

Planning Proposal to amend Great Lakes Local Environmental Plan 2014: Development within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management Zones

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Introduction

This Planning Proposal outlines draft amendments to the requirements for development within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones of *Great Lakes Local Environmental Plan 2014* (LEP 2014).

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

The primary aim of the Planning Proposal is to clarify when development for residential and tourism-based development is permitted with consent on land in within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones of Great Lakes LEP 2014.

The Strategic Committee Meeting 8 September 2015 and 22 March 2016 reports, annexures and resolution relevant to this Planning Proposal are available on Council's website www.greatlakes.nsw.gov.au/Minutes-Agendas.

Council requests that the Department issue delegations to Council to make these amendments.

Part 1 – Objectives and Intended Outcomes

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

The objective of the Planning Proposal is to clarify when residential and tourism-based development is permitted **with consent** on land in the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones of Great Lakes Local Environmental Plan (LEP) 2014.

The intention is to amend Great Lakes LEP 2014 so that:

- *Clause 4.2A Erection of dwelling houses on land in certain rural and environment protection zones* applies to all development applications for residential and tourism-based land uses that incorporate accommodation within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones.

Part 2 – Explanation of Provisions

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

Great Lakes Local Environmental Plan (LEP) 2014 currently provides clear criteria for when dwelling houses are permitted on land within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones in *Clause 4.2A Erection of dwelling houses on land in certain rural and environment protection zones*.

However, in the transition from Great Lakes LEP 1996 and Manning LEP No.1 to Great Lakes LEP 2014, the application of these criteria to other residential and tourism-based land uses that incorporate accommodation, became unclear.

The intention is to amend Great Lakes LEP 2014 so that:

- *Clause 4.2A Erection of dwelling houses on land in certain rural and environment protection zones* applies to all development applications for residential and tourism-based land uses that incorporate accommodation within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones.

The provisions of Clause 4.2A currently allow for the development of a dwelling house on existing holdings under specific criteria, or on lands over 40 hectares within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones.

Individual parcels that cannot satisfy the requirements of Clause 4.2A, commonly referred to as non-urban lands, often have other restrictions to development related to location, environmental sensitivity, services, infrastructure and access that would also restrict and limit opportunities for development generally.

It is acknowledged that the Planning Proposal, in clarifying this intention, will expand the current application of Clause 4.2A so that the development restrictions associated with this clause are applied consistently to dwelling houses and other forms of development with accommodation in the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones.

However, the purpose of the amendment is three-fold:

- ensure development restrictions and matters for consideration on non-urban lands from Manning LEP No.1 and Great Lakes LEP 1996 have been consistently transitioned into Great Lakes LEP 2014;
- address an anomaly where land uses incorporating permanent accommodation may be considered to be permissible with consent on land where a dwelling is not permitted; and
- implement recommendations of the Rural Living Strategy (2004) that are being exercised in the development assessment process, but have not been clearly documented within Great Lakes LEP 2014.

The provisions and requirements of Clause 4.2A are considered to represent a suitable method for this, rather than increasing the number of prohibited land uses within the zone land use tables or specifying a minimum lot size for each specific land use.

Therefore, this amendment would achieve the aim of ensuring residential and tourism-based development is occurring on allotments of a size, location and character to accommodate these land uses. In satisfying the requirements of Clause 4.2A the land would be 40 hectares or larger, have a dwelling entitlement or constitute an existing holding (which may incorporate several lots).

Such allotments would then have the potential to be in a location, of a size and have the character necessary to accommodate:

-
- the buildings, access, on-site disposal and recreational/private outdoor facilities associated with residential development over and above a single dwelling house, or a tourism-based development that includes accommodation facilities;
 - a development design which ensures that the agricultural (rural) or environmental values of the allotment are protected and maintained.

In addition, the Rural Living Strategy 2004 (Strategic Environmental Assessment & Strategy) findings and recommendations relating to residential and tourism activities in rural and environmental areas would be partly addressed and transitioned into Great Lakes LEP 2014.

A copy of *Clause 4.2A Erection of dwelling houses on land in certain rural and environment protection zones* of Great Lakes Local Environmental Plan 2014 is provided in Appendix 1.

The current Land Use Tables for the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones from Great Lakes LEP 2014 are documented in Appendix 2 and the relevant land uses underlined.

Part 3 – Justification

(s.55(2)(c) Justification for the objectives, outcomes and provisions and the process for their implementation)

Section A – Need for the Planning Proposal

3.A.1 Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal aims and objectives are consistent with the findings and recommendations of Council's Rural Living Strategy (2004) which is available on Council's website at: <http://www.greatlakes.nsw.gov.au/Develop-or-Build/Discover/Future-Planning>.

Background

The Rural Living Strategy (2004) findings and recommendations regarding residential and tourist accommodation in rural and environmental areas of the Great Lakes were outside of the scope of 'transitioning' existing local environmental plan provisions into the new LEP template.

These recommendations continue to be reflected in development assessment, but should be incorporated into LEP 2014 to ensure consistent interpretation and implementation.

The Strategy

The Rural Living Strategy (2004) considered a range of land uses and areas of potential development within the rural and environmental zones of the Great Lakes. Subsequent conservation and development strategies have largely focused on urban areas of the Great Lakes.

