



TOWN PLANNING
AND URBAN DESIGN

PRELIMINARY ASSESSMENT REPORT

**Request under Clause 6 of State
Environmental Planning Policy (Major
Projects) 2005 for a regionally significant
retail development**

**Combined Concept Plan and Project
Application under Part 3A of the
Environmental Planning and Assessment
Act, 1979**

91 The Lakes Way, Forster

for Fabcot Pty Ltd

May 2009

PROJECT NO: 208.058.4 Forster

Copyright Notice: The Planning Group NSW Pty Limited

The copyright in this work is vested in The Planning Group NSW Pty Limited and the document is issued in confidence for the purpose only for which it is supplied. It must not be reproduced in whole or in part except under an agreement with, or with the consent in writing of, The Planning Group NSW Pty Limited and then only on the condition that this notice appears in any such reproduction. No information as to the contents or subject matter of this document or any part thereof may be given orally or in writing or communicated in any manner whatsoever to any third party without prior consent in writing of The Planning Group NSW Pty Limited.

SYDNEY OFFICE

Suite 304, 21 Berry Street
North Sydney NSW 2060

PO Box 1612
North Sydney NSW 2059

Telephone +61 2 9925 0444
Facsimile +61 2 9925 0055
www.tpgnsw.com.au

The Planning Group NSW Pty Ltd
ABN 90 100 209 265

DOCUMENT REVIEW SHEET

CLIENT: Fabcot Pty Ltd	
PROJECT: Preliminary Assessment	
TITLE: Forster Part 3A Request	
DOCUMENT REFERENCE NO: 209.058.4 Preliminary Assessment	
PROJECT MANAGER MH	FILE NO: 209.058.4
SPELL CHECK (WP OPERATOR) BY: MH	SECTION:

Document Details		Preparation & Self Check	Independent Review By:	Corrective Action /Approved by:	Sent To/ Date:
Final Draft	Name: MH	MH	SH	MH	DF
Date	Date: 190509	190509	190509	200509	200509
	Signature:				Email
Final	Name: MH	MH	SH	MH	DF
	Date: 220509	220509	220509	250509	250509
	Signature:				Email
	Name:				
	Date:				
	Signature:				
Reviewers Comments:					



TABLE OF CONTENTS

1	INTRODUCTION	1
1.1	PURPOSE OF THIS REPORT	1
1.2	THE PROPONENT	1
1.3	SITE DESCRIPTION	1
1.4	LOCAL AND REGIONAL CONTEXT	7
2.	PROJECT DESCRIPTION	10
2.1	PROPOSED COMBINED CONCEPT PLAN AND PROJECT APPLICATION	10
3.	STATE LEVEL STRATEGIC PLANNING	12
3.1	NSW STATE PLAN	12
3.2	MID NORTH COAST REGIONAL STRATEGY	12
3.3	NSW COASTAL POLICY	13
3.4	NSW COASTAL DESIGN GUIDELINES	14
3.5	NORTH COAST URBAN DESIGN GUIDELINES	14
3.6	NSW SETTLEMENT PLANNING GUIDELINES	14
3.7	DRAFT NSW GOVERNMENT SEA LEVEL RISE POLICY STATEMENT	14
3.8	NSW DRAFT CENTRES POLICY	15
4.	LOCAL LEVEL STRATEGIC PLANNING	16
4.1	LOCAL PLANNING STUDIES AND STRATEGIES	16
4.2	CONSULTATION WITH LOCAL COUNCIL AND BACKGROUND TO PART 3A APPLICATION	16
5.	STATUTORY MATTERS AND KEY PLANNING ISSUES	21
5.1	STATE MATTERS	21
5.1.1	Part 3A of the Environmental Planning & Assessment Act 1979	21
5.1.2	Coastal Protection Act 1979	23



5.1.3	State Environmental Planning Policy (Major Projects) 2005.....	24
5.1.4	State Environmental Planning Policy No. 14 – Coastal Wetlands	25
5.1.5	State Environmental Planning Policy No. 71 – Coastal Protection	26
5.1.6	State Environmental Planning Policy No. 55 – Remediation of Land ..	27
5.1.7	State Environmental Planning Policy Infrastructure 2007	28
5.2	LOCAL MATTERS.....	29
5.2.1	Great Lakes Local Environmental Plan.....	29
5.2.2	Great Lakes Development Control Plans.....	32
6.	KEY ENVIRONMENTAL ISSUES.....	33
6.1	UTILITIES AND INFRASTRUCTURE	33
6.2	ECONOMIC IMPACT	33
6.3	GEOTECHNICAL INVESTIGATIONS	35
6.4	ECOLOGY – VEGETATION ASSESSMENT AND FLORA AND FAUNA STUDY	35
6.5	NATURAL HAZARDS.....	36
6.6	PRELIMINARY HYDROLOGICAL ASSESSMENT	37
6.7	TRAFFIC IMPACT ASSESSMENT	38
6.8	HERITAGE CONSIDERATIONS.....	38
6.9	SOCIAL IMPACTS	38
6.10	ENVIRONMENTALLY SUSTAINABLE DEVELOPMENT	39
7.	CONCLUSION.....	40
7.1	EVATUATION AGAINST CRITERIA	40



APPENDICES

Appendix A: Land Owners Consent Letter

Appendix B: Deposited Plan 1023220 and Plan of Subdivision – Lockley Land Title Solution

Appendix C: Preliminary Concept Plan – i2C

Appendix D: Quantity Surveyors Cost Estimate – Rider Levett Bucknell

Appendix E: Assessment of Vegetation Report 2008 - Orogen

Appendix F: Terrestrial Flora and Fauna Study, South Forster

Appendix G: Retail Floor Space Needs and Demand Assessment - Duane Location IQ

Appendix H: Geotechnical Report – Coffey

Appendix I: Pipers Creek Precinct LES Stage 1 – BMT WBM

Appendix J: Traffic Impact Assessment - CBHK

LIST OF FIGURES

Figure 1: Aerial Context of Site within Forster

Figure 2: Extract of Lot 37 in DP 1023220

Figure 3: Concept Plan and Project Application Site – proposed Lots 1 and 2 and proposed road

Figure 4: Regional Context of Site

Figure 5: Locality Context of Site

Figure 6: Preliminary Draft Concept Plan

Figure 7: NSW Coastal Policy extract from Sheet 54

Figure 8: SEPP 14 Wetlands in Wallis Lake and Pipers Creek

Figure 9: Extract from Great Lakes Local Environmental Plan 1996

Figure 10: Extract from Great Lakes Bushfire Prone Map

Figure 11: Indicative Zoning Map



LIST OF TABLES

Table 1: Summary of Land Involved in Concept Plan and Project Application

Table 2: Preliminary Floor Space Summary

Table 3: Summary of events affecting the site

LIST OF PHOTOGRAPHS

Photograph 1: View to “The Lakeside Tavern” at 91 The Lakes Way

Photograph 2: View to the rear of properties at 101, 103 and 105 The Lakes Way

Photograph 3: View of the approximate location where new road access to retail development is proposed (facing west from The Lakes Way towards Pipers Creek)

Photograph 4: View across from the site to existing Woolworths at the corner of The Lakes Way and Breese Parade

Photograph 5: View of the subject site towards existing development fronting The Lakes Way

Photograph 6: View of the cleared portion of subject site and mound from earth works



1 INTRODUCTION

1.1 PURPOSE OF THIS REPORT

This preliminary assessment report has been prepared on behalf of Fabcot Pty Ltd (Proponent) which is a wholly owned subsidiary of Woolworths Limited, to request the Minister form the opinion under Clause 6 of *State Environmental Planning Policy (Major Projects) 2005* (Major Projects SEPP) that the proposed development at 91 The Lakes Way, Forster is development of a kind described in clause 13 of Schedule 1 of the Major Projects SEPP as a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* applies (Part 3A Project).

This letter also represents the Proponent's request for authorisation from the Minister under Section 75M of the *Environmental Planning and Assessment Act, 1979* to submit a Concept Plan for the site.

In the event that the Minister forms the opinion that the development is a Part 3A project and authorises the submission of a concept plan, the Proponent seeks approval for a Project Application and Concept Plan and requests the Director-General's requirements for the preparation of the environmental assessment for the Concept Plan and Project Application.

The purpose of this Preliminary Assessment Report is to outline the nature of the combined Concept Plan and Project Application, and identify the planning and environmental issues that will be relevant to the project. This Preliminary Assessment Report includes a number of technical investigations to assist in evaluating the benefits of the project while at the same time managing its impacts.

This Preliminary Assessment is submitted to assist the Director-General in establishing the environmental assessment requirements for the preparation of the combined Concept Plan and Project Application.

1.2 THE PROPONENT

Fabcot Pty Limited ('Fabcot') is a wholly owned subsidiary of Woolworths Limited being the proponent for this combined Concept Plan and Project Application.

1.3 SITE DESCRIPTION

The site is located on the south-west corner of the intersection of Breese Parade with The Lakes Way, Forster, which is located some 100 metres from the Stockland Forster shopping centre fronting Breese Parade. The land is located within the local government area of Great Lakes Shire Council.

The subject site for the purposes of this Part 3A Concept Plan and Project Application is comprised of seven (7) allotments.



This report has been prepared in relation to the part of the land located on The Lakes Way, Forster identified by the following summary:

Street Address	Parcel ID	Existing Zoning
91 The Lakes Way, Forster	Lot 37 DP 10123220	Part 1(c) Future Urban Investigation, Part 6(a) Open Space and Recreation and Part 7(a) Wetlands and Littoral Rainforest
101 The Lakes Way, Forster	Lot 1 DP 22631	1(c) Future Urban Investigation

Street Address	Parcel ID	Existing Zoning
103 The Lakes Way, Forster	Lot 2 DP 654559 (previously 22631)	1(c) Future Urban Investigation
105 The Lakes Way, Forster	Lot 3 DP 657314 (previously 22631)	1(c) Future Urban Investigation
107 The Lakes Way, Forster	Lot 4 DP 657315 (previously 22631)	1(c) Future Urban Investigation
137 The Lakes Way, Forster	Lot 33 DP 850018	1(c) Future Urban Investigation
151-189 The Lakes Way, Forster	Pt Lot 148 DP 651471	Part 1(c) Future Urban Investigation, Part 6(a) Open Space and Recreation and Part B6 Enterprise Corridor

A copy of letters granting land owners consent can be found at **Appendix A**.

