

14.3. RURAL STRATEGY SUBMISSIONS – PAPER SUBDIVISIONS ANALYSIS REPORT

REPORT INFORMATION

Report Author	Alex Macvean - Senior Land Use Planner
Date of Meeting	28 September 2022
Authorising Director	Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

This report documents the submissions received during the public exhibition of the Draft Rural Strategy and associated Paper Subdivision Analysis Report between 30 August 2021 and 28 January 2022.

The public and State agency submissions discussed in this report relate to the Paper Subdivision Analysis Report that was exhibited with and contributes to, recommendations in the Rural Strategy.

The adopted Rural Strategy will inform preparation of the MidCoast Local Environmental Plan.

RECOMMENDATION

That Council endorse proposed amendments to the Paper Subdivision Analysis Report and related amendments to the Rural Strategy as documented within this report.

FINANCIAL / RESOURCE IMPLICATIONS

Merger funds were allocated to the Rural Strategy. The public exhibition, review, amendment and completion of the Rural Strategy and associated Paper Subdivision Analysis Report have been undertaken utilising these funds and the resources of the Land Use Planning team of MidCoast Council.

The resolution of land-based constraints, facilitation of the Development Plan and Subdivision Order processes, establishment of memorandum-of-understanding between land owners to commence and pursue these processes, are outside the scope of the Rural Strategy program, and the resources of MidCoast Council.

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 and associated Paper Subdivision Analysis Report reduce the risk of proceeding with the preparation of planning controls for the MidCoast that have not been subject to a comprehensive community consultation process.

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 will also form 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 four 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 and 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.

PAPER SUBDIVISION ANALYSIS REPORT

The original purpose and intent of the Paper Subdivision Analysis (PSA) Report, in the context of the Rural Strategy and associated urban strategies undertaken by Council's Land Use Planning team, is to provide zone, land use and development standard (lot size, building height) recommendations for the future MidCoast local environmental plan and development control plan.

As stated within the Introduction of the PSA Report:

At the commencement of the Rural Strategy program, MidCoast Council recognised that the ongoing uncertainty about the future of land in paper subdivisions must be addressed and that clear and consistent recommendations must be provided as part of the new MidCoast planning framework.

This resolve has only increased with the more recent pressures, ongoing concern and interest from the owners of land within paper subdivisions about the future use of their land.

The purpose of this analysis report is to:

1. *provide a transparent and consistent analysis of the constraints that apply to identified paper subdivisions;*

2. *provide high-level recommendations on the future conservation or development opportunities for these areas; and*
3. *provide clear and consistent information on the options available to land owners, based on this analysis and the State planning framework that applies.*

This report provides a high-level review of the challenges and opportunities in using land within paper subdivisions. It documents three options available to land owners and potential planning controls and criteria for an assessment framework for these areas.

The report includes an analysis of several paper subdivisions within the MidCoast. However, it is acknowledged that:

- the paper subdivisions identified in the appendix are not exhaustive;*
- this report does not address in detail, individual under-size rural allotments that are not within an identified paper subdivision; and*
- the analysis is high-level and strategic in nature, based on information and data available at the time of writing.*

The PSA Report Conclusion also confirms that the information only represents a high-level desktop analysis:

“undertaken in good faith by Council as a first step to provide a consistent approach to the identification of constraints and opportunities that may affect the development potential of land within a paper subdivision.

This analysis has been undertaken irrespective of any known or existing dwelling entitlements i.e. in some locations the dwelling entitlement provisions of Clause 4.2A may already be extinguished, by existing development or the transfer of individual allotments to Council.

The options and the recommendations in Section 5 are based on the information available at the time of writing and should not be taken as an exhaustive identification of potential constraints or an exhaustive identification of locations where paper subdivisions exist in the MidCoast.”

The PSA Report therefore achieves two key outcomes based on the information currently available:

- A. The PSA Report provides zone, land use and development standard recommendations consistent with the Rural Strategy, for implementation in the MidCoast LEP program; and*
- B. The PSA Report identifies the key issues and constraints that would require further investigation and resolution should land owners collectively, wish to fund and pursue a development outcome using the process outlined within the Department’s [Planning for Paper Subdivisions Guideline](#).*

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.

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 (lot sizes, building height) (**27 July 2022 report**)
- Environmental Zones - Zone criteria; Land uses; and Development Standards (lot sizes, building height) (**7 September 2022 report**)
- **Paper Subdivisions Analysis Report – this report**

Authors of submissions are notified prior to the relevant report being tabled for consideration by Council. This report refers to information provided by State agencies and the public in submission received during the exhibition, contained within the following attachments:

1. 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.

