

14.2. RURAL STRATEGY SUBMISSIONS - ZONE CRITERIA, LAND USES & DEVELOPMENT STANDARDS

REPORT INFORMATION

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SUMMARY OF REPORT

This report documents the submissions received during the public exhibition of the Draft Rural Strategy and associated background reports, between 30 August 2021 and 28 January 2022.

The submissions discussed in this report cover:

- Environmental zone criteria;
- Land uses and Development standards; and
- State Agency submissions related to these issues.

RECOMMENDATION

That Council endorse the proposed amendments to the Draft Rural Strategy as documented within this report.

FINANCIAL / RESOURCE IMPLICATIONS

Merger funds were allocated to the preparation of the draft Rural Strategy. The public exhibition, review, amendment and completion of the draft Rural Strategy have been undertaken utilising these funds and the resources of the Council's Land Use Planning team.

LEGAL IMPLICATIONS

Council is required to undertake a public exhibition process prior to the adoption of a land use strategy that will inform the preparation of local environmental planning instruments.

RISK IMPLICATIONS

The extended public exhibition and opportunities for consultation provided during exhibition of the Draft Rural Strategy reduce the risk of proceeding with the preparation of planning controls for the MidCoast that are inconsistent with community expectations.

BACKGROUND

The Rural Strategy commenced in 2016 as the MidCoast "Rural Economic Diversity Strategy". The scope and program were subsequently placed on hold in response to the launch and undertaking of the MidCoast "Regional Economic Development Strategy" by the NSW Government in 2018.

The program remained on hold during the *Urban Zoning In* program, which included finalisation and exhibition of the Manning Health & Taree CBD Precinct Plan, Housing Strategy, Employment Zones Review, Infrastructure Zones Review and Recreation Zones Review. for urban areas of the MidCoast.

The Infrastructure Zones Review and Recreation Zones Review documents were noted as having ongoing relevance to rural areas and formed part of the public exhibition of the Rural Strategy.

The Rural Strategy was reviewed in January 2020 to incorporate learnings from the *Urban Zoning In* program; and recommenced in February 2020 with:

- a clear focus on analysis of challenges and opportunities within the rural, environmental and waterway zones of the MidCoast;
- clarity regarding the strategic recommendations of the Strategy and those to be directly translated into the MidCoast Local Environmental Plan and Development Control Plan programs; and
- an expanded scope of work, to ensure an online mapping platform was available to landowners and the community, to illustrate the land use zone and development standards being proposed.

The Draft Rural Strategy was prepared over several years, with five key stages of consultation:

1. Preliminary research and investigation work undertaken by Council's consultancy team which included: the identification of locally specific issues by engaging with landholders, stakeholders, Council, agency and the MidCoast community to inform the preparation of Rural Issue Papers. The Papers were presented to Council in November 2018 and remain available as an attachment to the Council business paper.
2. Rural Issue Papers preparation, distribution and consultation with landholders, stakeholders and the MidCoast community at workshops and drop-in sessions: to confirm that the preliminary issues, opportunities and constraints have been appropriately identified and considered, prior to the preparation of the Draft Rural Strategy.
3. Preparation of draft Background Reports and consultation with inter-divisional Council teams and other key State agencies on key findings and recommendations. Identification of additional work required in response to feedback at workshops and information sessions: E4 Environmental Living Snapshot Report, RU4 Primary Production Small Lot Snapshot Report, and the Paper Subdivision Analysis Report.
4. Reflection on *Urban Zoning In* consultation program, feedback and submissions to Local Strategic Planning Statement exhibition and incorporation of new and amended legislation, National, State and regional plans and policies into Background Reports. Identification and consultation with Councillors and Council officers, on the: strategic and long-term recommendations; and plan-making recommendations for the new MidCoast Local Environmental Plan and Development Control Plan, of the Draft Rural Strategy.

DISCUSSION

The public exhibition was based on the adopted Communication and Consultation Strategy and provided an opportunity for Council to 'check-in' with the community and key stakeholders.

The community consultation program was initially scheduled for 12 weeks between 30 August and 19 November 2021. Based on the feedback received after the first 6 weeks, and in anticipation of changes to public health orders in October-November 2021, the exhibition was extended by 10 weeks to 28 January 2022.

During the 22 week public exhibition 430 submissions were received, including five from State agency organisations.

Throughout the engagement period, the property locations of enquiries and submissions were recorded. This allowed the engagement activities to be adaptive and target additional locations where representation hadn't been achieved.

It is noted that a significant number of enquiries were received regarding land within paper subdivisions, and these will be discussed and considered in a separate Council report.

Additional details on community consultation process are documented within the Rural Strategy Engagement Report that was provided in Attachment A to the Council report on 25 May 2022.

SUBMISSIONS

To ensure the matters raised in submissions can be given appropriate consideration by Council in amending and finalising the Rural Strategy, the submissions have been considered and will be reported based on the following common locations, themes or issues:

- General submissions, Rezoning requests, Urban Release Areas and the Villages of Bundook, Bunyah, Markwell, Mt George and Newells Creek (25 May 2022 report)
- Rural and Waterways Zones - Zone criteria; Land uses; and Development Standards (27 July 2022 report)
- **Environmental Zones - Zone criteria; Land uses; and Development Standards (lot sizes, building height) – this report**
- Paper subdivisions – future report

Authors of submissions are notified prior to the relevant report being tabled for consideration by Council. This report summarises information within the following attachments:

1. Environmental Submission Summary table in Attachment 1 that includes maps for location and site-specific submissions; and
2. Copies of the relevant submissions in Attachment 2

As matters in submissions are reported to Council, responses and recommendations will be provided, including any recommendations for amendments to the Draft Rural Strategy and Paper Subdivision Analysis Report.

For the purpose of this report, which discusses submissions on the application of environmental zone criteria, development standards and land uses, it is relevant to note the Department of Planning & Environment's guidance on these matters. Four key documents have been considered, as they provide guidance and context on how, when and why environmental zones are generally applied. Each document has been provided as an attachment to this report:

3. Local Planning Directions, issued by the Minister for Planning (1 March 2022)
4. Department of Planning & Environment Planning Circular: PS 21-006 Considering flooding in land use planning (2021)
5. Northern Councils E Zones Review Report (2015).
6. Department of Planning & Environment Practice Note: PN 09002 Environment Protection Zones (2009)

These documents are referenced throughout the draft Rural Strategy and are relevant to many of the submissions received on the draft environmental zones, land uses and development standards.

The Local Planning Directions and Planning Circular relating to flood-prone land were amended during the preparation and exhibition of the draft Strategy and are expected to be amended again in response to the 2022 flood events. The final Rural Strategy will reflect State Policy available at the time of preparation of the Council report for adoption.

The *Department of Planning & Environment Practice Note [PN09-002 Environmental Protection Zones](#)* was published in 2009, to support implementation of the Standard Instrument Principal Local Environmental Plan (SI LEP) across the State. While the document is dated, its broad principles remain relevant and excerpts are provided below:

The environment protection zones E2 through to E4 are applied where the protection of the environmental significance of the land is the primary consideration. The application of these zones is also to be consistent with relevant legislation, State and regional planning policies and subregional strategies.

The zones are to be applied consistently so that their value is not diminished by inappropriate application or by permitting incompatible uses. Where the primary focus is not the conservation and/or management of environmental values, a different zone type should be applied. Such zones may be applied in conjunction with local environmental provisions and maps in the principal LEP to identify any special considerations.

E2 Environmental Conservation

This zone is for areas with high ecological, scientific, cultural or aesthetic values outside national parks and nature reserves. The zone provides the highest level of protection, management and restoration for such lands whilst allowing uses compatible with those values.

Areas where a broader range of uses is required (whilst retaining environmental protection) may be more appropriately zoned E3 Environmental Management.

The following are examples of where the E2 zone should be applied:

- *lands with very high conservation values such as old growth forests, significant wildlife, wetlands or riparian corridors or land containing endangered ecological communities*
- *high conservation coastal foreshores and land acquired, or proposed for acquisition, under a Coastal Lands Protection Scheme*
- *some land with a registered Biobanking agreement*
- *land under the care, control and management of another catchment authority such as the Department of Water and Energy or a council for critical town water supply, aquifer or catchment as appropriate*
- *land with significant Aboriginal heritage values, if appropriate*
- *coastal foreshores and land subject to coastal hazards, including climate change effects*
- *land currently zoned for environmental protection where strict controls on development apply, e.g. steeply sloping escarpment lands, land slip areas.*

In selecting additional uses, the following are unlikely to be suitable in the E2 zone: intensive agriculture; rural industry; and signage (other than as ancillary to environmental facilities).

E3 Environmental Management

This zone is for land where there are special ecological, scientific, cultural or aesthetic attributes or environmental hazards/processes that require careful consideration/management and for uses compatible with these values.

There are instances where environmentally significant land has been zoned rural in the past but has not been used primarily for agriculture. Such lands should be zoned E3.

The following are examples of where the E3 zone may be applied:

- *areas of special ecological, scientific, cultural or aesthetic attributes that require management in conjunction with other low impact uses, e.g. scenic protection areas, areas with contiguous native vegetation or forest cover.*
- *as a transition between high conservation value land, e.g. land zoned E1 or E2 and other land such as that zoned rural or residential.*
- *where rehabilitation and restoration of its special environmental qualities are the primary purpose.*
- *highly constrained land where elements such as slope, erodible soils or salinity may have a key impact on water quality within a hydrological catchment.*

Unless they are existing uses in the zone, the following uses are generally considered to be unsuitable: intensive plant agriculture and intensive livestock agriculture; residential accommodation other than detached dwelling houses; retail premises (excluding neighbourhood shops); rural industry; and storage premises.