The recommendations from the Rural Living Strategy have progressively been implemented through an urban release area program and amendments to the planning provisions of the local environmental plan and development control plan.

In particular, the Rural Living Strategy recognises that residential and tourism-based development does have the potential to create land use conflict rural and environmental areas, but can be accommodated where an appropriate framework of controls are in place.

The intention of this Planning Proposal is to clarify some of the provisions within this framework and to provide consistency within the development assessment process for residential and tourism-based development in rural and environmental areas of the Great Lakes.

The following excerpts from the Rural Living Strategy 2004 (Strategic Environmental Assessment & Strategy) highlight the issues of impact, management and accommodation of residential and tourism activities in rural and environmental areas of the Great Lakes and how these issues may be addressed:

Constrained Areas:

On page 14 of the Strategy *Table 3.3: Settlements with constraints for expansion* characterises the following locations as having constrained development potential and generally unsuitable for future expansion due to their "isolated" character "and lack of water and sewerage and community services and facilities": Allworth, Bundabah, Coolongolook, Carrington, Limeburner's Creek, North Arm Cove and Pindimar.

It is relevant to note that these areas also comprise a significant portion of the land affected by Clause 4.2A of Great Lakes LEP 2014 i.e. zoned RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management and having allotments of less than 40 hectares.

Rural Lands:

The two rural land designations within the Strategy that are affected by this Planning Proposal are those referred to as 'Agricultural Landscape' and 'Rural Mixed Uses'. These lands are now identified as being located within the RU2 Rural Landscape zone of Great Lakes LEP 2014.

Within the Strategy (p.53-55) it is recommended that the minimum lot sizes within these areas should be maintained at 40 hectares while suitable planning controls are devised to manage potential land use conflicts between agricultural, residential, tourism and rural residential activities.

In particular, the Strategy states that this 40 hectare standard should generally be retained within the 'Agricultural Landscape' and 'Rural Mixed Uses' areas for the following reasons:

- *"The dwelling standard cannot be totally withdrawn due to the number of additional dwelling entitlements that would be created.*
- *Such action would dramatically alter the landscape and would also place an unacceptable burden on Council's resources.*
- *It may also cause unacceptable environmental impacts.*
- *This is appropriate considering the amount of land, the location of land and the general agricultural and scenic quality of the land in this designation."*

The Strategy goes on to discuss issues relating to Housing in Rural Areas (p.67) and states: *"If the Council is of the opinion that dual occupancies should continue as a legitimate housing option for its rural areas, decisions must be made about how to regulate their form (attached or detached), size, design, location and environmental impacts to ensure that the desired rural character is maintained."*

In this regard it indicates that ***"An additional dwelling on a rural property may be acceptable provided that the second dwelling meets the following criteria:***

- ***They are located on a lot not less than 2ha in size (unless connected to reticulated sewerage);***
- ***The urban sized lots at North Arm Cove and Pindimar that are zoned rural will not be permitted to have dual occupancy."***

Additional criteria are provided within the Strategy regarding scale and design, but it is relevant to note that those identified above represent a significant portion of the lands affected by Clause 4.2A of Great Lakes LEP 2014 i.e. zoned RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management and having allotments of less than 40 hectares.

Rural Tourist Development:

On page 69 of the Strategy it is acknowledged that *"The current provisions in the Great Lakes LEP (1996) for tourist related developments are ambiguous and contradictory. The source of the problem is the definition of the term **tourist facility**" which means an "establishment providing for holiday accommodation or recreation, and includes a boatshed, boat landing facilities, camping ground, caravan park, holiday cabins, a hotel, house boat, marina, motel, playground, restaurant or water sports facilities or for a club used in conjunction with any such establishment, but does not include bed and breakfast establishments".*

This definition *"includes a number of other uses which are separately defined in the LEP. Of note are the terms 'camping ground', 'caravan park', 'hotel', 'motel' and 'restaurant'. Each of the zones treats these differently and in a contradictory manner. All permit tourist facilities with development consent but prohibit some of the component parts of them."*

It is also *"noted that there is not a specific definition of farm-stay and it is acknowledged that it is the same as a bed and breakfast but in a different location and consideration could be given to including a reference to it in the definition of rural tourist facility."*

Minimum Requirements for Rural Tourism Development:

The Strategy goes on to state on pages 74-75 that ***"It is also necessary to set a minimum size limit to ensure that the facility is of sufficient size so as not to create a de-facto subdivision for dwelling purposes. It is considered that 4 tourist accommodation buildings (plus a manager's unit) should require substantial investment to ensure that the tourist facility would be bona fide."***

Furthermore, it acknowledges that there can also *"be merit in prescribing a minimum size for a property upon which a tourist facility can be developed. By doing this there is greater guarantee that the development will function as a tourist operation because small holdings of say two or five hectares would be excluded from such development. A minimum area of, for example 40ha, would at least ensure sufficient area for other activities normally associated with an environmentally based operation."*

