

Planning Proposal

Draft Amendment to Great Lakes Local Environmental Plan 2014 (Short-term Holiday Rental of Dwellings)

Prepared by:

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Contents

BACKGROUND

PART 1 – OBJECTIVES AND INTENDED OUTCOMES

PART 2 – EXPLANATION OF PROVISIONS

PART 3 – JUSTIFICATION

- 3.1 – SECTION A – Need for the Planning Proposal
- 3.2 – SECTION B - Relationship to strategic planning framework
- 3.3 – SECTION C – Environmental, social and economic impact.
- 3.4 – SECTION D – State and Commonwealth Interests

PART 4 – MAPPING

PART 5 – COMMUNITY CONSULTATION

PART 6 – PROJECT TIMELINE

Appendices

Appendix 1

Detailed assessment of applicable s.117 Ministerial Directions

Appendix 2

Council Report and resolution (*report has been modified to include only the sections relevant to this Planning Proposal*)

Background

This Planning Proposal has been prepared by Great Lakes Council. It proposes to provide provisions for the use of dwellings for short term holiday accommodation.

This Planning Proposal outlines the effect of, and justification for the changes to existing planning controls.

The Planning Proposal has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and the relevant Department of Planning and Environment (DP&E) Guidelines, including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

The resolution to prepare the Planning Proposal was made on 10th June 2014 at the Strategic Committee Meeting of the Great Lakes Council. A copy of the relevant section of the report and associated resolution is contained within Appendix 2. Council has also resolved to prepare a Development Control Plan (DCP) to supplement provisions of the draft amendment.

Council requests a Gateway determination under Section 56 of the EP&A Act for the draft amendment and authorisation to exercise its delegations for this Planning Proposal.

Part 1 – Objectives and intended outcomes

(s.55(2)(a) A statement of the objectives or intended outcomes of the proposed instrument)

The following are the objectives and intended outcomes of the Planning Proposal:

- To enable the use of dwellings for short-term holiday rental accommodation;
- To prescribe the circumstances when development consent is required for the use of dwellings for holiday rental accommodation;
- To allow the continuation of the letting of dwellings on a short term basis for the purposes of providing holiday accommodation in those zones where dwellings are permitted with consent; and
- To ensure the use operates at a scale that is compatible with maintaining the residential amenity of the surrounding neighbourhood.

Part 2 – Explanation of provisions

(s.55(2)(b) An explanation of the provisions that are to be included in the proposed instrument)

The proposed outcome of the draft plan will be achieved by amending Great Lakes LEP 2014 to include a new local clause for short-term tourist and visitor accommodation.

The new local clause will include the following provisions (subject to change at the legal drafting stage):

Insert within **Part 7 Additional Local Provisions:**

- (1) *The objective of this clause is to enable the temporary use of dwellings as short-term tourist and visitor accommodation.*
- (2) *Despite any other provision of this Plan, development consent is not required for the use of a lawful dwelling containing no more than four (4) bedrooms as short-term tourist and visitor accommodation.*
- (3) *Despite any other provision of this Plan, development consent may be granted for the use of a lawful dwelling containing five (5) or more bedrooms as short-term tourist and visitor accommodation.*

Insert in appropriate order in the Dictionary, the following definition:

short-term tourist and visitor accommodation *is tourist and visitor accommodation (except bed and breakfast accommodation) where the maximum period for which any person is accommodated is 60 consecutive days in a 12 month period.*

Council has also resolved to prepare a Development Control Plan (DCP) to cover such matters as parking, waste management duration of use and number of visitors/tourist residing in the dwelling. These draft DCP provisions shall be placed on public exhibition with the Planning Proposal.

Part 3 – Justification

(s.55(2)(c) the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117).

SECTION A – NEED FOR THE PLANNING PROPOSAL

Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is not considered to be linked directly to any study or report. However the need to develop provisions for short-term holiday rental accommodation is not unique to Great Lakes Council.