Councils should be aware that uses should not be drawn too restrictively as they may, depending on circumstances, invoke the Land Acquisition (Just Terms Compensation) Act 1991 and the need for the Minister to designate a relevant acquiring authority.

E4 Environmental Living

This zone is for land with special environmental or scenic values and accommodates low impact residential development. As with the E3 zone, any development is to be well located and designed so that it does not have an adverse effect on the environmental qualities of the land.

This zone will be typically applied to existing low impact residential development. This may include areas already zoned for rural residential that have special conservation values. Regional councils should distinguish carefully between the E4 zone, the RU4 Rural Small Holdings and R5 Large Lot Residential zones to address environmental, agricultural and residential land capabilities respectively.

Additional uses that are generally unsuitable in the zone include: business premises; office premises; residential accommodation (other than dwelling houses and secondary dwellings); retail premises; rural industry; and storage premises.

A precautionary approach, has therefore been taken to the drafting of environmental zone criteria and the potential identification of additional environmental zoned land, in consideration of two key issues:

1. the application of environmental zones can trigger acquisition requirements if the potential use and development of land is significantly restricted by the new zone; and
2. the removal or reduction of the conservation standards of existing environmental zones can only be justified under certain conditions, set out the Local Planning Direction 3.1.

These issues and all relevant Departmental guidelines have informed the zone criteria, development standards and land use tables for environmental zones within the draft Rural Strategy, and the responses to State agency and public submissions discussed below. Given the range of submissions received, they have been grouped under the following headings:

- A. State Agency and General Submissions
- B. Land Uses in environmental zones
- C. C2 Environmental Conservation– Zone Criteria and application
- D. C3 Environmental Management– Zone Criteria and application
- E. C4 Environmental Living– Zone Criteria and application
- F. C4 Environmental Living – Development Standard (Minimum lot size)
- G. Site specific review requests – Gloucester region

Additional detail on submissions and Council responses are provided in the Submissions Table in Attachment 1.

A. State Agency and General Submissions

One submission (**S.411**) was received from the Department of Planning & Environment's Biodiversity & Conservation Division that specifically responds to the environmental goals, objectives, zone criteria and land use tables within the draft Rural Strategy. The agency provided four key areas of feedback, which are considered separately, as detailed below:

Item 1. References to 'Environmental Protection Zones' throughout the text should be updated to 'Conservation Zones'.

Response– The Rural Strategy will be updated to reflect State-wide changes to renaming of environmental zones "E" to conservation zones "C" prior to finalisation and adoption.

Item 2. The Rural Strategy should consider the implications of the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 if extensive agriculture is to be permitted in the C3 Environmental Management and C4 Environmental Living land use zones.

The E4 Environmental Living Zone Snapshot indicates that extensive agriculture is currently permitted and practiced in the existing E4 Environmental Living zone under the Great Lakes LEP 2014. Extensive agriculture is also permitted on land zoned as E3 Environmental Management in the Gloucester, Great Lakes and Greater Taree LEPs.

The State Environmental Planning Policy (SEPP) (Mining, Petroleum Production and Extractive Industries) 2007 permits surface mining on land for which agricultural uses are permitted. The implications of this should be considered in the MidCoast Rural Strategy to aid in the determination of whether extensive agriculture should continue to be permitted on land zoned C3 and C4 in the MidCoast Council Local Environmental Plan (when prepared).

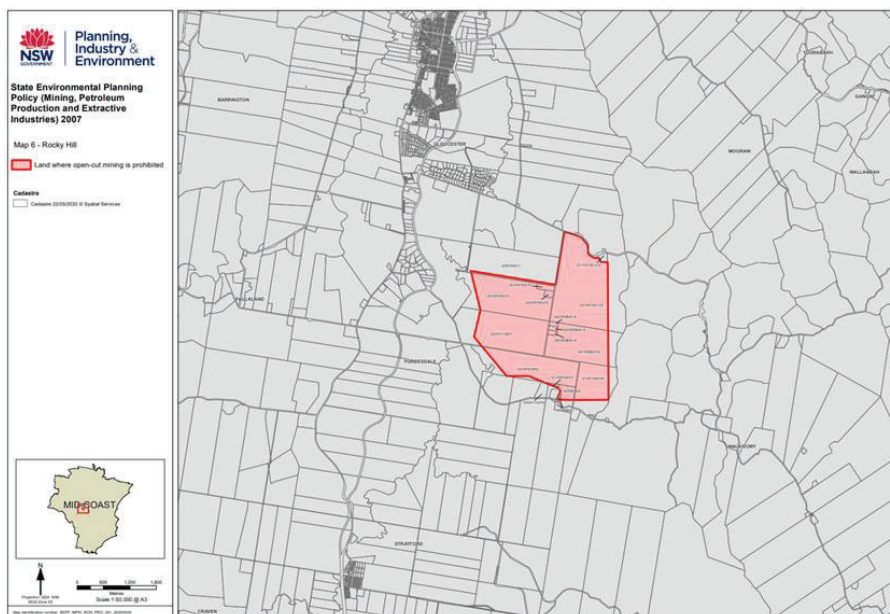
Response – The Rural Strategy will continue to consider the provisions of the SEPP (Resources and Energy) 2021 when preparing land use tables for environmental zones and obtain additional advice on this matter from the Department of Planning.

State Environmental Planning Policy (SEPP) (Mining, Petroleum Production and Extractive Industries) 2007 now forms part of the SEPP (Resources and Energy) 2021.

Chapter 2 Mining, petroleum production and extractive industries allows:

- Mining, petroleum production and extractive industries where agriculture or industry is permitted with or without consent
- Mining, petroleum production and extractive industries in any waterway or estuary not in an environmental conservation zone
- Mining and petroleum production on land reserved for state conservation under the National Parks & Wildlife Act

Noting various exclusions to protect residential areas, the only prohibition within the SEPP that applies to the MidCoast LGA is identified in Schedule 1 Prohibited Development: *Open cut mining within the area identified as “Land where open-cut mining is prohibited” on the map named State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007—Map 6—Rocky Hill, shown below.*



In consideration of the SEPP and land within an environmental zone currently apply and are being considered for application in the future, the draft land use tables in the Strategy include limited provisions for agriculture and extractive industries:

- **C2 Environmental Conservation zone** – Council does not propose any forms of agriculture or industry as permissible with or without consent. However, *oyster aquaculture* is required by DPE to be permitted with consent in this zone.
- **C3 Environmental Management zone** - Council only identifies extensive agriculture as permissible with consent and industries identified as prohibited. However, *oyster aquaculture*, *pond-based aquaculture* and *tank-based aquaculture*, are required by DPE to be permitted with consent in this zone.
- **C4 Environmental Living zone** - Council only identifies extensive agriculture as permissible with consent and industries identified as prohibited. However, *oyster aquaculture*, *pond-based aquaculture* and *tank-based aquaculture*, are required by DPE to be permitted with consent in this zone.

The compulsory requirement to allow *oyster production* within all environmental zones creates a situation where, under the existing provisions of the Standard Instrument LEP and SEPP (Resources and Energy) 2021, the Department has also allowed applications for mining, petroleum production and extractive industries in all environmental zones. Additional advice on this shall be sought from the Department to inform the Rural Strategy.

Item 3. It should be clarified whether the proposed increase in minimum lot size will impact existing C4 Environmental Living zoned land.

One of the recommendations from the E4 Environmental Living Zone Snapshot is that the minimum lot size is increased from 10 hectares to 20 hectares.

Section 10.4.3 of the draft MidCoast Rural Strategy indicates that areas of C2 Environmental Conservation and C3 Environmental Management land with current minimum lot sizes are recommended to be reduced from 100 hectares to 40 hectares (pp. 171 and 172), however all other existing minimum lot sizes will be retained.

It is not made clear whether the implementation of the recommendation for the increase in minimum lot size C4 zoned land will impact existing lots in section 10.6.2 of the report. This would be beneficial in understanding whether existing E4 zoned land will persist.

BCD notes that any proposals to rezone C4 land that would reduce environmental protection should be consistent with Ministerial Direction 2.1 made under Section 9.1 of the EP&A Act.

Response – The Rural Strategy will be updated to clarify the minimum lot size of existing and future C4 Environmental Living areas and ensure consistency with current Local Planning Directions.

The 20ha minimum lot size is recommended for new areas of C4 Environmental Living and was not proposed as a retrospective control, meaning existing areas adjoining Wallis Lake with a 10ha minimum lot size would retain this control for dwelling entitlements and subdivision.

In comparison, the area of C4 Environmental Living at Brimbin has a minimum lot size of 600ha. Within the draft Rural Strategy framework this area is identified as being suitable for transition to the C2 Environmental Conservation zone and will retain the 600ha minimum lot size.

Item 4. The Rural Waterways Background Report may should be updated to remove references to the Model Clause 7.3.

Page 60 of the Rural Waterways Background Report references Clause 7.3 Flood Planning of the Standard Instrument which is now repealed.

In 14 July 2021 two LEP clauses have been developed to apply to local government areas with flood prone land, to reflect the changes to the Regulation for flood-related development. The document may need to be updated if council has adopted the optional clause.

Response– The Rural Strategy will be reviewed to ensure consistency with current flood planning policy, clauses and requirements.

The Background reports were prepared as informative documents during development of the Rural Strategy but will not be updated.

A small number of public submissions also highlighted general comments and concerns about the environmental components of the Rural Strategy, and these are discussed below:

S.309 is concerned with the purpose, intent and consultation process.

The author is concerned that Council cannot consider the issues covered in the Strategy without appropriate consultation and input from land owners. The author also questions why Council is adding to existing State and Federal legislation and processes, without appropriate expertise in the issues being covered.