At the conclusion of the submission reports, a final report documenting all endorsed amendments to the Rural Strategy and Paper Subdivision Analysis Report will be tabled, for Council's consideration for adoption.

As with previous reports, key documents from the relevant State agencies have been considered by Council in developing the PSA Report, as they provide guidance and context on how, when and why zones are generally applied and are provided as attachments to this report:

3. DPE Planning for Paper Subdivisions Guidelines (2013)
4. Local Planning Directions, issued by the Minister for Planning (1 March 2022)
5. Department of Planning & Environment Planning Circular: PS 21-006 Considering flooding in land use planning (2021)
6. Department of Planning & Environment Practice Note: PN 09002 Environment Protection Zones (2009)
7. Northern Councils E Zones Review Report (2015)

Since the preparation of the PSA Report, several State policies have been amended and updated and where possible, these will be considered in responses to submissions, and updates to the Strategy and Report.

It is also acknowledged that additional information has been requested on certain issues within the PSA Report, and wherever possible this information and the supporting State information has been provided.

These State policy documents include the following, which have been provided as attachments to this report:

8. Biodiversity Map Explanation document (2020)
9. Department of Primary Industries – Agriculture: Planning for Agriculture in Rural Land Use Strategies (2022)
10. NSW RFS Planning for Bushfire Protection (2019)

Out of the 430 submissions received during the 22 week exhibition program, 278 were received providing comment, suggestions and feedback on the Paper Subdivision Analysis Report and land within and adjoining paper subdivisions.

Most submissions were received from the owners of land within paper subdivisions at Bundabah, North Arm Cove, Pindimar North and Pindimar South. The image below is provided as a locational reference.

The submissions are individually referenced within the submission summary table in Attachment 1, but due to the volume being considered, have been grouped under the following headings for the purpose of this report:

A. Objection to consultation process

B. Comments about Rates on land in paper subdivisions

C. Objection to Report recommendations

D. Impact of environmental zone on existing land uses and activities

E. Support a development outcome

F. Support camping and request additional information and guidance

G. Services, facilities and enforcement

H. Support for the application of environmental zones

I. Request an alternative environmental zone

J. Heritage significance and recognition



A. Objection to consultation process

Many submissions from owners of land within paper subdivisions included an objection to the consultation process being held during the COVID lock down, because land owners could not visit their land, attend a public meeting or meet Council officers face-to-face to discuss their concerns, for example:

“The language in the Strategy and Report is very technical and appears to intentionally force owners to accept the document as a foregone conclusion. The environmental zoning does not reflect the cleared state of many lots and should not be applied from a desktop assessment only.

Council has also undertaken consultation on the Strategy and Report during COVID lockdowns, precluding public meetings and not allowing landowners to visit their land to assess the impact of the rezoning.

The consultation process did not allow enough time for land owners to contact each other to work together to pursue an outcome, as suggested in the Report.”

Within some submissions it was also clear that land owners thought the exhibition of the Rural Strategy and the Paper Subdivision Analysis Report would result in an 'immediate' change to the zone, development standards and land use provisions on their land.

Several submissions also expressed disappointment with the North Arm Cove Local Community Plan process and 'exclusion' on non-urban land owners from the steering committee for this program

"contrary to NSW planning legislation requirements and Council should develop new Community Participation Plans and Community Engagement Strategies that would properly engage with non-urban land owners".

Response – No amendment to Rural Strategy or Paper Subdivision Analysis Report recommendations. Council will undertake additional consultation and engagement when the Draft MidCoast Local Environmental Plan is on exhibition. The rezoning of land will only occur when the new MidCoast LEP comes into force.

The Rural Strategy considers all waterways, rural and environmental lands across the MidCoast, as part of a strategic and comprehensive process for establish a framework of planning controls for the new MidCoast Local Environmental Plan and Development Control Plan.

During the Rural Strategy exhibition public health orders limited opportunities for public forums and meetings until November 2021. Council were also aware that many owners of land within paper subdivisions reside outside of the local government area and would have limited opportunities to attend public meetings, whether public health orders were in place or not.

To ensure a high level of customer service to land owners outside of the LGA, a call-back appointment process was established and maintained throughout the 22 week exhibition period. 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 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.

The rezoning of land does not affect the existing use rights of approved and lawful activities or development; or require the removal of approved and lawful structures and development.

Response – The Local Community Plan program is not related to the strategic land use planning program of the Rural Strategy and Paper Subdivision Analysis Report.

