

2 PES - Planning Proposal to Amend Provisions of R3 Medium Density Zone

Index: SP-PP-20

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Strategic Committee Meeting: 9 June 2015

SUMMARY OF REPORT:

Council at its Strategic Committee meeting on 10 June 2014 resolved to prepare a Planning Proposal to amend Great Lakes Local Environment Plan 2014 (LEP 2014) to require a minimum development density within greenfield R3 Medium Density Residential zoned sites. The proposal submitted for adoption seeks to incorporate a local clause so that a minimum development density of 30 dwellings per hectare is achieved within greenfield R3 zoned sites. It also amends the R3 Medium Density Residential land use table to allow single dwelling houses, which are currently prohibited, to be permissible with consent.

This report presents the issues raised in submissions received during the public exhibition of the proposal and presents the final planning proposal for Council's endorsement.

SUMMARY OF RECOMMENDATION:

1. That Council endorse the revised planning proposal, contained in Attachment A, which removes the prohibition on single dwellings in the R3 Medium Density zone and which prescribes a minimum density of 30 dwellings/ha for greenfield areas zoned R3 Medium Density.
2. Pursuant to s59 of the *Environmental Planning and Assessment Act 1979*, Council submit the Planning Proposal to the NSW Parliamentary Counsels Office to arrange for drafting of the corresponding Local Environmental Plan (LEP).
3. That Council submit the LEP, when drafted to Council's satisfaction, to the Minister so it can be made and published on the NSW Legislation Website.
4. That a further report be submitted to Council regarding the preparation of a planning proposal to reduce the minimum lot size for greenfield sites in the R3 Medium Density zone to 300m² and the inclusion of provisions to ensure consideration of the relationship between the lot layout and positioning of dwellings on small lots.

FINANCIAL/RESOURCE IMPLICATIONS:

The preparation of the planning proposal is included in the Strategic Section work program.

POLICY IMPLICATIONS:

The adoption of the Planning Proposal will result in the preparation of an LEP which will establish Council's policy for the future development of the nominated R3 Medium Density Residential Zone greenfield sites.

LEGAL IMPLICATIONS:

There is always the possibility for a LEP Amendment to be challenged in the Land and Environment Court, however this is unlikely.

LIST OF ANNEXURES:

- A: Gateway Determination
- B: Issues raised in submissions and response to submissions

LIST OF ATTACHMENTS:

- A: Revised Planning Proposal.
- B: Examples Lot Size and Dwelling Designs for Small Lot Housing.

Due to their large size, Attachments A & B have been circulated in hard copy to Councillors and Senior Staff only as a paper conservation measure. However, these Attachments are publicly available on Council's Website, copies are available at Council offices and copies are available on request.

REPORT:

Background

Great Lakes LEP 2014 currently prohibits single dwellings within the R3 Medium Density Residential zone. This was done to ensure greenfield sites within the medium density residential zone were developed to higher densities, rather than the current pattern of R3 zoned land being subdivided and totally occupied by single dwelling houses with some dual occupancies.

This issue was discussed at Council's Strategic Committee Meeting on 14 May 2013 where Council resolved that the option of a minimum dwelling density requirement for greenfield R3 zoned land should be considered in the first set of LEP amendments. It has been Council's intention to remove the prohibition of single dwellings from the R3 zone once a suitable mechanism for achieving minimum density has been established. NSW Planning & Environment recommended that a local clause and map be incorporated into LEP 2014 for achieving a minimum development density on greenfield sites.

At the Strategic Committee Meeting on 10 June 2014 Council resolved to prepare a planning proposal to amend LEP 2014 by:

- Amending the R3 Medium Density Residential land use table so that dwelling houses are permissible with consent; and
- Incorporate a local clause and Minimum Density Development map provisions so that a minimum development density of 35 dwellings per hectare is achieved within R3 Medium Density Residential zoned greenfield sites.

