

Planning and Assessment

IRF19/4939

Gateway determination report

LGA	MidCoast
PPA	MidCoast Council
NAME	Prohibition of innominate uses in the R1 General Residential zone of the Greater Taree LEP 2010, and a local clause for manufactured home estates
NUMBER	PP_2018_MCOAS_005_00
LEP TO BE AMENDED	Greater Taree Local Environmental Plan 2010 Great Lakes Local Environmental Plan 2014 Gloucester Local Environmental Plan 2010
ADDRESS	Various
DESCRIPTION	Various
RECEIVED	30 November 2018
FILE NO.	IRF19/4939
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to amend the R1 General Residential zone in the Greater Taree Local Environmental Plan (LEP) 2010 to prohibit innominate uses.

It also seeks to introduce a local clause to the MidCoast LEPs (Greater Taree LEP 2010, Great Lakes LEP 2014 and the Gloucester LEP 2010) that defines manufactured home estates (MHE) and permits them where caravan parks are permitted.

1.2 Site description

Prohibition of innominate uses in the R1 General Residential zone

This proposed change affects all land zoned R1 General Residential in the former Greater Taree local government area (LGA).

New local clause regarding MHEs

This clause applies to lands that allow caravan parks and comply with the requirements of State Environmental Planning Policy No 36 – Manufactured Home Estates.

1.3 Existing planning controls

The MidCoast LGA is subject to three LEPs: the Greater Taree LEP 2010; the Great Lakes LEP 2014; and the Gloucester LEP 2010. Council is reviewing the planning controls that apply in its three LEPs, with a view to having a consolidated LEP in 2022.

Prohibition of innominate uses in the R1 General Residential zone

The R1 General Residential zone in the Greater Taree LEP permits innominate uses with development consent. This means that any use that is not listed as either permitted without consent or prohibited is allowed with development consent in the R1 zone. It includes uses that are not defined in the LEP dictionary, such as a manufactured home estate.

New local clause regarding MHEs

There are no provisions regarding MHEs in the MidCoast LEPs, and MHEs are not a land use term defined in the Standard Instrument LEP. As a result, Council advises that MHEs are potentially permitted either as an innominate permitted use, where caravan parks are permitted (subject to SEPP 36), and where multi-dwelling housing is permitted.

Caravan parks are permitted with consent in the following zones:

Greater Taree LEP	Great Lakes LEP	Gloucester LEP
SP3 Tourist	R2 Low Density Residential	RE1 Public Recreation
RE1 Public Recreation	R3 Medium Density Residential	RU1 Primary Production
RE2 Private Recreation	SP3 Tourist	SP1 Special Activities
	RE1 Public Recreation	
	RE2 Private Recreation	
	RU2 Rural Landscape	
	RU5 Rural Village	

Multi-dwelling housing is permitted with consent in the following zones:

Greater Taree LEP	Great Lakes LEP	Gloucester LEP
R1 General Residential	R1 General Residential	R3 Medium Density Residential
	R2 Low Density Residential	
	R3 Medium Density Residential	
	R4 High Density Residential	

1.4 Summary of recommendation

The proposal is supported with conditions.

The proposal seeks to provide certainty regarding where MHEs may be permitted with development consent in response to concerns raised by the community.

It is recognised that the regulatory framework that applies to MHEs, caravan parks and camping grounds could be improved, and this is being investigated by the Department. Council's proposal may be supported as an interim measure because it addresses a community issue created by the current regulations. Seeking to better define where MHEs can occur is consistent with a desired outcome of the Department's regulatory review.

To support the proposal, Council needs to review the permissibility of caravan parks in its zones to determine whether the permissibility remains appropriate. This should consider the potential likelihood for caravan parks and MHEs in these areas, the provisions of SEPP 36, and the need to ensure that this form of housing may continue to be provided in the MidCoast LGA. Council's housing strategy work should inform this analysis.

As this is a change in land use policy for the MidCoast LGA and changes the permissible uses in the R1 zone of the former Greater Taree LGA, consultation with the community and relevant stakeholders is needed to ensure that the implications of the proposed approach have been fully considered.