The largest portion of land on which the proposed development is to be located is Lot 37 of DP 1023220; an extract of this DP is illustrated in Figure 2, as follows:

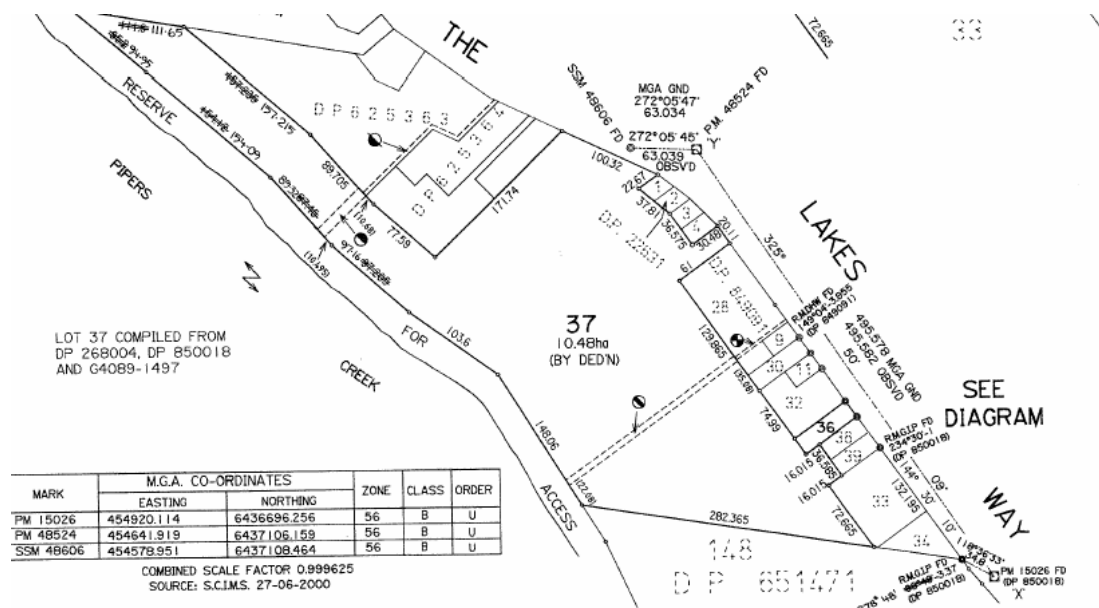


Figure 2: Extract Lot 37 DP 1023220
Source: NSW Land and Property Information

The portion of the land which is the subject of the request under Clause 6 for a Concept Plan and Preliminary Assessment is referenced by the preliminary subdivision plan, an extract of which is shown in Figure 3 as follows:



Overall the majority of the site has been cleared, and has been subject to some earth movements including excavation of sand resources, the construction of an artificial drainage channel, bunded areas and filled areas as a result of earthworks. A small number of scattered Eucalypts, Melaleucas and Casuarinas occur in the highly disturbed areas of the site. The remainder of the site is heavily disturbed.

- The property at 91 The Lakes Way has frontage to The Lakes Way to the north-east and Pipers Creek to the south-west. The majority of the property is vacant, contains some vegetation and is not being used for any purpose, however the northern portion has been developed for the purposes of “The Lakeside Tavern” which includes an unformed at-grade parking area. Vehicular access to the property is currently available from The Lakes Way. An existing stormwater easement
- The property at 101 The Lakes Way contains a single storey dwelling house with frontage to The Lakes Way and access for car parking.
- The property at 103 The Lakes Way contains a single storey dwelling house with frontage to The Lakes Way and access for car parking.

- The property at 105 The Lakes Way contains a single storey dwelling house with frontage to The Lakes Way and access for car parking.
- The property at 137 The Lakes Way is vacant and contains some vegetation with frontage to The Lakes Way and access for car parking.
- The property at 151-189 The Lakes Way has frontage to The Lakes Way to the east and Pipers Creek to the west. The property is currently vacant, contains vegetation and has not been used for any specific purpose. Vehicular access to the property is from The Lakes Way.

The following series of photographs of the sites illustrate the existing features:



Photograph 1: View to The Lakeside Tavern at 91 The Lakes Way



Photograph 2: View to the rear of properties at 101, 103 and 105 The Lakes Way



Photograph 3: View of the approximate location where new road access to retail development is proposed (facing west from The Lakes Way towards Pipers Creek)



Photograph 4: View across from the site to existing Woolworths at the corner of The Lakes Way and Breese Parade



Photograph 5: View of the subject site towards existing development fronting The Lakes Way



Photograph 6: View of the cleared portion of subject site and mound from earth works

1.4 LOCAL AND REGIONAL CONTEXT

The site is located in south Forster, being on the mid-north coast of New South Wales some 300 kilometres north of Sydney along the Pacific Highway.

The site in terms of its regional context is in the southern portion of Forster. Forster is a seaside town, located some 40 kilometres south of Taree on the Mid North Coast of NSW.

The site in terms of its local context is located some 1.2 kilometres south of Tuncurry and 1 kilometre south of the Forster CBD, on a portion of land which has yet to have any urban development despite all other land surrounding the site having been developed for urban purposes. The land opposite on Breese Parade has been developed as a shopping centre which is known as Stockland Forster. This site currently contains a Kmart discount department store, Target Country, Best and Less, Coles supermarket, Aldi supermarket, specialty stores, Bunnings, bulky goods facilities for a Harvey Norman, Retravisio, BBQs Galore as well as a freestanding Woolworths supermarket. Figures 4 and 5 demonstrate the location of the site relative to its region and Sydney.

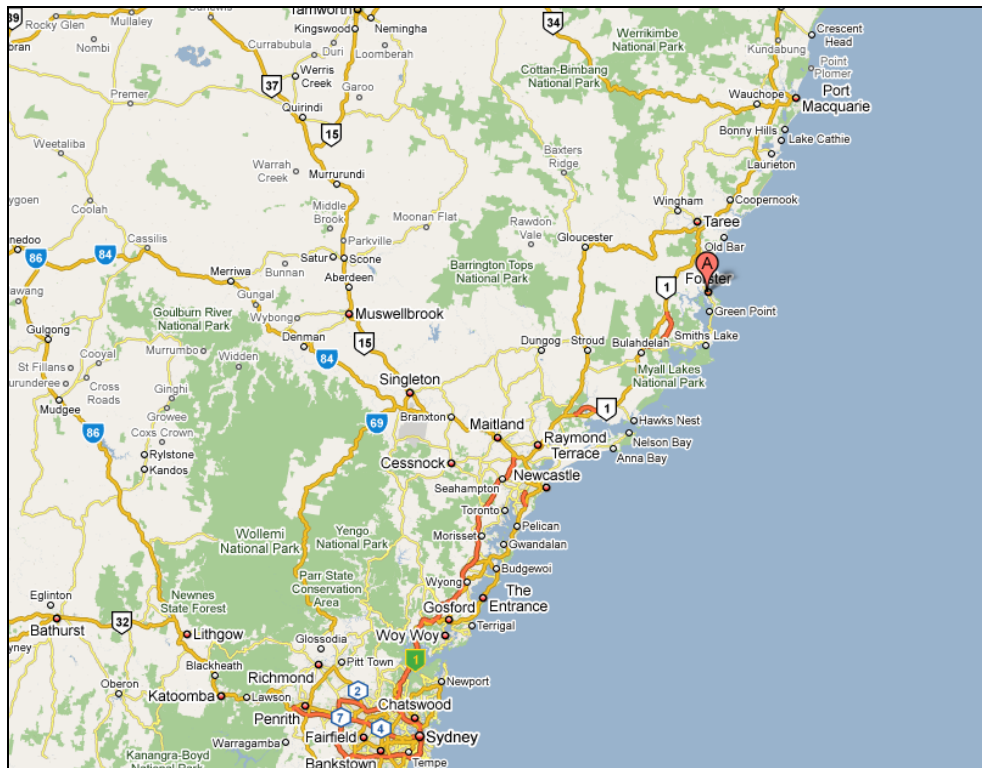


Figure 4: Regional Context of Site (Site identified by red 'A') NTS
Source: Google Maps

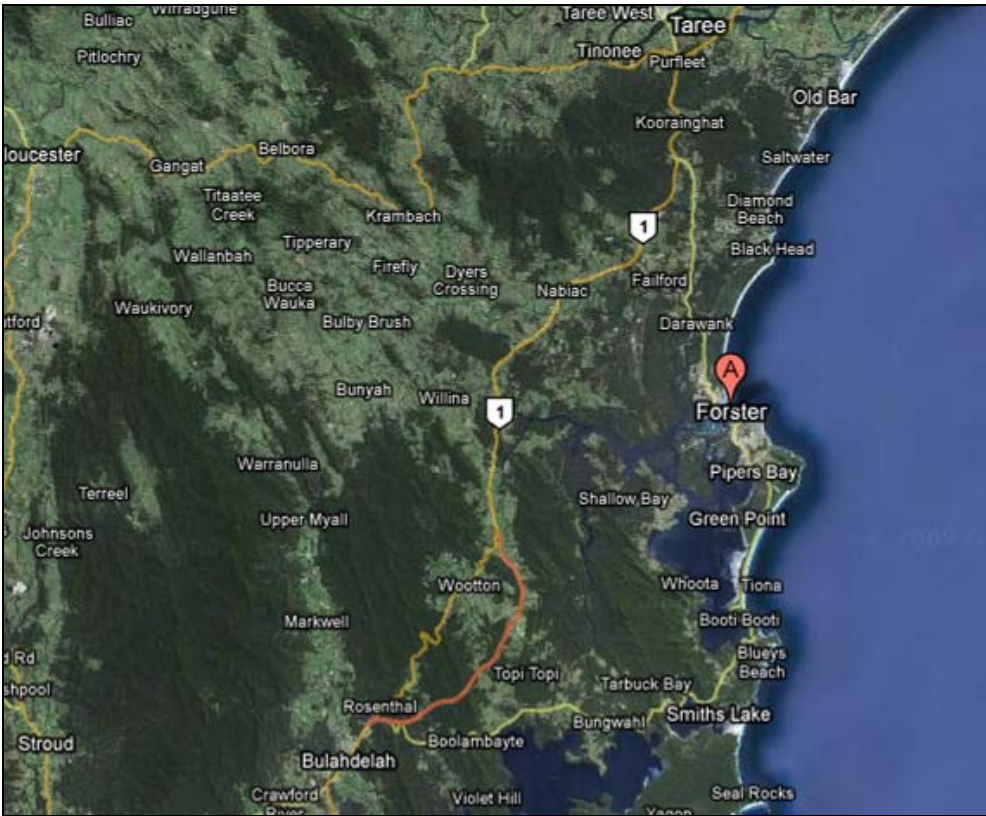


Figure 5: Locality Context of Site (Site defined by red 'A') NTS
Source: Google Maps



2. PROJECT DESCRIPTION

2.1 PROPOSED COMBINED CONCEPT PLAN AND PROJECT APPLICATION

The proposed development is conceptually illustrated by the plans attached at **Appendix C** and proposed to comprise the following elements:

- Concept Plan for a retail development on comprising:

Table 2: Preliminary Floor Space Summary

Tenant	Total Centre
Big W Discount Department Store	8,000 m ²
Woolworths supermarket	4,200 m ²
Specialty Shops / Commercial Premises / Child Care Facility	7,035 m ²
Total Centre	19,235 m ²

- Project Application approval for the Big W, Woolworths supermarket and specialty shops/commercial premises/child care facility and the subdivision of that part of the site on which the Concept Plan has been approved;
- Provision of a new access road from the existing roundabout at the intersection of The Lakes Way with Breese Parade;
- Car parking at-grade for 880 spaces;
- Separate loading dock facilities for each component of the development; and
- Inclusion of supplementary infrastructure measures associated with the provision of road access, water, sewer and energy to the site.