Response –MidCoast Council has undertaken a range of land use strategies and zone reviews with the support of the Department of Planning & Environment, in consultation with the community and State agencies, prior to preparing the first MidCoast local environmental plan and development control plan.

The program of review and strategy development has involved extensive consultation programs in accordance with the Environmental Planning & Assessment Act, Regulations and Council's Community Participation Plan.

Consultation on the strategies has allowed Council to check-in with land owners and community members to establish a clear and consistent framework for land use planning across the MidCoast.

Consultation on the future MidCoast LEP and DCP is planned as a combined consultation program and will involve notification of all land owners and rate payers and additional information and resources.

Councils are required to prepare local environmental plans and development control plans to supplement State and Federal legislation and undertake this work in consultation and collaboration with many State agencies with additional expertise, where necessary.

S.420 and S.428 note the identified data gaps, are concerned that there is not enough emphasis on biodiversity conservation and corridor creation and recommend that Council employ the 'precautionary principle' when preparing the new instruments. Areas identified and developed as (koala) Conservation Action Plan precincts should also be identified and reflected in the LEP and DCP.

This approach is recommended to ensure adequate consideration is given to the associated policies and principles from the Greening Strategy, Biodiversity Strategy and Rural Strategy. Including consideration of any reduced minimum lot sizes that could impact on biodiversity, scenic, natural and agricultural values of the MidCoast through additional subdivision and rural residential development across the landscape.

Response– Goal 3 Protect Natural Landscapes provides scope for the expansion and inclusion of additional map and clause provisions for biodiversity and conservation provisions, informed by Council's Biodiversity Framework and State Policy provisions.

The final Strategy, as outlined in this and previous reports, will also provide additional clarity on rural and environmental zoning criteria, so that the new LEP can reflect a consistent approach to the application of these zones, relevant development standards and land use provisions.

The mapping provided as part of the exhibition of the Rural Strategy was only an illustration of how the draft zones could be applied but was not intended or prepared as a draft environmental planning instrument.

The Strategy also included draft biodiversity and wildlife corridor clauses, based on existing Great Lakes LEP 2014 provisions which may be expanded across the MidCoast. Similarly, karsts that were previously identified in Gloucester LEP 2000 are to be reinstated through the new LEP.

Consultation on the future MidCoast LEP and DCP is planned as a combined consultation program and will require the preparation of comprehensive mapping across the local government area, with complete draft zones, development standards, conservation and biodiversity provisions and other map overlays as required.

Goal 3 - Protect Natural Landscapes was developed and included within the Strategy to provide opportunities for the future expansion and inclusion of additional environmental provisions. These provisions may be developed in response to the MidCoast Biodiversity Framework, new or amended State Environmental Planning Policies, or climate change and adaptation requirements, and would then be able to be considered for inclusion in the future LEP or DCP as appropriate.

All of these provisions are subject to change and providing a flexible and responsive planning framework within the final Strategy, will enable Council to implement new LEP and DCP provisions that reflect not only the precautionary principle, but facilitate a sustainable approach to land use planning and development in the future.

The remainder of submissions have been considered in relation to the primary issues raised: land uses, environmental zone criteria and application, development standards (minimum lot size) and site-specific review requests.

S.83 supports the goals of the Rural Strategy and recommends additional environmental zone criteria and development standards.

The land owner will be affected by a potential rezoning from rural to environmental and supports this, provided additional consideration is given to the effective application of the zones and minimum lot sizes to achieve the objectives of the environmental zones.

The land owner suggests that properties being considered for the:

- C4 Environmental Living zone have at least 1-2ha or 5-10% of natural bush or revegetated natural bush, suitable for wildlife corridors and habitat;
- C4 Environmental Living zone is applied to properties generally smaller than 40ha, which are less suited to primary production; and
- C2 Environmental Conservation zones be applied with a minimum lot size of 100ha wherever possible to reduce fragmentation.

Response – Support for the Rural Strategy is noted. The additional environmental zone criteria and development standard recommendations will be considered in finalising the recommendations of the Rural Strategy.

B. Land Uses in environmental zones

S.196 and S.286 request consideration of a secondary dwelling or small dual occupancy in the environmental management and environmental living zones.

The second dwelling could be provided as affordable housing to family members or as an income stream from private rental. The location and size of the dwelling could be designed to have minimal impact on the environment based on the existing Great Lakes LEP second dwelling on rural land policy and clause.

Response – The land use tables for the C3 Environmental Management and C4 Environmental Living zones will be reviewed to consider the inclusion of secondary dwellings and/or dual occupancies, in conjunction with appropriate local clause provisions.

The DPE guidelines for land use within environmental zones recommend limited and low-scale residential development, as documented in Practice Note 09-002:

- Residential accommodation other than detached dwelling houses, are unsuitable in the C3 Environmental Management zone and
- Residential accommodation (other than dwelling houses and secondary dwellings) are generally unsuitable in the C4 Environmental Living zone.

However, recent amendments to the Standard Instrument LEP have expanded consideration of accommodation in rural areas.

These changes and the ongoing housing shortage provide an opportunity for Council to examine where a secondary dwelling may be appropriate, for example in environmental living areas that have access to appropriate infrastructure, services and facilities. A suitable local clause can also provide assessment criteria that ensures the development is responsive to any constraints and hazards that may affect the site.

S.286 supports primitive camping in rural and environmental zones if appropriate controls for effluent disposal and waste water are provided.

The Local Government Regulations are outdated and do not reflect RV and self-contained camping options. It is requested that Council consider new LEP provisions that enable alternative and extended visitation where suitable waste disposal and management facilities are provided to support primitive camping grounds.

Response– The Local Government Regulations for primitive camping grounds will be reviewed to consider the inclusion of additional local provisions within the Rural Strategy and future local environmental plan.

Primitive camping grounds are a defined land use with limited assessment provisions within the planning assessment framework, being largely governed by the provisions of the [Local Government \(Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings\) Regulation 2021](#).

Therefore, it is reasonable to consider additional provisions for primitive camping grounds in both rural and environmental zones within the Rural Strategy, as an additional income opportunity for land owners, where an appropriate level of on-site management and environmental protection can be maintained.

S.188 objects to industrial development and clearing within existing rural areas that would be considered appropriate for an environmental zone.

The author is concerned that rural industry and home industrial businesses, are subject to limited assessment and resulting in significant areas of clearing and environmental impact, as well as noise, dust, vibration, traffic and social impacts in areas occupied primarily for rural residential and environmental living purposes.

The author is also concerned that native vegetation clearing and management under LLS approvals, are impacting on the existing environmental values of the land and water quality of surrounding creeks and waterways.

Response–The Rural Strategy will be reviewed to ensure industrial activities are excluded wherever possible from environmental zones and that home industries require development approval. A comprehensive assessment of where environmental zones may apply across the MidCoast will be undertaken as part of the local environmental plan development process, consistent with the zone criteria documented within the adopted Rural Strategy.

The land in question is currently within a rural zone where a range of land uses are permissible with consent. Extractive industries are permitted with consent on any land where agriculture or industries are permitted under the [SEPP \(Resources and Energy\) 2021](#) formerly the Mining SEPP, irrespective of Council's local environmental plan provisions. The SEPP provides triggers for when these applications are assessed by Council or another consent authority.

Extractive industries in the MidCoast include activities such as road base, gravel and limestone quarries and dredging in waterways for navigation and related purposes. An extractive industries Development Control Plan (DCP) chapter will be prepared to provide a consistent assessment framework for small-scale extractive industry projects in rural zones.

Home industries, truck depots, vehicle body repair workshops and vehicle repair stations are identified as activities that should be permitted with consent in rural areas as they can provide a secondary income stream on a farm, by providing a local service for the maintenance and repair of agricultural and other vehicles. Additional development control plan provisions will be considered for these activities during the preparation of the MidCoast development control plan.

Clearing on land within rural and environmental zones is regulated by several pieces of legislation, notably the [Local Land Services Act 2013](#) for rural land and the [SEPP Biodiversity & Conservation 2021](#) in non-rural areas, including environmental zones.

Within the future draft MidCoast local environmental plan, mapping of draft zones, development standards, environmental and other mapping layers will be undertaken comprehensively and consistently across the local government area, based on the adopted recommendations of land use strategies and plans, including the Rural Strategy.

Land uses currently permitted with or without consent within the existing rural and environmental zones will remain in place until the new MidCoast LEP is in force.

C. C2 Environmental Conservation – Zone Criteria and application

The submissions relating to the application of the C2 Environmental Conservation zone are site specific and additional detail is provided in the Submission table in Attachment 1 to this report.

S.382 Objection to proposed application of C2 Environmental Conservation and C4 Environmental Living zones on identified sites at Fame Cove.

Proposed rezoning would prohibit agricultural uses and is contrary to objectives of the Strategy and State policy, without justification or objective assessment of attributes of the land. The land is characterised by highly disturbed western lots with roads, a dwelling, outbuildings and is used in part, for orchards and free range chicken farming.

The rezoning must be based on existing environmental significance of the land and while the land adjoins a Marine Park sanctuary zone, contains Biodiversity Values, coastal wetlands and other features, this does not warrant environmental zones given existing disturbance and ability to manage the land without impact on adjoining sensitive environments.

Environmental zones will reduce bushfire protection measures and undermine existing commercial agricultural use of the land and prevent the logical growth of Bundabah.

Response– Threatened species populations, habitat of endangered ecological communities, high conservation value vegetation and high biodiversity and water quality protection values have been identified across the site. This informs the application of environmental zones, consistent with the zone criteria within the Strategy.