Gateway Determination

A planning proposal was prepared and submitted to the NSW Department of Planning & Environment on 20 November 2014. A Gateway Determination was granted by the Department on 9 December 2014 (Refer to **Annexure A**) which included an authorisation for Council to exercise its delegation to make the plan. A condition of the Gateway Determination required Council to amend the planning proposal prior to undertaking community consultation to:

1. *demonstrate how many dwellings per hectare is a feasible and achievable target in the areas subject to the proposed minimum density provisions; and*
2. *include an appropriate definition of density that will be used to measure the targets; and*
3. *include proposed changes (if any) to minimum lot size, height of building, and floor space ratios and any other relevant LEP provisions.*

In relation to the first item, it was agreed with the department that the planning proposal, rather than being definitive about the dwelling density (35 dwellings/ha), could be revised to indicate that somewhere between 20-35 dwellings per hectare would be a reasonable target. The final dwelling density would then be determined following community consultation.

In relation to the department's request for a definition of density, the following was inserted in the planning proposal to clarify how density will be determined:

The ratio of the number of dwellings to the area of the land to be occupied by the development, including internal streets and half the width of any roads adjoining the development that provide vehicular access to the development but excluding land used for public open space and non-residential purposes.

The planning proposal was also revised to incorporate the additional explanation and justification required by the Department relating to dwelling density. Examples of existing residential densities within the Great Lakes LGA were included to help demonstrate an achievable target in the greenfield R3 areas.

The department requested Council to resubmit the planning proposal to them for consideration before commencing the community engagement process. This was done and the department confirmed that the gateway directions had been adequately addressed and the proposal could be notified.

The revised planning proposal is contained in **Attachment A**.

Public Exhibition

The planning proposal was placed on public exhibition for 28 days from 18 February 2015 until 19 March 2015. Community consultation was undertaken in accordance with Council's adopted consultation protocols which included a notice in the local newspaper, all relevant documents being displayed at Council's administration buildings (both Forster & Tea Gardens) and on Council's website. A letter was also sent to all landowners of R3 zoned greenfield sites as well as key industry stakeholders. Council also facilitated a focus group workshop with landowners and industry professionals on 3 March 2015 to discuss achievable minimum density targets within the identified R3 greenfield sites.

Six (6) submissions from the public were received. All issues raised in submissions are outlined in the table in **Annexure B**. The key issues and responses are summarised below:

Public Submissions

1. *The reversal on the prohibition of single dwellings in the R3 Medium Density Residential Zone is supported.*

Response: It was always Council's intention to remove the prohibition of single dwellings from the R3 zone once a suitable mechanism for achieving a minimum density on greenfield R3 zoned sites had been established.

2. *The minimum density for R3 Medium Density Residential Zone should be set at 15-25 dwellings per hectare.*

Response: Fifteen (15) dwellings per hectare is considered low density and is close to what is currently being achieved in the R2 Low Density Residential Zone. A target of 15 dwellings per hectare is not consistent with the objectives or intended outcomes of the planning proposal, and is not consistent with the objectives of the R3 zone.

3. *Higher densities are suited to areas adjacent to commercial or civic centres and waterfront properties.*

Response: The greenfield R3 zoned sites are well located to become neighbourhood centres, supported by local services, existing road networks, future open spaces and low density housing, thus enabling the future development of well-designed neighbourhoods. The average density for existing R3 developments located adjacent to commercial centres and waterfront areas within the LGA is 39 dwellings per hectare. It is agreed that 35 dwellings/ha is too high. Research has indicated that a density of 30 dwellings per hectare is considered suitable for the R3 greenfield sites. As an example, the Parklands residential development immediately to the west of Council's administration building in Breese Parade, Forster achieves a density of 31 dwellings/ha. Parklands is situated on land zoned R2 Low Density Residential.

4. *Imposition of dwelling density range of 20-30 dwellings per hectare in greenfield sites will adversely impact economic viability of such projects. Increased densities relate to increased development costs.*

Response: More dense development can result in several economic, environmental and social benefits. Increased density does not have to equate to increased height/number of storeys which can yield additional construction costs.