The catalyst for the Planning Proposal was a decision in the NSW Land and Environment Court on 2 May 2013 (*Dobrohotoff vs Bennic*). In this instance, the court determined that the short-term holiday letting of residential dwellings was a prohibited land use in the (then) low density residential 2(a) zone in the Gosford City LGA, and that it is not a “dwelling”, but a separately defined land use. Council has also received complaints from the community on the use of dwellings for holiday rental and Council now wishes to introduce a requirement for consent for such use when the operation is of a certain scale.

The use of residential dwellings as short term holiday accommodation has been in operation for many years in coastal locations and the intent is to allow this use to continue. However, Council has deemed it necessary to provide land-use controls over this use to ensure residential amenity and to reduce land use conflict.

It is noted that a number of Council's, including but not limited to Gosford, Wyong and Port Stephens contain similar provisions within their Standard Local Environmental Plan to those proposed. These provisions have been developed to address the land-use, which is now defined as “short-term tourist and visitor accommodation”.

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Great Local Environmental Plan, 2014 became effective on 4 April 2014 and does not address this land-use.

The Planning Proposal is considered to be the most effective means of permitting the use of lawful dwellings for short-term holiday rental accommodation that does not impact upon the amenity of the surrounding locality.

It is understood similar provisions have been approved by NSW Parliamentary Counsel for Bega Valley, Eurobodalla, Gosford, Kiama, Palerang, Port Stephens, Shoalhaven, Wingecarribee, Wyong and other Council's.

A DCP is proposed to supplement provisions in the LEP. The DCP will cover such matters as parking, waste management duration of use and number of visitors/tourist residing in the dwelling and will be developed in conjunction with the Planning Proposal.

SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Mid North Coast Regional Strategy (MNCRS p25-26) states that the region 'is an important tourist destination' and 'that it will be necessary to ensure that future tourist development is designed to blend with the urban settlement pattern, thereby protecting the ambience of the Region's village, coastal and rural areas.'

The Planning Proposal is consistent with the MNCRS as it continues to permit tourist accommodation which supports the local economy while providing a mechanism to protect the amenity of localities within the region where dwelling houses are permitted.

Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Council's Community Strategic Plan 2010-2030 (Great Lakes 2030) is the community's plan for the future. It represents the long term aspirations for the area and encompasses an overarching vision developed by the community and objectives and strategies to achieve community goals. Great Lakes 2030 identifies 4 Key Directions. The Planning Proposal is consistent with these directions as follows:

Key Direction 1: Our Environment

The objectives of this direction are to protect and maintain the natural environment so that it is healthy, diverse and to ensure that development is sensitive to this environment. The Planning Proposal enables the use of dwellings of up to 4 bedrooms for short-term holiday rental accommodation as Exempt Development. The appropriateness of the dwelling on site, including its relationship to the natural environment, has therefore been previously assessed and consent granted. For dwellings in excess of 4 bedrooms wishing to act as short-term holiday accommodation, the development application process would consider environmental factors as part of the approval process.

Key Direction 2: Strong Local Economies

Objectives of this direction are to promote Great Lakes as an attractive area for residents and visitors which encourages a supportive business environment, job opportunities and that provides transport and infrastructure that meets future needs. The Planning Proposal enables the use of existing dwellings of up to 4 bedrooms for short-term holiday rental accommodation as without consent which provides important economic benefits for the local community. Through preserving the amenity of local neighbourhoods, the Planning Proposal promotes liveable communities which are more attractive to residents and visitors, in turn further supporting local economies. The use of dwellings with 5 or more bedrooms will still be able to be used for holiday accommodation

provided development consent is obtained. This will assist in meeting the broad range of accommodation needs of visitors to Great Lakes.

Key Direction 3: Vibrant and Connected Communities

The objectives of this direction encourage the provision of the 'right places and spaces', supporting positive and safe communities which promote education, sustainable growth and connectivity. The Planning Proposal has a strong focus on maintaining local amenity and creating a safe and enjoyable environment for the local community and visitors alike. The Planning Proposal is consistent with this Key Direction.