2. PROPOSAL

2.1 Objectives or intended outcomes

The objectives stated for the planning proposal are to create greater consistency and confidence in the primary residential zones in the MidCoast area by:

- removing the ability for innominate uses to be permitted with consent in the Greater Taree LEP 2010 R1 General Residential zone; and
- defining MHEs and permitting them where caravan parks are permitted.

Council advises that these are short-term measures, with the intention being that the consolidated MidCoast LEP will address these matters in the longer term.

These objectives are clear, and no change is required.

2.2 Explanation of provisions

Prohibition of innominate uses in the R1 General Residential zone

In making this change, many uses that were previously permitted as innominate uses would become prohibited. Council has reviewed these uses in terms of consistency with the objectives of the R1 zone in the Greater Taree LEP, with the Great Lakes LEP R1 zone, and the potential for uses to result in land use conflicts. Council decided whether the uses should remain permitted or become innominate prohibited uses. The existing innominate uses that are to remain permitted are highlighted in yellow in the draft R1 land use table:

Permitted with consent

Advertising structure; Attached dwellings; Backpackers' accommodation, Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Boat sheds; Building identification signs; Centre-based child care facilities; Cemeteries; Community facilities; Community health service facilities; Dual occupancies; Dwelling houses; Early education and care facilities; Educational establishments; Emergency services facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Hostels; Hotel or motel accommodation; Information and education facilities; Jetties; Medical centres; Moorings; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based

aquaculture; Recreation areas; Recreation facilities (indoor); Residential flat buildings; Respite day care centres; Restaurants or cafes; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Serviced apartments; Sewerage systems; Service stations; Shop top housing; Take away food and drink premises; Tank-based aquaculture; Veterinary hospitals; Water recreation structures; Water supply systems.

Prohibited

Any other development not specified in item 2 or 3.

Council identifies business identification signs, car parks, crematoriums, farmstay accommodation, patient transport facilities, hospitals, highway service centres, mining, certain tourist accommodation, recreation facilities (outdoor), restricted premises and wholesale supplies as becoming innominate prohibited uses. Council's assessment of why prohibition is justified is included in the planning proposal.

The explanation of provisions is clear. However, this section should be updated to remove 'restriction facilities', which is not a land use term. A Gateway determination condition is proposed.

New local clause regarding MHEs

Council proposes to include the following clause in the Greater Taree LEP 2010, the Great Lakes LEP 2014 and the Gloucester LEP 2010:

Manufactured Home Estates

(1) The objective of this clause is to facilitate housing diversity and housing affordability in the form of manufactured home estates, in suitable, adequately serviced locations.

(2) Development for the purposes of a manufactured home estate (and the associated installation or placement and use of a manufactured home) may be carried out with development consent on land to which this Plan applies if development for the purposes of a caravan park is permitted on that land, subject to complying with State Environmental Planning Policy No 36 – Manufactured Home Estates.

(3) Despite any other provision of the Plan, in this Plan multi dwelling housing does not include land on which a manufactured home is installed or placed under this clause.

(4) In this clause, manufactured home and manufactured home estate has the same meaning as in the Local Government Act 1993.

The provisions of the clause are clear, and no changes are required.

To support the clause, Council has prepared draft development control plan (DCP) provisions to address matters such as local character (layout, setbacks and landscaping), which are not addressed by either the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 or the provisions of SEPP 36.

Council advises that the draft DCP has been exhibited. The draft DCP provisions should be included in the exhibition package for the planning proposal to assist with community consultation. A Gateway determination condition is proposed.

2.3 Mapping

There are no proposed changes to LEP maps.

3. NEED FOR THE PLANNING PROPOSAL

Council advises that the proposal is not the result of any strategic study or report. It states that the proposal results from concerns raised through the preparation of its housing strategy. These concerns relate to the lack of consistency of permitted uses between residential zones (due to the former LGAs having different planning controls) and a lack of clarity about where MHEs are permitted.

Council notes that the Department is reviewing the regulation of MHEs, caravan parks and camping grounds. It states that the proposal is consistent with the intent of the Department's discussion paper, *Improving the Regulation of Manufactured Homes, Caravan Parks, Manufactured Home Estates & Camping Grounds* (2015), to support uses in the right locations, simplify the planning and approval process, and improve design, location and amenities of future developments.