While the submission focuses on agricultural aims and objectives of draft Rural Strategy, it is silent on the environmental components which are relevant to this specific site and sensitive location.

Ecological knowledge has been compiled from investigations and descriptions of the land, which identify many threatened species populations, habitat of endangered ecological communities, high conservation value vegetation and high biodiversity and water quality protection values. This knowledge informs and justifies the proposed environmental zones.

Land use zones do not hinder bushfire protection measures or actions permitted by the NSW Rural Fire Service.

Agricultural activity and development on the site are restricted, due to the application of Orders of the NSW Land and Environment Court. Areas of the site that are used for legitimate agricultural activities will have the benefit of existing use rights, in the event that the Court matter is resolved.

The site is not identified within Council's adopted Urban Release Area Report and therefore is not identified as a potential or future site for urban development.

S.313, S.348, S.356 and S.397 support the rezoning of identified rural land at Fame Cove to C2 Environmental Conservation and C4 Environmental Living, due to its sensitivity and environmental value.

The identified land at Fame Cove contains Endangered Ecological Communities (EEC). Council can ensure continued preservation of important and sensitive environmental areas, and protect them and the adjacent Port Stephens bay, from future inappropriate development.

The application of the C2 Environmental Conservation zone to existing proclaimed 'wildlife refuges' in this location is also supported and will not impact on wildlife refuge agreements that allow existing residential and farming to continue.

The application of the C4 Environmental Living zone to surrounding land is also supported in recognition of the environmental biodiversity in the location and opportunity to enhance and complement the adjoining Marine Park.

Response– *Support for the application of environmental zones is noted.*

S.259 objects to the C2 Environmental Conservation zone and C4 Environmental Living zone being applied to the site.

The land owner objects to the environmental zones being applied to the property given they have a small number of cattle, grow vegetables, live on the property and anticipate the change to the zone will reduce the value of the property.

The land owner is aware and has managed the property in consideration of the coastal wetland and is concerned that Council has not assessed the environmental values of the land or undertaken a strategy to support the rezoning.

Response – *The C2 Environmental Conservation zoning of the State-identified Coastal Wetland is consistent with State policy protection requirements. The C4 Environmental Living zone reflects the limited and low-scale development potential of the site given the environmental constraints and sensitivity of the location.*

The application of the environmental zones across the property are consistent with State policy, reflecting the location of a coastal wetland and limited development potential of the remainder of the site given the constraints and sensitivity of the environment. The existing activities undertaken on the site may continue under existing use right provisions within any new zone.

The proposed changes to the zone recommended within the Rural Strategy, reflect the existing level of environmental constraint and limited development potential of the land, particularly for various forms of intensive agriculture and rural industries allowed in rural zones.

S.349 objects to the application of environmental zones which will restrict future agricultural and business operations on the land.

Agricultural and commercial activities are not currently active but are permitted in the RU1 Primary Production zone and the landowner would prefer the site to be rezoned for rural purposes. The rezoning of the land will also limit bushfire prevention strategies.

The land owner notes that surrounding, similarly affected lands were not identified for rezoning from rural to environmental purposes and questions the requirement and purpose of the zoning change. The author also notes that the rezoning must comply with Local Planning Directions and State planning policies and this is not demonstrated.

Response – *The C2 Environmental Conservation zoning of the State-identified Coastal Wetland is consistent with State policy protection requirements. The C4 Environmental Living zone reflects the limited and low-scale development potential of the site given the environmental constraints and sensitivity of the location.*

The application of the environmental zones across the property are consistent with State policy, reflecting the location of a coastal wetland and limited development potential of the remainder of the site given the constraints and sensitivity of the environment.

The proposed changes to the zone reflect the existing level of environmental constraint and limited development potential of the land, particularly for various forms of intensive agriculture and rural industries allowed in rural zones.

The opportunity to make a development application for land uses currently permitted within the existing RU1 Primary Production will remain in place until the new MidCoast LEP is in force, however it is noted that the existing environmental constraints may affect the extent and intensity of development permitted on the site.

It is noted that the application of the C4 Environmental Living zone in the draft Rural Strategy online mapping tool were not comprehensive or as extensive as the mapping that will be required for a draft local environmental plan. The online mapping tool was provided as supplementary to the Strategy to assist in interpreting how zone criteria and development standards may be applied in the future.

Within the future draft MidCoast local environmental plan, mapping of draft zones, development standards, environmental and other mapping layers will be undertaken comprehensively and consistently across the local government area, based on the adopted recommendations of land use strategies and plans, including the Rural Strategy.

Land use zones do not hinder bushfire protection measures or actions permitted by the NSW Rural Fire Service.

S.260 objects to the identification of coastal wetlands and application of C2 Environmental Conservation zone on the site.

The land owner objects to the environmental zone being applied to areas identified as coastal wetland on the property.

The land owner has provided documents to Council and the Department of Planning & Environment, indicating that the vegetated area was originally a plantation. The land owner also has significant concerns about the lack of consultation undertaken by the Department when the coastal wetland mapping was prepared.

The land owner requests that Council undertake a review of the coastal wetland mapping.

Response – Based on the evidence provided by the landowner with the submission, an inspection of the property will be arranged to assess the ‘coastal wetland’ vegetation.

Should the vegetation not be identified as ‘coastal wetland’, an amendment to the Coastal Management SEPP mapping will be requested through the MidCoast LEP program.

Should the vegetation be confirmed as ‘coastal wetland’ the resolution of any inconsistency between the plantation activity and coastal wetlands protection, is outside the scope of the Rural Strategy and the [Environmental Planning & Assessment Act 1979](#), based on information from the [Plantations and Reafforestation Act 1999](#).

The Plantations and Reafforestation Act includes [Schedule 3 Savings, transitional and other provisions](#), and the land owner may wish to seek legal advice on the status of the plantation as it relates to the ‘coastal wetland’.

D. C3 Environmental Management – Zone criteria and application

The two main issues in submission to the application of the C3 Environmental Management Zone relate to flood-prone land and aquifer catchments. The information below is based on the State policy information available at the time of writing, which may require further review and amendment during finalisation of the Rural Strategy.

Flood-Prone Land

State policy on flood-prone land has been reviewed and updated within the last 12 months and is expected to be updated again in response to the 2022 flood events.

The *Local Planning Directions* issued by the Minister for Planning (1 March 2022); and Department of Planning & Environment *Planning Circular: PS 21-006 Considering flooding in land use planning* (2021) are provided as attachments to the report for context.

S.44 and S.56 object to an environmental zone being applied on flood prone land.

The landowners have lived experience of floods and while a broad application of an environmental zone is not supported, site-specific development restrictions based on flood hazard are considered reasonable.

The land owners are concerned that development has occurred within the flood planning area without appropriate drainage provisions. The owners are also concerned that the zoning change will impact on insurance premiums if based on flooding information.

S.148 and S.283 object to environmental zone being applied on flood prone land.

A broad application of a change of zone is not supported, but site-specific development restrictions based on flood hazard are considered reasonable.

The landowners request clarification on land uses and existing use rights should the property be rezoned from a rural to environmental purpose – dwelling entitlements, existing dwelling, dual occupancy and agricultural activities.

The owners are also concerned that the zoning change will impact on their ability to undertake work on their property, reduce the property value and limit existing and future use of the land. It is noted in the submission that Council have not provided options for compensation for any financial impact of a rezoning.

It is also requested that Council clarify which Ministerial Direction recommends application of an environmental zone on flood prone land; and apply rural and environmental zones consistently, noting Oxley & Mitchell Island flood affected but not included in the proposed environmental zone.

The landowner recommends that if Council change the zone to environmental management, they also be responsible for the cleaning up flood waste and undertake maintenance on the site. The land owner also believes better management of Farquhar Inlet will reduce up-stream flooding as experienced in and around Wingham.

S.284 and S.352 support environmental zones being applied on flood prone land.

The landowners have lived experience of floods and supports the application of an environmental zone to ensure inappropriate development and (permanent or temporary) structures are not located on flood prone land.

The land owner requests that where there are existing agricultural activities, existing use rights are acknowledged.

Response– The flood prone status of land is not changed by the Rural Strategy.

The application of an environmental zone, additional development restrictions or other planning controls over flood prone land is a matter currently under review by the Department of Planning & Environment. The recommendations and requirements of the Department will be reflected in the Rural Strategy and future MidCoast LEP and DCP.

Recent flood events have resulted in significant changes to how flood prone land is considered in land use strategies and environmental planning instruments such as the new MidCoast local environmental plan. In particular, the Local Planning Directions that must be complied with when preparing a new LEP include the following requirements:

Local Planning Direction 4.1 Flooding (commenced 1 March 2022)

Objectives

The objectives of this direction are to:

- (a) ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and*
- (b) ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood behaviour and includes consideration of the potential flood impacts both on and off the subject land.*

Application

This direction applies to all relevant planning authorities that are responsible for flood prone land when preparing a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.

Direction 4.1

(1) A planning proposal must include provisions that give effect to and are consistent with:

- (a) the NSW Flood Prone Land Policy,*
- (b) the principles of the Floodplain Development Manual 2005,*

(c) the Considering flooding in land use planning guideline 2021, and

(d) any adopted flood study and/or floodplain risk management plan prepared in accordance with the principles of the Floodplain Development Manual 2005 and adopted by the relevant council.

(2) A planning proposal must not rezone land within the flood planning area from Recreation, Rural, Special Purpose or Conservation Zones to a Residential, Business, Industrial or Special Purpose Zones.