Key Direction 4: Local Leadership

This Key Direction promotes Council as a leader within the community and has a strong focus on community participation. This Planning Proposal responds to representations made from within the community for Council to be proactive in maintaining the amenity of local its communities.

Is the Planning Proposal consistent with applicable state environmental planning policies?

There are no State Environmental Planning Policies which are applicable to this Planning Proposal.

Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?

This Planning Proposal applies to all locations within the Local Government area of the Great Lakes where a dwelling house is permitted. As such, a significant number of s.117 Directions are applicable. It is considered that the Planning Proposal is consistent with the applicable Directions. A summary of the consideration against the relevant Ministerial Section 117 Directions is provided below.

A more detailed assessment of the applicable s.117 Directions is included in Annexure 2.

Table 1: Summary - consistency with s.117 Directions

No.	Direction	Applicable	Consistent
Employment & Resources			
1.1	Business & Industrial Zones	N	N/A
1.2	Rural Zones	Y	Y
1.3	Mining, Petroleum Production and Extractive Industries	N	N/A
1.4	Oyster Aquaculture	N	N/A
1.5	Rural Lands	Y	Y
Environment & Heritage			
2.1	Environmental Protection Zones	Y	Y
2.2	Coastal Protection	Y	Y
2.3	Heritage Conservation	Y	Y
2.4	Recreation Vehicle Areas	Y	Y

No.	Direction	Applicable	Consistent
Housing, Infrastructure & Urban Development			
3.1	Residential Zones	Y	Y
3.2	Caravan Parks and Manufactured Home Estates	Y	N/A
3.3	Home Occupations	Y	Y
3.4	Integrating Land Use & Transport	Y	Y
3.5	Development Near Licensed Aerodromes	N	N/A
3.6	Shooting Ranges	N	N/A
Hazard & Risk			
4.1	Acid Sulfate Soils	Y	N/A
4.2	Mine Subsidence and Unstable Land	N	N
4.3	Flood Prone Land	Y	Y
4.4	Planning for Bushfire Protection	Y	Y
Regional Planning			
5.1	Implementation of Regional Strategies	Y	Y
5.2	Sydney Drinking Water Catchments	N	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	N	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	Y	Y
Regional Planning (Continued)			
5.5, 5.6 & 5.7	REVOKED		
5.8	Second Sydney Airport: Badgerys Creek	N	N/A
Local Plan Making			
6.1	Approval and Referral Requirements	Y	Y
6.2	Reserving Land for Public Purposes	Y	Y
6.3	Site Specific Provisions	N	N/A
Metropolitan Planning			
7.1	Implementation of the Metropolitan Plan for Sydney 2036	N	N/A

SECTION C – ENVIRONMENTAL, SOCIAL & ECONOMIC IMPACT

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. The Planning Proposal will not impact upon critical habitats, threatened species, populations or ecological communities or their habitats.

Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

No. The Planning Proposal will not have any likely environmental effects.

Has the Planning Proposal adequately addressed any social and economic effects?

Social

The Planning Proposal will not impact on the any items or places of European or Aboriginal cultural heritage as previously indicated. It will not place unreasonable demands on existing social infrastructure such as schools, hospitals or existing retail centres.

From a social perspective, the main objective of this Planning Proposal is to reduce the negative impacts associated with the use of dwelling houses for visitor accommodation, while recognising that such use is an important component of the tourist economy. The draft amendment will assist with maintaining the amenity in locations where dwelling houses are permitted and help facilitate safer, more liveable spaces for the local community. Social benefits exist through increased services that are generated by tourists using short term accommodation that are also available for use by local residents.

A DCP is proposed to supplement provisions in the Planning Proposal. The DCP will cover such matters as parking, waste management duration of use and number of visitors/tourist residing in the dwelling and will be developed in conjunction with the Planning Proposal. Together the Planning Proposal, DCP will assist in reducing anti-social behaviour which has been associated with the use of rental dwellings as short-term holiday accommodation.