Small lot housing, as an alternative form of higher density housing, can effectively deliver increased density. Acceptable car parking solutions for small lot and semi-detached housing can assist in achieving increased density and have construction cost advantages. Construction costs associated with small lot housing has economic benefits as infrastructure costs can be spread over an increased number of allotments.

The general response received in submissions and feedback from developers at the workshop facilitated by Council indicated the following:

- positive support for single dwellings to be permissible within the R3 Medium Density Residential Zone,
- no current demand for medium density housing in the local area,
- concern that multi-storey dwellings are costly to construct and not appealing to the current real estate markets,
- small lot housing may be a preferred option for achieving increased densities.

Developers expressed concern over the lack of demand for multi-storey housing developments in the local area, claiming that even those multi-storey developments with coastal views and in close proximity to central business areas are slow to sell. Whilst increasing density through multi-storey forms of housing remains an option for achieving increased densities within greenfield R3 sites, alternative housing options, such as small lot housing, need to be considered.

The revised planning proposal seeks to prescribe that land for medium density housing is to effectively achieve a minimum density of 30 dwellings per hectare. Such densities will deliver a diverse range of housing options, including small lot housing (i.e. 300m² lot size), providing more affordable and easy care homes for older residents. The greenfield R3 zoned sites are well located to become neighbourhood centres, supported by local services, existing road networks, future open spaces and low density housing, thus enabling the future development of well-designed neighbourhoods suitable to older residents, younger people and single parents.

Small lot housing

Further research and discussion with other Councils currently administering minimum density targets suggests that small lot housing is a feasible option for increasing density. Small lot housing is generally defined as a *single dwelling on an allotment of land with a land area between 250m² and 450m²*. Small lot housing can take the form of detached and semi-detached dwellings. Small lot housing is gaining in popularity with both home owners and developers due to the affordability and economic viability this form of housing offers. Its popularity is also in response to other factors including:

- an increase in single person and couple-only households,
- housing affordability for first home buyers, the elderly and people from lower socio-economic backgrounds,
- an increase in retirees and older people seeking to downsize to smaller, easy care dwellings.

Affordability is one of the main drivers of the demand for small homes on compact lots. Small lot housing is also appealing to developers, allowing them to subdivide and sell off smaller lots, sharing infrastructure costs over a larger number of lots. Subsequently the overall development is considered more economically viable. Examples of small lot housing subdivision layouts and housing designs are contained in **Attachment B**.

Following community consultation and additional research, consideration has been given to encouraging small lot housing as an option for increasing residential densities within the nominated greenfield R3 zoned sites. Subsequently the minimum development density for R3 zoned greenfield sites has been chosen with the consideration of facilitating small lot housing.

The table below is indicative of the lot yield respective to lot size:

Minimum Lot Size	Density (based on single dwellings)
400m ²	25 dwellings per hectare
350m ²	28.6 dwellings per hectare
300m ²	33.3 dwellings per hectare

As shown above, a minimum lot size of 300m² can potentially yield a dwelling density of 33.3 dwellings per hectare. Given the locational context of the nominated greenfield R3 zoned sites within the Great Lakes LGA, a minimum density target of 30 dwellings per hectare is considered achievable. This can be achieved by amending the LEP 2014 to incorporate a local clause stipulating a minimum development density of 30 dwellings per hectare for greenfield sites, identified through related mapping. The areas where the density requirements will be applied are shown in the Section 4.0 “Mapping” of the planning proposal in **Attachment A**.

Establishing a minimum density target for these sites does not restrict the type of housing permissible on the land. Attached and detached multi-unit dwellings, as well as attached and detached multi-storey dwellings are permissible. In fact, it is desirable that future development of these R3 zoned greenfield sites achieve a mix of housing styles to provide housing diversity in a market currently dominated by single dwellings on standard 600m² lots.

