
ITEM 14.030/16 PLANNING PROPOSAL – WORKFORCE ACCOMMODATION

Meeting	Environment, Planning & Community Committee	12 April 2016
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Strategic & Economic Planning (David Morrison)	
Attachment	Yes	

SUMMARY

In response to demand a planning proposal has been prepared to recognise “workforce accommodation” as part of the overall “residential accommodation” definition and to facilitate the development of workforce accommodation proposals in the Council’s residential zones. “Workforce accommodation” is a use not clearly addressed by the Local Environmental Plan and hence, following recent legal cases, is prohibited in most zones.

OFFICER RECOMMENDATION

That Council:

1. As the relevant planning authority, initiate the Local Environmental Plan “Gateway” process pursuant to Section 55 of the Environmental Planning and Assessment Act 1979 by endorsing the attached Planning Proposal to facilitate the provision of workforce accommodation (as a form of residential accommodation) associated with large infrastructure projects or other industries or enterprises in the Council area or wider region in residential zones (R1, R2 and R3) and the tourism zone (SP3) under Council’s LEP.
2. Forward the Planning Proposal to the Department of Planning and Environment (the Department) requesting a “Gateway” determination, pursuant to Section 56 (1) of the Environmental Planning and Assessment Act.
3. Undertake community consultation regarding the Planning Proposal, subject to the determination of the Gateway Process.
4. Exercise any delegation that may be specified and issued by the Gateway determination and Written Authorisation to Exercise Delegation.
5. Endorse the attached *Workforce Accommodation Policy Statement* as a basis for a Development Control Plan amendment and to provide direction in the interim.

COMMITTEE RECOMMENDATION

Williamson/Howe

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Howe, Hughes, McKenna, Williamson

Against: Nil

COUNCIL RESOLUTION – 14.030/16

Howe/Hughes

That Council:

1. As the relevant planning authority, initiate the Local Environmental Plan “Gateway” process pursuant to Section 55 of the Environmental Planning and Assessment Act 1979 by endorsing the attached Planning Proposal to facilitate the provision of workforce accommodation (as a form of residential accommodation) associated with large infrastructure projects or other industries or enterprises in the Council area or wider region in residential zones (R1, R2 and R3) and the tourism zone (SP3) under Council’s LEP.
2. Forward the Planning Proposal to the Department of Planning and Environment (the Department) requesting a “Gateway” determination, pursuant to Section 56 (1) of the Environmental Planning and Assessment Act.
3. Undertake community consultation regarding the Planning Proposal, subject to the determination of the Gateway Process.
4. Exercise any delegation that may be specified and issued by the Gateway determination and Written Authorisation to Exercise Delegation.
5. Endorse the attached *Workforce Accommodation Policy Statement* as a basis for a Development Control Plan amendment and to provide direction in the interim.

Voting recorded as follows:

For: Baker, Howe, Hughes, Kingsley, Lysaught, Toms, Simmons, Williamson, McKenna

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Our Leadership

Objective 5.1 We will have a strong, accountable and representative Government

Strategy 5.1.6 Make prioritised decisions in the long-term interest of the broad community and have regard to financial and infrastructure sustainability

BACKGROUND

Council has received several recent enquiries including Development Management Unit (DMU) meetings regarding provision of workers accommodation for the Pacific Highway upgrade.¹ These enquiries have indicated a short term life generally in line with the construction period of the Pacific Highway upgrade project, eg a period of approximately 5 years. The Pacific Highway upgrade is but one of several other major infrastructure/construction projects scheduled in the period 2015/16 to 2019/20; others include the recently announced correctional facility east of Grafton (Lavadia) and Additional Clarence River Crossing, Grafton. Whilst there may be a degree of speculative nature to these enquiries, they do indicate a market demand or need for such accommodation to supplement the more conventional housing forms.

The Pacific Highway upgrade segments currently underway in the Clarence Valley (Glenugie/Halfway Creek and Harwood) involves workers some of which are already based and being accommodated partly in the

¹ Three recent DMUs totalling approximately 300 beds, plus three other informal enquiries totalling another 250 potential beds.

available traditional rental housing stock and to some degree in the tourist accommodation stock (including caravan/tourist parks).