In April 2022 Council resolved not to have any future role in the preparation of local community plans. The plan prepared for North Arm Cove was facilitated by Council but undertaken by members of the local community.

When the local community plan process was commenced under the MidCoast Local Community Planning Framework (prior to its rescission) there was no exclusion of any member of the community.

The zoning of land and issues associated with non-urban land at North Arm Cove were however excluded from the process, as they are outside the scope of a local community plan, which is not a plan for the purpose of considering land use zones, development or to inform the preparation of an environmental planning instrument.

Council's community participation plan and community engagement strategy are currently being reviewed and will be on public exhibition during October for community feedback.

B. Comments about Rates on land in paper subdivision

Many land owners expressed frustration that they continue to pay rates for land that cannot be built upon, with no noticeable improvement in the services, facilities or infrastructure in the location. Some landowners *"request that infrastructure is provided to service camping using rates:*

- *waste disposal and garbage collection in holidays*
- *dump points, septic tanks and/or composting toilets*

- *public toilets in reserves*
- *provide guidance and allow vegetation management on lots used for camping*
- *relocate/confirm location of access roads within road reserves*
- *street lighting and signage.”*

Several submissions also ask Council to use the rates income from land owners, to resolve the issues identified within the PSA Report, provide infrastructure and allow development on all existing allotments. Requesting that Council use:

“land rates for further investigations of the development option for land within the identified extent of the paper subdivision:

- *receiving land from owners who cannot continue to pay rates is unethical*
- *specialist reports into infrastructure – roads, water, waste and stormwater requirements to determine if these issues can be resolved*
- *a bushfire analysis should be prepared to assess risk, while there is only one road access evacuation by water is possible*
- *new dwellings can be built to the 1 in 100 year flood levels by filling or building construction*
- *development on each site can be limited to provide environmental protection*
- *environmentally sustainable options should be investigated*
- *land owners would contribute to the costs of infrastructure for development*
- *development will provide additional rate revenue to Council”*

Response – No amendment to Rural Strategy or Paper Subdivision Analysis Report recommendations as calculation of property values and the calculation and collection of rates is outside the scope of this project.

Under the Local Government Act 1993, Council must levy rates on all land, whether it can be built upon or not, as a result non-urban land is not exempt from rates.

The only land which is exempt from the payment of rates is as follows: *vacant crown land; national parks; state forests; schools; reserves; and land used for charitable or religious purposes.*

Additional information on rates is available on Council’s website [Your rates explained - MidCoast Council \(nsw.gov.au\)](https://www.midcoast.nsw.gov.au/your-rates-explained).

The calculation of property values, rate classifications, rating of property and allocation of rates to services and infrastructure within the local government area are outside the scope of the Rural Strategy and Paper Subdivision Analysis Report.

C. Objection to PSA Report recommendations

Several submissions raised objections to the recommendations of the PSA Report and asked for the land to remain within a rural zone until the land was zoned for residential purposes.

Others objected to the application of an environmental zone without enough justification and consideration of how constraints could be overcome to achieve a development outcome.

It was also stated in some submissions that:

“Council cannot rezone land it owns, without following Paper Subdivision Guidelines.

The findings of the Paper Subdivision Analysis Report identify constraints, but there is scope for a residential or village zone to allow sustainable development using new technology and limiting impact. Specialist reports on the viability of water, sewer, waste and bushfire could be undertaken to determine costs and opportunities.

The original subdivision design should be identified as an opportunity, with new technology and solutions available for the provision of water, power and sewage. These issues and the legal status of roads can also be resolved using rates from non-urban land owners.

Council is asked to allocate funding to further investigation and studies to resolve these issues in the budget for 2022-23, and Council should work with the State government to have NAC identified in the Housing Strategy and identified as a potential future urban release area.”

Response – No amendment to Rural Strategy or Paper Subdivision Analysis Report recommendations for implementation in the MidCoast LEP program.

The Rural Strategy and associated Paper Subdivision Analysis Report represent the final stages of a comprehensive review of the existing zones and development standards that apply across the MidCoast within the Gloucester LEP 2010, Great Lakes LEP 2014 and Greater Taree 2010.

This process, and the future development of a new MidCoast LEP and Development Control Plan, are required to be undertaken as a result of the merger of the three former Councils.

Based on the findings of these reports the identified paper subdivisions are generally:

- too constrained to support commercially viable primary production activities (a rural zone);
- too constrained to support development on all existing allotments (a residential or village zone); and
- environmentally constrained or ecologically significant in whole or part (an environmental zone).

The allocation of environmental zones and development standards (minimum lot size and height of building) have been allocated to each location based on the environmental values and constraints identified, for implementation through the MidCoast LEP program.