Current Lot Size for the R3 Medium Density Zone

Presently, under LEP 2014 the minimum lot size for the R3 Medium Density zone is 1,000m². Clause 4.1A does, however, allow for the subdivision of land to a minimum lot size of 200m² for integrated development in this zone. “Integrated development” is where the development application for the subdivision of land also includes the proposed dwellings to be built on each lot of the subdivided land. This form of development allows for issues associated with small lot housing such as privacy, overlooking, overshadowing, setbacks and car parking to be considered by Council prior to issuing approval for the subdivision of land.

Whilst Clause 4.1A currently allows for small lot housing as integrated development, it would be reasonable to amend the LEP 2014 to reduce the minimum lot size for the greenfield R3 zoned sites, from the current 1000m² to a minimum lot size of 300m². This would allow subdivision into smaller lots without the full details of each dwelling on each lot having to be included in the application. Rather, a Building Envelope Plan (BEP), or similar, could be required with the application for subdivision. The BEP would address some key principles such privacy, solar access, design, open space and parking etc. This approach would respond to some of the issues raised by the development industry. It would also acknowledge the suggestion by the department of Planning and Environment for Council to review the LEP controls for the R3 Medium Density zone. Importantly, it would be beneficial in facilitating small lot housing developments.

A reduction in the minimum lot size should only be undertaken in conjunction with the preparation of additional Development Control Plan (DCP) provisions for small lot housing. Without such provisions development applications could be lodged for small lot subdivision and there would be no guidance on the type and form of houses to be built on each lot. As lots reduce in size it is critical for the form and type of housing design to be properly addressed. Such provisions would assist in facilitating and guiding small lot housing, ensuring both housing density and diversity is achieved.

Due to the time required to prepare and exhibit such DCP provisions, it is recommended that any amendment to the lot size map for greenfield R3 zoned sites should be undertaken in a separate planning proposal. This proposal could be included on the Strategic Planning Work Program to be undertaken as a priority in the near future.

Great Lakes Council Active Ageing Strategy (AAS) 2015-2018 (2014)

Opposition from the development industry to enforced density requirements must be balanced with the need to cater for the housing needs of the future population, especially younger people and the aged.

The Great Lakes Council Active Ageing Strategy 2015-2018 (AAS) is the result of a joint project between Great Lakes Council and the Council on the Ageing NSW (COTA). With the highest population of older people in NSW, Great Lakes Council made a commitment to be recognised as an "Ageing Centre of Excellence". -

The preparation and endorsement of this strategy was fundamental to Council gathering baseline information from older residents and gaining membership to the World Health Organisation (WHO) Global Network of Age-friendly Cities and Communities (GNAFCC). Members of the WHO GNAFCC network are located in different countries around the globe, encompassing a diverse cultural and socio-economic background. However all members share the desire and commitment to create physical and social environments that promote healthy active ageing and a good quality of life for their older residents.

The AAS identifies a number of strategies consistent with the planning proposal. These are:

- Encourage collaboration between all sectors involved in the design and development of urban spaces and housing to create more age-friendly places and spaces;
- Plan new developments including a focus on an ageing population and incorporate the principles of universal design across the design of neighbourhoods and housing;
- Encourage the development of housing at lower price points to suit people on low incomes.

The planning proposal has been revised to include reference to the Great Lakes AAS.

CONCLUSION

The planning proposal seeks to create new planning provisions to adequately address the issue of dwelling density, permissibly and diversity within greenfield R3 zoned lands. The proposal will remove the prohibition on single dwellings in R3 Medium Density Residential zone along with the establishment new minimum density provisions within LEP 2014.

The proposed amendment will consist of a dwelling density clause and related mapping. Those sites shown on the dwelling density map will be required to achieve the nominated dwelling density of 30 dwellings per hectare. Upon gazettal of the new minimum density provisions, development proposals on the affected land will be required to demonstrate how the development achieves the minimum density of 30 dwellings per hectare.