Environmental Lands

The Strategy then goes on (p.79-82) to consider the implications of development and opportunities for conservation in environmental areas of the local government area. In particular it states that ***"There will also have to be some changes to uses within the current environmental protection zones, such as the introduction of a definition of eco-tourism to replace the current broad "tourism" definition. Other uses that are currently permitted within the 7(a) and 7(b) zones, such as aquaculture, motels, tourist facilities (regardless of scale) and agriculture, are probably inappropriate in at least some of the environmental protection zones."***

Economic Development

Finally, on page 93, the Strategy acknowledges that *"In an area such as Great Lakes, the tourism market is mostly associated with the coastal parts. However, **there is potential to utilise the inland parts for ecotourism and rural based tourism. To enable the economic development to occur, there is a need to review the policies dealing with development applications for such uses as tourist facilities, bed and breakfast establishments and other tourist accommodation uses."***

Implementation Framework

In conclusion, within the Land Use Planning Implementation Framework of the Rural Living Strategy it is recommended that Council:

Objective: *Develop a land use framework that will give a level of certainty to the people who live in the rural areas of the Great Lakes LGA*

Implementation Strategy: *5 Provide controls and management requirements for specific land uses that are considered to be non-sustainable or problematic.*

Policy Action: *5.1 Prepare specific controls for the following land uses and define and regulate them in a new rural LEP and DCP as set out in the strategy: **Dual Occupancies; Farm-gate Sales; Intensive Animal Establishment; Intensive Plants; Rural Residential development; Rural Tourist Development; Land Clearing***

Consistent with these findings and recommendations of the Rural Living Strategy (2004), clarification of when residential and tourism-based development is permissible with consent in rural and environmental areas is considered to be one opportunity to provide a level of certainty to land owners wanting to establish these land uses.

The provisions and requirements of Clause 4.2A are considered to represent a suitable method for this, rather than increasing the number of prohibited land uses within the zone land use tables or specifying a minimum lot size for each specific land use, as the provisions of the clause already provide a degree of flexibility.

For example, Clause 4.2A:

- provides for merit-based assessment of a range of land uses on 40 hectare properties;
- while the other criteria including those for existing holdings, allow for a range of development types of variable scale in the rural-environmental landscape, dependent the size and location of the lawfully approved property or existing holding.

Since adoption of the Strategy a significant number of the recommendations have been implemented, including the rezoning of land through the Urban Release Area program.

Progressive implementation of the recommendations within the new planning framework of the Standard Instrument Local Environmental Plan and single Great Lakes Development Control Plan is on-going through Council's Strategic Land Use Planning work program.

Other projects on the current Strategic Planning work program with links back to the Rural Living Strategy include:

- planning proposal to clarify subdivision and boundary realignment in rural and environmental areas,
- planning proposal for subdivision and protection of ecological lots;
- planning proposal and development control plan provisions for short-term holiday rental accommodation; and
- planning proposal for dual occupancy development in rural areas.

Therefore, the clarification of matters for consideration in determining a development application for residential and tourism-based development in rural and environmental zones by applying Clause 4.2A is considered to be only one additional opportunity to provide certainty to land owners in these areas of the Great Lakes.

3.A.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Background

Great Lakes LEP 2014 is based on the NSW Standard Instrument LEP, Model Clauses and state-wide standard land use definitions.

During the transition from Great Lakes LEP 1996 and Manning LEP No.1 to Great Lakes LEP 2014, the circumstances of when dwellings and other types of residential and tourist accommodation were permitted in rural and environmental areas became unclear.

Land Use Permissibility

In particular, the changes to land use definitions and terminology from the old to the new LEP instruments, have resulted in confusion about the permissibility of residential and tourist accommodation within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones.

With regards to dwelling houses LEP 2014 is consistent with Great Lakes LEP 1996 and Manning LEP No.1, in that they are only permitted in the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones under specific circumstances. For example, the land has to be 40 hectares, a dwelling has to have been permissible under the previous LEP or the land has to comprise an existing holding.

However, the general intent of LEP 1996, Manning LEP No.1 and the Rural Living Strategy to limit development for other forms of residential and tourist accommodation on land less than 40 hectares in these rural and environmental zones, has not been clearly transitioned into the new LEP.

To demonstrate the transition of land use permissibility of residential and tourism-based development from the previous local environmental plans into Great Lakes LEP 2014 the following matrix have been prepared. Only those land uses and zones relevant to this Planning Proposal have been considered and documented.

These tables provide a summary of the relevant zones, land use definitions and restrictions from Manning LEP No.1, Great Lakes LEP 1996 and Great Lakes LEP 2014, which are documented in Appendix 3.

