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Regional Manager
Department of Planning
PO Box 1226
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Attention: Garry Forster

Dear Mr Forster

Our Ref: SP-LEP-36

Contact: Mr Alex Caras

Telephone: (02) 6591 7351



14 May 2010

**RE: PLANNING PROPOSALS FOR CURRENT LEPs: DRAFT AMENDMENT
NO. 36, – 'FORSTER PALMS ESTATE STAGE 5B', SOUTH FORSTER**

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

Council seeks a review of the considerable work undertaken for the above draft Amendment and requests that the draft plan be brought into the current Part 3 process. Although the draft plan was adopted for submission to the Director-General under s69 in March of this year, there were several administrative issues that prevented execution of the related Planning Agreement and resulted in the final s69 submission not being sent by the 30 April 2010 deadline (as per the Department's advice of 16/3/10).

Council believes that it is important to the implementation of its strategic plans that the pending amending LEP for the land referred to above 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 the rezoning of this site under the previous plan-making provisions, Council believes that the rezoning should now be finalised in as short a timeframe as possible under the Gateway Process.

Should you have inquiries regarding Council's proposal please contact Mr Alex Caras on 65917351

Yours faithfully



A CARAS
Manager Strategic Planning
Planning and Environmental Services

1

INTRODUCTION

This is a Planning Proposal for land known as 'Forster Palms Estate - Stage 5b', which is located in South Forster in the Great Lakes local government area (see the locality plan at *Figure 1*). The existing zoning of this land and the land surrounding the site is illustrated in *Figure 2*. The subject land is approximately 29 hectares in size.

A draft Local Environmental Plan for this area has been exhibited in accordance with the EP&A Act (pre-1 July 2009 provisions) and Council has adopted the draft plan for submission to the Director-General under s69. Council is also in receipt of a Written Authorisation to Exercise Delegation (Section 69(1)) dated 16 February 2007.

- **A statement of the objectives or intended outcomes of the proposed local environmental plan**

The purpose of the local environmental plan is to facilitate the development of the next stage of the Foster Palms Estate residential subdivision at The Southern Parkway, South Forster.

This outcome will be achieved by:

- Enabling low density residential development in the 2(a) zone;
- Setting aside land for conservation/open space purposes in the 6(a) zone;
- Establishing a legally binding mechanism (Planning Agreement) to facilitate the dedication of proposed 6(a) land to Council for conservation/open space purposes and also to formalise future funding arrangements for the proposed water management system on the subject land.

- **An explanation of the provisions that are to be included in the proposed local environmental plan**

Amendment of the Great Lakes Council LEP 1996 as shown in Amendment 36 (see Annex A), namely to rezone Lot 6177 DP 1099599, The Southern Parkway, South Forster from 1(c) (Future Urban Investigation Zone) to partly 2(a) (Low Density Residential Zone) and partly 6(a) (Open Space and Recreation Zone) as identified in *Figure 3* and the introduction of a clause which requires adequate stormwater management measures to protect the water quality of Pipers Creek.

2

JUSTIFICATION

Need for the planning proposal

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

The South Forster precinct has been identified in the Forster / Tuncurry Conservation and Development Strategy (2003) as an area that will form an extension to the existing urban area. The local environmental study prepared prior to the formulation of a local environmental plan (South

Forster Local Environmental Study 2000) identified the site as suitable for low and medium density residential development in association with some passive recreation.

- **Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The site has been specifically identified in the Forster / Tuncurry Conservation and Development Strategy as a 'Category 1' area. Category 1 areas are those areas where there is a high degree of certainty that sustainable development can occur and thus are a priority for urban land release. The Forster / Tuncurry Conservation and Development Strategy states that *'there will be support from relevant Government Departments for development in these areas'*. The rezoning of this site is included in the first stage of the implementation of the Strategy. An integral part of the Strategy is the completion of local road network links, with "The Southern Parkway" (distributor road) to be constructed as part of the development of the site. Importantly, the rezoning process for this site is well advanced with Council having recently adopted the draft plan for submission to the Director-General under s69 (under the pre-1 July 2009 plan-making provisions).

For the above reasons, a planning proposal is considered the best means of achieving the intended outcome for the subject land in a timely manner.