The planning proposal explains the intended effect of, and justification for, the proposed amendment to LEP 2014. The proposal is consistent with all applicable SEPPs and with Section 117 Directions as they apply to the planning proposal.

The proposed amendment to the LEP 2014, as contained in the planning proposal, is considered fundamental to ensuring that future development on R3 Medium Density Residential zoned land achieves higher density outcomes. Council's endorsement of the planning proposal is required in order for it to be forwarded to the NSW Parliamentary Counsels Office so the planning instrument can be drafted and the LEP amendment made.

Small lot housing is considered to play an important role in facilitating the delivery of both dwelling density and housing diversity within greenfield R3 zoned sites in the future. It is recommended that Council resolve to prepare a separate planning proposal to amend the lot size map for greenfield R3 zoned sites and create new development control provisions for small lot housing for incorporation into DCP 2014.

In summary, the following is recommended:

- Council endorse the revised planning proposal which prescribes a minimum density of 30 dwellings/ha for greenfield areas zoned R3 Medium Density and which responds to the directions from the Department of Planning and Environment in the Gateway Determination.
- A further report be submitted to Council regarding the preparation of a planning proposal to reduce the minimum lot size for greenfield sites in the R3 Medium Density zone to 300m² and the inclusion of provisions to ensure consideration of the relationship between the lot layout and positioning of dwellings on small lots.
- DCP provisions for small lot housing be prepared and exhibited concurrently with a planning proposal for the reduced minimum lot size.

RECOMMENDATION:

1. That Council endorse the revised planning proposal, contained in Attachment A, which removes the prohibition on single dwellings in the R3 Medium Density zone and which prescribes a minimum density of 30 dwellings/ha for greenfield areas zoned R3 Medium Density.
2. Pursuant to s59 of the *Environmental Planning and Assessment Act, 1979*, Council submit the Planning Proposal to the NSW Parliamentary Counsels Office to arrange for drafting of the corresponding Local Environmental Plan (LEP).
3. That Council submit the LEP, when drafted to Council's satisfaction, to the Minister so it can be made and published on the NSW Legislation Website.
4. That a further report be submitted to Council regarding the preparation of a planning proposal to reduce the minimum lot size for greenfield sites in the R3 Medium Density zone to 300m² and the inclusion of provisions to ensure consideration of the relationship between the lot layout and positioning of dwellings on small lots.

ANNEXURES:

A: Gateway Determination



Planning & Environment

Gateway Determination

Planning Proposal (Department Ref: PP_2014_GLAKE_006_00): to amend the R3 Medium Density Residential zone density and dwelling permissibility.

I, the General Manager, Hunter and Central Coast Region at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Great Lakes Local Environmental Plan (LEP) 2013 to amend the provisions of the R3 Medium Density Zone and introduce requirements setting minimum densities for undeveloped land zoned R3 should proceed subject to the following conditions:

1. Prior to undertaking community consultation Council is to update the planning proposal to:
 - (a) demonstrate how many dwellings per hectare is a feasible and achievable target for the R3 Medium Density Zone in the areas subject to the proposed minimum density provisions; and
 - (b) include an appropriate definition of density that will be used to measure the targets; and
 - (c) include proposed changes (if any) to minimum lot size, height of building, floor space ratio and any other relevant LEP provision; and

The updated planning proposal is to be submitted to the Newcastle Regional Office for consideration before commencement of community consultation.

2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Planning & Infrastructure 2013)*.
3. No consultation is required with public authorities under section 56(2)(d) of the EP&A Act.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 9th day of December 2014.

David Rowland
General Manager
Hunter and Central Coast Region
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning



Planning & Environment

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Great Lakes Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2014_GLAKE_006_00	Planning proposal to amend the R3 Medium Density Residential zone density and dwelling permissibility.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "A guideline for the preparation of local environmental plans" and "A guide to preparing planning proposals".

Dated 9 December 2014

David Rowland
General Manager
Hunter and Central Coast Region
Planning Services
Department of Planning and Environment

B: Issues raised in submissions and response to submissions.

