic Concept Plan when the owners indicate they are prepared to fund the process, including all necessary studies. This work would be undertaken in accordance with Council policy PL-PLN-003 The Procedure for Preparation and Processing of Planning Proposals.

ECOLOGICAL PROTECTION FRAMEWORK:

Council officers have also given additional consideration to ecological studies that have already been undertaken on behalf of the applicant and the additional studies that would be required following a Gateway Determination.

To assist in the visual representation of the strategic importance of the subject site and adjoining lands to local and regional flora and fauna, a diagram has been prepared of environmental protection areas and corridors over an aerial photograph of the locality. This plan of the Ecological Protection Framework between Pacific Palms and Smiths Lake clearly shows the importance of the land in a broader ecological context. A copy of the plan is provided in Annexure D to this report.

The additional ecological investigations undertaken after a Gateway Determination will assist in identifying the final areas to be zoned for environmental management or conservation and quantification of the development - environmental off-set of the Proposal.

The findings will also be used to inform the planning agreement which will provide a legal mechanism for the future dedication and management of those areas of high environmental value that require protection into perpetuity.

In this regard the preliminary ecological studies are considered to provide intuitive and semi-quantitative evidence that an appropriate environmental outcome is being achieved in relation to the ratio of vegetation/ habitat potentially lost, versus that which is retained, protected and managed in accordance with conservation principles.

The next phases of the ecological investigation will need to validate the biodiversity outcomes of the proposal using a scientifically-accepted, rigorous and appropriate method. As such, the proposal will be assessed using a quantitative and acceptable tool, such as (but not confined to), the:

- Biobanking Assessment Methodology (BBAM); or
- Environmental Outcomes Assessment Methodology (EOAM); or
- Biocertification Assessment Methodology (BCAM).

The biodiversity assessment tool will be determined with advice from the Department of Planning and Environment and the NSW Office of Environment and Heritage. The tool (once determined) will be run by accredited users, in a manner that is fully compliant with the rules associated with the particular tool.

As such, the proposal will be fully tested by way of a valid, rigorous and scientific assessment methodology. Biodiversity outcomes achieved will be at least to the minimum standards required by the particular biodiversity assessment tool and potentially the biodiversity outcomes may achieve higher than required standards for biodiversity protection and long-term conservation.

PROJECT TIMELINE:

The Planning Proposal to rezone Lots 110 and 112 DP 1091944 was lodged on 17 April 2014. The preliminary assessment and consultation with the applicant, land owner and the Department of Planning and Environment was undertaken prior to the formal acceptance of the Planning Proposal on 2 September 2014.

The draft project timeline for the remainder of the project is as follows:

Task	Responsibility	Timeframe
Lodge Planning Proposal with Department Planning & Environment	Great Lakes Council	March 2015
Gateway Determination issued with conditions	Department Planning & Environment	May 2015
Fee Agreement for Stage 2 (Gateway Determination to Gazettal)	Great Lakes Council and Applicants/Land Owner	July 2015
Gateway Determination Conditions addressed e.g. additional investigations, inter-agency consultation, preparation of Planning Agreement	Great Lakes Council	August - December 2015
Exhibition of Planning Proposal, inter-agency consultation and community engagement	Great Lakes Council	December 2015 - January 2016
Review of Submissions	Great Lakes Council	February - March 2016
Report and Amended Planning Proposal adopted by Council	Great Lakes Council	April 2016
Planning Proposal lodged with Department Planning & Environment	Great Lakes Council	May 2016
Plan Made by Minister of Planning and Infrastructure	Department Planning & Environment	July 2016

CONSULTATION:

The preliminary investigations indicate that additional consultation with the following agencies and organisations will be required after a Gateway Determination is issued by the Department of Planning and Environment:

- Mid-Coast Water
- NSW Roads and Maritime Services
- Forster Local Aboriginal Land Council
- NSW Office of Water
- NSW Office of Environment and Heritage
- Country Energy
- NSW Office of Trade and Investment

- Rural Fire Service
- Local Land Services

Additional consultation will also be undertaken with affected and adjoining land owners, particularly the land owners of those sites nominated for rezoning by Council or identified within the Strategic Concept Plan.

Additional consultation may also be required in response to the detailed investigations and studies undertaken following the Gateway Determination.

PUBLIC EXHIBITION:

Given the significance of the subject site and strategic implications of the Proposal it is anticipated that a minimum public exhibition period of 28 days would be appropriate, in accordance with the *Environmental Planning and Assessment Act 1979 and Regulations 2000*.

The Gateway Determination may include additional conditions regarding community consultation required for this Proposal.

The supporting information placed on public exhibition with the Planning Proposal will include all reference documents, site studies and draft maps amending Great Lakes Local Environmental Plan (LEP) 2014. Any amendments to the clauses of Great Lakes LEP 2014 or development controls within the Great Lakes Development Control Plan will also be described in the exhibition material.