Figure 6 provides an extract of the Preliminary Draft Concept Plan for the development of the site which will be further refined and complimented with more detailed design drawings as part of the Project Application contained within an Environmental Assessment:





3. STATE LEVEL STRATEGIC PLANNING

This request for a declaration has considered the State strategic planning documents, to form an understanding of where the subject land fits with the current State strategic planning framework and determine whether the proposal is consistent with this framework. As such, the State Plan along with a number of State strategic plans has been considered as follows.

3.1 NSW STATE PLAN

On 14 November 2006, the New South Wales (NSW) Premier launched the *State Plan – A New Direction for NSW*. The purpose of the plan is to deliver results from Government services. The State Plan includes a number of goals which the NSW Government is working towards. Specifically, the proposed development will make a contribution towards achieving a number of the key goals of the State Plan.

3.2 MID NORTH COAST REGIONAL STRATEGY

The Mid North Coast extends along 532 kilometres of the NSW coastline, and over 29,000 square kilometres. It features World Heritage areas, rainforests, gorges with wild scenic rivers, an abundance of lakes and estuaries, pristine beaches and offshore islands – undoubtedly 'a region of opportunity'. The Mid North Coast has been identified by the Department of Planning as *"Highly valued as a place to live and a popular holiday destination, it continues to attract people seeking a lifestyle change or place to retire"*.

By 2031, the Mid North Coast population is expected to grow more than 28% to around 424,400. The purpose of the Regional Strategy is to ensure that the Mid North Coast can continue to prosper over the next 25 years while protecting areas of high environmental, cultural and resource value.

The NSW Government's Mid North Coast Regional Strategy is a 25-year strategy for sustainable development which seeks to ensure:

- *a supply of new residential land can be provided in the right locations to respond to population increases and assisting with housing affordability. The Strategy caters for 59,600 new homes by 2031 for a forecast population increase of 94,000*
- *a surplus of well-planned employment land is available to support an additional 48,500 jobs for new and existing residents*
- *'green breaks' are in place between urban areas, protecting areas of high scenic value along with rainforests, wetlands, estuaries and significant farmland*
- *increased opportunities for medium-density housing in key centres to match the ageing of the Region's population*
- *new growth is linked to infrastructure provision, incorporating new regional infrastructure identified in the State Infrastructure Strategy.*



The Regional Strategy maps growth areas that are available for future urban development. These areas aim to reinforce the Region's settlement hierarchy while supporting scenic green breaks between coastal communities and protecting important assets and resources.

The Regional Strategy, will guide local planning in the eight local government areas of Clarence Valley, Coffs Harbour, Bellingen, Nambucca, Kempsey, Port Macquarie-Hastings, Greater Taree and Great Lakes, and be reviewed every five years.

The proposed development is considered to be consistent with the strategic planning of the Region and a comprehensive assessment against the Mid North Coast Regional Strategy will form part of the Environmental Assessment.

3.3 NSW COASTAL POLICY

The 1997 NSW Coastal Policy sets the context in providing for population growth and economic development at the same time protecting the natural, cultural, spiritual and heritage values of the coastal environment. To achieve this, the Policy has a strong integrating philosophy based on the principles of ecologically sustainable development (ESD).

The Policy addresses a number of key coastal themes including:

- population growth in terms of physical locations and absolute limits
- coastal water quality issues, especially in estuaries
- disturbance of acid sulfate soils
- establishing an adequate, comprehensive and representative system of reserves
- better integration of the range of government agencies and community organisations involved in coastal planning and management
- indigenous and European cultural heritage, and
- integration of the principles of ESD into coastal zone management and decision making.

The management of the coastal zone is the responsibility of a range of government agencies, local councils and the community. The Policy provides a framework for the balanced and coordinated management of the coast's unique physical, ecological, cultural and economic attributes.

The proposed development will address all of the key requirements of the Coastal Policy as part of the Environmental Assessment.



3.4 NSW COASTAL DESIGN GUIDELINES

The diverse beauty of the NSW coast is at risk from developments which pay little attention to urban design principles. Application of the principles set out in the '*Coastal Design Guidelines for NSW*' (Coastal Council of NSW 2003) will ensure that future developments and redevelopments are sensitive to the unique natural and urban settings of coastal places in NSW.

The guidelines provide a world-standard approach for how urban design can be best used in a coastal context.

The detailed design of the proposed development which will form part of the Concept Plan and Project Application will have particular regard to the NSW Coastal Design Guidelines.

3.5 NORTH COAST URBAN DESIGN GUIDELINES

North Coast Urban Design Guidelines (Department of Planning 2009) is a resource document to assist in advancing quality urban design on the North Coast of NSW. As a supporting document to both the Mid North Coast and Far North Coast regional strategies, it aims to manage the regions predicted growth in a way that ensures new development is designed to reflect and enhance the unique natural, cultural, visual and built character values of North Coast towns and villages. It assists councils, industry and local communities by providing both clear guidelines and examples of a range of appropriate built designs.

The detailed design of the proposed development which will form part of the Concept Plan and Project Application will have regard to the *NSW Coastal Design Guidelines*.

3.6 NSW SETTLEMENT PLANNING GUIDELINES

The Department of Planning issued the *NSW Settlement Planning Guidelines* in 2007. These guidelines were prepared to assist councils in preparing a local growth management strategy to achieve the planning outcomes and actions in the Far North Coast Regional Strategy and the Mid North Coast Regional Strategy.

Great Lakes Shire Council as part of the underlying policies for preparation of its comprehensive local environmental plan will have regard for this guideline.

3.7 DRAFT NSW GOVERNMENT SEA LEVEL RISE POLICY STATEMENT

The NSW Government released the Draft Policy Statement on Sea Level Rise for targeted consultation, including with all coastal councils, in late February 2009 until early April 2009. The draft statement identified sea level rise projections of up to 40 cm to 2050, and 90 cm to 2100, for the NSW coastline. The Department of Planning website advises:

The draft statement includes reference to the Department of Planning preparing guidelines on how sea level rise will be considered in strategic land-use planning and development assessment.



Further advice will be provided to councils on this issue following the consultation period.

When finalised, the statement will provide a consistent approach to addressing sea level rise to assist the NSW Government and local councils in the preparation of land use strategies, local environmental plans and in development assessment. The statement will also provide clear guidance for developers and landowners along the coastline by identifying considerations for the development of land potentially at risk from sea level rise.

The Department of Planning is working with the Department of Environment and Climate Change to finalise the draft statement following consultation.

The report prepared by BMT WBM at **Appendix I** has considered issues of rising sea level in addition to localised flooding. Various solutions are available and will be explored in the design phase.

3.8 NSW DRAFT CENTRES POLICY

At the time of writing, the Department of Planning had released the *Draft Centres Policy* for comment and consultation. The Policy when finalised is intended to provide a planning framework for the development of new and existing retail and commercial centres in NSW. The draft policy is based on six principles:

- *Retail and commercial activity should be located in centres to ensure the most efficient use of transport and other infrastructure, proximity to labour markets, and to improve the amenity and liveability of those centres.*
- *The planning system should be flexible enough to enable centres to grow, and new centres to form.*
- *The market is best placed to determine the need for retail and commercial development. The role of the planning system is to regulate the location and scale of development to accommodate market demand.*
- *The planning system should ensure that the supply of available floorspace always accommodates the market demand, to help facilitate new entrants into the market and promote competition.*
- *The planning system should support a wide range of retail and commercial premises in all centres and should contribute to ensuring a competitive retail and commercial market.*
- *Retail and commercial development should be well designed to ensure they contribute to the amenity, accessibility, urban context and sustainability of centres.*

To accompany this preliminary assessment a retail floor space needs and demand assessment has been completed by Duane Location IQ which can be found at **Appendix G** which is consistent with the approach outlined in the *Draft Centres Policy*.



4. LOCAL LEVEL STRATEGIC PLANNING

4.1 LOCAL PLANNING STUDIES AND STRATEGIES

Council has undertaken a number of development strategies and strategic studies for land within the local government area of Great Lakes Shire including:

- *Forster/Tuncurry Conservation and Development Strategy (2003)*
- *Forster/Tuncurry Housing Strategy (2006)*
- *Great Lakes Employment Land Strategy (2006)*
- *Recreation and Open Space Strategy (2006)*
- *Draft Forster/Tuncurry Employment Land Implementation Strategy (Nov 2008)*

The proposed development is considered to be consistent with each of the planning studies and strategies prepared to date. Each of the relevant components of the existing local planning studies and strategies will be assessed in detail as part of an Environmental Assessment.

4.2 CONSULTATION WITH LOCAL COUNCIL AND BACKGROUND TO PART 3A APPLICATION

Woolworths have been liaising directly with Great Lakes Shire Council since April 2007 to seek the rezoning of the subject land. Council recently advised Woolworths that a rezoning application when lodged will take at least 2 years to process, that presently Council's resources are at capacity and Council is currently experiencing a strain on its resources.

Table 3 provides a summary of events and background which have affected the subject site, as follows:

Table 3: Summary of events affecting the site

Date/Event	Outcome
2003 Forster/Tuncurry Conservation and Development Strategy	Adopted by Council in 2003. Identified subject land as part of Pipers Creek Precinct which included the following comment: <i>The rezoning of this site should proceed as soon as possible due to its high profile location and ability to support the nearby retail facilities. It will also complement a range of tourist opportunities available in Forster/Tuncurry and provide much needed land for bulky goods and commercial opportunities.</i> <i>This land has been classified as a Category 1 area, having a relatively high degree of certainty/support and for which delegations to rezone will be granted to Council by Planning NSW.</i>



Date/Event	Outcome
	The subject land was not included by Council staff in the "first" round of Release Areas to be managed by Council's Release Area Manager in 2006.
2006 Draft Great Lakes Employment Land Strategy	The draft report was completed in 2006 but not adopted by Council to date pending the preparation on an employment implementation strategy.
26 April 2007 Woolworths meet with Council staff to discuss retail proposal involving Big W for the site on Lakes Way, Forster	Woolworth verbally request Council to commence rezoning process for the land and its inclusion in the future program as part of the Shire-wide comprehensive local environmental plan (LEP).
1 May 2007 Letter sent from Woolworths to Council as follow-up to meeting.	Woolworths forward request in writing for land to be rezoned and included as part of Shire-wide comprehensive LEP
15 May 2007 Letter from Council	Response from Council: <ol style="list-style-type: none">1. Land needs to be rezoned to enable commercial/retail development.2. Council will first need to determine future retail needs of Forster-Tuncurry and whether additional rezoning for such facilities is required.3. A LES is required for Lot 37 DP 1023220 and Lot 148 DP 651471. Council had already commenced new comprehensive LEP with the aim of adopting a draft for public exhibition in 2008. To date this is yet to happen.
3 July 2007 Woolworths (and Tony Fish from Orogen Pty Ltd) meet with Council	Woolworths agree to the preparation and submission of preliminary planning report for Council's consideration at Strategic Committee Meeting to be held on 14 August 2007 as to whether site can be rezoned for the purposes of a retail centre.
August 2007 Orogen Preliminary Planning Report Big W Forster - Submission lodged with Council	Preliminary Planning Report submitted to Council by Woolworths requesting Council give consideration to enable the land at Pipers Creek to be rezoned and developed as a Big W retail development, supported by vegetation assessment and economic assessment. Purpose was an intermediary step to seek direction from elected Councillors.
11 September 2007 Strategic Committee Meeting - Item D3 – Proposed Rezoning – Retail Development Lot 37 DP 1023220 The Lakes Way, Forster	Council considered report on Woolworths request and resolved to defer consideration of the site for retail purposes until after Council has completed a retail implementation strategy, as follows:



Date/Event	Outcome
	<p>Item: D3 Subject: Proposed Rezoning – Retail Development Lot 37 DP 1023220 The Lakes Way, Forster</p> <p>Moved and seconded that the applicant be advised that consideration of the proposal be deferred until completion of the detailed retail strategy for Forster/Tuncurry is completed.</p> <p style="text-align: right;">(Weate/Vaughan)</p> <p>An amendment was moved by Cllr Roberts that no further action be taken at this stage.</p> <p>The amendment lapsed for the want of a seconder.</p> <p>The motion was put to the vote and declared carried.</p> <p style="text-align: right;">(Weate/Vaughan)</p>
<p>September 2007 and June 2008</p> <p>Draft LEP Amendment No. 62 – rezoning of certain land to 7(a1) Environmental Protection</p>	<p>DLEP 62 exhibited twice. Concluded for a second time on 11 September 2007. DLEP Map indicated strip of land along Pipers Creek reserve to be rezoned 7(a1) Environmental Protection. No other zone change proposed to land to permit urban development. Council considered a report on DLEP 62 at its meeting held on 24 June 2008 which advised in relation to the precinct, as follows:</p> <div data-bbox="667 827 1401 1310" style="border: 1px solid black; padding: 5px;"> <p>Map Sheet 5 of 9: Part Lot 37 DP 1023220, Part Lot 148 DP 651471 and Part Lot 191 DP 1059068 The Lakes Way, Forster</p> <p><u>Submission of Coastplan Consulting, dated 9th August 2007, with reference 7031</u></p> <p>Coastplan Consulting was commissioned by the property owner to provide a submission concerning the subject lands referred to above. In summary, the main issues raised in the submission were in relation to:</p> <ul style="list-style-type: none"> • Water quality sensitivity • Vegetation community significance • Threatened species • Corridor values • Acid sulphate soils • Scenic values • Social and economic values • Flood prone <p>RESPONSE:</p> <p>As a result of ongoing discussions between the landowner's consultant and Council's Director Planning & Environmental Services, it has been agreed to defer the site from DLEP62 subject to the landowner preparing a Local Environmental Study for the wider Pipers Bay precinct (comprising the whole of the land parcels listed above). At the time of this report a study brief has been prepared and the selection/engagement process for the required specialist studies is underway.</p> <p>In light of the LES process currently underway for the subject lands, a specific response to the matters raised above has not been provided.</p> </div> <p>The Council resolved to defer DLEP 62 from affecting the precinct.</p>
<p>December 2007</p> <p>Council issued a Local Environmental Study (LES) Brief for the Pipers Creek Precinct</p>	<p>Council issued a LES Brief for the whole precinct. This brief included specifications to a level of detail equivalent of a Development Application, however not all of the design elements are available/ready for the whole of the Pipers Creek Precinct such as the residential or tourist components. Only the retail component has been considered to a level of detail which would meet the requirements of the brief:</p> <ul style="list-style-type: none"> • Geotechnical • Flooding and drainage • Bushfire hazard • Archaeological (Indigenous and European heritage) • Areas of sensitivity in relation to Pipers Creek and Wallis Lake • Community facilities and services • Business and employment opportunities



Date/Event	Outcome
	<ul style="list-style-type: none"> • Stormwater management • Flora and fauna • Visual and scenic qualities • Community profile and planning context • Infrastructure • Urban design and landscaping • Supply and demand for residential, business, tourist or other development • Review of statutory planning documents <p>At the time of receipt of this brief Woolworths in conjunction with the land owners commenced land investigations involving geotechnical, hydrology, ecology and a further economic study. However, it was considered by the owner and Woolworths that the brief requested a level of information which would mean more design detail was required. The parties considered it difficult to commit more resources when Council's retail strategy was yet to be completed as per previous resolution and the timeline for the strategy was not clear.</p>
March 2009 Draft Forster Tuncurry Employment Lands Implementation Strategy (ELIS)	A draft report was completed in November 2008 and exhibited until 13 March 2009. Council is yet to report on the submissions received or adopt the Draft report as a final document.
March 2009 Submission lodged to ELIS	Woolworths and the owner of the land, through their consultant Coastplan lodged a submission to ELIS with Council.
12 March 2009 Presentation to Council by Woolworths	Woolworths made a short presentation to Council regarding the proposed retail centre and benefits of the development for Forster and asked that the land be included in Council's comprehensive local environmental plan now. The Council staff indicated in this meeting that a rezoning application would be required and that presently the Release Area Manager (RAM) has a full workload until the end of 2009. As such, the Director of Planning was asked by the Mayor to look at alternatives to resourcing any rezoning application lodged for the precinct.
2 April 2009 Meeting with Council's Director of Planning	<p>Woolworths and TPG met with Council's Director of Planning who advised:</p> <ol style="list-style-type: none"> 1. Council would not accept a rezoning application only for the retail development but would accept a rezoning request for the whole precinct; 2. Council's Release Area Manager (RAM) resources are already at capacity; 3. Council's strategic planning manager may be able to assist with the rezoning but this would follow after other priorities had been completed including Council's comprehensive LEP and consolidated DCP; 4. That the precinct will not automatically be included within the comprehensive LEP;



Date/Event	Outcome
	<ol style="list-style-type: none"> 5. Due to budget constraints, Council's strategic planning department has been reduced in size; 6. Council invited the owner of the land to be part of the "round 2 RAM process" in late 2008 and at that time the owner of the land did not agree to the process; and 7. Council's RAM process is fully developer funded and Council engages consultants to prepare the required Local Environmental Study technical components as generally Council staff have formed a view that developer prepared LES's are not to an acceptable standard.

Given the following:

- that the land is not proposed to be included within a comprehensive LEP by Council,
- that even if a rezoning were lodged now, the site would not be included,
- the uncertainty of how long a rezoning would take to process by Council due to limited resources, and
- the time delays which have already occurred to date, partly associated with the preparation of Council's draft employment implementation strategy;

it was determined by Woolworths that an alternate mechanism to move forward should be considered. As such, this request under the *Major Projects SEPP* has been prepared.



5. STATUTORY MATTERS AND KEY PLANNING ISSUES

5.1 STATE MATTERS

5.1.1 Part 3A of the Environmental Planning & Assessment Act 1979

At the time of writing, while the NSW State Government had successfully passed through Parliament the *Environmental Planning and Assessment Amendment Act 2008 (Amendment Act)*, not all the amending provisions are yet to be enacted. The provisions of the Amendment Act seek to alter Part 3A among other matters.

The proponent seeks a declaration that the proposed form of development can be considered as a Project Application under Section 75E of the *Environmental Planning and Assessment Act, 1979* having met the criteria specified in Clause 13 of Schedule 1 of *State Environmental Planning Policy (Major Projects) 2006* and triggered by Clause 6 (refer to sections 5.1.3 and 7 of this report for more detail).

Further, the proponent requests authorisation from the Minister under Section 75M of the *Environmental Planning and Assessment Act, 1979* for a Concept Plan, as the proposed form of development is currently prohibited under the Great Lakes Local Environmental Plan 1996 (refer to section 5.2.1 of this report for more detail).

This preliminary assessment report is the proponent's planning proposal for the purposes of seeking the Director-General's requirements for the environmental assessment of the combined Concept Plan and a Project Application involving a retail development on the land. It is the proponent's intention to prepare an Environmental Assessment to a level of detail where the Minister may determine that a further environmental assessment for the Project Application will not be required in accordance with Section 75P(1)(c) of Part 3A of the *Environmental Planning and Assessment Act, 1979*, which states.

75P Determinations with respect to project for which concept plan approved

- (1) *When giving an approval for the concept plan for a project, the Minister may make any (or any combination) of the following determinations:*
 - (a) *the Minister may determine the further environmental assessment requirements for approval to carry out the project or any particular stage of the project under this Part (in which case those requirements have effect for the purposes of Division 2),*
 - (b) *the Minister may determine that approval to carry out the project or any particular stage of the project is to be subject to the other provisions of this Act (in which case the project or that stage of the project ceases to be a project to which this Part applies),*
 - (c) *the Minister may determine that no further environmental assessment is required for the project or any particular stage of the project (in which case the Minister may, under section 75J, approve or disapprove of the carrying out of the project or that stage of the project without further application, environmental assessment or report under Division 2).*
- (1A) *The further requirements for approval to carry out the project or any part of the project that the Minister may determine under subsection (1) (a) are not limited to matters that the Director-General may require under Division 2.*

Note. *The Minister may, for example, require a design competition for any building that is part of the project.*



- (2) *If the Minister determines that approval to carry out the project or any particular stage of the project is to be subject to the other provisions of this Act, the following provisions apply:*
- (a) *the determination of a development application for the project or that stage of the project under Part 4 is to be generally consistent with the terms of the approval of the concept plan,*
 - (a1) *any consent granted for the project or that stage of the project under Part 4 is to be subject to such conditions as the Minister directs for the purpose of fulfilling the obligations in a statement of commitments submitted by the proponent (in which case those conditions cannot be modified without the approval of the Minister and a person cannot appeal to the Court under this Act in respect of the direction or any such conditions imposed by the consent authority),*
 - (b) *the project or that stage of the project is not integrated development for the purposes of Part 4,*
 - (c) *any further environmental assessment of the project or that stage of the project under Part 4 or Part 5 is to be undertaken in accordance with the requirements determined by the Minister when approving the concept plan (despite anything to the contrary in that Part),*
 - (c1) *a provision of an environmental planning instrument prohibiting or restricting the carrying out of the project or that stage of the project under Part 4 (other than a project of a class prescribed by the regulations) does not have effect if the Minister so directs,*
 - (d) *the Minister may, by order, declare that that stage of the project (or any part of it) is exempt or complying development for the purposes of this Act,*
 - (e) *the Minister may, by order, declare that that stage of the project (or any part of it) is not designated development for the purposes of this Act,*
 - (f) *the Minister may, by order, revoke or amend (as the case requires) the declaration of the project under this Part.*

An order under paragraph (d), (e) or (f) is to be published in the Gazette and has effect according to its tenor.

The inclusion of the Project Application as a combined approval with the Concept Plan will enable construction to proceed as soon as possible on site following approval.