(3) A planning proposal must not contain provisions that apply to the flood planning area which:

(a) permit development in floodway areas,

(b) permit development that will result in significant flood impacts to other properties,

(c) permit development for the purposes of residential accommodation in high hazard areas,

(d) permit a significant increase in the development and/or dwelling density of that land,

(e) permit development for the purpose of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate,

(f) permit development to be carried out without development consent except for the purposes of exempt development or agriculture. Dams, drainage canals, levees, still require development consent,

(g) are likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures, which can include but are not limited to the provision of road infrastructure, flood mitigation infrastructure and utilities, or

(h) permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event.

(4) A planning proposal must not contain provisions that apply to areas between the flood planning area and probable maximum flood to which Special Flood Considerations apply which:

(a) permit development in floodway areas,

(b) permit development that will result in significant flood impacts to other properties,

(c) permit a significant increase in the dwelling density of that land,

(d) permit the development of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate,

(e) are likely to affect the safe occupation of and efficient evacuation of the lot, or

(f) are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities.

(5) For the purposes of preparing a planning proposal, the flood planning area must be consistent with the principles of the Floodplain Development Manual 2005 or as otherwise determined by a Floodplain Risk Management Study or Plan adopted by the relevant council.

Within the context of the whole of the MidCoast, it is noted that there are significant areas of flood-prone land and land subject to flood related development controls. Many of these areas are already within a development zone.

However, it is also recognised that in certain locations where there is a likelihood of additional or intensification of development within a high-risk flood area, there may be an opportunity to change the land use zone to reflect the flood risk and limit future risks to life and property. Any rezoning of land for this purpose would have to be consistent with a risk-based assessment and review program, consistent with State policy requirements.

Recent changes to the Standard Instrument LEP have also included amendments to the assessment of development on flood prone land under *Clause 5.21 Flood planning* and *Clause 5.22 Special flood considerations*, directly aimed at the protection of life and property within the parameters of the land use planning framework.

The Rural Strategy and any land use zone recommendations do not change the flood prone status of land or the application of insurance premiums to flood prone land.

Council is however, required to undertake flood studies which may identify flood hazards and potential risks to life and property. Council is also required to provide information on flood prone land and the application of flood-related development controls in good faith, within planning instruments and planning certificates where this information is available.

Aquifer Catchments

During the most recent drought the MidCoast Drought Resilience Team, now the Water Resilience Team, was formed to respond to increasing water scarcity across the local government area. The Team recognised the need for additional strategic identification, management and protection of our water resources, including our priority drinking water catchments and aquifer catchments.

These initiatives are now being reflected in our new “Our Water Our Future” project, but also at a State level in the recently exhibited draft NSW Groundwater Strategy.

Within the planning framework there are two separately identified water resources that may be identified and protected: priority drinking water catchments and aquifers.

Priority drinking water catchments are generally well understood and defined as they relate to water extraction. These areas are also generally excluded from inappropriate development through an “integrated development assessment” trigger in the assessment framework, which requires a higher level of assessment than surrounding lands.

At the time of preparing the draft Rural Strategy there was no similar level of assessment on land within an aquifer catchment, unless an application for an extractive industry (mine) was proposed on the land that could penetrate and contaminate the aquifer.

The lack of an assessment framework for other land uses that may also contaminate water without our two significant water supply aquifers at Tea Gardens and Minimbah was identified as a significant risk to water security in the MidCoast.

Options available to Council to protect these water resources are limited: there is one known groundwater assessment clause and there is the option to apply an environmental zone that reflects the significance of these environmental features and the sensitivity of their associated catchments.

Consideration of both the assessment clause and the C3 Environmental Management zone was included within the draft Rural Strategy in the absence of additional State policy, to ensure assessment processes and land management practices reflect the unique nature of aquifer catchments within the MidCoast and their significance to maintaining a sustainable water supply.

S.54, S.71, S.87, S.133, S.137, S.153, S.186, S.187, S.226, S.234, S.254, S.262, S.267, S.270, S.276, S.295, S.310, S.316, S.331, S.396, S.408 and S.424 object to the proposed change from a rural to environmental management zone over the Minimbah aquifer catchment.

The submissions are concerned that the rezoning:

- does not adequately satisfy DPE guidelines for applying environmental zones;
- is inequitable, given the property owners being asked to protect the water supply, are not provided with town water or sewer connections that would provide additional protection to the same water supply;
- will reduce property values;
- changes may be applied retrospectively.

The owners question the minimum lot size standard to determine if:

- additional subdivision possible within the Large Lot Residential zone

- additional subdivision possible within the Environmental Management zone; and
- whether additional dwelling entitlements can be provided on existing under-sized lots.

The land owners undertake a range of activities that would become prohibited: horticulture including cropping for native flower production, protected hydroponics; cattle grazing; tree and vegetation clearing for maintenance and property improvements; fencing and dam construction; exempt development provisions – driveways, sheds and farm outbuildings; LLS native vegetation management provisions; truck depots and industrial activities.

Landowners want to maintain the following land use activities that would have minimal impact on the land or aquifer catchment:

Without consent – *Extensive agriculture; Home businesses;*

With consent - *Agricultural produce industries; Animal boarding or training establishments; Artisan food and drink industry; Boat launching; Boat shed; Camping grounds; Car park; Charter and tourism boating facilities; Community facilities; Dwelling houses; Dual occupancies; Eco-tourist facilities; Educational establishments; Flood mitigation works; Forestry; Home-based child care; Home industries; Home occupation; Jetties; Kiosks; Markets, Marinas; Moorings; Mooring pens; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Roadside stalls; Rural workers' dwellings; Secondary dwellings; Signage; Water recreation structures; Wharf or boating facilities.*

Additional information is requested on how the rezoning would affect: noxious weed control, bushfire hazard reduction burns, use of fire suppressants by NSW RFS on environmental lands; feral animal control, firewood collection; rates. Concern also regarding existing use rights for activities including a sand quarry, motor cross track, business equipment storage and holiday accommodation.

Landowners have questioned:

- the aquifer plant's compliance with health guidelines;
- how Pacific Highway runoff is managed to address pollution of waterways and the aquifer.
- the acquisition and rezoning of properties by Council for the construction and operation of a potentially polluting landfill within the aquifer catchment;
- whether the land fill site has already breached the aquifer and contaminated it.

A small number of land owners are also concerned that the boundary incorrectly identifies their property as draining into the aquifer instead of Wallamba River; and that the aquifer catchment is being treated differently to other drinking water catchments such as Bootawa Dam.

Response – Threatened species populations, high conservation value vegetation and water quality protection values have been identified across the site. The terrestrial and subterranean value of the aquifer catchment informs the application of environmental zones, consistent with the criteria within the Strategy. Additional advice on the management of aquifer catchments will be sought from the Department of Planning as the Rural Strategy recommendations are finalised.

The Department of Planning & Environment Practice Note [PN09-002 Environmental Protection Zones](#) recommends that the 'E2 Environmental Conservation zone be applied land under the care, control and management of another catchment authority such as the Department of Water and Energy or a council for critical town water supply, aquifer or catchment as appropriate.'

The C2 Environmental Conservation zone has been applied to Council lands within the aquifer catchment. However, this was considered inappropriate over other State and publicly owned lands, where a broad range of existing uses are being undertaken and additional consultation with the State agency is required.

The application of the C3 Environmental Management zone is considered consistent with the following statement from the Practice Note: 'Areas where a broader range of uses is required (whilst retaining environmental protection) may be more appropriately zoned E3 Environmental Management.'

The C3 Environmental Management zone that is being considered within the aquifer catchment, does not require the removal or cessation of extensive agricultural activities and other activities that may become prohibited would continue to have existing use rights. The proposed changes to zones, land uses and development standards within the Rural Strategy are not being considered for retrospective application, but for implementation through the new MidCoast LEP and DCP programs.

It is acknowledged that the aquifer catchments are being considered differently to priority drinking water catchments within the Rural Strategy.

At the time of preparing the Rural Strategy, only the priority Drinking Water Catchment clause and mapping has been broadly incorporated into LEP documents across the State. These provisions apply to catchments at Bootawa, Gloucester, Stroud, Bulahdelah and trigger an integrated development process and higher level of development assessment to ensure land uses and activities in these areas do not impact upon water quality or supply.

Aquifer catchments are not covered by the provisions of the Drinking Water Catchment clause and therefore do not have the same level of assessment or protection unless the Aquifer Interference Policy requirements are triggered for an extractive industry (mine) application within the catchment.

Aquifer catchments may be identified by the draft Groundwater Vulnerability clause and mapping. However, this clause has limited application across the State and does not appear to require the same level of protection, assessment or management for aquifer catchments. As a result, the C3 Environmental Management zone is considered appropriate and in keeping with the DPE guidelines.

Additional advice on this matter will be sought from the Department of Planning as the Rural Strategy recommendations are finalised.

The draft Rural Strategy also included a list of land uses that would be permitted with consent in this zone including many of the activities noted in the submissions:

Bed and breakfast accommodation; Building identification signs; Business identification signs; Camping Grounds; Cellar door premises; Eco-tourist facilities; Emergency service facilities; Environmental facilities; Environmental protection works; Extensive agriculture; Farm Buildings; Farm stay accommodation; Home-based childcare; Home Industry; Information and education facilities; Research station; Roads; Sewerage systems; Water supply systems

Council will continue to consider the range of land uses and activities that may be permitted in the environmental management zone, noting the comments of the DPE Biodiversity & Conservation Division submission.

This may also include consideration of a range of additional exempt and complying development provisions for land within environmental zones that would otherwise require a development application, consistent with existing SEPP Exempt & Complying Development (2008) provisions for farm buildings and the like on existing rural land.

The C3 Environmental Management zone that is being considered within the aquifer catchment, does not require the removal or cessation of extensive agricultural activities and other activities that may become prohibited would continue to have existing use rights.