A Planning Agreement regarding the dedication of the ecological off-set and any other relevant matters that may be identified during the additional investigations undertaken after the Gateway Determination, will also be exhibited with the Proposal. This will be important as the ecological offset is critical to the justification of the proposal.

All relevant information will be available in hard copy at the Great Lakes Administration Building, Breese Parade Forster and the Pacific Palms Library. Information will also be provided on Council's website throughout the exhibition period.

All adjoining land owners will be notified in writing of the public exhibition, a public information session is likely to be held and at least one notice will be placed in the local newspaper regarding the exhibition.

It is not anticipated that a public hearing will be required in relation to this Proposal, pursuant to section 56(2)(e) of the Act.

RECOMMENDATION:

In relation to the planning proposal that refers to land generally known as Blueys Estate that:

- A. Council, pursuant to s59 of the Environmental Planning and Assessment Act, 1979, adopt the Planning Proposal for the purpose of seeking a Gateway Determination to rezone land known as Bluey's Estate as detailed in Attachment A to this report.
- B. Council submit the Planning Proposal to the Department of Planning and Environment for a Gateway Determination;
- C. Upon the Department of Planning and Environment issuing a Gateway Determination, Council officers meet with the proponent to determine the program for processing the Planning Proposal in accordance with the Gateway Determination and any conditions imposed by the Department of Planning and Environment.
- D. In the event the adopted Planning Proposal is significantly amended as a result of the gateway Determination or as a result of additional post gateway studies the matter be the

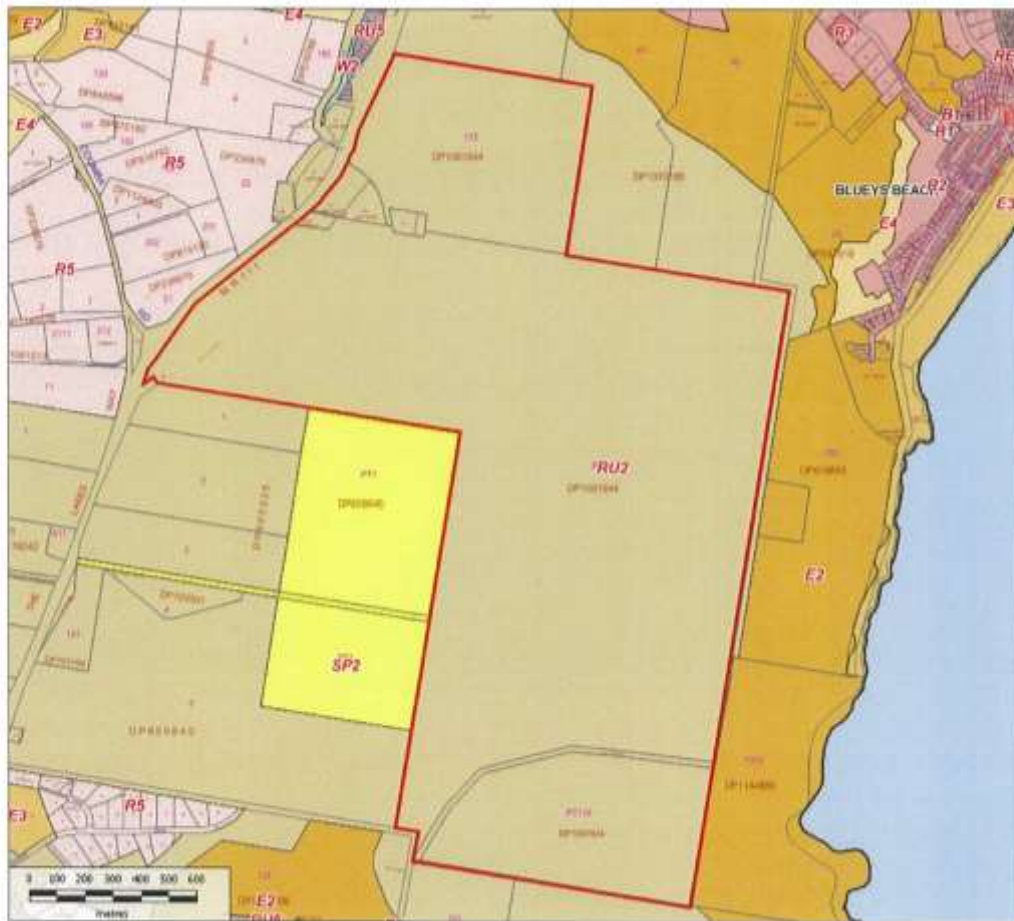
subject of a separate Council report prior to the commencement of any public exhibition process.