This preliminary assessment provides an analysis of the site, the existing planning controls, its context and the impacts of the development proposal. In addition, a Draft Preliminary concept design for the retail development has been prepared and initial technical investigations have been undertaken to determine the status of specific environmental issues at the site. The preliminary assessment is supported by the following information:

- Deposited Plan 1023220 and Plan of Subdivision – Lockley Land Title Solution at **Appendix B**;
- Draft Preliminary Concept Plan – i2C at **Appendix C**;
- Quantity Surveyors Cost Estimate – Rider Levett Bucknell at **Appendix D**;
- Assessment of Vegetation Report 2008 – Orogen at **Appendix E**;
- Terrestrial Flora And Fauna Study, South Forster at **Appendix F**;



- Retail Floor Space Needs and Demand Assessment - Duane Location IQ at **Appendix G**;
- Geotechnical Report – Coffey at **Appendix H**;
- A hydrological report titled “Pipers Creek Precinct LES Stage 1” – BMT WBM at **Appendix I**; and
- Traffic Impact Assessment - CBHK at **Appendix J**.

5.1.2 Coastal Protection Act 1979

The Coastal Protection Act 1979 defines the “Coastal zone” as:

coastal zone means:

- (a) *the area within the coastal waters of the State as defined in Part 10 of the Interpretation Act 1987 (including any land within those waters), and*
- (b) *the area of land and the waters that lie between the western boundary of the coastal zone (as shown on the maps outlining the coastal zone) and the landward boundary of the coastal waters of the State, and*
- (c) *the seabed (if any) and the subsoil beneath, and the airspace above, the areas referred to in paragraphs (a) and (b).*

Note. *The coastal zone consists of the area between the western boundary of the coastal zone shown on the maps outlining the coastal zone and the outermost boundary of the coastal waters of the State. The coastal waters of the State extend, generally, to 3 nautical miles from the coastline of the State.*

The Coastal Protection Act also references a series of maps. Figure 7 is an extract from sheet 54 of the series of maps.

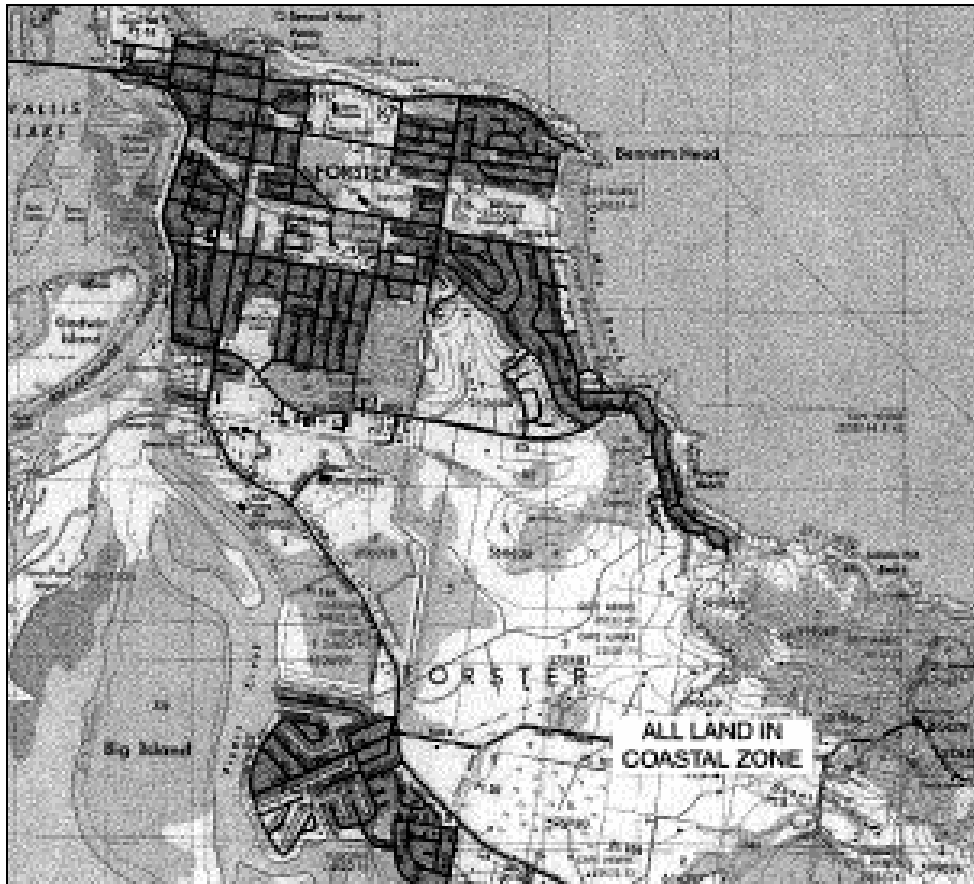


Figure 7: NSW Coastal Policy Extract from Sheet 54
Source: Department of Planning

The subject site, as is all of Forster, is located in the Coastal Zone. This information is relevant in the consideration of *State Environmental Planning Policy No. 71 – Coastal Protection* at section 5.1.5 of this report.

5.1.3 State Environmental Planning Policy (Major Projects) 2005

Formerly known as *State Environmental Planning Policy (State Significant Development) 2005*, *State Environmental Planning Policy (Major Projects) 2005* (the *Major Projects SEPP*) defines certain developments that are major projects under Part 3A of the *Environmental Planning and Assessment Act 1979* and determined by the Minister for Planning. The Major Projects SEPP also lists State significant sites. The policy repeals SEPP 34 and SEPP 38, as well as provisions in numerous other planning instruments, declarations and directions.

Clause 6 of the Major Projects SEPP enables the Minister to make a declaration with respect to a proposed development under Part 3A of the *Environmental Planning and Assessment Act, 1979* based on the following:

6 Identification of Part 3A projects

(1) Development that, in the opinion of the Minister, is development of a kind:

(a) that is described in **Schedule 1** or 2, or



(b) that is described in Schedule 3 as a project to which Part 3A of the Act applies, or

(c) to the extent that it is not otherwise described in Schedules 1–3, that is described in Schedule 5,

is declared to be a project to which Part 3A of the Act applies.

Under Schedule 1 of the Major Projects SEPP, Clause 13 identifies residential, commercial or retail developments considered to be projects to which Part 3A applies with the Minister as the approval authority, as follows:

Group 5 Residential, commercial or retail projects

13 *Residential, commercial or retail projects*

(1) Development for the purpose of residential, commercial or retail projects with a capital investment value of more than \$50 million that the Minister determines are important in achieving State or regional planning objectives.

(2) This clause does not apply to major development within the meaning of section 31 of the City of Sydney Act 1988.

Woolworths have engaged Rider Levett Bucknall (RLB), quantity surveyors, to calculate the Capital Investment Value (CIV) of the proposed retail development. A copy of the RBL calculation for the CIV can be found at **Appendix C**. The CIV has been calculated at \$53.5 million which satisfies the minimum value requirement under the Major Projects SEPP.

The proponent seeks a declaration from the Minister for Planning that the subject development is of regional significance to the Mid-North Coast of NSW in terms of it being a retail development which meets the criteria under Schedule 1 of the Major SEPP having a CIV greater than \$50 million and will generate 450 jobs when operational.

5.1.4 State Environmental Planning Policy No. 14 – Coastal Wetlands

State Environmental Planning Policy No. 14 – Coastal Wetlands (SEPP 14) seeks to ensure coastal wetlands are preserved and protected for environmental and economic reasons. The policy applies to local government areas outside the Sydney metropolitan area that front the Pacific Ocean. The policy identifies over 1300 wetlands of high natural value from Tweed Heads to Broken Bay and from Wollongong to Cape Howe. Land clearing, levee construction, drainage work or filling may only be carried out within these wetlands with the consent of the local council and the agreement of the Director General of the Department and Planning. Such development also requires an environmental impact statement to be lodged with a development application.

The policy is continually reviewed. It has, for example, been amended to omit or include areas, clarify the definition of the land to which the policy applies and to allow minimal clearing along boundaries for fencing and surveying.

Figure 8 demonstrates the location of SEPP 14 wetlands in the Wallis Lake and Pipers Creek area, as follows:



Figure 8: SEPP 14 Wetlands in Wallis Lake and Pipers Creek
Source: Department of Planning

The location of the subject site for the Concept Plan and Project Application is not within land identified by SEPP 14 as shown in **Figure 8**.

A complete assessment against all of the relevant provisions of SEPP 14 will be undertaken as a compliance table with an Environmental Assessment.

5.1.5 State Environmental Planning Policy No. 71 – Coastal Protection

State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71) is a policy which has been made under the *Environmental Planning and Assessment Act 1979* to ensure that development in the NSW coastal zone is appropriate and suitably located, to ensure that there is a consistent and strategic approach to coastal planning and management and to ensure there is a clear development assessment framework for the coastal zone.



The land that is the subject of the proposal falls partly within the Coastal Zone as defined by the *Coastal Protection Act 1979*, Section 4A, in that a portion of the land is within 1 kilometre of the western bank of Pipers Creek which is a tributary of Wallis Lake which leads into the Tasman Sea, its partial proximity to the bank of the creek triggers the requirement for assessment of any development under the heads of consideration in SEPP 71 and for the Minister's concurrence to any development on the land. An assessment under SEPP 71 will be carried out as part of the Concept Application and Project Application Environmental Assessment.

5.1.6 State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) relates to the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed. The policy makes remediation permissible across the State, defines when consent is required, requires all remediation to comply with standards, ensures land is investigated if contamination is suspected and requires councils to be notified of all remediation proposals. The *Managing Land Contamination: Planning Guidelines* were prepared to assist determination authorities and developers. The provisions of SEPP 55 state at clause 7:

- 7 Contamination and remediation to be considered in determining development application
- (1) A consent authority must not consent to the carrying out of any development on land unless:
 - (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.
 - (2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.
 - (3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.
 - (4) The land concerned is:
 - (a) land that is within an investigation area,
 - (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,
 - (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:
 - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and
 - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).



Based on the known recent land use history, the land has not been used for any specifically contaminating activity identified under the Managing Land Contamination guidelines. The majority of the land is currently not being used for any purpose and is largely vacant, at a minimum the land may have been used for rural agricultural purposes in the past.

The land is not proposed to be developed for a residential purpose, does not propose any excavation and is therefore not proposing a more sensitive use of the land. Further investigation can be undertaken with an Environmental Assessment.

5.1.7 State Environmental Planning Policy Infrastructure 2007

The proposal involves a development of the land for a 20,000m² retail centre. Under the provisions of *State Environmental Planning Policy (Infrastructure) 2007*, the proposal triggers the criteria of Schedule 3 being Column 2:

Size or capacity—site with access to any road

Shops – 2,000 square metres in area

Clause 104 of the SEPP states:

104 Traffic-generating development

(1) *This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:*

- (a) *new premises of the relevant size or capacity, or*
- (b) *an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*

(2) *In this clause, **relevant size or capacity** means:*

- (a) *in relation to development on a site that has direct vehicular or pedestrian access to any road—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or*
- (b) *in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.*

(3) *Before determining a development application for development to which this clause applies, the consent authority must:*

- (a) *give written notice of the application to the RTA within 7 days after the application is made, and*
- (b) *take into consideration:*
 - (i) *any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and*
 - (ii) *the accessibility of the site concerned, including:*
 - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
 - (iii) *any potential traffic safety, road congestion or parking implications of the development.*

(4) *The consent authority must give the RTA a copy of the determination of the application within 7 days after the determination is made.*

A preliminary traffic assessment has been undertaken as part of this preliminary assessment refer to **Appendix J**. This indicates that the proposal will be acceptable in the current road network and will require some local augmentation to The Lakes Way at the roundabout. It is noted that The Lakes Way is a RTA classified road. All traffic and parking impacts associated with the proposed concept including consultation with the RTA can be assessed in detail as part of the Environmental Assessment.