The opportunity to make a development application for land uses currently permitted within the existing RU2 Rural Landscape zone will remain in place until the new MidCoast LEP is in force.

The current minimum lot sizes within this location are not currently being considered for amendment or reduction and the existing 40ha for subdivision and dwelling entitlements is to be retained on land within the aquifer catchment that may transition from a rural to environmental zone.

The [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021](#) also continues to make provisions for the clearing and management of vegetation within environmental zones, for activities associated with farm management, environmental protection and private native forestry.

Land use zones do not prohibit bushfire protection measures or actions permitted by the NSW Rural Fire Service. Activities such as weed, and feral animal management are outside of the scope of the Rural Strategy.

Advice from Council's Infrastructure & Engineering Services Division confirms that the work undertaken at the Nabiac Water Treatment Plant is at all times undertaken in accordance with the relevant licences, permits and health guidelines.

The requests for Council to consider extending town water and sewer connections to dwellings within the aquifer catchment to assist in protecting this water resource, have been referred to the Infrastructure & Engineering Services Division for consideration and the team have provided the following response:

The water and sewer system finish on the outskirts of the Nabiac Urban Area. The network does not extend to the southern side of the Wallamba River and there is no plan to extend the network in the future. The costs of extending the network to connect any properties in this area would be significant and well beyond any measure of affordability for property owners in this area.

Over the long term, it would be uneconomical to service this area due to the distances between residences and the existing system as well as the low service density.

Questions and concerns regarding the existing landfill approval were referred to Council's Waste Services section, who have provided the following information for the purpose of this report:

The Minimbah landfill operates under Environmental Protection licences with NSW EPA, as such the landfill is required to be constructed with an engineered lining system as per the Solid Waste Landfill Guidelines. The lining barrier is designed to protect the ground from any contamination from the landfill. The barrier system is made up of a Geosynthetic Clay Liner, 2mm High density polyethylene liner and an impermeable clay barrier (this equates to a three-layer impermeable barrier system, protecting the ground from contamination).

In 2021 after the major flood, waste was temporarily stored at the Minimbah facility for processing after which all waste was removed and sent to the Kemps Creek landfill in Sydney under a State Disaster Recovery Contract with SUEZ. The area utilised at the Minimbah site had a temporary leachate management system that collected all runoff so that waste water could be transported to the Dawson River Sewage Treatment Plant for treatment. After all waste was removed from the Minimbah site, the area utilised for processing was remediated with all contaminated material removed.

The Minimbah landfill has no Waste deposited at the site and is not programmed to be operated until 2042 at the earliest.

S.385 objects to the application of an environmental zone over existing rural areas of land within the Tea Gardens aquifer catchment.

The proposed rezoning would prohibit agricultural uses and is contrary to objectives of the Strategy and State policy, without justification or objective assessment of attributes of the land.

Highly disturbed with roads, clearing, an airstrip and agricultural activities. Current extensive agricultural activities including cropping and grazing; pine cultivation, milling and treatment. A water treatment plant is also located within and accessed via one of the southern allotments.

Rezoning must be based on existing environmental significance of the land and while the land contains Biodiversity Values, coastal wetlands and adjoins a Marine Park, RAMSAR wetland and National Park, this does not warrant the application of additional environmental zones, given existing disturbance and ability to manage the land without impact on adjoining sensitive environments.

Response– High conservation value vegetation and water quality protection values have been identified across the site. The terrestrial and subterranean value of the aquifer catchment informs the application of environmental zones, consistent with the criteria within the Strategy. Additional advice on the management of aquifer catchments will be sought from the Department of Planning as the Rural Strategy recommendations are finalised.

While the submission focuses on agricultural aims and objectives of draft Rural Strategy, it is silent on the environmental components which are relevant to this sensitive location.

The C3 Environmental Management zone that is being considered within the aquifer catchment, does not require the removal or cessation of extensive agricultural activities and other activities that may become prohibited would continue to have existing use rights.

The opportunity to make a development application for land uses currently permitted within the existing RU2 Rural Landscape zone will remain in place until the new MidCoast LEP is in force.

The [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021](#) also continues to make provisions for the clearing and management of vegetation within environmental zones for activities associated with farm management.

The resolution of any inconsistency between the pine plantation activity and existing areas of environmental protection, is outside the scope of the Rural Strategy noting the provisions of the [Plantations and Reafforestation Act 1999](#).

Council will continue to consider the range of land uses and activities that may be permitted in the environmental management zone, noting the comments of the DPE Biodiversity & Conservation Division submission.

This may also include consideration of a range of additional exempt and complying development provisions for land within environmental zones that would otherwise require a development application, consistent with existing SEPP Exempt & Complying Development (2008) provisions for farm buildings and the like on existing rural land.

E. C4 Environmental Living – Zone criteria and application

S.175 & S.195 object to the application of the C4 Environmental Living zone to land.

The land is used for grazing and the change in zone will restrict future improvements such as replacement of sheds and buildings. Wetlands are fenced to protect these environments from cattle. Restricting the use of the land will result in a reduced value of the land.

Response– The C4 Environmental Living zone reflects the limited and low-scale development potential of the site given the environmental constraints and sensitivity of the location.

The application of the environmental zones across the property are consistent with State policy, reflecting the location of a coastal wetland and limited development potential of the remainder of the site given the constraints and sensitivity of the environment.

The existing activities undertaken on the site may continue under existing use right provisions within any new zone, including the replacement of existing buildings and structures.

It is also noted that the opportunity to make a development application for land uses currently permitted within the existing RU1 Primary Production will remain in place until the new MidCoast LEP is in force.

S.41, S.53, S.191, S.243 and S.410 object to the application of the C4 Environmental Living zone to land.

The land is used for farming and the change in zone will restrict what the land can be used for, warranting compensation for lost property value. Rezoning from rural to environmental classification likely to impact on landowner ability to obtain financing, reducing resale and devaluing the land.

Purchased with option to also construct a dual occupancy for family members which will not be permitted in the environmental zone.

Self-sufficient and off-grid, looking to have some livestock and produce. Rezoning will limit land uses and restrict other activities such as collection of firewood and timber grown for sustainable harvesting as an income source, for on-site construction and repair of fencing etc. Logging of existing trees and future plantation likely to be restricted or prohibited. Construction and maintenance of permanent boundary fences, internal fences, roads and tracks likely to be limited.

The land owners are also concerned about the community consultation process and request that future notification and opportunities for consultation are directly addressed to rate-payers in specific correspondence and incorporate all potential areas identified for this rezoning.

S.170 objects to the application of the C4 Environmental Living zone to land as use of the land is already over-regulated.

S.362 objects to the application of the C4 Environmental Living zone which will restrict extensive agricultural and approved commercial activities on the holding.

The allotment fronting Bundabah Rd would lose its dwelling entitlement as a result of the change in zone and changed application of Clause 4.2A.

The holdings are operating as one semi-rural property, including bushfire management and clearing of vegetation consistent with the provisions of the existing RU2 Rural Landscape zone.

The C4 Environmental Living zone would be more appropriate on larger allotments with more significant environmental features and attributes than the subject allotment. This would reflect DPE Practice Note 09-002 which states the E4 Environmental Living zone is for “land with special environmental or scenic values” and “provides for low-impact residential development in areas with special ecological, scientific or aesthetic value”

Clause 3.3 of SI LEP also defines “environmentally sensitive areas” and the site does not meet these criteria.

S.367 objects to the application of the C4 Environmental Living zone which will restrict the existing pine plantation activities on the site and diminish land management and maintenance outcomes.

The holding is operating in accordance with the RU2 zone as a pine plantation and the Councils E Zone Review recommends that “if the environmental significance is not the primary consideration, then the land should not be allocated an environmental zoning”.

The rezoning from rural to environmental purposes is contrary to the primary production initiatives and goals of the Strategy.

S.371 objects to the application of the C4 Environmental Living zone given its inconsistent application to land in similar condition and location.

The holding is to be used for tea tree essential oil production which is permitted in a rural but not environmental zone. It is also unclear how the rezoning will affect financing in the future. Part 10.4 of the Strategy in discussing the E4 zone, refers to more information in the “rural living section”, which does not exist.

Response- *The application of the C4 Environmental Living zone will continue to be reviewed and refined to ensure the zone criteria clearly reflect its intent and purpose. The reference to “rural living” within the Rural Strategy will be updated to reflect the amended section heading “Rural Lifestyle Zones in the MidCoast”.*

The Rural Strategy identifies goals and objectives that relate to both primary production and environmental protection and while these may appear contradictory, across the MidCoast there are properties and holdings where both objectives apply and must be considered when applying future zones, land uses and development standards.

The C4 Environmental Living zone is being considered for land adjoining sensitive environments such as national parks, includes provisions for extensive agricultural activities occurring on the site; and other activities that may become prohibited would continue to have existing use rights.

The [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021](#) also continues to make provisions for the clearing and management of vegetation within environmental zones for activities associated with farm management.

The resolution of any inconsistency between the plantation and/or exempt farm forestry activity and existing areas of environmental protection, is outside the scope of the Rural Strategy noting the provisions of the [Plantations and Reafforestation Act 1999](#).

Council will continue to consider the range of land uses and activities that may be permitted in the environmental living zone, noting the comments of the DPE Biodiversity & Conservation Division submission.

This may also include consideration of a range of additional exempt and complying development provisions for land within environmental zones that would otherwise require a development application, consistent with existing SEPP Exempt & Complying Development (2008) provisions for farm buildings and the like on existing rural land.

The opportunity to make a development application for land uses currently permitted within the existing RU2 Rural Landscape zone will remain in place until the new MidCoast LEP is in force.