- E. In the event there are no changes of significance, community engagement be undertaken on the planning proposal in accordance with the Gateway Determination.
- F. The proposed Planning Agreement to be entered into in association with the changes to Great Lakes Local Environmental Plan 2014 be the subject of a further report to Council for endorsement for exhibition.

ANNEXURES:

A. Great Lakes Local Environmental Plan 2014 Land Zoning Map of Site.

Great Lakes Local Environmental Plan 2014 Land Zoning Map

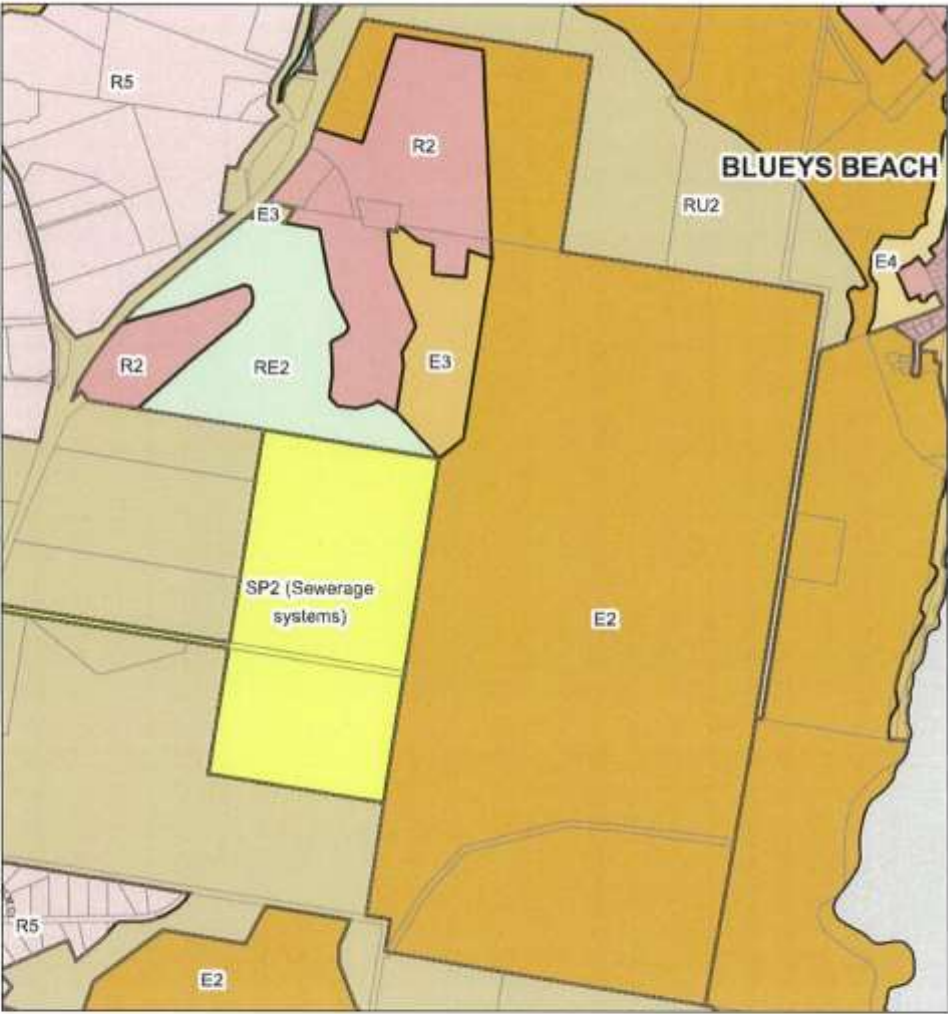


Great Lakes Local Environmental Plan 2014 Land Use Zones

Zone			
B1	Neighbourhood Centre	R3	Medium Density Residential
B2	Local Centre	R4	High Density Residential
B4	Mixed Use	R5	Large Lot Residential
B5	Business Development	RE1	Public Recreation
E1	National Parks and Nature Reserves	RE2	Private Recreation
E2	Environmental Conservation	RU2	Rural Landscape
E3	Environmental Management	RU3	Forestry
E4	Environmental Living	RU5	Village
IN1	General Industrial	SP2	Infrastructure
IN2	Light Industrial	SP3	Tourist
IN4	Working Waterfront	W1	Natural Waterways
R2	Low Density Residential	W2	Recreational Waterways