Permissibility categories in the following tables reflect constraints imposed by land use definitions, clause restrictions and land use table prohibitions:

Categories	Explanation
	permissible with consent in land use table and no restrictions by definition or clauses
	permissible in land use table but restricted by definition or clause
	prohibited in land use table or by clause

Table 1: Manning LEP No.1 and Great Lakes LEP 1996 transition of residential land uses into Great Lakes LEP 2014

Manning LEP	1a Non-urban	dual occupancy	dwelling-houses	exhibition dwelling	residential buildings	Second dwelling
Manning LEP	1b Non-urban	dual occupancy	dwelling-houses	exhibition dwelling	residential buildings	Second dwelling
LEP 1996	1a Rural	multiple dwellings (2 or more)	dwelling-houses	exhibition home	multiple dwellings (2 or more)	
LEP 1996	1c Future Urban Investigation	multiple dwellings (2 or more)	dwelling-house	exhibition home	multiple dwellings (2 or more)	
LEP 2014	RU2 Rural Landscape	dual occupancies	<i>dwelling houses</i>	exhibition homes	residential accommodation	secondary dwellings
LEP 1996	7b Conservation	multiple dwellings (2 or more)	dwelling-house	exhibition home	multiple dwellings (2 or more)	
LEP 2014	E3 Environmental Management	dual occupancies	dwelling houses	exhibition homes	residential accommodation	Secondary dwellings
LEP 1996	7a Wetlands & Littoral Rainforest	multiple dwellings (2 or more)	dwelling-house	exhibition home	multiple dwellings (2 or more)	
LEP 1996	7a1 Environmental Protection	multiple dwellings (2 or more)	dwelling-house	exhibition home	multiple dwellings (2 or more)	
LEP 1996	7f1 Coastal Lands Protection	multiple dwellings (2 or more)	dwelling-house	exhibition home	multiple dwellings (2 or more)	
LEP 1996	7f2 Coastal Lands Acquisition	multiple dwellings (2 or more)	dwelling-house	exhibition home	multiple dwellings (2 or more)	
LEP 2014	E2 Environmental Conservation	dual occupancies	<i>dwelling houses</i>	exhibition home	residential accommodation	secondary dwellings

Note: Land uses in italic text in the table above are identified in the Standard Instrument LEP as permissible within the zone and Council cannot change this classification within LEP 2014.

Table 2: Manning LEP No.1 and Great Lakes LEP 1996 transition of tourist-based accommodation into Great Lakes LEP 2014

Manning LEP	1a Non-urban		bed & breakfast		hotels		
Manning LEP	1b Non-urban		bed & breakfast		hotels		
LEP 1996	1a Rural	backpackers accommodation	bed & breakfast		hotel	motel	tourist facility
LEP 1996	1c Future Urban Investigation	backpackers accommodation	bed & breakfast		hotel	motel	tourist facility
LEP 2014	RU2 Rural Landscape zone	backpackers accommodation	bed & breakfast	farm stay accommodation	hotel or motel accommodation	hotel or motel accommodation	tourist or visitor accommodation
LEP 1996	7b Conservation	backpackers accommodation	bed & breakfast		hotel	motel	tourist facility
LEP 2014	E3 Environmental Management	backpackers accommodation	bed & breakfast	farm stay accommodation	hotel or motel accommodation	hotel or motel accommodation	tourist or visitor accommodation
LEP 1996	7a Wetlands & Littoral Rainforest	backpackers accommodation	bed & breakfast		hotel	motel	tourist facility
LEP 1996	7a1 Environmental Protection	backpackers accommodation	bed & breakfast		hotel	motel	tourist facility
LEP 1996	7f1 Coastal Lands Protection	backpackers accommodation	bed & breakfast		hotel	motel	tourist facility
LEP 1996	7f2 Coastal Lands Acquisition	backpackers accommodation	bed & breakfast		hotel	motel	tourist facility
LEP 2014	E2 Environmental Conservation	backpackers accommodation	bed & breakfast	farm stay accommodation	<i>hotel or motel accommodation</i>	<i>hotel or motel accommodation</i>	tourist or visitor accommodation

Note: Land uses in italic text in the above table are identified in the Standard Instrument LEP as prohibited and Council cannot change this classification within LEP 2014.

Table 3: Manning LEP No.1 and Great Lakes LEP 1996 transition of eco-tourism, camping and caravan parks into Great Lakes LEP 2014

Manning LEP	1a Non-urban		caravan parks	caravan parks
Manning LEP	1b Non-urban		caravan parks	caravan parks
LEP 1996	1a Rural		camping ground or caravan park	camping ground or caravan park
LEP 1996	1c Future Urban Investigation		camping ground or caravan park	camping ground or caravan park
LEP 2014	RU2 Rural Landscape zone	eco-tourist facilities	camping grounds	caravan parks
LEP 1996	7b Conservation		camping ground or caravan park	camping ground or caravan park
LEP 2014	E3 Environmental Management	eco-tourist facilities	camping grounds	caravan parks
LEP 1996	7a Wetlands & Littoral Rainforest		camping ground or caravan park	camping ground or caravan park
LEP 1996	7a1 Environmental Protection		camping ground or caravan park	camping ground or caravan park
LEP 1996	7f1 Coastal Lands Protection		camping ground or caravan park	camping ground or caravan park
LEP 1996	7f2 Coastal Lands Acquisition		camping ground or caravan park	camping ground or caravan park
LEP 2014	E2 Environmental Conservation	eco-tourist facilities	camping grounds	caravan parks

Summary of Permissibility Matrix:

