

Explanatory Note

Environmental Planning and Assessment Regulation 2000 (Clause 25E)

DRAFT PLANNING AGREEMENT – BRIMBIN BIOCERTIFICATION

Under s93F of the *Environmental Planning and Assessment Act 1979*

Introduction

The purpose of this Explanatory Note is to provide a plain English summary to support the exhibition of a proposed draft Voluntary Planning Agreement prepared under Section 93F of the Environmental Planning and Assessment Act 1979.

This explanatory note is a supplement only and is not to be used in the application of the formal Planning Agreement once it is signed by all parties.

Parties

The parties to the draft Planning Agreement are the **Minister for the Environment (Minister)**, the **Greater Taree City Council (Council)** and **Roche Group Pty Ltd (Developer)**.

The Planning Agreement is primarily between the Minister and the Developer, who is transferring land to the Minister for conservation purposes. Council is not receiving lands via this transfer and is only party to the Agreement because of its statutory role in the rezoning process.

Description of the Land to which the Draft Planning Agreement Applies

The Draft Planning Agreement applies to a number of land-holdings in Brimbin under the ownership of the Developer. These lands include the **Biodiversity Offset Land** and the **Development Land**.

The parcels that are affected by this draft Planning Agreement are listed below:

Biodiversity Offset 1 Land – Brimbin **Registered Proprietor: Roche Group Pty.Ltd**

Lot	Deposited Plan	Comment
Part Lot 1	DP78136	Balance of Lot excluding: - offset shown in Table 2. - existing 50m Transgrid easement. - optional 20m easement east of existing Transgrid easement. - notional boundary adjustment as shown. - Crown Road to Dawson River. - internal Crown and Council roads to be included later.

Lot	Deposited Plan	Comment
Part Lot 13	DP114564	Balance of Lot excluding offset shown in Table 2.
Part Lot 6	DP10304	Excludes development land to the north and east of the notional boundary adjustment as shown.
Part Lot 149	DP754449	Excludes development land to south and optional 20m infrastructure easement to west of railway.
Part Lot 152	DP754449	Excludes development land to south.
Lot 154	DP754449	Excludes internal Crown and Council roads to be included later.
Lot 155	DP754449	Excludes optional 20m infrastructure easement to west of railway.
Lot 1	DP1084305	Excludes internal Crown and Council roads to be included later and optional 20m infrastructure easement to west of railway.
Part Lot 1	DP 530846	Excludes development land to the north and 20m exclusion for future road in north east.
Part Lot 2	DP530846	Excludes 20m exclusion for future road in north west.
Various	Various	Any additional lands lying between the offset land and any boundary roads surrounding the proposed development zoned R1 as agreed once the location of these roads is known following subdivision.

Development Land

Registered Proprietor: Roche Group Pty. Ltd

Lot	Deposited Plan	Comment
Lots 63, 140	DP754410	
Lots 1, 3, 4, 7, 10, 12, 13, 14	DP10304	
Part Lot 6	DP10304	Balance of Lot excluded in Table 1.
Lots 1, 2	DP1084130	
Lots 4, 5, 7, 27	DP6031	
Lot 18	DP413456	
Lot 81	DP848750	
Part Lots 149, 152	DP754449	Balance of Lots excluded in Table 1.

Lot	Deposited Plan	Comment
Lot 1	DP174722	
Lots 1, 2, 3, 28	DP14182	
Part Lots 1 and 2	DP530846	Balance of Lots excluded in Table 1.
Lot 1	DP314748	
Lot 8	DP667626	
Lot 9	DP664296	
Lots 37-47, 111	DP754409	
Lot 122	DP882912	
Lots 23, 24	DP182474	
Lot 1	DP170558	
Lot 1	DP965109	

The Developer is also transferring an additional area of Offset Lands in Brimbin which has been required to compensate for development being undertaken in the West Wallsend area of the Lake Macquarie Local Government Area of NSW.

Those additional Offset Lands are identified in the table below:

Biodiversity Offset 2 Land – West Wallsend
Registered Proprietor: Roche Group Pty. Ltd

Lot	Deposited Plan	Comment
Part Lot 1	DP78136	As identified in Lake Macquarie City Council DA 113/2011 and OEH Concurrence Conditions but excluding Crown and Council roads to be included later.
Part Lot 13	DP114564	As identified in Lake Macquarie City Council DA 113/2011 and OEH Concurrence Conditions but excluding Crown and Council roads to be included later.

Description of the Proposed Biodiversity Certification process

Brimbin has been identified by Council as an area for future development. The formal Planning Proposal for this land was recently placed on public exhibition and is currently with the State Government awaiting gazettal. That Planning Proposal will enable land at Brimbin to be developed as a new town.

The Planning Proposal will rezone the land to provide:

- 874 hectares of residential zoned land;
- A mixed-use centre core and three neighbourhood centres;
- An employment precinct featuring industrial lands and agricultural employment opportunities;
- 4 schools;
- A lake system and various areas of public open space;
- A range of retail and commercial services to cater for the population in Brimbin.

As part of that development, 1,142 hectares of land will be set aside for conservation and public reserve purposes.

Biodiversity Certification is the process by which the Minister and Developer have identified sensitive environmental lands to be set aside for conservation up front. This will negate the need for future development applications to undertake their own flora and fauna assessments.

This draft Planning Agreement provides the mechanism by which that land identified for conservation will be dedicated to the Minister by the Developer.

Summary of Objectives, Nature and Effect of the Draft Planning Agreement

The objective of the Draft Planning Agreement is to:

- Enable the Minister to secure land to be conserved by dedication at no cost to the Minister or to Council;
- Enable a mechanism for the Developer to provide a contribution to the Minister towards the ongoing management of the Biodiversity Offset Land;
- Indemnify Council against any costs associated with the transfer, conservation or ongoing management of the Offset Lands;
- Permit the Developer in consultation with Council to proceed to masterplan and create the new town of Brimbin.

Assessment of the Merits of the Draft Planning Agreement

The Draft Planning Agreement:

- Facilitates further development of the urban release area which the Planning Agreement applies to;
- Enables the conservation of ecologically sensitive lands within the urban release area;
- Provides a mechanism for the Developer to pay a contribution towards the ongoing management of the Offset Land;

- Provides an opportunity for the public to participate in the planning process through the exhibition of this Planning Agreement, and for Council and the Minister to then consider those public submissions.

How the Draft Planning Agreement Promotes the Public Interest

The Draft Planning Agreement promotes the public interest by:

- Ensuring that ecologically sensitive lands owned by the Developer are transferred to and managed by the Minister for the Environment under this Agreement;
- Promoting the future development of an urban release area in accordance with the Mid North Coast Regional Strategy (NSW Government, 2009);
- Ensuring that development is carried out in a way that takes into account environmental impact and promotes the long term protection of endangered ecological communities;
- Providing a means that allows the wider community to make submissions to the Council in relation to the proposed Agreement.

How the Planning Agreement Promotes the Objects of the Environmental Planning & Assessment Act (the Act)

The Planning Agreement promotes the objects of the Act by encouraging:

- the promotion and co-ordination of the orderly and economic use and development of land;
- the conservation of ecologically sensitive lands;
- the provision of land for public purposes;
- the participation of the public in the community consultation phase.

Requirements relating to Construction, Occupation and Subdivision Certificates

The Planning Agreement does not specify requirements that must be complied with prior to the issue of a construction certificate, subdivision certificate or an occupation certificate.

The Planning Agreement requires the dedication of the Biodiversity Offset Lands within 6 months of the Gazettal of the Planning Proposal which has the effect of rezoning the Brimbin urban release area.