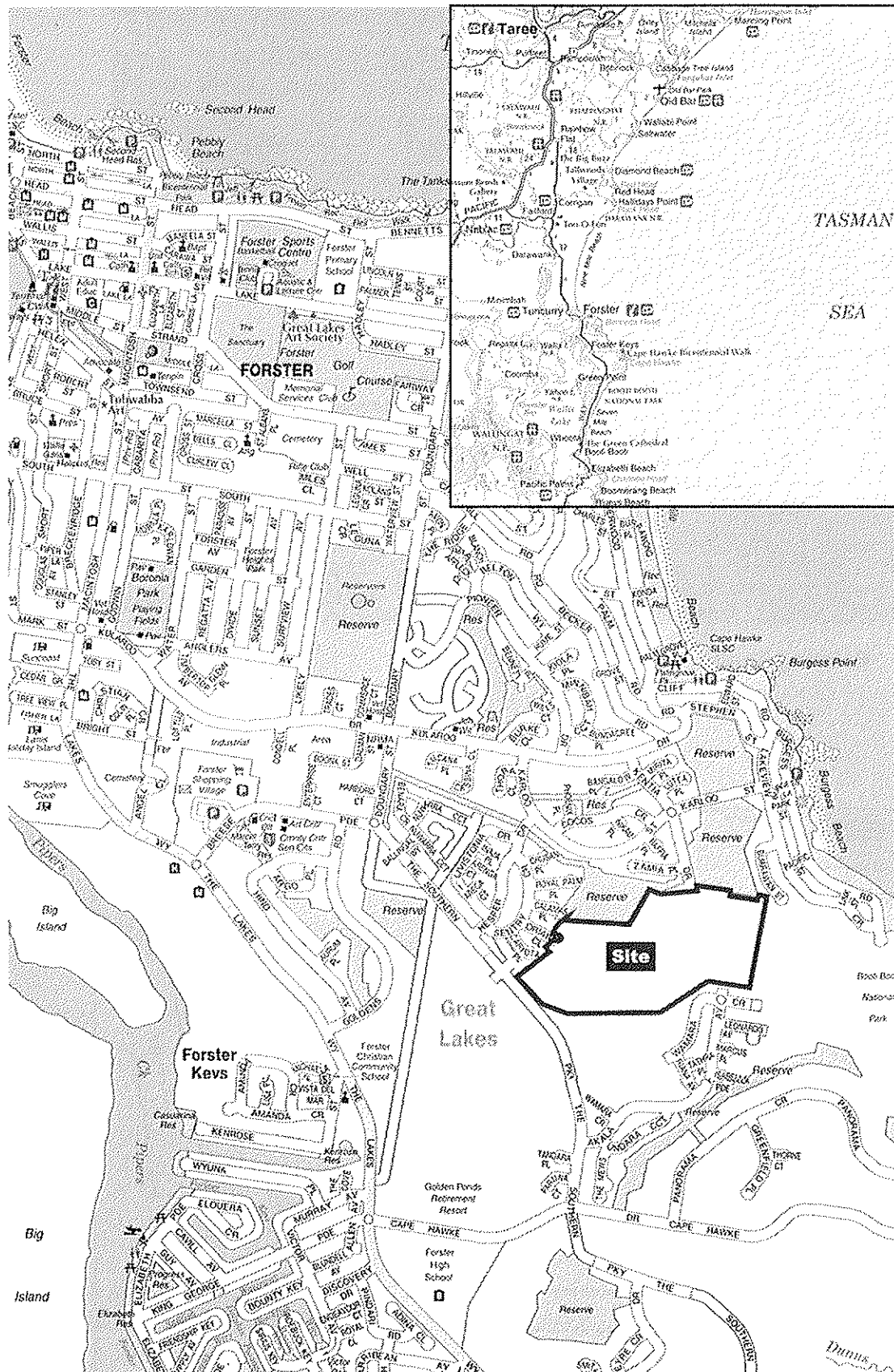


Figure 1 Locality Plan

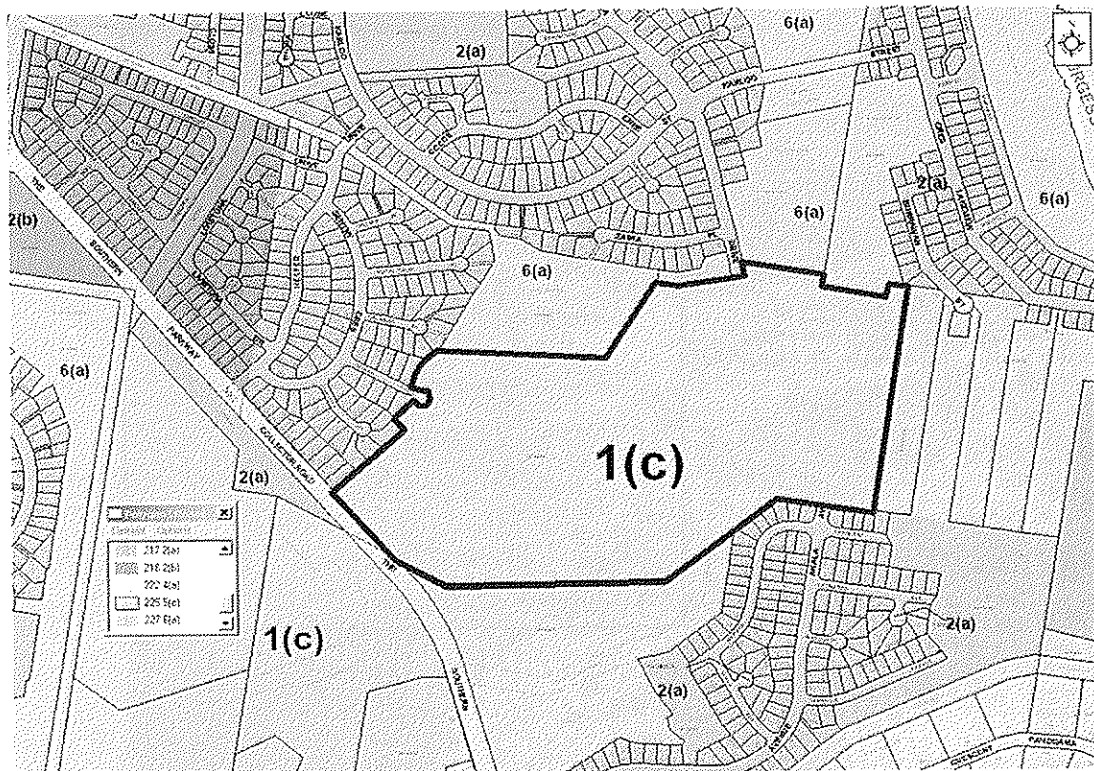


Figure 2 Existing Zoning

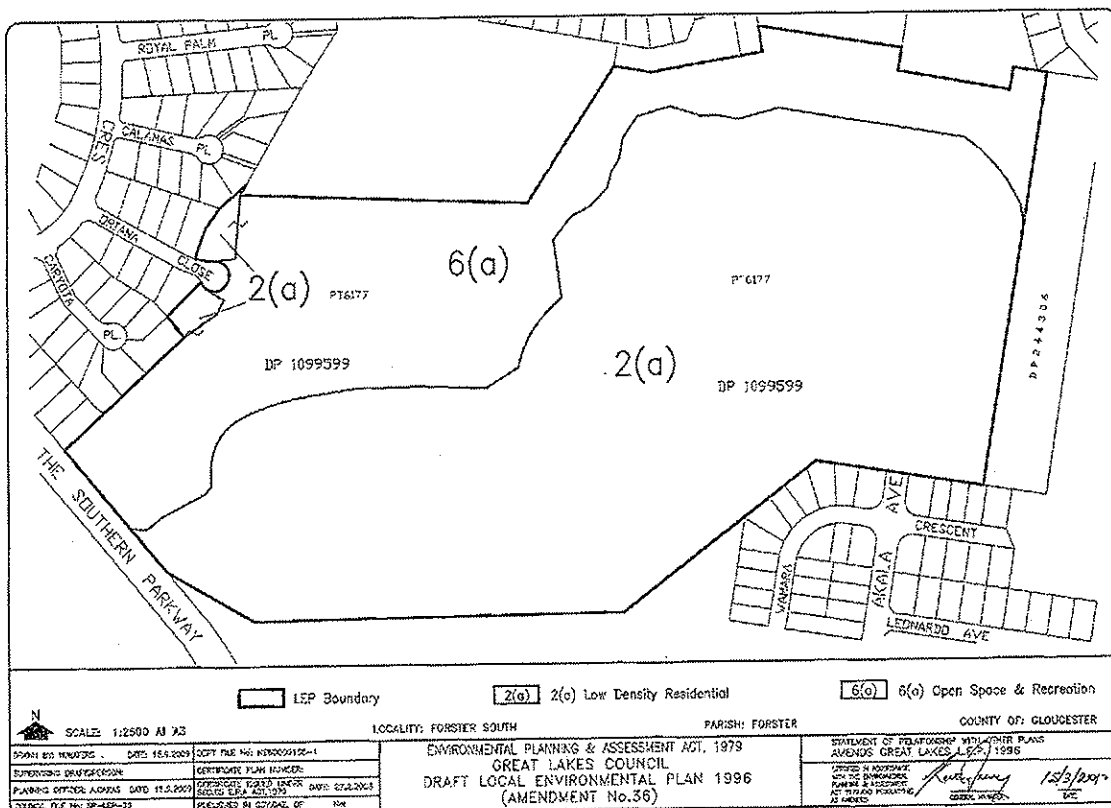


Figure 3 Proposed Zoning

Not proceeding with the development is not considered a justifiable alternative. The site has been identified as important to achieving the aims of Council's *Housing Strategy for Forster/ Tuncurry* (2006) and forms a key part of the South Forster urban release program.

- **Is the planning proposal consistent with applicable state environmental planning policies?**

The relevant State planning legislation for NSW is the Environmental Planning and Assessment Act 1979 (EP&A Act 1979). The EP&A Act is supplemented by a suite of Environmental Planning Instruments (EPIs), namely State Environmental Planning Policies (SEPPs), Regional Environmental Plans (REFs) and Local Environmental Plans (LEPs). The SEPPs that are potentially relevant to the proposed rezoning include:

- State Environmental Planning Policy (Infrastructure) - 2007;
- State Environmental Planning Policy 19 – Bushland in Urban Areas (SEPP 19);
- State Environmental Planning Policy 44 – Koala Habitat Protection (SEPP 14);
- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55);
- State Environmental Planning Policy 71 - Coastal Protection (SEPP 71);
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP);

LEP Amendment No 36 is consistent with all relevant SEPPs.