- LEP 2014 generally maintains land use permissibility from the previous Manning Local Environmental Plan (LEP) No.1 & Great Lakes LEP 1996 provisions, except in the E3 Environmental Management zone where additional flexibility has been provided.
- Based on advice from the Department of Primary Industries, rural workers dwellings became a prohibited land use in rural areas under LEP 2014. However, Council sought to retain some flexibility in these areas by permitting dual occupancy (attached) and secondary dwelling development with consent. This was on the understanding that both uses required a dwelling/house to be established and this would continue to require consideration of the 40 hectare/existing holding provisions of Clause 4.2A.
- Similarly, exhibition homes are assessed as a dwelling house on the basis that within the land use definition it is clear that the 'exhibition home' is a temporary use of a dwelling/house. Therefore this land use is permitted with consent on the understanding that the 40 hectare/existing holding provisions of Clause 4.2A would also be applicable to this form of development.
- The Rural Living Strategy (2004) recommended that tourist-based accommodation be considered to require a minimum of four accommodation 'units' and a 'manager's residence'. Therefore, the permanent 'residence' component of this land use would also require consideration and compliance with the 40 hectare/existing holding provisions of Clause 4.2A.
- The Rural Living Strategy also noted that farm stay accommodation operates in a manner consistent with a bed & breakfast establishment (p.69). This is not clearly or specifically addressed in LEP 2014 or the Great Lakes Development Control Plan (DCP). However it is noted that this land use is already restricted by the LEP 2014 definition, limiting farm stay accommodation to a secondary activity on properties being used as a working farm.
- Eco-tourist facilities are a new land use within LEP 2014 which is subject to restrictions from the land use definition and a specific development clause.

These findings are generally consistent with the recommendation of the Rural Living Strategy that Council "Develop a land use framework that will give a level of certainty to the people who live in the rural areas of the Great Lakes LGA".

However, it is considered to be necessary and appropriate for the Amended Planning Proposal to progress and further assist in clarifying the intent and purpose of Great Lakes LEP 2014 when it comes to development in rural and environmental zones. It is also important to correct an anomaly whereby LEP 2014 could be interpreted as allowing various types of accommodation in these areas even though a dwelling house is prohibited on the land.

It is also relevant to note that there are inconsistencies in the permissibility of caravan parks and manufactured home estates in rural and environmental areas, based on the requirements of State Environmental Planning Policy (SEPP) 21 - Caravan Park and SEPP 36 - Manufactured Home Estates.

While there are no stated prohibitions in SEPP 21 for the establishment of caravan parks in rural or environmental zones, SEPP 36 specifically prohibits the establishment of manufactured home estates in environmental protection zones; rural zones not next to urban land; and non-urban land in the Great Lakes.

This distinction is relevant within the Great Lakes where over the last decade several properties developed for the purpose of a caravan park have transitioned into manufactured home estates. Within these properties short-term and temporary accommodation for visitors has progressively been replaced with an increase in low-cost permanent accommodation for residents.

The provisions and inconsistency between SEPP 21 and SEPP 36 may therefore, create a legislative anomaly where in certain circumstances, the SEPP provisions may be used to obtain permanent occupancy on land where a single dwelling would not be permissible under the provisions of *Clause 4.2A Erection of dwelling houses on land in certain rural and environment protection zones* of Great Lakes Local Environmental Plan 2014.

Therefore, as can be demonstrated in the summary tables above and the supplementary information in Appendix 3, the transition of zones, land uses and local clause provisions into Great Lakes LEP 2014 has not, despite Council's intentions, provided a clear or consistent transition of existing provisions.

Local Environmental Plan Anomaly

In areas where there has not been a clear transition of previous provisions and restrictions, an anomaly exists within Great Lakes LEP 2014 whereby a range of residential and tourism-based land uses may be considered to be 'Permissible with Consent' on lots where a single dwelling is prescribed as being prohibited under the criteria of Clause 4.2A.

Within the Great Lakes local government area there are approximately 4,000 urban-sized allotments that are zoned RU2 Rural Landscape, E2 Environmental Conservation or E3 Environmental Management that may be affected by this anomaly.

Therefore, Council is seeking to clarify that the requirements of Clause 4.2A apply to all residential and tourism-based accommodation within these zones.

In this regard it is noted that several other Councils have undertaken similar amendments to address such anomalies, including but not limited to: Armidale, Ballina, Clarence Valley, Leeton, Nambucca, Port Macquarie-Hastings, Shellharbour, Singleton, Tweed and Wyong.

Great Lakes LEP 2014

Great Lakes Local Environmental Plan 2014 became effective on 4 April 2014. The LEP retains the principles of Great Lakes LEP 1996 and Manning LEP No.1 of enabling development on rural and environmental land under 40 hectares only where the land use is permissible with consent.

The LEP also continues to enable the development of a dwelling house on land less than 40 hectares within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones where there is an existing holding entitlement *or other criteria in Clause 4.2A are satisfied*.