The rezoning of land does not affect the existing use rights of approved and lawful activities or development; or require the removal of approved and lawful structures and development.

Consideration of any alternative zones or development standards would require further investigation and resolution by land owners collectively, in accordance with the Department of Planning’s Paper Subdivision Guidelines process.

Response – No amendment to Rural Strategy or Paper Subdivision Analysis Report recommendations for implementation in the MidCoast LEP program.

The rezoning of these lands for the purpose of informing the new MidCoast LEP has not triggered the criteria that would require implementation of the Planning for Paper Subdivision Guidelines or “prohibit dwelling entitlements”.

These key contributors to submissions at North Arm Cove are engaging in discussions and preliminary investigations for future development options, but the outcomes and process is at an inception stage only and do not yet satisfy the commencement provisions of the Planning for Paper Subdivision Guidelines.

The Department of Planning & Environment’s Planning for Paper Subdivision Guidelines provides a separate framework for the resolution of issues associated with services, infrastructure, environmental constraints and development potential by land owners and a relevant authority, through a concept Development Plan and Subdivision Order.

The zones and development standards recommended by the Rural Strategy for land within paper subdivisions and implemented in the future MidCoast LEP, may therefore, be amended in the future, in accordance with location-specific investigations and assessments that are produced through this separate process.

The policy and practice of rezoning land without development potential that has been transferred to Council to an environmental zone in North Arm Cove is consistent with Council’s policy and practice as evidenced by the rezoning of land through Great Lakes LEP 2014 and has been on hold during the strategic land use planning review process undertake since merger in 2016.

Response – Rural Strategy and Paper Subdivision Analysis Report will be updated to reflect any amended and updated local and regional strategy documents wherever possible

The land within the North Arm Cove paper subdivision is not identified as a potential urban growth area or urban release area within the MidCoast Urban Release Area Report or the Hunter Regional Plan.

The Department of Planning recognised the unique challenges associated with realising development potential within paper subdivisions across NSW, when it released the Planning for Paper Subdivisions Guideline in 2013.

Council, in preparing the PSA Report, has reviewed each identified paper subdivision in the MidCoast, and provided two key outcomes based on the information currently available:

- A. The PSA Report provides zone, land use and development standard recommendations consistent with the Rural Strategy, for implementation in the MidCoast LEP program; and
- B. The PSA Report identifies the key issues and constraints that would require further investigation and resolution should land owners collectively, wish to fund and pursue a development outcome using the process outlined within the Department's [Planning for Paper Subdivisions Guideline](#).

D. Impact of environmental zone on existing land uses and activities

Land owners raise concerns about the difference between a rural and an environmental zone and how this will impact on existing land uses, occupation and activities.

Many land owners have objected to the environmental zone on the basis that it removes dwelling entitlements, reduces land management and maintenance outcomes, while potentially exacerbating bushfire hazard conditions.

Some submissions also state that:

“the Report appears to apply one zone, however different approaches are required, based on consideration of issues such as:

- *the historic use and environmental values of the land*
- *anomalies created by the pattern of existing permitted houses*
- *the risk of bushfire to existing villages and residents*
- *existing drainage issues that will be exacerbated by increasing sea levels”.*

Response – Rural Strategy and Paper Subdivision Analysis Report recommendations are to be reviewed for consistency prior to finalisation and implementation in the MidCoast LEP program.

The environmental zones applied to the land reflect the environmental constraints and sensitivity of the location, consistent with the zone criteria provided within the draft Rural Strategy. These criteria continue to be reviewed and refined in response to State agency and public submissions received during exhibition of the draft Rural Strategy.

The environmental zones applied to land within Carrington generally reflect the provisions of the *Department of Planning & Environment Practice Note [PN09-002 Environmental Protection Zones](#)* and the draft environmental zone criteria from the Rural Strategy:

- coastal wetlands, ecologically and environmentally significant land (C2 Environmental Conservation);
- Council land that is heavily vegetated, flood affected, with biodiversity value or adjoining coastal wetlands (C3 Environmental Management);
- private land that is heavily vegetated, flood affected, with biodiversity value or adjoining coastal wetlands (C3 Environmental Management);
- private land used for low intensity residential uses in an environmentally sensitive location (C4 Environmental Living).

In response to many submissions and enquiries requesting additional information on the environmental value and or features of the land within and adjoining paper subdivisions, the PSA

Report has been amended to include publicly available information from the Biodiversity Values Map and BioNet Threatened Species database (flora and fauna information).