3 *RELATIONSHIP TO STRATEGIC SETTING*

Relationship to strategic planning framework

- **Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including exhibited draft strategies)?**

The proposed rezoning is consistent with the *Mid North Coast Regional Strategy 2009*. As part of the settlement planning associated with the *Strategy*, each Council in the Mid North Coast Region is required to establish the appropriate location of growth areas to accommodate expected housing demand in a sustainable fashion. Growth area maps have been produced using the settlement planning principles of the *Strategy* and subregional dwelling projections, in which the subject land has been identified for future urban release (Map 9).

The settlement planning principles are aimed at ensuring new development respects the hierarchy of centres and the natural and man made environment and character of the area.

The proposed rezoning is consistent with the relevant aims and planning principles of the Mid North Coast Regional Strategy as:

- * the subject site is identified on the Mid-North Coast Regional Strategy Growth Areas Map 9 (Great Lakes North) and in the Forster-Tuncurry Conservation & Development Strategy 2003 as being within the proposed future urban release area of South Forster (a "major town");
- * the proposed residential rezoning will contribute to the Strategy target of 15,000 dwellings for the Manning Valley-Great Lakes subregion;
- * the supporting local environmental studies have properly considered the ecological (flora and fauna, water quality, soils) and natural hazards (flooding/bushfire/slope) applying to the subject land;
- * land of high conservation value (both habitat and corridor totalling approx 9ha) will be zoned accordingly and dedicated into public ownership;
- * the draft plan contains provisions to ensure that adequate stormwater management measures are taken to protect the water quality of Pipers Creek; these provisions are supported by an adopted Development Control Plan for the site to ensure future development achieves stormwater management targets and incorporates water sensitive urban design principles; and
- * the locality is already serviced with capacity to cater for additional demand generated by the planned expansion of the South Forster urban release area.

- **Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?**

The proposal is consistent with Council's *Forster-Tuncurry Conservation and Development Strategy* (June, 2003), which provides a long term framework for land use planning for the Forster / Tuncurry area. The Strategy sets out the key principles and planning framework for the South Forster locality.

This is further refined in the *South Forster Structure Plan* (February, 2007), which identifies part of the site as suitable for low density residential development with approximately one third of the site to be conserved as open space/habitat corridor.