The clarification of development provisions within the specified rural and environmental zones within the local environmental plan rather than any other planning instrument also ensures that the provisions of Clause 4.2A are considered in conjunction with other matters from LEP 2014, including but not limited to:

Clause 1.2 Aims of the Plan:

- a) to facilitate the orderly and sustainable economic development of land,*
- c) to protect and enhance environmental, scenic and landscape assets,*
- e) to promote the equitable provision of services and facilities for the community,*
- f) to ensure that development does not create unreasonable or uneconomic demands for the provision or extension of public amenities or services,*
- h) to ensure that development has regard to the capability of the land so that the risk of degradation is minimised,*
- i) to minimise land use conflict,*
- j) to ensure that development meets any local water quality objectives adopted by Council in relation to groundwater, rivers, estuaries, wetlands and other waterbodies,*
- k) to protect, enhance and provide for the long-term management of native biodiversity, including habitat linkages, threatened species populations and endangered ecological communities, and to identify and protect biodiversity links or corridors throughout the landscape.*

Zone RU2 Rural Landscape Objectives:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To provide for rural tourism in association with the primary industry capability of the land which is based on the rural attributes of the land.*
- *To secure a future for agriculture in the area by minimising the fragmentation of rural land and loss of potential agricultural productivity.*

Zone E2 Environmental Conservation Objectives:

- *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*

Zone E3 Environmental Management Objectives:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*

Significantly, a large number of the non-urban allotments affected by the current anomaly are in locations that do not necessarily have the essential services normally required to undertake development for the range of more intensive land uses associated with the residential or tourism-based accommodation referred to within this Planning Proposal.

For example, in locations such as North Arm Cove the urban-sized allotments generally do not have:

- the capacity to accommodate on-site effluent disposal requirements,
- access from legal and constructed roads, and
- services or infrastructure associated with water, sewer and electricity supply.

Clause 7.21 Essential services

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- a) the supply of water,*
- b) the supply of electricity,*
- c) the disposal and management of sewage,*
- d) stormwater drainage or on-site conservation,*
- e) suitable vehicular access.*

Therefore, Council considers that the Planning Proposal and a subsequent amendment to the Great Lakes LEP 2014 is the most effective means of facilitating logical planning outcomes which have strategic merit.

In particular, the local environmental plan provides the best means of achieving the objectives or intended outcomes of the Planning Proposal - to clarify when development for residential or tourism accommodation is permitted on land in within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones.

Section B – Relationship to strategic planning framework

3.B.1 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 Planning Proposal is consistent with The Mid North Coast Regional Strategy (MNCRS) 2009.

The clarification of when residential accommodation is permitted on land in rural and environmental zones less than 40 hectares is consistent with the Mid North Coast Regional Strategy (2009) statement that "Local environmental plans will include provisions to limit dwellings in rural and environmental zones." (p.20)

The Strategy also acknowledges that "the attractiveness of the Region is dependant on the high quality natural resources and landscape values which underpin tourism. Visitors are also drawn by the coastal character of the settlements. Clearly it is in the best economic interests of the region to ensure that the scale of development, particularly tourism development, does not overwhelm these values." (p.26)

In this regard, the environmental and scenic qualities and values of the Great Lakes region are well known and acknowledged as a significant driver of visitation and tourism activities. In this regard approximately one-third of the terrestrial and aquatic environments within the local government area are protected by national parks, the marine park estate and environmental zones.

However, approximately one half of the local government area is zoned RU2 Rural Landscape as shown Figure 1. When comparing the zoning map to the aerial imagery in Figure 2, it becomes clear that significant areas of the RU2 Rural Landscape zone are heavily vegetated. The significance of these areas is acknowledged within the Mid North Coast Regional Strategy Growth Area map (Figure 3) as environmentally constrained.

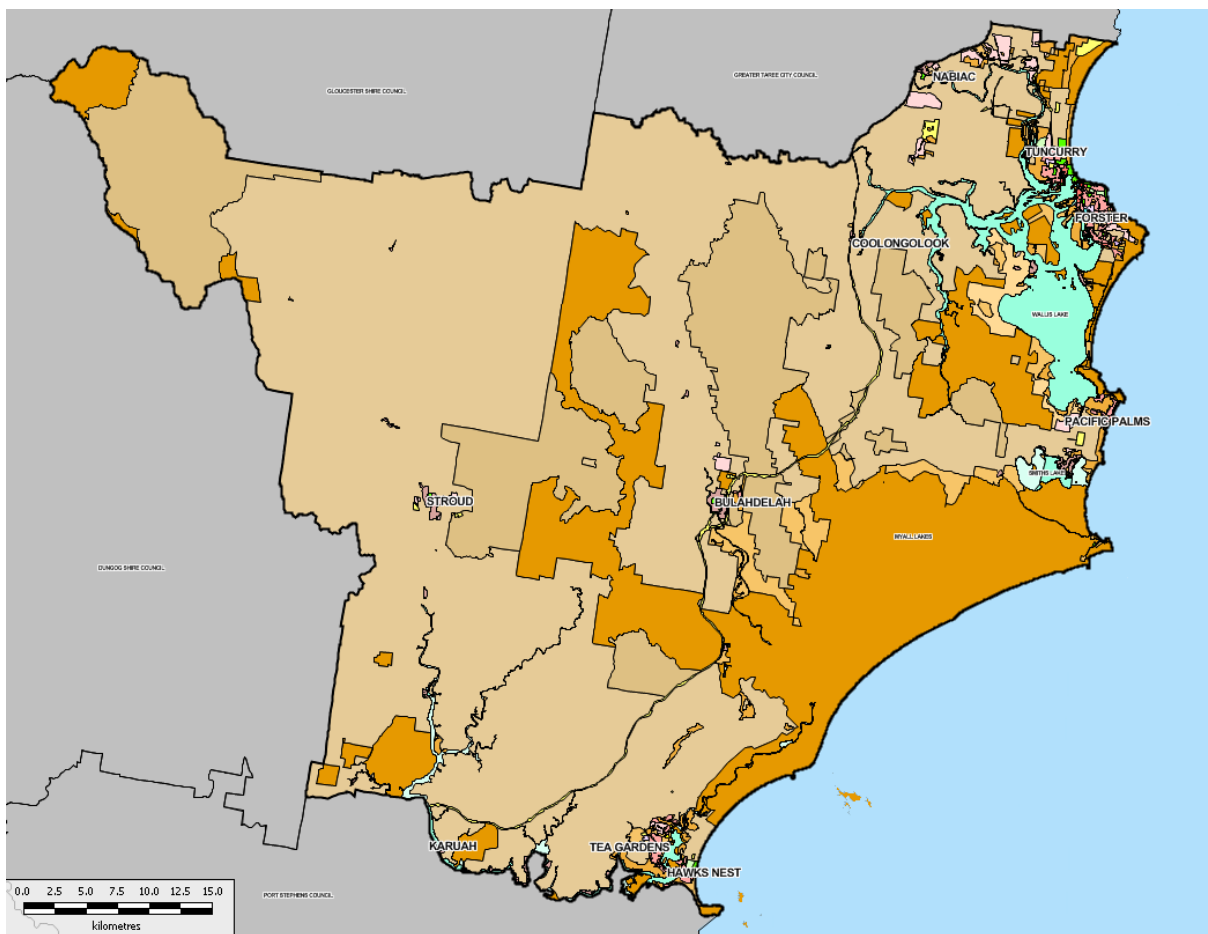
The Mid-North Coast Regional Strategy (2009) also acknowledges that certain lands in the North Arm Cove - Pindimar region are subject to various environmental, infrastructure and servicing constraints that would make them generally unsuitable for identification as an urban release area for the life of the Strategy (2030).