5.2 LOCAL MATTERS

5.2.1 Great Lakes Local Environmental Plan

Zoning

The subject land is currently zoned Rural 1(c) (Future Urban Investigation) under the *Great Lakes Local Environmental Plan 1996*. **Figure 9** demonstrates the zoning of the subject land and that of surrounding properties.

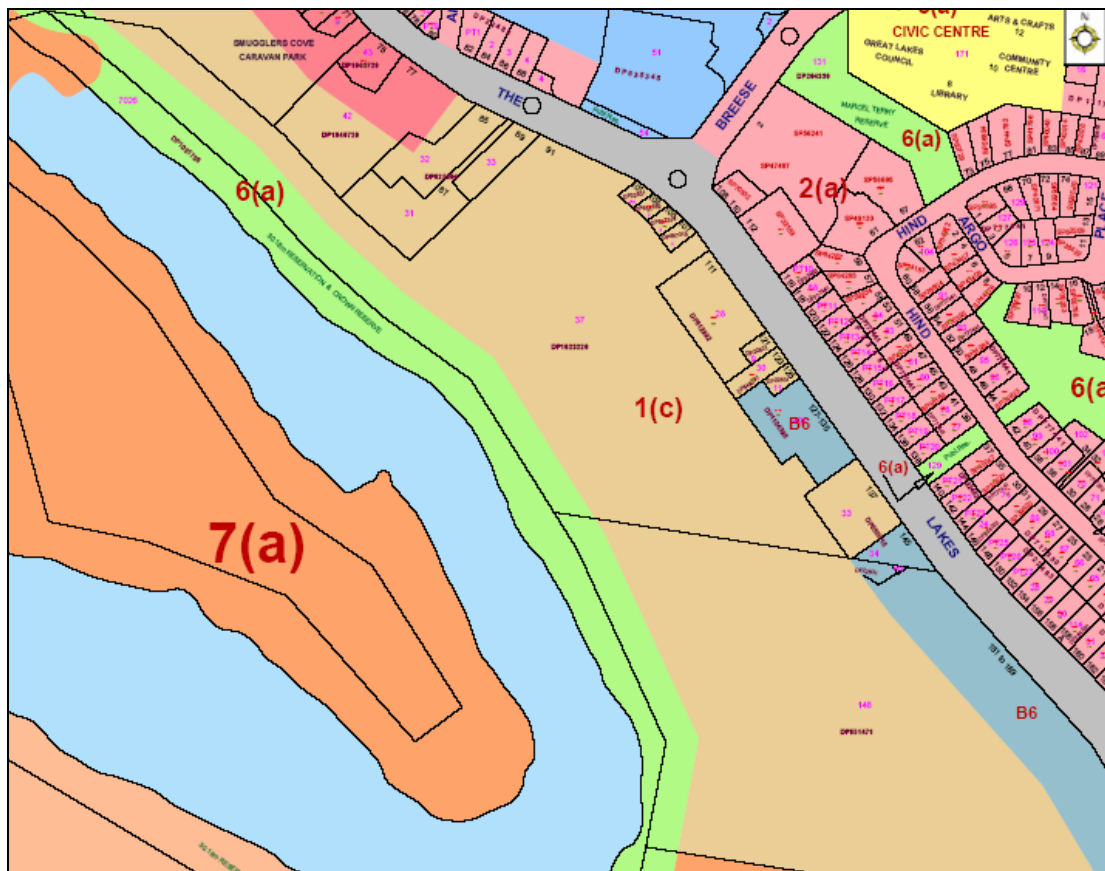


Figure 9: Extract from Great Lakes Local Environmental Plan 1996
Source: Great Lakes Shire Council



Permissibility

The zoning table states:

Zone No 1 (c) (Future Urban Investigation Zone)

1 What are the objectives of the zone?

The objective of the zone is to restrict development to that which is unlikely to:

- (a) lead to the premature and sporadic subdivision of land which would render the economic provision of public utilities and community facilities unreasonably more difficult or expensive once urban development takes place, or*
- (b) inhibit, in a significant manner, the potential for urban expansion in selected areas, particularly the urban fringe, or*
- (c) generate significant additional traffic or create or increase ribbon development on any road, relative to the capacity and safety of the road, or*
- (d) prejudice economic development, or*
- (e) significantly detract from the scenic quality of the land within the zone, or*
- (f) compromise existing significant environmental attributes of land within the zone, or*
- (g) have a significant adverse impact on the quality of water resources within the area, or*
- (h) be unreasonably subject to risks from natural hazards.*

2 What is permitted without development consent?

Development for the purpose of:

bushfire hazard reduction.

3 What is permitted only with development consent?

Any development not included in Item 2 or 4.

4 What is prohibited?

Development for the purpose of:

abattoirs; aerodromes; bulky goods premises; commercial premises; generating works; hazardous storage establishments; industries (other than extractive industries or rural industries); materials recycling yards; medical centres; motor showrooms; multiple dwellings; off-site promotional signs; recreation facilities; residential flat buildings; restaurants; service stations; shops (other than convenience stores); transport depots; transport terminals; vehicle body repair workshops; vehicle repair stations; warehouses.

Therefore the following forms of development are permitted:

advertisement; agriculture; animal establishment; aquaculture; **backpackers accommodation**; bed and breakfast establishment; boarding house; **camping ground or caravan park**; carpark; child care centre; **club**; community facility; convenience store; dwelling; dwelling-house; educational establishment; entertainment facility; environmental facility; extractive industry; family day care home; forestry; helicopter landing site; heliport; home business; home occupation; hospital; hostel; **hotel**; institution; intensive agriculture; marina; mine; **motel**; place of worship; plant hire; recreation area; retail plant nursery; road; roadside stall; rural industry; sawmill; **serviced apartment**; **tourist facility**; utility installation; veterinary hospital; wholesale plant nursery.



The uses highlighted bold are those which are currently permitted if a DA were lodged to seek approval. The proposed form of development which involves “shops” is not permissible.

Subdivision

A further issue to note is that the subdivision requirements under the *Great Lakes Local Environmental Plan 1996* would mean that given the overall size of the land sought for the proposed retail development a subdivision under Clause 17 is not likely to be supported by Council as this is well less than 40 hectares. Clause 17 states the following (relevant subclause highlighted):

17 Subdivision

Objective of Provision

To impose restrictions on the subdivision of land.

Subdivision

- (1) A person may subdivide land to which this plan applies but only with the consent of the Council.*
- (2) The Council may consent to a subdivision in which the boundaries of the proposed allotments do not correspond with a zone boundary only if the Council considers that the departure is minor and that the total area of land available for use or identified for use as public open space will not be reduced.*
- (3) The Council may consent to the subdivision of land within Zone No 1 (a), 1 (c), 7 (a), 7 (a1), 7 (b), 7 (f1) or 7 (f2) only if each allotment to be created will have an area of not less than 40 hectares.***
- (4) The Council may consent to the subdivision of land within Zone No 1 (d) only if each allotment to be created will have an area of not less than one hectare.*
- (5) The Council may consent to the subdivision of land within Zone No 7 (c) only if each allotment to be created will have an area of not less than 10 hectares.*
- (5A) The Council may consent to the subdivision of land within Zone No 1 (d1) only if each allotment to be created will have an area of not less than 5000 square metres.*
- (6) Notwithstanding subclauses (3) and (4), land may be subdivided into allotments smaller than the sizes specified in those subclauses if the subdivision is for the purpose of:*
 - (a) making minor adjustments to common property boundaries, or*
 - (b) rectifying any encroachment on an existing allotment.*

Subdivision—new roads

- (7) Where land is zoned for the purpose of a proposed new road, the Council must not consent to a subdivision of land of which the proposed road forms part unless the subdivision makes provision for the opening of a road in reasonable conformity with the proposed road.*

It is not possible to lodge a subdivision application as the variation of the minimum area is unlikely to be supported by Council given the variation is greater than 10% and would require ordinarily given the rural zoning a concurrence of the Director-General of the Department of Planning which is also unlikely to be provided given the variation would be substantial.



Thus given the limitations of the current local plan and the uncertainty of the success and long time frame to process a rezoning, a combined Concept Plan and Project Application is being sought under the provision of Part 3A of the *Environmental Planning and Assessment Act, 1979*.

5.2.2 Great Lakes Development Control Plans

As part of an Environmental Assessment a compliance table will be prepared to assess the proposed development against the relevant clauses and provisions of all relevant DCPs.



6. KEY ENVIRONMENTAL ISSUES

6.1 UTILITIES AND INFRASTRUCTURE

The proponent has obtained preliminary advice that there are existing sewer, water, telecommunication, energy, gas and roads infrastructure and utilities in the locality, which will require augmentation and supplementary facilities provided with the proposed development. Further information in relation to this aspect can be provided with an Environmental Assessment.

6.2 ECONOMIC IMPACT

The proposed retail development is likely to result in a range of important economic benefits to the Forster community, with key positive impacts to include the following:

- The provision of a wider range of food and consumables shopping facilities for local residents including a major full-line supermarket on the same site as a discount department store. This would significantly reduce travel time for the existing and future population.
- An enclosed retail centre with convenient car parking that would be easily accessible for the surrounding population.
- The proposed development will generate a substantial number of jobs, both for the construction and related industries during the construction period and also for the local economy generally once the centre is completed.
- Once fully operational, the Woolworths Centre would be likely to employ around 450 persons. Allowing for an estimated 10% of the total increase to be as a result of the reduced employment at existing retail facilities.
- In terms of wages and salaries, the 450 permanent retail employees within the centre would earn an average annual wage of around \$22,000, as sourced from the latest ABS statistics on average weekly earnings. This represents some \$4.5 million in salary and wages for the local region, directly as a result of the proposed development. It would also be expected that further wages and salaries would result from jobs in the construction period and from multiplier effects.



- The development of the Woolworths Centre will create a substantial number of additional jobs, both for the construction and related industries during the construction phase of the centre and for the economy generally once the centre is completed. The estimated total capital costs for the construction of the centre are greater than \$50 million. By utilising the appropriate ABS Input/Output Multipliers that were last produced in 1996/97 and a deflated estimated total capital cost of construction will be greater than \$50 million (i.e. in 1996/97 dollars), it is estimated that the construction period of the proposed development of the Woolworths Centre would create some 275 direct jobs, with a further 440 jobs resulting from the supplier induced multiplier effects from this period of construction. Jobs created are full-time equivalent jobs, which may include both full-time and part-time positions.
- The retail jobs generated by the centre proper as previously outlined (450), will result in a further 427 jobs in the broader community based on ABS Input/Output Multipliers.