The additional information may require reconsideration of the land use zones and minimum lot size development standards within the paper subdivisions, consistent with the broader environmental zone criteria considerations and recommendations for other locations documented within the Rural Strategy.

The environmental zones being considered do 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 rezoning of land does not affect the existing use rights of approved and lawful activities or development; or require the removal of approved and lawful structures and development.

Within the PSA Report, consistent with existing Council policy and practice, land transferred to Council is to be rezoned environmental to reflect the level of constraint that exists on these sites. Council will also classify these lands to community purpose, to reflect the intent that these lands are not on-sold for development but retained for environmental or community purpose in the future.

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

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 plantation and/or exempt farm forestry activities 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.

The rezoning of land does not affect the existing use rights of approved and lawful activities or development; or require the removal of approved and lawful structures and development.

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.

Response – The Rural Strategy includes a draft clause provision that requires consolidation of existing holding allotments, where that existing holding is relied upon for the purpose of development approval for a dwelling house.

Existing dwelling entitlements and development approvals for dwellings will not be affected by the proposed change in zone.

Clause 4.2A of Great Lakes LEP 2014 is documented in full within the Submissions summary table in Attachment 1 and provides a definition of an existing holding (dwelling entitlements) will remain in force until such time as the new MidCoast LEP is made:

Clause 4.2A Erection of dwelling houses on land in certain rural and environment protection zones

(6) In this clause— existing holding means land that—

(a) was a holding on 15 May 1964, and

(b) is a holding at the time the application for development consent referred to in subclause (3) is lodged, whether or not there has been a change in the ownership of the holding since 15 May 1964, and includes any other land adjoining that land acquired by the owner since 15 May 1964.

Holding means all adjoining land, even if separated by a road or railway, held by the same person or persons.

Note— The owner in whose ownership all the land is at the time the application is lodged need not be the same person as the owner in whose ownership all the land was on the stated date.

Within The Branch paper subdivision, the C4 Environmental Living zone has been applied to consolidated properties with dwelling entitlements where they are not: adjoining the riverfront and heavily flood affected; within or adjoining coastal wetlands.

Consolidation of allotments that form an existing holding and have been relied upon to obtain development approval for a dwelling is encouraged and may be required as a form of deferred development consent.

E. Support a development outcome

Many submissions support a development outcome on land within the identified paper subdivisions, with an overwhelming number supporting a residential development outcome on every allotment within the existing subdivision layout.

Various submissions also express frustration that the constraints identified in the PSA Report have not already been resolved by Council utilising the income from rates.

Other submissions state that:

“the environmental zone as it will diminish land owner rights and use under the EP&A Act 1979 and Regulation 2000 and deny land owners to establish mechanisms and overcome barriers to realising the development potential of paper subdivisions.

Within the paper subdivision dwelling entitlements and building approvals have already been issued. A pathway to initiating contact with all land owners would been to be provided and supported by Council”.

Response –A development outcome on every existing allotment within the identified paper subdivisions is not possible given identified constraints and legislative requirements, therefore the Paper Subdivision Analysis Report recommendations will be progressed through the MidCoast LEP program.

A form to enable contact between land owners will be attached to the final PSA Report.

Key principles for each location, based on identified constraints and legislative requirements, will be provided where possible, to provide additional context for land owners willing to fund the studies, investigations and master planning required to follow the Department of Planning’s Paper Subdivision Guidelines process.

The Paper Subdivision Analysis Report was prepared as a high-level assessment of paper subdivisions, to determine if any of these areas could be rezoned to enable development on each existing allotment as part of the MidCoast LEP program. There were no locations where this scenario was found to be possible.

Council has prepared the Report in good faith, based on information that is either publicly available and/or Council would normally consider in the preliminary stages of any rezoning proposal – infrastructure, services, bushfire, flood and ecological constraints.

The Report also provides information to all landowners on the constraints that apply to the land that would have to be addressed and resolved, should they wish to collectively pursue a development outcome in accordance with the Paper Subdivision Guideline process and requirements.

Council acknowledges that initiating communication between land owners is challenging given privacy restrictions, however, the PSA Report will be amended to include the [Request to initiate contact with adjoining property owner form](#) available on Council’s website.

While the Report can be amended to identify key principles for each location, should land owners within any of the identified subdivisions wish to pursue a development outcome, this would be reliant on more detailed studies being undertaken.

These detailed studies and additional work required to prepare a Development Plan are outside the scope of the Rural Strategy and the Paper Subdivision Analysis Report.

These detailed studies would be required to inform the preparation of a concept Development Plan and to make an application to the Minister in accordance with the Department of Planning's Paper Subdivision Guidelines process.