These areas are also characterised by historic paper subdivisions (Figure 4) which have created over 4000 'non-urban' allotments, many of which have no dwelling entitlement in accordance with the provisions of Clause 4.2A. These non-urban lands often have other restrictions to development related to location, environmental sensitivity, services, infrastructure and access that would also restrict and limit opportunities for development generally.

Therefore, while Council is supportive of residential and tourism accommodation in certain rural and environmental areas the land must have the carrying-capacity and attributes to enable these activities. One opportunity to assist in this is to identify the locations where these land uses are permitted with consent through the application of consistent criteria under Clause 4.2A.

Therefore, Council is of the view that this Planning Proposal is consistent with the Mid North Coast Regional Strategy (2009).

Figure 1: Great Lakes LEP 2014 zones applying to Great Lakes local government area



Great Lakes Local Environmental Plan 2014 Land Use Zones

Zone

B1	Neighbourhood Centre
B2	Local Centre
B4	Mixed Use
B5	Business Development
E1	National Parks and Nature Reserves
E2	Environmental Conservation
E3	Environmental Management
E4	Environmental Living
IN1	General Industrial
IN2	Light Industrial
IN4	Working Waterfront
R2	Low Density Residential

R3	Medium Density Residential
R4	High Density Residential
R5	Large Lot Residential
RE1	Public Recreation
RE2	Private Recreation
RU2	Rural Landscape
RU3	Forestry
RU5	Village
SP2	Infrastructure
SP3	Tourist
W1	Natural Waterways
W2	Recreational Waterways