B. Draft Amendment to Great Lakes Local Environmental Plan 2014 Land Zoning Map.

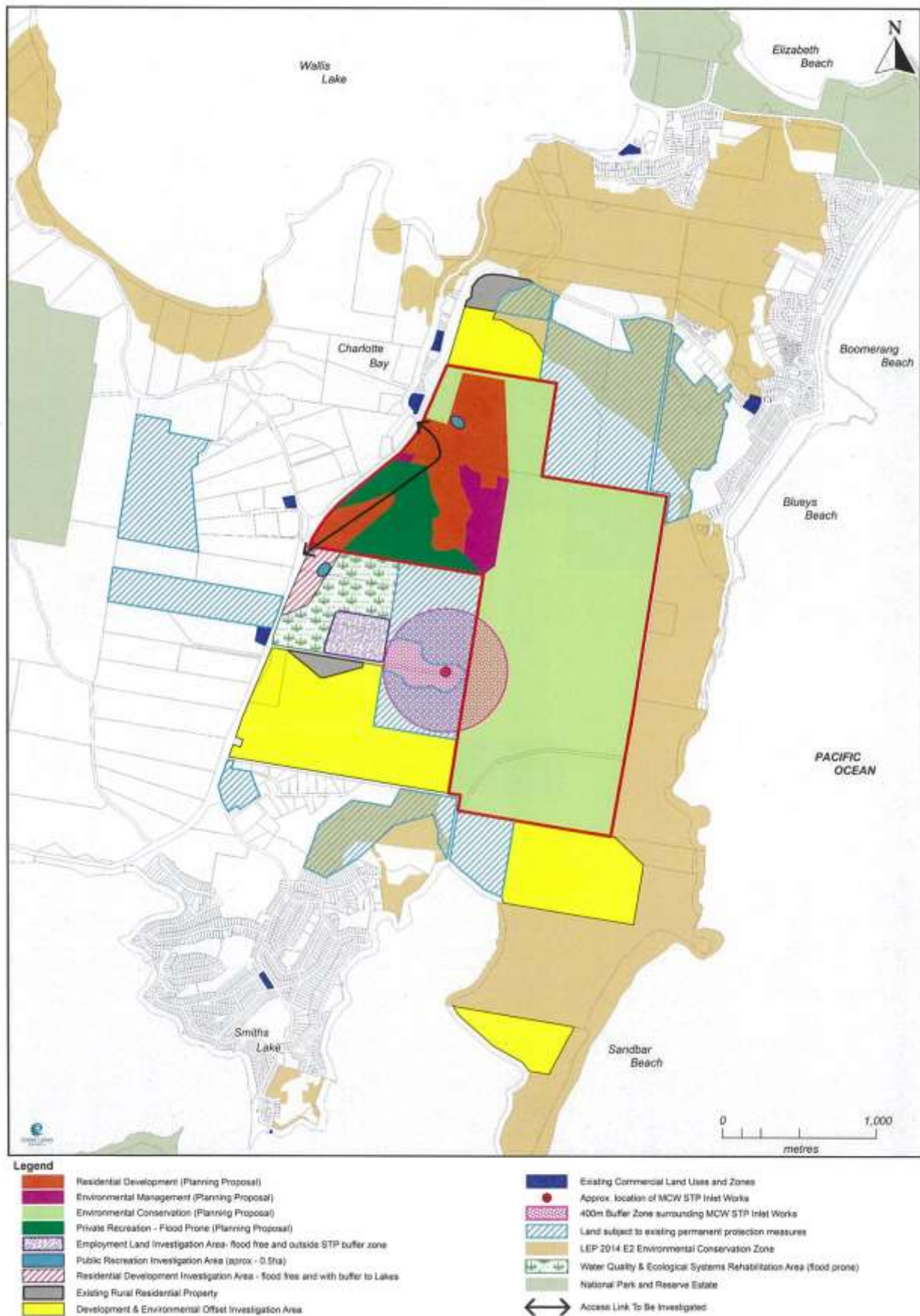
Draft Amendment to Great Lakes Local Environmental Plan 2014 Land Zoning Map



Great Lakes Local Environmental Plan 2014 Land Use Zones

Zone			
B1	Neighbourhood Centre	R3	Medium Density Residential
B2	Local Centre	R4	High Density Residential
B4	Mixed Use	R5	Large Lot Residential
B5	Business Development	RE1	Public Recreation
E1	National Parks and Nature Reserves	RE2	Private Recreation
E2	Environmental Conservation	RU2	Rural Landscape
E3	Environmental Management	RU3	Forestry
E4	Environmental Living	RU5	Village
IN1	General Industrial	SP2	Infrastructure
IN2	Light Industrial	SP3	Tourist
IN4	Working Waterfront	W1	Natural Waterways
R2	Low Density Residential	W2	Recreational Waterways

C. Strategic Concept Plan for Charlotte Bay.



D. Ecological Protection Framework of Pacific Palms - Smiths Lake.



Legend



National Park Estate



Great Lakes Council LEP 2014 E2 Zone



Land subject to existing permanent
vegetation protection measures



Regional Wildlife Corridor

Local Wildlife Corridor