The *Housing Strategy for Forster/ Tuncurry* further reinforces the *Forster / Tuncurry Conservation and Development Strategy* and aims to ensure that development of the limited greenfield sites available to accommodate the growth of Forster/Tuncurry is maximised without compromising the quality of the environment. It identifies target net residential densities of 13 – 15 dwellings per hectare for new low density residential release areas of South Forster and 40 – 50 dwellings per hectare for new medium density release areas.

In summary, the proposed residential development will achieve Council's objectives relating to accommodating new growth in South Forster while retaining areas of high conservation significance.

- **Is there a net community benefit?**

The key socio-economic benefits of the proposed rezoning include:

- + the supply of additional residential lots to assist in satisfying future demand for housing in Forster;
- + the supply of additional infrastructure such as the extension of The Southern Parkway and the more efficient use of existing infrastructure;
- + close proximity to regional scale retail facilities and services; and
- + the provision and more efficient use of existing social infrastructure such as schools and community centres and the provision of additional open space and passive recreation areas available to the wider community.

The proposed rezoning will also provide short-term employment during the civil works and housing construction phases and longer-term employment arising from the demands generated by additional people settling in the area. This will result in greater retail expenditure and support for local retail and community facilities in the immediate Forster area and the wider LGA.

The main potential negative socio-economic impacts associated with the proposed rezoning include:

- increased pressure on open space and natural areas;
- increased demand for infrastructure, sporting and recreation facilities ; and
- increased demand on existing community services and facilities in Forster and Tuncurry, including health, education, police and emergency services, and general community facilities.

Overall, there will be a net positive socio-economic benefit as a result of the proposed rezoning, particularly with the injection of millions of dollars into the local economy which will generate both direct and indirect employment in an area which has a higher unemployment rate than the Great Lakes LGA and New South Wales.

There also will be a net positive environmental benefit through dedication of approximately 9ha of high conservation value land (both habitat and corridor) along with the protection of a riparian drainage corridor within the eastern portion of the site. The payment of appropriate Section 94 contributions in addition to the bushland dedication will ensure that local facilities are able to cope with the increased demand generated by the additional population to be housed within the site.

- **Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?**

The proposed local environmental plan is consistent with the following section 117 Directions (as applicable during most recent exhibition):

- *Direction No. 2.1 Environmental Protection* – proposed rezoning ensures that land of high conservation value (both habitat and corridor totalling approx 9ha) will be zoned accordingly and dedicated into public ownership;
- *Direction No. 2.2 Coastal Protection* – consistent with the strategic directions contained in the *NSW Coastal Policy*;
- *Direction No. 3.1 Residential Zones* – the proposed rezoning contains appropriate provisions to ensure it complies with this Direction;
- *Direction No. 3.4 Integrating Land Use and Transport* – the proposed rezoning is supported by a site-specific DCP (adopted 9/3/10) containing standards relating to 'road network and access' that satisfy the objectives of this Direction;
- *Direction No. 4.4 Planning for Bushfire Protection* – proposed urban zonings comply with provisions set out in the 'Planning for Bushfire Protection (2006)' document; and
- *Direction No. 5.1 Implementation of Regional Strategies* – the proposed rezoning complies with this Direction as it assists in implementing the Mid North Coast Regional Strategy (refer to discussion on pp5-6).

4 IMPACTS

Environmental, social and economic impact

- **Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The proposed rezoning will not cause a significant impact upon threatened species, populations and endangered ecological communities. In respect of matters relative to local conservation initiatives, most of the open forest within the site will be retained as part of the proposed public and drainage reserve. The extension of the current public reserves and bushland corridors will facilitate the movement of Squirrel Gliders (a keystone species) between all surrounding bushland and reserves.

The best quality vegetation on site is contained within the existing and proposed public reserve (to be zoned 6(a) Open Space and Recreation) and drainage corridor. This land will form part of a regional habitat corridor linking reserves in the south-west with the Booti Booti National Park to the south-east.