It is noted that the application of the C4 Environmental Living zone in the draft Rural Strategy online mapping tool were not comprehensive or as extensive as the mapping that will be required for a draft local environmental plan. The online mapping tool was provided as supplementary to the Strategy to assist in interpreting how zone criteria and development standards may be applied in the future.

Within the future draft MidCoast local environmental plan, mapping of draft zones, development standards, environmental and other mapping layers will be undertaken comprehensively and consistently across the local government area, based on the adopted recommendations of land use strategies and plans, including the Rural Strategy.

On land where a dwelling entitlement has been confirmed through a dwelling entitlement search, changes to land uses zones and development standards will not remove this dwelling entitlement. In certain locations where an existing rural zone with a 40ha or 100ha minimum lot size is replaced with a C4 Environmental Living zone with a proposed minimum lot size of 20ha, existing allotments (over 20ha but less than the existing 40ha or 100ha) may benefit from a new dwelling entitlement. This will be discussed in additional detail in the next section of the report – C4 Environmental Living zone Development Standards (Minimum Lot Size).

Land use zones do not prohibit bushfire protection measures or actions permitted by the NSW Rural Fire Service.

The reference to “rural living” within the Rural Strategy will be updated to reflect the amended section heading “Rural Lifestyle Zones in the MidCoast”.

Standard Instrument LEP Clause 3.3 does not determine if land is environmentally sensitive but provides clear guidance on land where exempt and complying development is not allowed, due to environmental criteria. Within this clause there is also an option for each Council to include additional criteria, and this is illustrated by the additional criteria in Great Lakes LEP 2014 to exclude areas within 100m from coastal waters and coastal lakes.

S.127 and S.333 object to the application of the C4 Environmental Living zone which will restrict extensive agricultural and approved commercial activities.

The semi-rural holdings allow for horticulture, limited grazing and certain commercial activities in the RU2 Rural Living zone. Existing approved commercial activities would become prohibited in the C4 Environmental Living zone and would be reliant on existing use rights, limiting expansion and potentially require relocation.

Do not believe that land is near any sensitive environments or within an environmentally sensitive catchment.

Response - The application of the C4 Environmental Living zone will continue to be reviewed and refined to ensure the zone criteria clearly reflect its intent and purpose. Additional advice on this matter will be sought from the Department of Planning as the Rural Strategy recommendations are finalised.

The C4 Environmental Living zone is being considered for land adjoining sensitive environments such as coastal wetlands, which are identified on adjoining properties. The draft Rural Strategy also includes provisions for extensive agricultural activities within the C4 zone and other activities that may become prohibited would continue to have existing use rights.

The [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021](#) also continues to make provisions for the clearing and management of vegetation within environmental zones for activities associated with farm management.

Council will continue to consider the range of land uses and activities that may be permitted in the environmental living zone, noting the comments of the DPE Biodiversity & Conservation Division submission.

This may also include consideration of a range of additional exempt and complying development provisions for land within environmental zones that would otherwise require a development application, consistent with existing SEPP Exempt & Complying Development (2008) provisions on existing rural land.

The opportunity to make a development application for land uses currently permitted within the existing RU2 Rural Landscape zone will remain in place until the new MidCoast LEP is in force.

F. C4 Environmental Living – Development Standard (Minimum lot size)

S.124 objects to the application of the C4 Environmental Living zone and associated 20ha minimum lot size.

The proposed environmental zones and minimum lot sizes will compound existing bushfire risk. The application of a reduced lot size of 1.5ha, either with the C4 Environmental Living zone or the R5 Large Lot Residential zone, would allow for expansion of the village using existing roads and facilities, and allow additional clearing for fire trails and management.

Response – *High conservation value vegetation and threatened species have been identified on the site and the application of an environmental zone is consistent with criteria within the Strategy.*

Consideration of the C4 Environmental Living zone with a minimum lot size of 20ha in this location is considered consistent with the guidance of the *Department of Planning & Environment Practice Note PN09-002 Environmental Protection Zones*.

The site is not identified within Council's adopted Urban Release Area Report and therefore is not identified as a potential or future site for urban development.

Land use zones do not prohibit bushfire protection measures or actions permitted by the NSW Rural Fire Service.

S.308 request consideration of a reduced minimum lot size to allow subdivision of the allotment.

There are two approved dwellings on the property and the landowner is seeking support for a reduced minimum lot size to enable subdivision.

Response – *The site specific request for a reduced minimum lot size to enable subdivision is outside of the scope of the Rural Strategy.*

The land owner has been referred to Council's Development Assessment Panel to discuss existing local environmental plan provisions and the subdivision request.

S.318, S.365, S.369 and S.374 object to any change in zone in the vicinity or in the villages of Pacific Palms that allows for additional development and subdivision.

In certain locations where an existing rural zone with a 40ha or 100ha minimum lot size is replaced with a C4 Environmental Living zone with a proposed minimum lot size of 20ha, existing allotments (over 20ha but less than the existing 40ha or 100ha) may benefit from a new dwelling entitlement. This will be discussed in additional detail in the next section of the report – C4 Environmental Living zone Development Standards (Minimum Lot Size).

Response – *Only land within the existing RU2 Rural Landscape zone in the vicinity of Pacific Palms and Smiths Lake is identified for change as part of the Rural Strategy. The application of a new zone and reduced minimum lot size do not guarantee an additional subdivision or development outcome, as the Strategy also includes a range of clauses that require consideration of risk, environmental impact and the suitability of the land for new and additional development across the rural landscape.*

Existing village, business and environmental zones in the vicinity of Pacific Palms and Smiths Lake are not identified for change as part of the Rural Strategy. The Strategy does consider the replacement of the RU2 Rural Landscape zone with environmental zones in areas between the National Park and Forestry land, and the village and environmental areas of Pacific Palms and Smiths Lake.

Environmental zones are being considered in recognition that intensive agricultural activities permitted in rural zones, would be inappropriate in this location which includes heavily vegetated areas, steep land and the sensitive Smiths Lake catchment.

While new areas of C4 Environmental Living zone are being considered with a reduced minimum lot size of 20ha, other areas of C3 Environmental Management would retain the existing 40ha minimum lot size.

In locations where the existing RU2 Rural Landscape zone with a 40ha minimum lot size is replaced with a C4 Environmental Living zone with a proposed minimum lot size of 20ha, some existing allotments may benefit from a new dwelling entitlement. Within other areas, the existing subdivision potential may increase as a result of the reduced minimum lot size.

These potential changes to development potential do not however, guarantee that there will be an increased development outcome on the affected land. As discussed in the July Council report, the NSW Rural Fire Service, the assessment of any proposed subdivision or development within land that is identified as bushfire prone, would require the preparation of a Bush Fire Assessment Report and comply with the [NSW RFS Planning for Bush Fire Protection](#) (2019) requirements.

The draft Rural Strategy also includes a range of clauses that require consideration of risk, environmental impact and the suitability of the land for new and additional development across the rural landscape, including:

1. *Site responsive subdivision in rural and environmental zones (new draft clause)*
2. *Subdivision of land in certain rural, residential or environment protection zones (amended existing clause)*
3. *Rural and nature-based tourism development (new draft clause)*
4. *Rural and nature-based tourist accommodation (new draft clause)*
5. *Erection of dual occupancies and secondary dwellings in Zone RU2 (amended existing clause)*
6. *Essential Services and infrastructure (amended existing clause)*
7. *Emergency management (amended existing clause)*
8. *Clause 4.2A Erection of dwelling houses on land in certain rural and conservation Zones (amended existing clause)*
9. *Exceptions to development standards [compulsory] (amended existing clause)*

Therefore, while the application of new zones and minimum lot sizes will continue to be reviewed and refined in consultation with the Department of Planning & Environment and Department of Primary Industries – Agriculture, the Strategy also provides other opportunities to ensure subdivision and development across the rural landscape is undertaken in a site responsive manner, in consideration of a risk-based assessment framework.

G. Site specific review requests – Gloucester region

S.66 Objection to extended area of C2 Environmental Conservation on land adjoining The Bucketts granite outcrops.

The existing conservation area consists mostly of The Bucketts rock formation and is well suited however the extension covers areas used for grazing and agriculture. The zone change will also impact on plans for future tourism and commercial activities on the land.

Response – The whole of the site is currently zoned for environmental purposes however the extent of the C2 Environmental Conservation zone will be reviewed based on the zone criteria within the final Rural Strategy.

The whole of the site is currently zoned for environmental purposes. The amended alignment of the C2 Environmental Conservation zone has been drafted to reflect those areas of the subject and adjoining sites that not only include the visible granite outcrops of The Bucketts, but the surrounding steep and heavily vegetated land that are a feature of this natural landscape.

The proposed amendment to the zone boundary reflects the existing level of environmental constraint in these areas of the site, constraints that would likely also limit the potential for tourism and commercial activities within the current zone.

The opportunity to make a development application for land uses currently permitted within the existing C3 Environmental Management zone, will remain in place until the new MidCoast LEP is in force.

S.84, S.106, S.321 and S.366 object to the application of environmental zones and request rural zones be applied to reflect existing farming and forestry activities.

Response – The extent and classification of environmental zones on the identified land has not been changed by the Rural Strategy.

Throughout the Gloucester, Great Lakes and Greater Taree local environmental plans there are extensive areas of C2 Environmental Conservation and C3 Environmental Management zoned land.

The existing areas C2 Environmental Conservation and C3 Environmental Management were transitioned from a range of environmental protection zones, scenic protection layers, coastal acquisition and conservation zones, in accordance with the guidelines and requirements of the Department of Planning and Environment's Standard Instrument Principal Local Environmental Plan template and format when it was introduced in 2006.