There is no data currently available to inform on the current and projected mix of:

- (i) volume of workforce
- (ii) origin of workforce – including those workers ordinarily from outside of the Clarence Valley commuting daily to the “job sites” versus those already resident in the valley working on the project commuting daily to the “job sites”
- (iii) accommodation type sought (rented house/unit versus caravan/tourist park versus motel/hotel versus other types)

The Roads and Maritime Services, in discussion with Council and other agencies in mid-2015, indicated that they are undertaking an analysis of anticipated workforce characteristics to better inform the housing needs assessments. It was anticipated that this information would be available by late 2015, however is still yet to be made public. This would have informed private investment decisions and the need, if any, for Council to amend its planning instrument. Given the lead time to amend the instrument and to construct such housing, and the likely peak construction activities in late 2016, 2017 and 2018, Council needs to initiate action now in advance of this workforce data.

It is believed that the recent level of enquiry and current level of activity is sufficient enough to justify immediate review of the planning controls to enable them to be responsive enough to consider bone fide workforce accommodation proposals in appropriate locations.

KEY ISSUES

There are a number of key issues which can be considered under the following headings:

- potential housing market imbalance
- planning context - characterisation of use and permissibility
- alternative interpretations and responses to workforce accommodation needs
- appropriate locations

Potential Housing Market Imbalance

Simply, the workforce needs of the range of infrastructure are significant compared to the size of the Clarence Valley economy/workforce. Various estimates suggest in the order of 4,000 workers being directly employed on the Highway. Notwithstanding that some of this will be spread over adjoining local government areas and some will be sourced from the existing local workforce, compared to an existing Clarence Valley workforce of 20,000-22,000, this impact is significant. Given the traditionally low residential vacancy rates, it is reasonable to assume that without a corresponding increase in housing supply, there is potential for market imbalances to occur during and post construction with spikes and possibly post-construction drops in the cost of housing. Such imbalances are likely to result in a range of social issues. Whilst there is scope for the traditional housing sector to pick up some of this demand, lead times with development and the scale of the potential imbalance suggest that other forms of worker accommodation may desirably form part of the mix to help ameliorate any adverse impacts.

Planning Context – characterisation of use and permissibility

The Clarence Valley Local Environmental Plan 2011 (the CVLEP) is based on the over arching Standard Instrument Order. This Order mandates definitions and certain land use permissibility issues for all LEPs throughout the state. Unfortunately, the Order is silent on the matter of workforce accommodation (including temporary, itinerant workforces, mining camps etc), and hence how to categorise and determine proposals is uncertain. Some clarity has more recently been provided by the courts (*Graincorp Operations Ltd v Liverpool Plains Shire Council [2013] NSWCA 171*). In short, this decision confirms that workforce accommodation (temporary or otherwise) is a form of the over arching definition of “residential accommodation” (albeit an innominate, or undefined component of that definition). This effectively means

that for the CVLEP, such uses are prohibited in virtually all land use zones, excepting the SP3 Tourist Zone. Other potential definitions, such as “*tourist and visitor accommodation*” and “*caravan parks*” are not considered to comply with the Court of Appeal’s decision as mentioned above.

Hence, it is Council’s staff view that an amendment is required to the CVLEP to enable consent to such proposals to be considered, and to ensure that any approvals are safe from legal challenge from a point of law viewpoint.

More detail of the legal interpretation is included at Attachment 3.

Appropriate locations

Workers coming to an area work on larger scale infrastructure/construction and other projects (eg mines) for short, medium or longer term periods can be (and some most likely already are) accommodated in a wide range of:

- (i) accommodation types - rental houses/units, secondary dwellings, motels, pub rooms, caravan or holiday/tourist parks (in moveable dwellings, caravans, mobile homes/“RVs” and other forms of moveable dwellings), boarding/lodging arrangements in existing private dwellings, private land camping; and
- (ii) locations from urban through to rural.