Economic

It is recognised that short term holiday dwellings are a major source of holiday accommodation for tourists who visit the Great Lakes. They offer an alternate style of accommodation to traditional caravan parks or high rise apartments and often attract families. Tourism has been a major industry in Great Lakes and is an important economic activity for the area. The continued support for short term holiday rental of dwellings by Council through this Planning Proposal is considered to be important in maintaining the economic benefits of tourism.

Increased amenity, which will be facilitated by the Planning Proposal and associated guidelines, will also have positive economic effects such as increased visitation, growth capacity, improved visitor experience and increased visitor spend.

SECTION D – STATE AND COMMONWEALTH INTERESTS

Is there adequate public infrastructure for the planning proposal?

The Planning Proposal does not require the provision of any additional public infrastructure. The availability of public infrastructure is a matter for consideration during the Development Assessment process for the dwelling house.

What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Consultations have not yet been undertaken with State and Commonwealth agencies as the Gateway determination has not yet been issued. Once a Gateway determination is received Council will consult with any State and Commonwealth public authorities in accordance with the Gateway Determination.

From investigations, it is noted that when the NSW Rural Fire Service recently considered a similar amendment to the Gosford Local Environmental Plan 2014, the Service required the following:

‘Where a dwelling is to be used for Short-term Rental Accommodation, there must be a bushfire evacuation plan displayed in a prominent location within the dwelling, if located in a bushfire prone area.’

Great Lakes Council therefore anticipates that a similar requirement and will include the necessary provisions in accordance with the Gateway Determination.

Part 4 - Mapping

No maps are required for the Planning Proposal.

Part 5 – Community consultation

In accordance with Section 56(2)(c) and 57 of the *Environmental Planning and Assessment Act 1979*, this Planning Proposal will be made publically available for a minimum of 28 days.

In accordance with Council's adopted consultation protocols the following will also be undertaken:

- Notices in the local newspaper;
- Exhibition material and all relevant documents to be made available at all Council's Offices within the LGA;
- Media releases;
- Consultation documents to be made available on Council's website; and
- Letters to all Real Estate Agents within the Local Government area, including key property owners and those who have made representations to Council on the issue .

Any further consultation requirements in accordance with the Gateway determination will be undertaken.

Part 6 – Project timeline

In accordance with DP&E guidelines the following timeline is provided which includes the tasks deemed necessary for the making of this local environmental plan.

Table 2: Estimated project timeline

Task	Responsibility	Timeframe	Date (approximate)
Lodgement of PP for Gateway Determination	Great Lakes Council	-	November 2014
Gateway Determination	Minister for Planning and Infrastructure	4 weeks	December 2014
Consultation with Public Authorities in accordance with Gateway Determination	Government Authority	4 weeks	December 2014 – January 2015 (allow for office closures & public holidays)
Public exhibition of amended PP	Great Lakes Council	Minimum 28 days	January/February 2015
Making of local environmental plan	Minister for Planning and Infrastructure	6 – 8 weeks	March/April 2015

Appendix 1

Table 3: Detailed consistency with s.117 Directions

s.117 Direction Summary		Consistency
Employment & Resources		
1.1	<u>Business and Industrial Zones</u>	Not Applicable
1.2	<u>Rural Zones</u> Aims to protect the agricultural production value of rural land.	The Proposal is not inconsistent with this Direction.
1.3	<u>Mining, Petroleum Production and Extractive Industries</u>	Not Applicable
1.4	<u>Oyster Aquaculture</u>	Not Applicable
1.5	<u>Rural Lands</u> The objectives of this Direction are to protect the agricultural productions value of rural lands and to facilitate the orderly and economic development of rural lands for rural and related purposes.	The Proposal is not inconsistent with this Direction.
Environment & Heritage		
2.1	<u>Environmental Protection Zones</u> The objective of this Direction is to protect and conserve environmentally sensitive areas.	The Proposal will facilitate the use of dwellings in those areas where they have been lawfully permitted. Environmental considerations are matters for consideration during the assessment process in association with the erection of a dwelling.
2.2	<u>Coastal Protection</u> The objectives of this Direction are to implement the principles in the NSW Coastal Policy.	The Proposal applies to land in the Coast Zone and therefore this Direction applies. The Proposal will facilitate the use of existing lawful dwellings. It is consistent with the principles of NSW Coastal Policy namely for the conservation of biological diversity and ecological integrity including the principles of Ecologically Sustainable Development. The Proposal is not inconsistent with this Direction.
2.3	<u>Heritage Conservation</u> This Direction aims to conserve	The Proposal will facilitate the use of dwellings in those areas where they have been lawfully permitted. Heritage items and places of heritage