This work is also beyond the resource capacity of MidCoast Council and would likely require financial and resource commitments from affected land owners prior to commencement, and the State government throughout the process, as has been the case in other locations in NSW.

Costs associated with consolidation, subdivision, development and any other associated processes are borne by the land owner and/or developer.

Within the Report, consistent with existing Council policy and practice, land transferred to Council is to be rezoned environmental to reflect the level of constraint that exists on these sites. Council will also classify these lands to community purpose, to reflect the intent that these lands are not on-sold for development but retained for environmental or community purpose in the future.

NOTE: The draft land use zone mapping shown at Coolongolook is inconsistent with the approach required by the Paper Subdivision Guideline, in that the whole of the paper subdivision must be considered as part of a Development Plan and Subdivision Order.

The identification of select allotments for rezoning from rural and village, without resolution of the remaining allotments, is inconsistent and should not be progressed through to the MidCoast LEP mapping program at this time.

F. Support camping and request additional information and guidance

Many land owners have requested ongoing support for low impact camping activities but request additional information on what can be done on non-urban land to facilitate camping activities. Including requests for clear guidance on the following:

- i. Can I flatten the ground to allow for caravan to be driven through and parked levelled?*
- ii. If I am allowed to flatten the ground, can I put a concrete slab? What is the maximum metres square I can build?*
- iii. I would like to put on a fence around my block, are there any requirements regarding what materials, heights, etc I need to use?*
- iv. Can I remove vegetation on the fence line?*
- v. I am able to put a shed to store gardening / Camping tools? What is the allowable size and Material?*
- vi. I am able to build a Carport/ shelter? What are the maximum requirements?*

Response – No amendment to Rural Strategy or Paper Subdivision Analysis Report recommendations. Additional information on camping and associated activities will be provided on Council's Non-urban Land webpage to ensure all relevant information is available to land owners.

Private camping on private land is not a development matter that is addressed by a local environmental plan or development control plan but is regulated by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021:

[Subdivision 3 Installation of moveable dwellings on land other than land in caravan parks or camping grounds](#)

Clause 77 Installations for which approval not required

(1) The approval of the council is not required for the installation of the following—

- (a) 2 caravans or tents if they are not occupied for—*
 - (i) more than 2 consecutive days, and*

(ii) more than 60 days in a 12 month period,

(b) 1 caravan on land occupied by the owner of the caravan in connection with the owner's dwelling house if the caravan is—

(i) used for habitation only by the owner or members of the owner's household, and

(ii) maintained in a safe and healthy condition,

However, to enable use of the land and installation of a caravan, land owners also need to ensure they have legal access and relevant permits to remove vegetation and build any structures on the site, which are regulated by other legislation such as the State Environmental Planning Policy (Exempt & Complying Development) 2008.

Information on camping, clearing vegetation and structures on non-urban land is available on Council's Non-urban Land webpage, but community feedback indicates it is unclear and applied inconsistently.

Specific information from relevant legislation shall therefore be provided on the updated webpage, this is provided in full in the Summary of submissions table in Attachment 1, but is summarised below:

Land owners must obtain a permit, approval or development consent for the removal or pruning of a tree or other vegetation on any land, not just land within paper subdivisions.

The type of approval required is regulated by different legislation based on the vegetation on the individual site:

- **Native vegetation:** The [Local Land Services Act 2013](#) legislates clearing of native vegetation on rural land. Hunter Local Land Services administers the act in the MidCoast. For more information please go to [Land management in NSW - Website - Local Land Services](#)
- **Clearing in coastal wetlands or littoral rainforest:** This is regulated under the [State Environmental Planning Policy \(Coastal Management\) 2018](#) requires development consent from Council.
- **Threatened species or ecological communities:** When clearing land that could contain threatened species, threatened ecological communities or protected plants a biodiversity conservation licence may be required. Further information is available on the DPIE [website](#).

It is also unlawful to remove, prune or damage trees or vegetation on neighbouring properties without consent from the owner. Within paper subdivisions, this would include the removal of vegetation from any road reserves that provide access to the private property.

Vegetation management for bushfire protection purposes is a separate activity, regulated by the NSW Rural Fire Service.

The [State Environmental Planning Policy \(Exempt & Complying Development Codes\) 2008](#) (Codes SEPP) allows for certain low scale and low impact structures and activities to be undertaken on properties without approval, this is known as exempt development.