In May 2013 SGS Economics and Planning completed a social and economic assessment of a proposed temporary accommodation village (MAC group) to house up to 3000 FIFO mining industry related workers (in up to 1500 accommodation units) to be located about 2.5 kilometres outside of Singleton. Its overall findings/conclusions were that it was more desirable socially and economically for the local and regional economy and community to draw upon the local and regional labour force as opposed to the “importing” and the accommodation of up to 3000 FIFO workers. It found that having a dedicated self-contained workers village camp located “out of town” to be of less benefit to the local and regional economy and community than if they were located “in town” or otherwise resident in other parts of the region. Local business would benefit more and existing infrastructure would be utilised more efficiently if a mining workforce was located in an “in town” context, be it Singleton or other towns or villages within the nearby region.

In the case of the Clarence Valley locating workforce accommodation in the rural and “out of town” context close to particular highway construction segments does not offer the benefits to the local economy that locating such facilities in an “in town” context would. Instead it is considered that there is opportunity for the major towns of the Clarence Valley (Grafton, Maclean, Yamba and even Iluka) to offer opportunities to host appropriately sized/scaled and designed workforce accommodation facilities in an “in town” context. The scale of individual proposals will, in relation to more specific locations, need careful planning and design eg smaller sites in established infill locations versus larger sites proximate to the urban edge. Larger scale MAC style workers villages would not be considered appropriate to help meet any workforce accommodation demand whether in an “in town” or “out of town” context.

Feedback to Council from the Clarence Roundtable indicated a community preference for:

- smaller rather than larger facilities;
- near to towns where the town may be best able to gain some economic benefit through the provision of services;
- opportunities for workers to integrate with the local community as a means to encourage some to stay (ie facilitating a “soft landing” from the infrastructure boom);
- encouragement of a wide range of other more conventional housing types – ie the solution to avoiding adverse housing issues involves a range of measures of which dedicated worker accommodation is just one part of that mix.

In this context, and in keeping with the definition of workforce accommodation being a form of “residential accommodation”, the attached Planning Proposal seeks to make the use permissible in the conventional residential zones, being R1 General Residential, R2 Low Density Residential, and R3 Medium Density Residential. This would allow development applications to be considered on their merits.

Approaches have been made to staff about the use of industrial zones for this form of accommodation on a time limited basis aligned to the construction work. While the justification for this is that there is, in some locations, a reasonable supply of vacant, serviced industrial land available, and the use would be separated from impacts on other residential areas, such an approach would be difficult to justify on a broad basis with the zone objective “to support and protect industrial land for industrial uses”. If the local economy is to be able to maximise potential benefits of the infrastructure through spin-off industrial development, care needs to be taken not to reduce the opportunity for those developments to occur. There is also a potential inconsistency with Section 117 Direction 1.1 (4) (d) which effectively requires that a planning proposal not, inter alia, reduce the total potential floor space for industrial uses in industrial zones.

For these reasons, it is not proposed to include industrial or commercial zones in the Planning Proposal. Any requests on these lands would have to be considered as a separate site specific rezoning application that addresses the significance of the Section 117 Direction in that context. Further clarification of this is included in the attached *Workforce Accommodation Policy Statement*.

COUNCIL IMPLICATIONS

Budget/Financial

The Planning Proposal has been prepared and is being managed utilising existing in-house resources requiring no additional budget allocation at this stage.

Asset Management

N/A

Policy or Regulation

- Environmental Planning and Assessment Act 1979 (EP & A Act) – including relevant State environmental planning policies and Minister’s Section 117 Directions made under the Act.
- State Environmental Planning Policy 21 - Caravan Parks
- Local Government Act 1993
- Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Consultation

There has been informal internal with Council’s Environment, Development and Regulated Services Section and Water Cycle Section regarding the issue of workforce accommodation. Public or other external stakeholder consultation has not yet occurred and will occur following the issue of any Gateway determination.

Legal and Risk Management

Council may request a review of any Gateway determination (by the Department) that states the Planning Proposal is not supported. There are no inbuilt legal appeal rights for third parties who may oppose a planning proposal.

Prepared by	Terry Dwyer, Senior Strategic Planner (Policy)
Attachment	1. Draft Planning Proposal - workforce accommodation - March 2016 2. Workforce Accommodation Policy Statement 3. Planning Context – characterisation of use and permissibility