Except for the C3 Environmental Management zone located in the immediate vicinity of Gloucester and The Bucketts formation, these existing areas were retained within the Rural Strategy exhibition program.

Many properties that have areas of C2 Environmental Conservation and C3 Environmental Management operate as existing farms and may also have areas of private native forestry.

The properties noted within the submissions have been reviewed and the areas within the existing environmental zones are consistently identified as steep land, heavily vegetated, with direct linkages to adjoining or surrounding national parks and these areas not used as cleared pasture within the existing farm holdings.

This demonstrates that the application of environmental zones does not automatically result in the removal or cessation of existing lawful activities on affected lands. The application of environmental zones does, however, require a higher level of consideration of the potential impact of new development or land uses, to ensure environmentally sensitive lands are suitably protected and managed into the future.

In this regard, when C2 Environmental Conservation and C3 Environmental Management zoned land is transitioned and applied in the future MidCoast LEP, these areas will be subject to the Ministerial Direction 3.1 Conservation Zones, that specifies:

(2) A planning proposal that applies to land within a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP must not reduce the conservation standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with Direction 9.2 (2) of "Rural Lands".

The Rural Strategy, by retaining existing areas of C2 Environmental Conservation and C3 Environmental Management is consistent with this Direction, except for the areas in the vicinity of Gloucester.

CONSULTATION

The public exhibition was based on the adopted Communication and Consultation Strategy and provided an opportunity for Council to 'check-in' with the community and key stakeholders.

The community consultation program was undertaken between 30 August 2021 and 28 January 2022.

Public exhibition of the Draft Rural Strategy, with supporting information including but not limited to background reports, online mapping, fact sheets and FAQs commenced in an online and physically distanced capacity, requiring personal and site-specific consultation to be undertaken in one-on-one phone calls and via email enquiries only.

Given the number of submissions received, they are being reported to Council by issue and/or location to enable due consideration of the issues raised, the options available in response, and any recommended amendments to the draft Rural Strategy.

As relevant issues or locations are reported to Council, individuals, land owners or organisations that made a related submission are notified.

COMMUNITY IMPACTS

Completion of the Rural Strategy is aimed at providing a clear and consistent framework for land use, conservation and development across the rural, natural areas and waterways of the MidCoast.

Implementation of the Strategy recommendations through the MidCoast LEP and DCP are expected to provide environmental, social and economic benefits to the communities and residents of the MidCoast.

The communication and consultation program were therefore an important opportunity to: gain feedback from the community on the short and long-term recommendations in the Strategy; involve the community in the process; and provide a sense of ownership of the outcomes.

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

The Rural Strategy program is complex and diverse and as a result, reflects many of the key values, objectives and outcomes of the *MidCoast Community Strategic Plan 2022-2032*, Strategies and activities in the *2022-2026 Delivery Program* and *2022-2023 Operational Plan*:

WE VALUE... our unique, diverse and culturally rich communities

Our diverse communities offer active and social opportunities, are safe and are places where we work together with a creative focus acknowledging our rich history and culture.

WE VALUE... a connected community

We are socially and physically connected with each other, by ensuring we have activities, facilities, roads, footpaths and technology that are upgraded and well maintained.

WE VALUE... our environment

Our natural environment is protected and enhanced, while we maintain our growing urban centres and manage our resources wisely.

WE VALUE... our thriving and growing economy

We are a place where people want to live, work and play, business is resilient and adaptable to change by utilising knowledge and expertise that supports innovation.

WE VALUE... strong leadership & shared vision

We work in partnerships towards a shared vision, that provides value for money and is community focused.

The Strategy also reflects the following Community Outcomes from the Plan 2022-2032:

Community Outcome 1: A resilient and socially connected community

Our diverse communities offer active and social opportunities for everyone; they are safe and are places where we work together with a creative focus acknowledging our rich history and culture.

1.1 We celebrate our history, culture, creativity and diversity

1.1.1 Celebrate, acknowledge and empower our local Aboriginal heritage through sharing of art, stories, history and places

1.1.4 Celebrate and preserve the unique and distinctive character, history and cultural heritage of our towns, villages and significant places

1.3 We work towards being a sustainable, resilient and socially connected community

1.3.2 Support communities to identify priorities to ensure they are sustainable into the future

1.3.4 Support individuals, families and communities to prepare, respond and recover from natural disasters or emergency events

Community Outcome 2: An integrated and considered approach to managing our natural and built environments

Our natural environment is protected and enhanced, while we maintain our growing town centres and manage our resources wisely.

2.1 We protect, manage and restore our natural environment and our biodiversity

2.1.1 Protect, maintain and rehabilitate natural areas

2.2 We understand and manage environment and climate change risks and impacts

2.2.1 Promote understanding of place-based risks and vulnerabilities and develop resilience and adaptation plans Provider Planner Advocate SES, residents and rate payers, Resilience NSW, Fire Management

2.2.2 Climate change risk management planning and adaptation frameworks are applied in development proposals, infrastructure planning and land use planning

2.3 Council works towards net zero emissions

2.3.1 Incorporate renewable energy and energy efficiency in future design and planning

2.3.2 Promote energy and resource efficiency initiatives to our community

2.4 We have an adequate and reliable water supply

2.4.1 Manage all elements of the water cycle to deliver an adequate and reliable water supply that meets community needs now and into the future

2.5 We balance the needs of our natural and built environment

2.5.1 Practice integrated land use planning that balances the environmental, social and economic needs of present and future generations and our existing natural, heritage and cultural assets

2.5.2 Plan, provide, manage and advocate for infrastructure that continues to meet the needs of our community

2.6 We have a diverse range of housing options

2.6.1 Plan and advocate for a range of housing options to meet the diverse needs of our community

Community Outcome 3: A thriving and strong economy

A strong regional economy that supports business and jobs growth.

3.1 MidCoast is a great place to visit, work and invest

3.1.1 Identify and harness opportunities for businesses and economic development

3.1.3 Advocate for improved telecommunications and utilities to provide consistency across the region

3.2 Our villages and business precincts are vibrant commercial spaces

3.3 Our integrated transport networks meet the needs of our businesses and the community

3.3.1 Plan, provide and advocate for safe and efficient regional transport networks

Community Outcome 4: Strong leadership and good governance

Council is focused on being sustainable, well-governed, and delivering the best outcomes for the community.

4.1 The Community has confidence in Council decisions and planning for the future

4.1.1 Enable the community to participate in decisions that affect them

Completion of the Rural Strategy program will enable commencement of the MidCoast Local Environmental Plan and Development Control Plan programs, identified as Major Projects for 2022-2026 in the Delivery Program and Operational Plan.

This work will in turn, facilitate the Key Service of the Land Use Planning team, to ‘*Deliver a sustainable land use planning framework for the MidCoast by working with the community and NSW Government*’.

TIMEFRAME

Reports on submissions received during public exhibition of the Draft Rural Strategy are being reported to Council in a coordinated manner to ensure consideration can be given to the matters raised and how these may result in amendments to the Strategy prior to adoption.

Adoption of the final amended Rural Strategy in 2022 will enable commencement of the MidCoast Local Environmental Plan and Development Control Plan programs and exhibition of these documents in 2023.

LIST OF ATTACHMENTS

The following attachments are available on the meeting page of Council’s website under the ‘Attachments to Agenda’ heading. The copy of Attachment 2 on the website has had the personal information redacted to protect the privacy of the members of the public providing submissions.

Attachment 1 Environmental Submission Summary table (includes maps for location and site-specific submissions) (51 pages)

Attachment 2 Copies of the relevant submissions (337 pages)

Attachment 3 Local Planning Directions (1 March 2022) (58 pages)

Attachment 4 Department of Planning & Environment PS 21-006 Considering flooding in land use planning (2021) (3 pages)

Attachment 5 Northern Councils E Zones Review Report (2015) (18 pages)

Attachment 6 Department of Planning & Environment Practice Note PN 09-002 Environment Protection Zones (2009) (10 pages)

14.3. MODIFICATION OF DEVELOPMENT APPLICATION FOR SUBDIVISION (MOD2022/0030) – POINT ROAD, TUNCURRY

REPORT INFORMATION

Report Author	Bruce Moore - Coordinator Major Assessment
Date of Meeting	7 September 2022
Authorising Director	Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

An application to modify to DA-265/2021 pursuant with Section 4.55(2) of the *Environmental Planning & Assessment Act 1979* was submitted on 15 February 2022 to amend the subdivision layout and modify several conditions of the consent.

The modified lot layout requires a variation to the minimum lot size development standard.

The modification application was notified in accordance with MidCoast Council's Community Engagement Strategy with three submissions being received.

RECOMMENDATION

That the application to modify Development Consent DA-256/2021 (MOD2022/0030) for the subdivision of Lot 164, DP 655650 and Lot 2, DP 1196454, Point Road, Tuncurry be approved in accordance with the modified conditions of consent contained in Attachment 1.

DETAILS

Date Received:	15 February 2022
Applicant:	Site Research & Development Pty Ltd
Owner:	Tuncurry Point Road Pty Ltd
Land:	Lot 164, DP 655650 and Lot 2, DP1196454, Point Road, Tuncurry

FINANCIAL / RESOURCE IMPLICATIONS

Nil.

LEGAL IMPLICATIONS

Nil.

RISK IMPLICATIONS

Nil.

BACKGROUND

The site has been subject to a number of development applications in recent years. The land has also been approved as a fill deposition site for clean sand fill associated with navigation dredging works in Wallis Lake.

The majority of the subject site was filled in the early 1990s to around RL 2.2m in accordance with two development consents (DA 4334 and DA 4441) issued by the former Great Lakes Council.