Exempt Development can only be undertaken if [Part 1 Division 2](#) of the Codes SEPP is satisfied. Within paper subdivisions, Clause 1.16 (3)(b) usually applies and requires land owners to obtain a permit, approval or development consent for the removal or pruning of a tree or other vegetation on any land, before any exempt development can be undertaken.

Clause 1.16 from the Codes SEPP is provided in full at the end of the Submissions summary table in Attachment 1.

These activities cannot be undertaken on neighbouring properties or other land, without consent from the owner. Within paper subdivisions, this would include the removal of vegetation from any road reserves that provide access to the private property.

The Codes SEPP also provides clear direction and requirements for the range of exempt development commonly requested to make land within paper subdivisions more suitable for camping activities.

Based on the requirements of the Codes SEPP, any of these activities, and any other exempt development not listed above, that:

- cannot be undertaken without vegetation removal or where approval to remove vegetation is not granted; and
- cannot comply with the specified development provisions and development standards of the relevant section of the Codes SEPP,

require lodgement of a development application before any activities can be undertaken or structures can be installed.

Any work undertaken without permit, approval or consent may result in fines, penalties, removal of structures and rehabilitation of the site, at the cost of the land owner.

Additional information on the requirements and provisions of the Codes SEPP are available on the NSW Legislation website – [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 - NSW Legislation](#).

G. Services, facilities and enforcement by Council

Submissions from residents and land owners using land for camping have asked questions about the services, facilities and enforcement activities of Council.

Some land owners in support of the Rural Strategy and PSA Report recommendations indicated that these documents

“provided confirmation that many non-urban land owners do not consider development application requirements, regulations or environmental impact when using their land:

- *there is extensive clearing, importing of fill, unauthorised development and environmental damage to non-urban lots*
- *abandoned caravans and structures*
- *dumping of rubbish and human waste*
- *unregulated burn-offs, burning of rubbish and fire-pits are a common occurrence*
- *the unregulated and unauthorised use of vehicles on roads, reserves and foreshores by adults and children during holiday periods*
- *the management of on-site sewage, waste and garbage by campers, particularly during holiday periods”.*

Response - Public amenities, management of on-site sewage, waste and garbage are outside of the scope of the Paper Subdivision Analysis Report and Rural Strategy.

Matters relating to public amenities; management of on-site sewage by camping land owners; and the management of waste and garbage, particularly during holiday periods have been referred to the relevant sections of Council and the following comments provided:

- *Public recreation areas and facilities are being reviewed as part of Council’s Open Space review program and community comments are being sought on Council’s website at: [Re-thinking our outdoor spaces | Have Your Say \(nsw.gov.au\)](#); and*
- *Additional waste services and bulk bins are provided in high use areas during holiday periods. During recent holiday periods, the bulk bins in some locations were not able to be accessed as vehicles were obstructing the bins. Council is also aware that in some locations, residential waste is deposited into bulk bins The use and location of these facilities is reviewed following each holiday period and within the waste services review.*

Council is not the regulatory authority for traffic, trespass or property damage offences and these matters should be referred to the NSW Police.

H. Support for the application of environmental zones

There are a small number of submissions that support the PSA Report recommendations to apply an environmental zone in recognition of the unique natural setting and environmental sensitivity of many of the coastal paper subdivisions.

These land owners support the ongoing protection of these areas through the application of an environmental zone, with recognition of existing farms and camping arrangements.

Response – Rural Strategy and Paper Subdivision Analysis Report recommendations are to be reviewed for consistency prior to finalisation and implementation in the MidCoast LEP program.

Response – C3 Environmental Management zone objective to be amended to read “To conserve biological diversity and native vegetation corridors, and their scenic qualities”.

The environmental zones applied to the land reflect the environmental constraints and sensitivity of the location, consistent with the zone criteria provided within the draft Rural Strategy. These criteria continue to be reviewed and refined in response to State agency and public submissions received during exhibition of the draft Rural Strategy.

The environmental zones applied to land within Carrington generally reflect the provisions of the *Department of Planning & Environment Practice Note [PN09-002 Environmental Protection Zones](#)* and the draft environmental zone criteria from the Rural Strategy:

- coastal wetlands, ecologically and environmentally significant land (C2 Environmental Conservation);
- Council land that is heavily vegetated, flood affected, with biodiversity value or adjoining coastal wetlands (C3 Environmental Management);
- private land that is heavily vegetated, flood affected, with biodiversity value or adjoining coastal wetlands (C3 Environmental Management);
- private land used for low intensity residential uses in an environmentally sensitive location (C4 Environmental Living).

In response to many submissions and enquiries requesting additional information on the environmental value and or features of the land within and adjoining paper subdivisions, the PSA Report has been amended to include publicly available information from the Biodiversity Values Map and BioNet Threatened Species database (flora and fauna information).