A retail floor space need and demand assessment has been prepared by Duane Location IQ and can be found at **Appendix G**. This report includes an assessment of the impact of the proposed development on existing trade areas, details the employment benefits and demonstrates the need for the proposed development within Forster can be sustained immediately. This report further advises:

- *Significant improvement in the range of retail facilities that will be available to residents. Further retail floor space will likely improve the quality, the size of the offer, and also allow for price competition.*
- *The creation of additional employment which will result both during the construction period, and more importantly, on an ongoing basis once the retail floor space is completed and operational.*
- *Retention of spending within the immediate Forster region, which will result in reduced traffic and travel times for residents who currently commute outside the defined main trade area to Taree.*
- *Residents of the region should be provided with a wider range of conveniently located retail facilities within close proximity to their homes, rather than having to drive long round trips to other townships in the region for such spending.*

The report also states:

The creation of jobs is particularly important at Forster and in Great Lakes LGA given the unemployment rate is over 15% (2006 Census). The level of unemployment is triple the national average of around 5% as sourced from the Australian Bureau of Statistics.

As such, there is a clear economic benefit which can be delivered in Forster which outweighs the small adverse economic impact on existing retailing.



6.3 GEOTECHNICAL INVESTIGATIONS

Geotechnical investigations have been completed for the portion of the site on which the retail development is proposed and can be found at **Appendix H**. The investigations indicate that ground water is within 1m of the existing soil surface. Also, this report includes details of acid sulphate soils and an extract of the map for the subject land. This map is contained at Figure 2 of the Coffey report and indicates the vast majority of the land as X2 – “Disturbed Terrian Elevation 2-4m. No known occurrence of acid sulphate materials” and part of the land Ea1 – “Estuarine Sandplain Elevation 1m. High Probability of ASS within 1m of Ground Surface”. The Coffey Geotechnical report recommends:

The results shown in Table 2 indicate that there is some residual acidity in the soils that exceeds Action Criteria for use of more than 1,000 tonnes of soil. Based on these results it is recommended that where these soils are used, lime should be mixed through the soil at a rate of 5kg lime per tonne of soil to neutralise the acidity within the soil.

Also, specific construction measures can be implemented on-site to minimise disturbance to acid sulphate soils, details of which can be provided with an Environmental Assessment if necessary.

6.4 ECOLOGY – VEGETATION ASSESSMENT AND FLORA AND FAUNA STUDY

To date, Woolworths have had two ecological investigations completed for the site.

In 2007, Woolworths engaged Orogen to undertake an assessment of the existing vegetation and a report titled “Vegetation Community Conservation Significance” was prepared for that part of the site on which the proposed retail centre is proposed. A copy of this report can be found at **Appendix E**. This report concluded:

The field investigations undertaken have determined that the remnant vegetation communities within the proposed Big W development site do not satisfy the final determinations of the Endangered Ecological Community Swamp Sclerophyll Forest on Coastal Floodplains. The assessment further determined that due to the small size of the remnant which, if calculated on areal extent which excludes cleared patches, is unlikely to be large enough (less than 0.25ha) to be mapped separately from the surrounding community in accordance with Assessment methodology. In addition, the vegetation community has an understorey which is heavily infested with introduced weed species such that the community would be considered as low quality.

In 2008, the proponent and owner of the land engaged Conics to undertake a further assessment of the site and prepared a report titled “Terrestrial Flora and Fauna Study of the Pipers Creek Precinct”. The study area extends beyond the boundaries of the location of the proposed Woolworths retail development for which the combined Concept Plan and Project Application extends, so as to enable an appreciation of all ecological issues impacting the site. A copy of this report can be found at **Appendix F**. This study occurred over a twelve month period to allow for seasonality.

The report advises that a large proportion of the site is suitable for future development if appropriate mitigation and amelioration measures are included in the development design. These will be included as part of the Environmental Assessment where more detailed designs will be prepared for the proposed retail development.

6.5 NATURAL HAZARDS

TPG obtained a copy of two Section 149 Planning Certificates for the land involving Lot 37 in DP 1023220 being 91 The Lakes Way and Lot 148 in DP 651471 The Lakes Way. Each of these planning certificates indicated that the land is subject to a number of hazards including: bushfire, acid sulphate soils and flooding. As such, further investigation of these issues has been undertaken to determine the extent of the hazard and what impact this may have on the future planning for the land as part of the development proposal.

Bushfire

A Bushfire Prone Map has been obtained from Council, an extract of which appears as follows in **Figure 10**.



Figure 10: Extract from Great Lakes Bushfire Prone Map
Source: Great Lakes Shire Council



This plan indicates that the majority of the site on which the retail centre is proposed is category 2 with a surrounding buffer. A small portion of the land at the boundary between Lot 137 and Lot 148 at the south of the site is identified as category 1. As described previously in this report the site has been significantly disturbed and cleared of vegetation. A bushfire assessment against the Department of Planning's and Rural Fire Service guideline "*Planning for Bushfire Protection*" 2006 will form part of the Environmental Assessment.

Acid Sulphate Soils

The information available as part of the Coffey Geotechnical report at **Appendix H** indicates that the site has some acid sulphate soils. This has been previously addressed at Section 6.3.

Flooding and Rising Sea Level

A flood certificate has been obtained from Council dated 15 April 2009. This indicates that the land is affected by the 1:100 year recurrence interval flood level of 2.28 AHD. All future site planning will take into consideration this flood level and any rising sea level factor. A number of mechanisms are available to address this issue, which are discussed in the hydrology report prepared by BMT WBM at **Appendix I**. A preferred mechanism will guide the design process which will form part of the Environmental Assessment.

6.6 PRELIMINARY HYDROLOGICAL ASSESSMENT

A preliminary hydrological assessment has been undertaken to understand a number of key site features as a baseline assessment in relation to:

- flooding characteristics;
- flood management mechanisms;
- stormwater catchment, drainage and management;
- potential vegetation constraints; and
- identification of pollutant export characteristics of the undeveloped site (refer to MUSIC model).

A copy of this report can be found at **Appendix I**. Essentially, each of the hydrological elements can be managed as part of the detailed design in the development of the site.



6.7 TRAFFIC IMPACT ASSESSMENT

An preliminary traffic impact assessment based on the initial concept design floor space breakdown has been completed by Colston Hunt Budd and Kafes (CBHK). This report indicates that the existing roundabout at the intersection of The Lakes Way with Breese Parade will operate at near capacity once the proposed development is operational with the inclusion of the “fourth leg” of the roundabout which is acceptable for the proposed development. This report also suggests a number of design mechanisms associated with access to the site and as The Lakes Way is an RTA controlled road further consultation regarding the proposal with the RTA will occur as part of the Environmental Assessment.

A copy of this report can be found at **Appendix J**.

6.8 HERITAGE CONSIDERATIONS

The *Great Lakes Local Environmental Plan 1996* has identified the subject land as not containing any heritage items, is not in a conservation area and is not located in the vicinity of any listed heritage items. The site does not contain any known European Heritage items or European archaeological heritage under Council Heritage Study 2007.

While the site is highly disturbed, further investigations concerning Indigenous heritage can be undertaken as part of the Environmental Assessment if this is considered warranted.

6.9 SOCIAL IMPACTS

Woolworths have been considering issues associated with the social impacts of the proposed development and the positive flow-on effects being broader than just economic associated with the provision of a new retail centre for Forster. Given the new employment generation when operational, there is potential to include on-site in the location of the “commercial” space, a community facility such as a child care centre, medical centre or community meeting space. In addition to these aspects, overall the material public benefits of the proposed development include:

- Provision of a parking facility to meet demand in Forster. Maintain, improve and provide choice for parking, including additional available spaces to meet demand for persons seeking access to Forster’s shopping facilities,
- Renewed and vibrant streetscape presentations to each street frontage, with design elements addressing the major focal point of the site at the intersection of The Lakes Way with Breese Parade to mark the entry from the south and east into the new retail development,
- Provision of street activating retail floor space with a focus at Burlington Street mall entry,



- Improved shopping facilities, provision of a DDS for additional choice and price competition in Forster,
- Provision of accessible paths of travel throughout the development and between each building,
- Accessible public amenities/toilet facilities,
- Improved access to the site via a new road which will become a public road upon completion – being the “fourth leg” of the roundabout at the intersection of The Lakes Way with Breese Parade, and
- An opportunity for a community gathering space with the provision of either a child care centre, medical centre or community meeting space.

6.10 ENVIRONMENTALLY SUSTAINABLE DEVELOPMENT

The technical investigations undertaken and which form part of this preliminary assessment, demonstrate that the land is capable of urban development to the intensity of a retail centre in the site location proposed.

The location of the proposed development has been chosen to provide for a suitable buffer along the Pipers Creek frontage of the site. The development can ensure that the “sensitive coastal zone” that is all of the land within the first 100m from the mean high water mark of Pipers Creek, remains undeveloped. Linkages can be maintained along the waterfront for fauna, along with screening to minimise the visual impact of the development from Pipers Creek.

Woolworths have consciously implemented a program to reduce their carbon footprint which starts with the construction and fit-out process of all new retail facilities.



7. CONCLUSION

7.1 EVATUATION AGAINST CRITERIA

The NSW Department of Planning published in 2006 Guidelines for Part 3A of the Environmental Planning and Assessment Act 1979 which includes criteria for declaring development to be a Major Project under Clause 13 of Schedule 1 of the Major Projects SEPP. Clause 13 of Schedule 1 of the Major Projects SEPP states:

Group 5 Residential, commercial or retail projects

13 Residential, commercial or retail projects

- (1) Development for the purpose of residential, commercial or retail projects with a capital investment value of more than \$50 million that the Minister determines are important in achieving State or regional planning objectives.*
- (2) This clause does not apply to major development within the meaning of section 31 of the City of Sydney Act 1988.*

The guideline states a number of criteria for evaluation which have been considered as follows:

The Minister has discretion about whether a project with a capital investment value of more than \$50 million is important in achieving State or regional planning objects and hence subject to clause 13 and therefore a major project. The Major Projects SEPP makes provisions for the Minister to publish guidelines from time to time to guide his decision as to what types of construction projects (which are more than \$50 million capital investment valued) are of importance in achieving State or regional planning outcomes. This guideline is for that purpose.

The capital investment value of a development includes all costs necessary to establish and operate the development including the design and construction of buildings, structures, associated infrastructure and fixed or mobile plant and equipment (but excluding land costs and GST). In some cases, this value will need to be verified in a Quantity Surveyor Report. For the purpose of this clause, a major residential, commercial or retail construction project (with a capital investment value of more than \$50 Million) is likely contribute to achieving State or regional planning objectives if:

(a) Local impediments to urban renewal

The project is located in an area identified in the Metro Strategy or regional or subregional strategies for urban renewal or increased urban development and there are local impediments to the implementation of the development identified as a result of consultation with local council to implementing the project.

Check:

- Is the development within a centre or urban renewal area nominated for growth in the Metro Strategy or a regional or sub-regional strategy?*
- Are there provisions in the LEP which are likely to prevent or frustrate the implementation of the Metro or regional strategy?*
- Does the council have the resources to assess and determine major projects?*



- Do council practices demonstrate that projects important in implementing Metro or regional strategies can be determined on their merits?