s.117 Direction Summary		Consistency
	items and places of heritage and indigenous heritage significance.	and indigenous heritage significance are matters for consideration during the assessment process in association with the erection of a dwelling.
2.4	<u>Recreational Vehicle Areas</u> The objective of this direction is to protect sensitive land or land with significant conservation value from adverse impacts from recreation vehicles.	The Proposal is not inconsistent with this Direction.
Housing, Infrastructure and Urban Development		
3.1	<u>Residential Zones</u> This Direction aims to encourage a range of housing that makes use of existing infrastructure and services that do not impact on environment and resource lands.	The Proposal will facilitate the use of dwellings in those areas where they have been lawfully permitted. It involves the use of existing dwellings and does not propose any new infrastructure or services. It will not impact on the environment or resource lands. The Planning Proposal is consistent with this Direction.
3.2	<u>Caravan Parks and Manufactured Home Estates</u> The objectives of this direction are to provide for a variety of housing types including opportunities for caravan parks and manufactured home estates.	The Proposal is not inconsistent with this Direction.
3.3	<u>Home Occupations</u> The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	The Proposal does not impact on Home Occupations and reinforces the principle that low impact activities that encourage economic activity are permissible where a dwelling house has been lawfully approved. The Proposal is not inconsistent with this Direction.
3.4	<u>Integrating Land Use and Transport</u> The purpose of this Direction is to ensure that development achieves objectives with regard to the improvement of access by walking, public transport and other means that reduce dependence on private car travel.	The Proposal will not impact upon access with regards to walking, public transport or other means. It will not increase dependence on private car travel. The Proposal is not inconsistent with this Direction.
3.5	<u>Development Near Licensed</u>	Not Applicable.

s.117 Direction Summary		Consistency
	<u>Aerodromes</u>	
3.6	<u>Shooting Ranges</u>	Not Applicable.
Hazard and Risk		
4.1	<u>Acid Sulfate Soils</u> The purpose of the Direction is to avoid significant adverse environmental impact from the use of land that has a probability of containing acid sulphate soils.	The Proposal will facilitate the use of dwellings in those areas where they have been lawfully permitted and therefore is not inconsistent with this Direction.
4.2	<u>Mine Subsidence and Unstable Land</u>	Not Applicable.
4.3	<u>Flood Prone Land</u> The purpose of this Direction is to ensure the provisions of the LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential of the flood impacts both on and off the subject land.	The Proposal will facilitate the use of dwellings in those areas where they have been lawfully permitted and as such have been assessed with regard to flooding. The Proposal is not inconsistent with this Direction.
4.4	<u>Planning for Bushfire Protection</u> The objectives of this Direction are to encourage the sound management of bushfire prone areas, and to protect life, property and the environment from bushfire hazards.	The Proposal will facilitate the use of dwellings in those areas where they have been lawfully permitted and have been deemed to comply with the requirements of the Rural Fires Service (RFS). From research into this matter with regards to Bushfire Protection, the RFS may impose conditions with regards to the development of a bushfire evacuation plan for those dwellings located within areas deemed to be bushfire prone land. Provisions are to be included which address any requirement from the RFS with regards to this matter.
Regional Planning		
5.1	<u>Implementation of Regional Strategies</u> This Direction provides that a draft LEP should be consistent with the applicable Regional Strategy.	The Proposal is consistent with the provisions of the Mid North Coast Regional Strategy, as it continues to permit tourist accommodation which supports the local economy while also providing a mechanism to protect the amenity of localities within the region where dwelling