The Department recognises that the regulatory framework could be improved, and this is being investigated. Introducing new land use terms to allow councils to better plan for these development types is one of a range of measures considered in the discussion paper to address existing issues.

The Department also recognises that there is increasing interest in MHEs in the MidCoast LGA, and that recent development proposals have raised community concerns about the adequacy of Council's LEP controls and the regulations more broadly.

The need for the planning proposal is therefore considered justified. It is recommended that the proposal be supported by the Gateway. The proposed controls are consistent with the intent of the discussion paper. In the absence of Council's consolidated LEP and regulatory reform, the proposal may be supported as an interim approach.

However, Council needs to review the zones in which caravan parks are permitted. The current range of zones includes urban and rural-zoned areas. While caravan parks would be allowed in certain rural areas, they would be excluded from certain residential areas, which appears to be inconsistent with the accessibility and character concerns raised by Council and the community. The review needs to balance these matters with the need to ensure adequate opportunity for caravan parks and MHEs to occur as required by section 9.1 Direction 3.2 Caravan Parks and Manufactured Home Estates. Council's housing strategy work should inform this analysis. Consultation with the community and industry also needs to occur to ensure the approach is fully evaluated. Conditions are proposed in the Gateway determination.

In addition to addressing MHE concerns, the changes to the uses permitted in the R1 zone in the Greater Taree LEP may also be supported. The approach provides consistency with Council's other LEPs. As with the proposed approach to MHEs, the uses proposed to be permitted and prohibited need to be tested further through community consultation.

4. STRATEGIC ASSESSMENT

4.1 State

The Department's review of the regulatory framework is ongoing. Should the Department progress changes to the framework, then the planning proposal may not be required. This matter can be reviewed prior to the plan being finalised.

4.2 Regional

Hunter Regional Plan

Direction 21 – Create a compact settlement of the regional plan is relevant to the proposal, particularly the following actions:

- Action 21.1, which promotes development that respects the landscape and character of the metropolitan areas, towns and villages;
- Action 21.5, which promotes small-scale renewal in existing urban areas in the right locations;
- Action 21.6 to provide greater housing choice by delivering diverse housing, lot types and sizes; and
- Action 21.7 to promote new housing in urban areas to maximise the use of existing infrastructure.

In seeking to restrict MHEs to only those zones where caravan parks are permitted, the opportunities for this form of development would be reduced, including some areas that are intended for housing. This is potentially inconsistent with action 21.6 of the regional plan. Certain zones that allow caravan parks, such as the RU1 zone in Gloucester, may not be well suited to MHEs and are potentially inconsistent with action 21.7.

As discussed in section 1.4 of this report, further investigation into the permissibility of caravan parks in Council's zones is required. Consistency with the regional plan may then be determined.

Direction 22 – Promote housing diversity of the regional plan is relevant to the proposal, particularly action 22.1, which seeks to ensure that housing supply responds to demand for housing for the ageing community.

Reviewing the permissibility of caravan parks should ensure that this development is permitted in sufficient areas so it may continue to occur. Council's proposed DCP provisions should assist in ensuring that caravan park and MHE housing adequately respond to the ongoing needs of the ageing community.

4.3 Local

MidCoast 2030: Shared Vision, Shared Responsibility Community Strategic Plan 2018-2030

Council states that the proposal is consistent with two value strategies from the strategic plan, being to balance the needs of its natural and built environments and to make opportunities for the community to inform decisions.

The proposal is broadly consistent with the strategic plan.

Local housing strategies

A review of Council's strategies (e.g. *Housing Strategy for Forster/Tuncurry* 2007) notes that while dated, they recognise the different roles and potential increasing demand for caravan parks (long-term sites) and MHE housing.

Council is preparing a housing strategy for the entire MidCoast LGA. A draft strategy is yet to be publicly exhibited. The draft strategy is to consider issues relating to caravan parks, MHEs and seniors housing.

4.4 Section 9.1 Ministerial Directions

The proposal is consistent with the relevant Directions except the following, which require further investigation before consistency can be determined:

3.1 Residential Zones

This Direction applies because it affects land in a residential zone. As the proposal would reduce housing choice (subclause 4a) and may not result in the more efficient use of infrastructure and services (subclause 4b), the proposal is inconsistent with this Direction.