Comment:

The *Mid North Coast Regional Strategy* (Regional Strategy) published by the NSW Department of Planning in March 2009 identifies Forster as a “Major Town” which is defined as “major towns have a functional role in serving their subregions with outreaches of regional services. They are self-contained with shopping and business services and may have bulky goods, warehousing, transport logistics, farm support services, health and professional services mixed with some medium density residential.”

The Council has identified as part of the *Forster/Tuncurry Conservation & Development Strategy* that the site could be capable of urban development depending on the outcome of land capability investigations.

The Regional Strategy indicates at p. 25 that Forster-Tuncurry is expected to undergo some growth and redevelopment of commercial centres reflecting the role of a major centre. The Regional Strategy seeks to resist fragmented and out of centre retailing. The location of the proposed development is immediately opposite the Stockland Forster site and therefore presents a logical extension of the existing retail facilities in Forster by concentrating retailing around the intersection of The Lakes way with Breese Parade without resulting in fragmentation or an out of centre retail development.

The current *Great Lakes Local Environmental Plan 1996* does not facilitate the development as proposed as shops are prohibited within the Rural 1(c) Urban Investigation zone. The Council has advised that it is not intended as part of the comprehensive LEP to alter the zoning. Council has also advised they do not currently have the resources to process a rezoning application.

As such, the provisions of the current and future LEP will prevent the attainment of the regional and local urban strategies by not promoting the concentrating retail growth in existing centres and locations, such as the subject site.

(b) Facilitate housing or job growth

The project will contribute to major employment or residential growth in centres or urban renewal areas identified in the Metro or regional strategies

Check:

- Will the development directly result in significant growth in housing choice?
- Will the development directly result in permanent jobs in the area?
- Is the development in a centre identified in the Metro Strategy or Regional Strategy?



Comment:

The proposed development will have a major direct impact in the provision of permanent jobs in the area, including 450 full-time jobs when the retail centre is operational with an estimated 427 full-time multiplier jobs, and 275 full-time construction jobs with an estimated 440 full-time multiplier jobs during the construction phase for suppliers. As such the proposed development has a potential to generate 1,592 jobs in the Forster/Great Lakes Shire area.

As discussed previously, the location of the site is in a centre identified in the Regional Strategy.

(c) Transport accessibility

The project will contribute to increased accessibility to public transport services by providing quality housing or employment generating development within a transport corridor or in the vicinity of a transport hub

Check:

- *Is the development readily accessible to a railway, bus stop with frequent service, transitway station or ferry wharf? As an example within 800 metres from a station or transport node.*

Comment:

The site is accessible by bus services which operate along The Lakes Way. The Traffic impact assessment at **Appendix J** states in part:

The site has good access to the arterial road network being adjacent to The Lakes Way. Existing bus services operate along The Lakes Way past the site. By locating additional development within the area, the proposal increases opportunities to minimise traffic generation by allowing linked trips and for people to undertake trips by public transport.

(d) Improved infrastructure

The project will complement and enhance government infrastructure services or facilitate improved public service delivery outcomes or public spaces or foreshore access

Check:

- *Will the development result in additional public infrastructure or services?*
- *Will the development provide affordable housing or facilitate the delivery of health, education or other community service facilities?*
- *Will the development contribute a significant increase in public open space, additional foreshore access or improvements in the public domain?*

Comment:

The development will provide supplementary and additional public infrastructure, for energy, water, sewer, road and telecommunication in order to support the needs of the proposal which will be at the cost of the proponent.



The development includes a space which is capable of being used either to facilitate the delivery of health services as a medical centre or community services as a child care centre or community meeting space.

The development will seeks to include improvements to the public domain along The Lakes Way with the inclusion of pedestrian facilities which currently do not exist and improvements to the public domain at the intersection of The Lakes Way with Breese Parade at the roundabout.

(e) Environmental Sensitivity

The project is likely to result in significant environmental benefits or the project is located in an environmentally sensitive area with risks to environmental or conservation values.

Check:

- *Is the project likely to significantly contribute to conservation outcomes? As an example, result in protection and enhancement of important wetlands or other important ecological communities?*
- *Is the project located in an area of high conservation significance and is likely to put at risk conservation values? As an example, located in or adjacent sensitive coastal locations, important wetlands, critical habitat, World Heritage areas, or areas of high cultural heritage or landscape significance?*

Comment:

The proposed development will be designed so as the ecological significance can be maintained and mitigation measures implemented to protect portions of the site identified as significant or enable connects between portions of the site which have significance. This can be achieved along the Pipers Creek frontage of the site where it is intended to provide an Environmental Protection zone adjacent to the proposed development site. It should be noted that is not intended to gain approval for any development other than the retail component and new access road as part of the combined Concept Plan and Project Application. However, the proponent is mindful of the remaining land in the Pipers Creek Precinct. As such an indicative zoning plan has been prepared which could guide future rezoning of the land, refer to **Figure 11**. The location of the subject site is shown within the context of the Pipers Creek Precinct as outlined red in **Figure 11**.

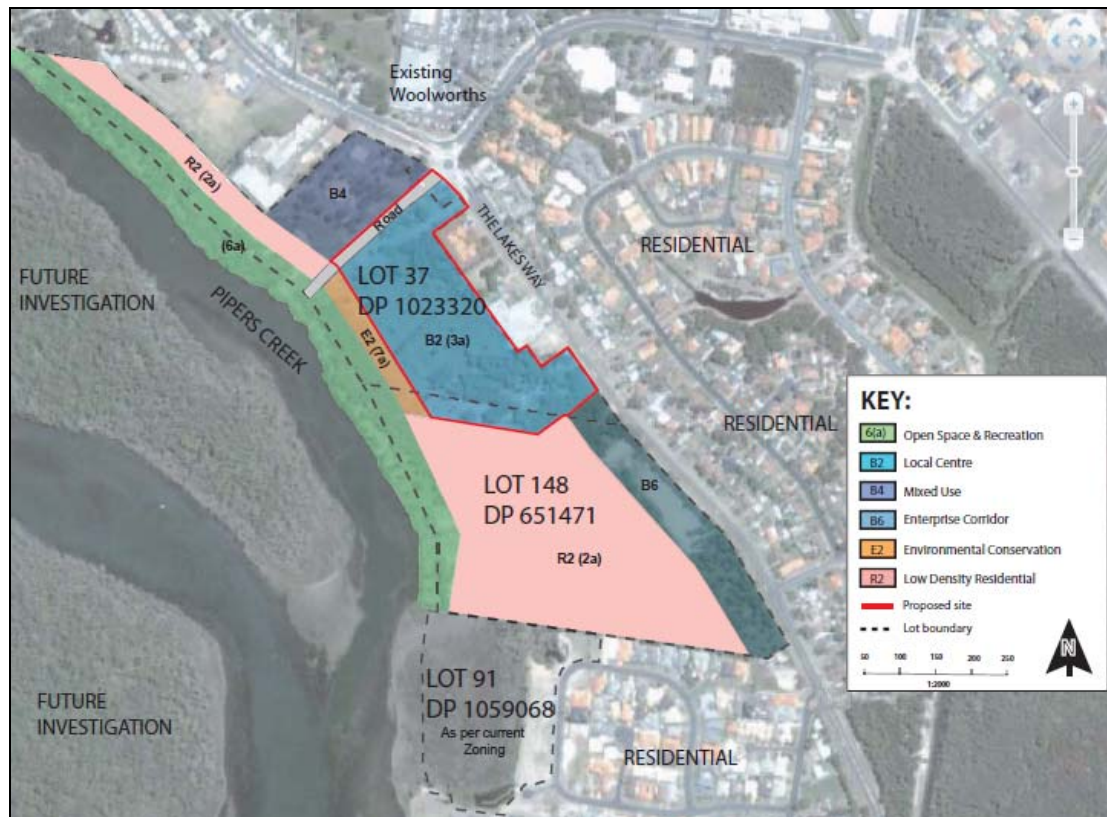


Figure 11: Indicative zoning plan
Source: TPG

The site is located adjacent to an area of high conservation value, being Lake Wallis and Pipers Creek which include wetlands under SEPP 14 (refer to sections 5.1.2, 5.1.4 and 5.1.5 of this report for more detail). The frontage of the land along Pipers Creek is currently zoned 6(a) and this is not intended to be altered.

The land immediately adjacent to Pipers Creek being 100m from the mean high water mark of Pipers Creek is the “sensitive coastal zone”. No part of the proposed development will be located within the sensitive coastal zone. In this regard, the Draft Preliminary Concept Design will require refinement to ensure at the detailed design stage for the Concept Plan and Project Application that the design drawings are greater than 100m from the mean high water mark.

It is intended to implement on-site environmental mitigation measures to contain all development run-off and ensure no pollutant loads enter the estuary system.

As such, the foreshore area immediately along Pipers Creek adjacent to the proposed development will be protected as a result the proposal.



(f) Local council issues

The project is located or will impact on more than one local government area or the project is located so that added transparency is required due to the potential for conflict of interest.

Check:

- *Will there be a benefit in having a single independent approval authority for the development where the project is located in more than one local government area?*
- *Will there be a benefit in having an independent approval authority for the development where the project is located so that the traffic or other significant impacts principally affect the adjoining local government area?*
- *Would there be benefits in having an independent approval authority where the local council is the land owner or proponent for the project or there are other potential conflicts of interest issues?*

Comment:

Whilst the project is only located in the one local government area (Great Lakes Shire Council), an independent approval authority (ie the Minister), is considered appropriate because of the delays to date in facilitating an appropriate future use of the land.

Conclusion

Subsequent to this submission and receipt of the Director General's response, the proponent intends to prepare an Environmental Assessment for the Concept Plan. Concurrently, it is requested that a Project Application for the project, the extent of which is illustrated on the Preliminary Draft Concept Plan be considered.

It is our view that this Preliminary Assessment submission indicates that the site will deliver an innovative and regionally responsive retail development for the current and future residents of Forster of all ages. The project represents a major investment to the Great Lakes region providing the opportunity for the creation of 450 full and part-time jobs upon completion and over 275 jobs during construction. The Project Application identifies the relevant environmental, infrastructure and statutory issues pertaining to the proposed development and further indicates that the proposal has the potential to successfully address each and all of these as part of an Environmental Assessment.

We look forward to receiving the Director General's response to this submission to our request to lodge a combined Concept Plan and Project Application. We look forward to the opportunity to work closely with the Department, Great Lakes Shire Council and the community of Forster to deliver a landmark retail development on the site.





APPENDIX A

Land Owners Consent Letters





APPENDIX B

Deposited Plan 1023220 and Plan of Subdivision





APPENDIX C

Preliminary Concept Plan





APPENDIX D

Quantity Surveyors Cost Estimate





APPENDIX E

Assessment of Vegetation Report 2007





APPENDIX F

Terrestrial Flora and Fauna Study





APPENDIX G

Retail Floor Space Needs and Demand Assessment





APPENDIX H

Geotechnical Report





APPENDIX I

Pipers Creek Precinct LES Stage 1





APPENDIX J

Traffic Impact Assessment