- **Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

Water Cycle Management

Council adopted the document titled *"Review of Stormwater Management Strategy for "L" Leg Catchment (WBM Oceanics)* in 2006, which represents the principal stormwater management strategy for the "L" Leg catchment in South Forster. The principal aim of the *Strategy* is to ensure future development achieves the water quality objective of 'no net increase' in pollutants entering Pipers Creek from the "L" Leg catchment. The Interim Water Quality Control Strategy prepared for the proposed rezoning would achieve this objective through the construction of rain gardens, the provision of rainwater tanks on each residential allotment and gross pollutant traps in the road and drainage reserves. The site-specific DCP relating to subject land requires stormwater management facilities to be constructed in accordance with this document.

Cultural Heritage

No Aboriginal artifacts or sites were found during an inspection of the site by the Forster Local Aboriginal Land Council, and none are listed on the National Parks and Wildlife Service's Aboriginal Sites Register.

Bushfire Risk Minimisation

The proposed rezoning complies with *PBP 2006*. Appropriate bushfire protection measures to be implemented include the provision of appropriate APZs, hazards and fuel management, construction standards and building protection, access, bushfire education and land ownership responsibility.

Traffic Impacts and Vehicular and Pedestrian Access

The site is located on the eastern side of The Southern Parkway, which is proposed to become a distributor road connecting residential and tourist areas to the south with Forster (GHD 2003). Currently The Southern Parkway is not wholly constructed and does not link between Breese Parade and Cape Hawke Drive.

The proposed rezoning will facilitate pedestrian links between adjacent residential areas. It will also facilitate a link to the proposed concrete cyclist pathway along the eastern side of The Southern Parkway to further encourage the use of bicycles and walking over vehicular travel modes.

- **How has the planning proposal adequately addressed any social and economic effects?**

These effects are addressed in section 3 above ('net community benefit').

State and Commonwealth interests

- **Is there adequate public infrastructure for the planning proposal?**

Road Network

The construction of the Southern Parkway associated with the proposed rezoning will ease pressure on The Lakes Way and surrounding road network.

Bus Network

The Forster Tuncurry Traffic Strategy (GHD 2003) identified alternative or new bus route options which can be accommodated in this locality as demand increases.

Pedestrian and Cycle Paths

The Forster/Tuncurry Traffic Strategy (GHD 2003) identified that a pedestrian and cycle path network needs further development for the South Forster area. Pedestrian and cycle paths will be provided in accordance with Council's requirements, accommodating safer alternatives for pedestrians and cyclists.

Open Space and Natural Areas

The proposed rezoning identifies approximately 9.0 hectares of land to be included within the 6(a) Open Space and Recreation zone, which partly satisfies Council's requirement for the provision 28.3 sq m of open space per person (remainder to be addressed at subdivision stage).

Water, Sewer and Drainage Infrastructure

MidCoast Water has advised that the site can be adequately serviced with reticulated water and sewer. In addition, Council has adopted a comprehensive drainage strategy which will ensure that the water quality in Pipers Creek is not negatively impacted.

Community Services

There is an extensive range of community services and facilities in the Forster/ Tuncurry district that can adequately service the proposed rezoning. These services include community halls, libraries, youth accommodation and recreation services, cultural centres and Aboriginal resources.

Police and Emergency Services

In addition to police services located in Forster, Forster/ Tuncurry has a full range of emergency services within the district including Ambulance, Fire Brigade and State Emergency Services.

Education Facilities

Forster/Tuncurry is serviced by two public primary schools, one each in Forster and Tuncurry, and one private primary school located in Forster. Forster High School is located close to the proposed development. There are several pre-school and child care centres in the area. The local Great Lakes TAFE College (North Coast Institute campus) is located in Tuncurry.

Health Services

Forster/Tuncurry is serviced by a wide range of medical services including general practitioners, medical centres, pathology services and dental surgeries located across the primary urban area. The Cape Hawke Community Private Hospital is the only hospital facility at Forster/Tuncurry, which is currently being upgraded to incorporate an Integrated Primary Health Care Unit (for NSW Health) and provide other public medical services.

- **What are the views of State and Commonwealth Public Authorities consulted**

Issues raised by State agencies including NSW Rural Fire Service, National Parks and Wildlife Service and Coastal Council of NSW in response to the original exhibition of Amendment No 36 were addressed by Council prior to subsequent exhibitions.

6 CONSULTATION

- **Details of the community consultation that is to be undertaken on the planning proposal.**

Amendment No 36 has been publicly exhibited in accordance with the EP&A Act and associated Regulations on three (3) separate occasions. The draft plan was initially exhibited for 31 days from **19 March 2003 to 18 April 2003**. One (1) public submission and three (3) government agency submissions were received during the exhibition period.