The additional information may require reconsideration of the land use zones and minimum lot size development standards within the paper subdivisions, consistent with the broader environmental zone criteria considerations and recommendations for other locations documented within the Rural Strategy.

The environmental zones being considered do 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 rezoning of land does not affect the existing use rights of approved and lawful activities or development; or require the removal of approved and lawful structures and development.

I. Request an alternative environmental zone

A small number of land owners have requested that the C3 Environmental Management zone be amended to the C4 Environmental Living zone, to enable consideration of “low impact residential development in areas with special ecological, scientific or aesthetic values”.

Response– Rural Strategy and Paper Subdivision Analysis Report recommendations are to be reviewed for consistency prior to finalisation and implementation in the MidCoast LEP program. Additional consideration will be given to the minimum lot size in the PSA Report, given the additional ecological information that has been sourced and included, in response to submissions.

The environmental zones applied to the land reflect the environmental constraints and sensitivity of the location, consistent with the zone criteria provided within the draft Rural Strategy. These criteria continue to be reviewed and refined in response to State agency and public submissions received during exhibition of the draft Rural Strategy.

The environmental zones applied to land within Carrington generally reflect the provisions of the *Department of Planning & Environment Practice Note [PN09-002 Environmental Protection Zones](#)* and the draft environmental zone criteria from the Rural Strategy:

- coastal wetlands (C2 Environmental Conservation);
- Council land that is heavily vegetated with biodiversity value (C3 Environmental Management);
- private land that is heavily vegetated, flood affected, with biodiversity value and adjoining coastal wetlands (C3 Environmental Management);
- private land used for low intensity residential uses in an environmentally sensitive location (C4 Environmental Living).

In response to many submissions and enquiries requesting additional information on the environmental value and or features of the land within and adjoining paper subdivisions, the PSA Report has been amended to include publicly available information from the Biodiversity Values Map and BioNet Threatened Species database (flora and fauna information).

The additional information this provides in the Carrington locality indicates that the Biodiversity value of this location may be higher than originally identified. This may require reconsideration of the draft Minimum Lot Size of 10ha within the paper subdivision to a larger lot size of 20ha, consistent with the broader environmental zone criteria considerations and recommendations for other locations documented within the Rural Strategy.

J. Heritage significance and cultural recognition

Several submissions note that the subdivision of North Arm Cove, prepared by Walter Burley Griffin, includes a network of public open spaces and cultural heritage that is not recognised in the Strategy but is to be nominated as a heritage item of State Significance by land owners and other community groups.

Response – The Paper Subdivision Analysis Report is to be updated to indicate ‘The subdivision layout should be reflected in any consolidation, concept Development Plan or Subdivision Order for North Arm Cove.’

The matter of the proposed identification of the North Arm Cove subdivision layout being nominated for State Significant heritage listing has been referred to Council’s Heritage Advisor and the following comments provided:

Heritage listing is not appropriate for this site.

The significance is the subdivision design by Walter Burley Griffin and associated documentation is a historical archival record kept in several organisations including the Land Registry office, NSW State Library and MidCoast Council. This would apply to most original parish plans and old town plans that have historical value but have no heritage influence on the ground.

Given there is nothing tangible or interpretable at North Arm Cove, it would fail to satisfy the NSW Heritage Council’s criteria for heritage significance and therefore would be unable to be listed as a heritage item.

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 copies of Attachments 2 & 11 on the website have had the personal information redacted to protect the privacy of the members of the public providing submissions.

Attachment 1 Submission Summary table (92 pages)

Attachment 2 Copies of the relevant submissions (737 pages)

Attachment 3 DPE Planning for Paper Subdivisions Guidelines (2013) (24 pages)

Attachment 4 Local Planning Directions, issued by the Minister for Planning (1 March 2022) (58 pages)

Attachment 5 Department of Planning & Environment Planning Circular: PS 21-006 Considering flooding in land use planning (2021) (3 pages)

Attachment 6 Department of Planning & Environment Practice Note: PN 09002 Environment Protection Zones (2009) (10 pages)

Attachment 7 Northern Councils E Zones Review Report (2015) (18 pages)

Attachment 8 Biodiversity Map Explanation document (2020) (26 pages)

Attachment 9 Department of Primary Industries – Agriculture: Planning for Agriculture in Rural Land Use Strategies (2022) (22 pages)

Attachment 10 NSW RFS Planning for Bushfire Protection (2019) (116 pages)

Attachment 11 Community Group Information (61 pages)