s.117 Direction Summary		Consistency
		houses are permitted.
5.2	<u>Sydney Drinking Water Catchments</u>	Not Applicable.
5.3	<u>Farmland of State and Regional Significance on the NSW Far North Coast</u>	Not Applicable.
5.4	<u>Commercial and Retail Development along the Pacific Highway, North Coast</u> The aim of this Direction is to manage commercial and retail development along the Pacific Highway.	The Proposal will facilitate the use of dwellings in those areas where they have been lawfully permitted. It does not apply to commercial or retail development or highway service centres. The Proposal is not inconsistent with this Direction.
5.5, 5.6, 5.7 - Revoked.		
5.8	<u>Second Sydney Airport: Badgerys Creek</u>	Not Applicable.
5.9	<u>North West Rail Link Corridor Strategy</u>	Not Applicable.
Local Plan Making		
6.1	<u>Approval and Referral Requirements</u> The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The Proposal minimises the need for referrals by requiring the use apply to existing dwellings. The Proposal is not inconsistent with this Direction.
6.2	<u>Reserving Land for Public Purposes</u> The objectives of this Direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	The Proposal is not inconsistent with this Direction.
6.3	<u>Site Specific Provisions</u>	Not Applicable.
Metropolitan Planning		

s.117 Direction Summary		Consistency
7.1	<u>Implementation of the Metropolitan Plan for Sydney 2036</u>	Not Applicable.

Appendix 2

Report and resolution from Strategic Committee Meeting 10 June 2014 *(report & resolution have been modified to include only the sections relevant to this planning proposal)*

SUMMARY OF REPORT:

Council has made previous resolutions to amend Great Lakes Local Environmental Plan 2014 (LEP 2014) as time and resources permit. This report puts forward a program of Planning Proposals to amend LEP 2014 in accordance with these resolutions.

SUMMARY OF RECOMMENDATION:

Council endorse the planning proposal program outlined within the report and the preparation of two planning proposals to amend Great Lakes Local Environmental Plan 2014 (LEP 2014).

FINANCIAL/RESOURCE IMPLICATIONS:

There are significant resource implications for the Strategic Land Use Planning, Natural Systems, Design & Investigations and Information Technology (GIS Mapping) sections of Council.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

Not determined at this stage.

LIST OF ANNEXURES:

Nil.

LIST OF ATTACHMENTS:

- A: Outline of the Planning Proposal for General Amendments to Great Lakes LEP 2014
- B: Preliminary Planning Proposal to amend Flood Planning Area mapping in Great Lakes LEP 2014
- C: North Arm Cove Site Analysis Map
- D: Smiths Lake Site Analysis Map
- E: Lot size analysis maps of North Arm Cove and Smiths Lake

REPORT:

At the Strategic Committee Meeting on 12 November 2013 Council determined that several outstanding strategic and development matters should be progressed as priority amendments to Great Lakes Local Environmental Plan 2014 (LEP 2014) and that a report be

prepared outlining which amendments could be combined and which should be considered as separate planning proposals.

This report provides a proposed program of amendments to LEP 2014 in accordance with this resolution. The program makes recommendations on amendments that can be incorporated into a single planning proposal and matters that should proceed as separate planning proposals.

The amendments outlined within this report have been discussed with the Hunter-Central Coastal Regional Office of the Department of Planning and Environment (DP&E) (formerly NSW Planning & Infrastructure). The recommendations of this report are consistent with the advice of NSW P&E with regards to amendments that may be progressed as group or separate planning proposals.