The proposed review of the permissibility of caravan parks should occur before consistency with this Direction is determined.

3.2 Caravan Parks and Manufactured Home Estates

This Direction applies because the proposal relates to identifying suitable zones, locations and provisions for caravan parks and MHEs. Consistency can be determined following the review of caravan park permissibility.

5.10 Implementation of Regional Plans

The review of caravan park permissibility is required before consistency with the Hunter Regional Plan can be determined.

4.5 State environmental planning policies (SEPPs)

Council states that the proposal is consistent with SEPP 36 – Manufactured Home Estates, SEPP (Affordable Rental Housing) 2009 and SEPP (Housing for Seniors or People with a Disability) 2004. The proposal is consistent with these SEPPs.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

Prohibition of innominate uses in the R1 General Residential zone

Council advises that in deciding which uses are to be permitted and prohibited, it has sought the least possible impact on the current permissibility. Consultation with the community should assist in determining whether the proposed amendments are appropriate.

New local clause regarding MHEs

The proposed local clause and further investigation proposed by the Department may have a social impact by changing the locations where caravan parks and MHEs are permitted within the MidCoast LGA. Provided adequate provision is made to ensure these housing types remain viable, the proposal may have a positive social impact as it seeks to address community concerns about proximity to services and consistency with local character.

Council's proposed DCP provisions seek to address concerns about urban form, adaptability and amenity. This may also have positive social benefits by promoting development that responds to local character and is adaptable to the needs of ageing communities.

Whether these measures are appropriate can be further evaluated through community consultation.

5.2 Environmental

No environmental impacts are anticipated.

5.3 Economic

No economic impacts are anticipated.

5.4 Infrastructure

No infrastructure impacts are anticipated.

6. CONSULTATION

6.1 Community

As the proposal would result in a change in land use policy, it is recommended that the planning proposal be publicly exhibited for at least 28 days.

6.2 Agencies

Council proposes to consult with the Department including the Housing and Property group.

Consultation with the Housing and Property group of the Department may be undertaken by Council as the proposal is a change that affects housing policy in the MidCoast LGA.

7. TIME FRAME

Council has nominated a five-month time frame to complete the planning proposal. A nine-month completion time frame is proposed to account for the review of caravan park permissibility.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested that it be the local plan-making authority. This is supported. Should the Department progress changes to the planning framework, then the need for the proposal can be reviewed and the proposal discontinued if required. A condition to this effect is proposed in the Gateway determination.

9. CONCLUSION

The planning proposal is supported to proceed with conditions because it:

- would provide certainty regarding where MHEs are permitted with development consent;
- addresses issues arising from the current regulations that apply to MHEs;
- is consistent with an outcome of the Department's regulatory review, which is to provide clarity regarding where MHEs can be located; and
- is an interim measure while Council's consolidated LEP is prepared and the Department undertakes its review of the regulatory framework.

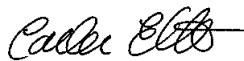
10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. note that the consistency with section 9.1 Directions 3.1 Residential Zones, 3.2 Caravan Parks and Manufactured Home Estates and 5.10 Implementation of Regional Plans is unresolved and will require justification.

It is recommended that the delegate of the Minister for Planning and Public Spaces determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the Housing and Property group of the Department of Planning, Industry and Environment.
3. The time frame for completing the LEP is to be nine months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be authorised as the local plan-making authority.
5. Prior to community consultation, Council is to:
 - (a) update the explanation of provisions section to remove 'restriction facilities'; and
 - (b) review the permissibility of caravan parks in its land use zones considering section 9.1 Ministerial Directions 3.1 Residential Zones, 3.2 Caravan Parks and Manufactured Home Estates and 5.10 Implementation of Regional Plans.
6. Council is to include its proposed development control plan provisions for manufactured home estates as part of the planning proposal exhibition package.
7. Prior to finalisation, the planning proposal is to be updated to demonstrate consistency with any changes made to the regulatory framework for manufactured homes and manufactured home estates, including any changes to State Environmental Planning Policy No 36 – Manufactured Home Estates or the publication of guidelines for manufactured home estates.



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