The draft plan was re-exhibited in association with the draft Voluntary Planning Agreement, Local Environmental Study and other relevant documents during the period **8 December 2005 to 27 January 2006**. No public submissions were received during the re-exhibition.

The draft plan was re-exhibited a third time in association with a proposed Planning Agreement (as amended) and other supporting documents during the period **18 November – 18 December 2009**. Two public submissions were received during the exhibition period.

The provisions of Sections 66, 67 and 68 relating to public involvement in the preparation of the plan have been complied with. Draft Amendment No 36 is consistent with the relevant SEPPs, REPs and s117 Directions applicable to this site.

7 CONCLUSION

This Planning Proposal seeks to amend Great Lakes Local Environmental Plan 1996 (Great Lakes LEP) by way of adding a reference to 'Great Lakes Local Environmental Plan 1996 (Amendment No. 36)' to the definition of "Map" in the Great Lakes Local Environmental Plan 1996 "Dictionary". The amendment also introduces a clause which requires adequate stormwater management measures to protect the water quality of Pipers Creek.

The proposal will facilitate the next priority residential land release area in South Forster as well as add to Council's conservation reserve system. The related Planning Agreement seeks to formalise the dedication of land to Council (9ha) for conservation/open space purposes along with future funding arrangements for the proposed water management system on the subject land. The Agreement takes effect upon gazettal of the draft Plan

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 *Forster / Tuncurry Conservation and Development Strategy*.

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

Please note that the following key steps have already been completed under the old plan-making provisions (pre-1 July 2009):

- S54 resolution by Council to prepare a draft Local Environmental Plan
- Preparation of a Local Environmental Study
- Consultation with Government Agencies
- Issuing of a s65 certificate by the Department of Planning
- Community consultation during exhibition
- Exhibition of a draft LEP and proposed Planning Agreement
- Consideration of submissions
- Adoption of draft LEP and proposed PA by Council
- Parliamentary Counsel Opinion obtained
- Draft s69 report to the Director-General prepared (see attached)

Please also note that the decision to submit the draft proposal is subject to final execution of the proposed Planning Agreement between Council and Davglade Pty Ltd. This is expected to occur within the 4 - 6 weeks from the date of this proposal.

Annex A

Amendment No. 36

Clause 1 Great Lakes Local Environmental Plan 1996 (Amendment No 36)

Great Lakes Local Environmental Plan 1996 (Amendment No 36)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Great Lakes Local Environmental Plan 1996 (Amendment No 36)*.

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website

3 Land to which plan applies

This plan applies to Lot 6177, DP 1099599, The Southern Parkway, South Forster, as shown edged heavy black on the map marked "Great Lakes Local Environmental Plan 1996 (Amendment No 36)" deposited in the offices of the Great Lakes Council.

Schedule 1 Amendment of Great Lakes Local Environmental Plan 1996

[1] Clause 33D

Insert after clause 33C:

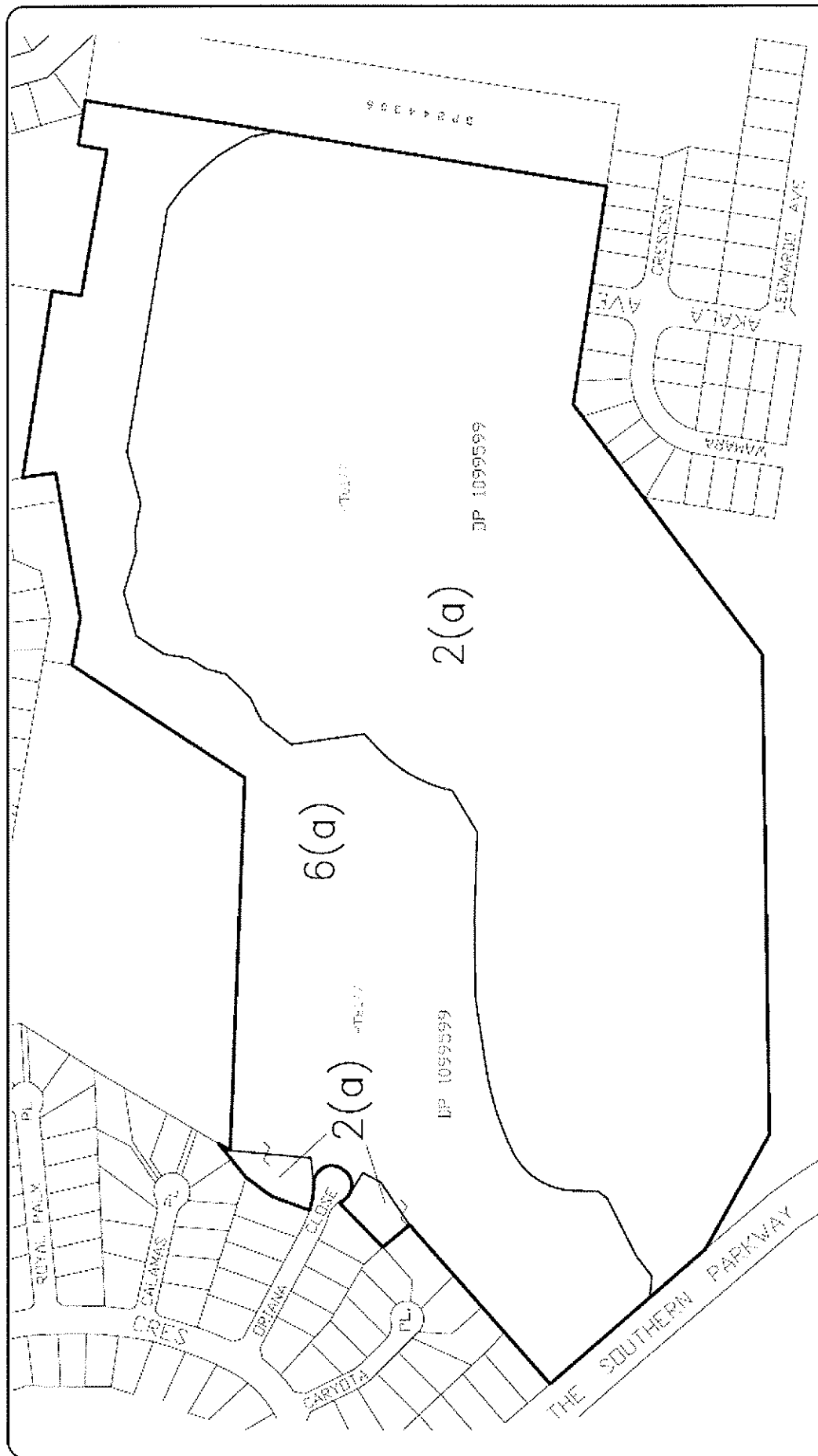
33B Development of Pt Lot 6177, DP 1099599 at The Southern Parkway, South Forster

- (1) This clause applies to that part of Lot 6177, DP 1099599, The Southern Parkway, South Forster, as shown edged heavy black on the map marked "Great Lakes Local Environmental Plan 1996 (Amendment No 36)".
- (2) Despite any other provision of this plan, the Council may consent to the subdivision of any land to which this clause applies, but only if the Council is satisfied that adequate stormwater management measures have been taken to protect the water quality of Pipers Creek.

[2] Dictionary

Insert at the end of the definition of *Map*:

Great Lakes Local Environmental Plan 1996 (Amendment
No 36)



SCALE: 1:2500 AT A3 		LEP Boundary ☐		2(a) Low Density Residential ☒		8(a) Open Space & Recreation ☐		COUNTY OF: GLOUCESTER	
LOCALITY: FORSTER SOUTH		PARISH: FORSTER		STATEMENT OF RELATIONSHIP WITH OTHER PLANS AMENDS GREAT LAKES LEP, 1996		DATE: 15.9.2003			
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1978 GREAT LAKES COUNCIL LOCAL ENVIRONMENTAL PLAN 1996 (AMENDMENT No.36)		DEPT FILE No. MEM002104-1		CERTIFICATE PLAN NUMBER:		DATE: 27.2.2003			
PLANNING OFFICER: A. GARRIS		DATE: 15.9.2003		CERTIFICATE ISSUED UNDER: SECTION 8(4) ACT 1978		DATE: 27.2.2003			
COUNCIL FILE No. 20-104-36		PUBLISHED IN: COUNCIL OF		Yes		DATE:			