At this meeting the Department of Planning and Environment (NSW DP&E) also outlined the new approach being taken by Parliamentary Counsel (PC) to new planning proposals. Essentially, Parliamentary Counsel no longer requires Council to prepare the wording of any new clause and it is at Council's discretion whether or not a draft or sample clause is incorporated into the Planning Proposal.

Either way, provided the intention of a new clause is clear within the Planning Proposal, Parliamentary Counsel will draft the new clause at the conclusion of the community engagement process, prior to the planning proposal being submitted to the Minister to be made.

In this respect Council officers are of the opinion that, wherever possible and reasonable, providing a sample clause within the Planning Proposal will assist in the process of community consultation.

Therefore, while the information contained within this report outlines the intent of any proposed clause and identifies whether or not an associated map layer is required in accordance with the Department of Planning and Environment (NSW DP&E) advice, sample clauses are included in Attachment A which will form the basis of the Planning Proposal and information that will be used during community consultation.

Planning Proposal of General Amendments

It is recommended that the following matters relating to development assessment be consolidated into one 'general amendments' planning proposal, the draft content of which is provided in Attachment A to this report. These matters include:

New Local Clause - Short-term rental accommodation

In response, to a recent court case (*Dobrohotoff vs Bennic*) Council resolved at the Strategic Committee Meeting on 13 August 2013 to include provisions to require consent for the use of dwellings for short term tourist and visitor accommodation where more than four bedrooms are to be used for such accommodation.

The Department of Planning and Environment (NSW DP&E) recommends that when Council submits the planning proposal for this matter, the intent of the clause be made clear to ensure that Parliamentary Counsel can draft a clause which reflects this intent.

Therefore, Council officers recommend that a new local clause for short-term tourist and visitor accommodation be prepared that:

- enables the temporary use of dwellings as short-term tourist and visitor accommodation;
- permit the use of a dwelling containing no more than four (4) bedrooms as short-term tourist and visitor accommodation without development consent;
- permit the use of a dwelling containing five (5) or more bedrooms as short-term tourist and visitor accommodation only with development consent; where
- short-term tourist and visitor accommodation is tourist and visitor accommodation (except bed and breakfast accommodation); and
- the maximum period for which any person is accommodated is 60 consecutive days in a 12 month period.

Council has also resolved to prepare DCP provisions to cover such matters as parking, waste management, duration of use and number of visitors/tourist residing in the dwelling. These draft provisions shall be tabled for Council's consideration prior to public exhibition of the planning proposal.

CONCLUSION:

There were numerous matters that were not able to be included in Great Lakes Local Environmental Plan 2014 that Council resolved to undertake as amendments as time and resources permit.

The program outlined within this report provides a process for addressing these matters as either combined or independent planning proposals. Council's endorsement for this planning proposal program is requested so that it may be incorporated into the general work program of the Strategic Land Use Planning section.

RESOLUTION

Planning Proposal of General Amendments

A. In accordance with Section 55 of the Environmental Planning and Assessment Act 1979 Council resolve to prepare a Planning Proposal to undertake General Amendments to Great Lakes Local Environmental Plan (LEP) 2014 incorporating:

1. Map Amendments - Rezoning Council land for environmental protection
2. **New Local Clause - Short-term rental accommodation**
3. Additions to Schedule 5 - Heritage Items on Council and Crown land
4. New Local Clause - Development near zone boundaries on land known as Riverside, Tea Gardens; and
5. New Local Clauses - Boundary realignment and subdivision which may create lots less than the minimum lot size

and once prepared, the planning proposal be submitted to NSW Planning and Environment for a Gateway Determination.

B. In accordance with Section 59 of the Environmental Planning and Assessment Act 1979 Council request written authorisation from NSW Planning & Environment to exercise its plan making delegations to undertake the Planning Proposal of General Amendments.

C. If NSW Planning & Environment grant a Gateway Determination to proceed with the Planning Proposal of General Amendments, consultation be undertaken with the

community and government agencies in accordance with Section 57 of the Environmental Planning and Assessment Act 1979 and any directions of the Gateway Determination.