Annexure A. Issues raised in submissions and response to submissions

Issues Raised	Council's Response
<i>The minimum density for R3 Medium Density Residential Zone should be set at 15-25 dwellings per hectare.</i>	15 dwellings per hectare is considered low density residential and is what is currently being achieved in the R2 Low Density Zone. A target of 15 dwellings per hectare is not consistent with the objectives or intended outcomes of the planning proposal, and is not consistent with the objectives of the R3 zone
<i>The reversal on the prohibition of single dwellings in the R3 Medium Density Residential Zone is supported.</i>	It has always been Council's intention to remove the prohibition of single dwellings from the R3 zone once a suitable mechanism for achieving a minimum density on greenfield R3 zoned sites has been established.
<i>There is no market in Forster for 3 storey walk up developments and minor acceptance of 2 storey townhouse developments.</i>	Increase density does not necessarily require increased building height. Given that the demographics of the LGA are significantly skewed towards older aged people, increasing density may be better achieved through smaller lot housing. i.e lot size of 300-450m ² lots. It will be important to allow a variety of housing types in the R3 zone, including small lot housing.
<i>The Department of Planning's comments relating to the proposal indicated Liverpool LEP having a density of 15-30 dwellings per hectare, this density should be supported.</i>	The Department made a density comparison to Liverpool's LEP and suggested the previously suggested density target of 35 dwellings may be ambitious. In response to these comments Council revised the planning proposal prior to public exhibition, providing additional examples of existing residential densities within the LGA. In addition, the proposal indicated that the final density target would be determined following the community consultation process.
<i>35 dwellings per hectare in precinct one of the proposed North Shearwater Estate would have a significant impact on the existing wildlife corridor extending from Kore Kore Creek.</i>	The planning proposal relates only to R3 zoned land in the North Shearwater Estate. Precinct 1 encompasses only R2 Low Density Residential zoned land. The corridor extending from Kore Kore Creek is well removed from the greenfield R3 zoned sites located in the eastern section of the estate. Furthermore, current land use zoning reflects the preservation of key wildlife linkages and corridors in the estate with E2 Environmental Conservation & E3 Environmental Management zoning.
<i>Imposition of dwelling density range of 20-30 dwellings per hectare in greenfield sites will adversely impact economic viability of such projects. Increased densities relate to</i>	More dense development can result in several economic, environmental and social benefits. Increased density does not equate to increased height/number of storey's which can yield additional construction costs. Small lot housing, as one form of higher density housing, can effectively deliver increased density. Acceptable car parking solutions for

<i>increased development costs.</i>	small lot and semi-detached housing can assist in achieving increased density and have construction cost advantages. Construction costs associated with small lot housing has economic benefits as infrastructure costs can be shared over an increased number of allotments.
<i>Acceptance of single dwellings and density of 15-30 dwellings per hectare should be the desired outcome in R3 zoned greenfield sites.</i>	It has been Council's intention to allow single dwellings to be permissible within the R3 zone, however a suitable mechanism needs to be established to ensure the density of dwellings is increased for greenfield sites. The proposal suggests a minimum density of 30 dwellings per hectare achievable for the nominated greenfield R3 sites.
<i>Higher densities are suited to areas adjacent to commercial or civic centres and waterfront properties.</i>	The greenfield R3 zoned sites are well located to become neighbourhood centres, supported by local services, existing road networks, future open spaces and low density housing, thus enabling the future development of well-designed neighbourhoods. The average density for existing R3 developments located adjacent to commercial centres and waterfront areas within the LGA is 39 dwellings per hectare. A density of 30 dwelling per hectare is considered suitable for the R3 greenfield sites.
<i>Development controls create potential conflicts for increasing density, creating lengthy delays and ultimately making it less viable</i>	Additional provisions within DCP 2014 may be incorporated to create flexibility in dwelling design and enable the proposed minimum density target to be achieved for the nominated greenfield R3 sites.