Figure 2: Aerial Image of Great Lakes local government area

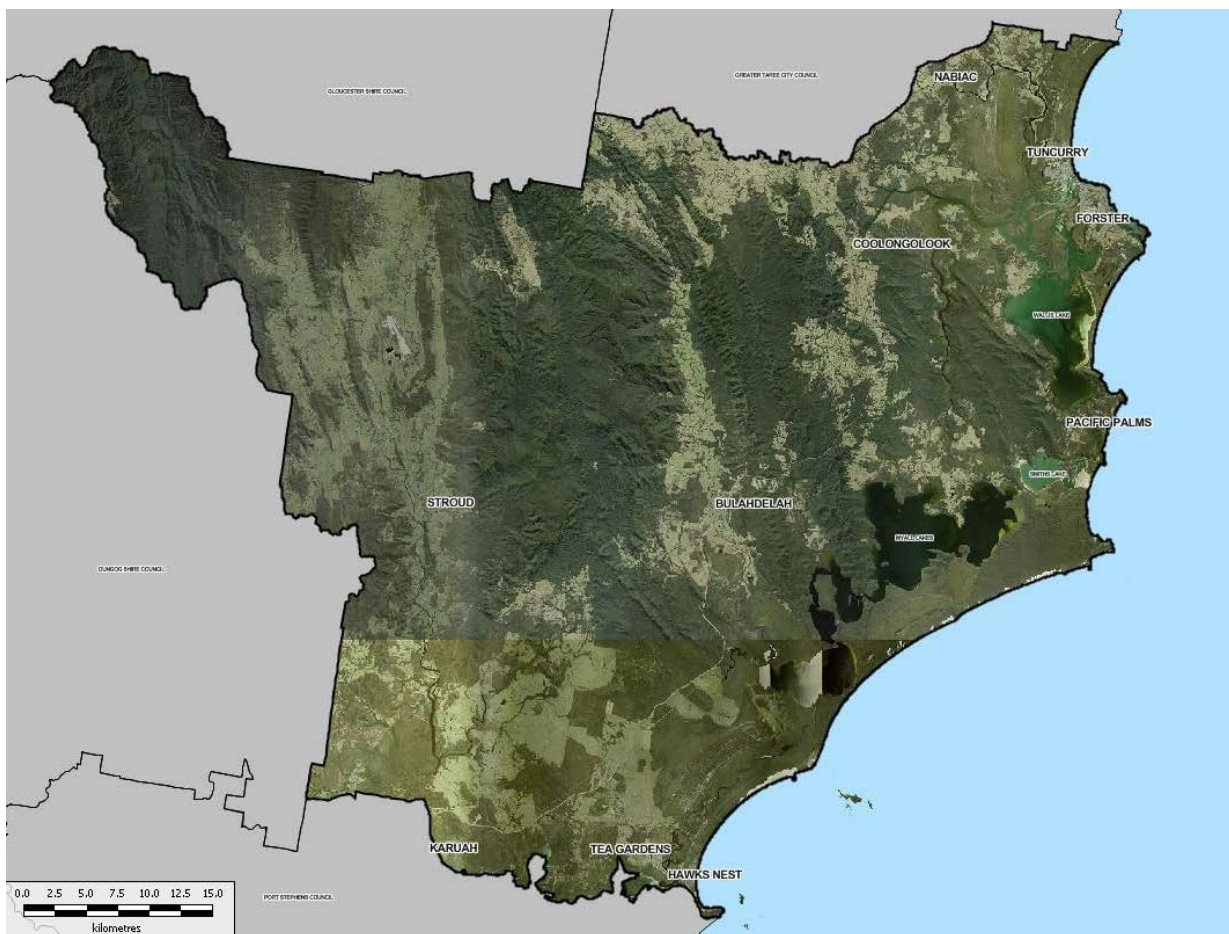


Figure 3: Excerpt from Mid North Coast Regional Strategy (2009)

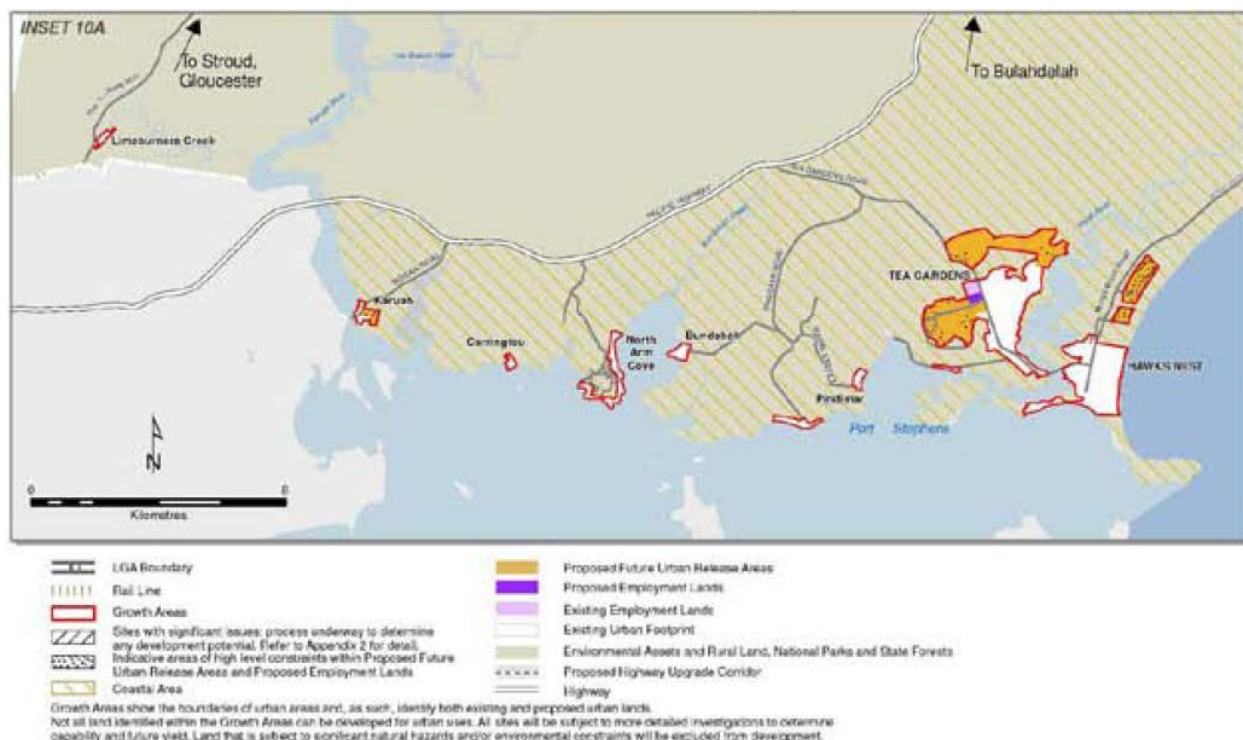
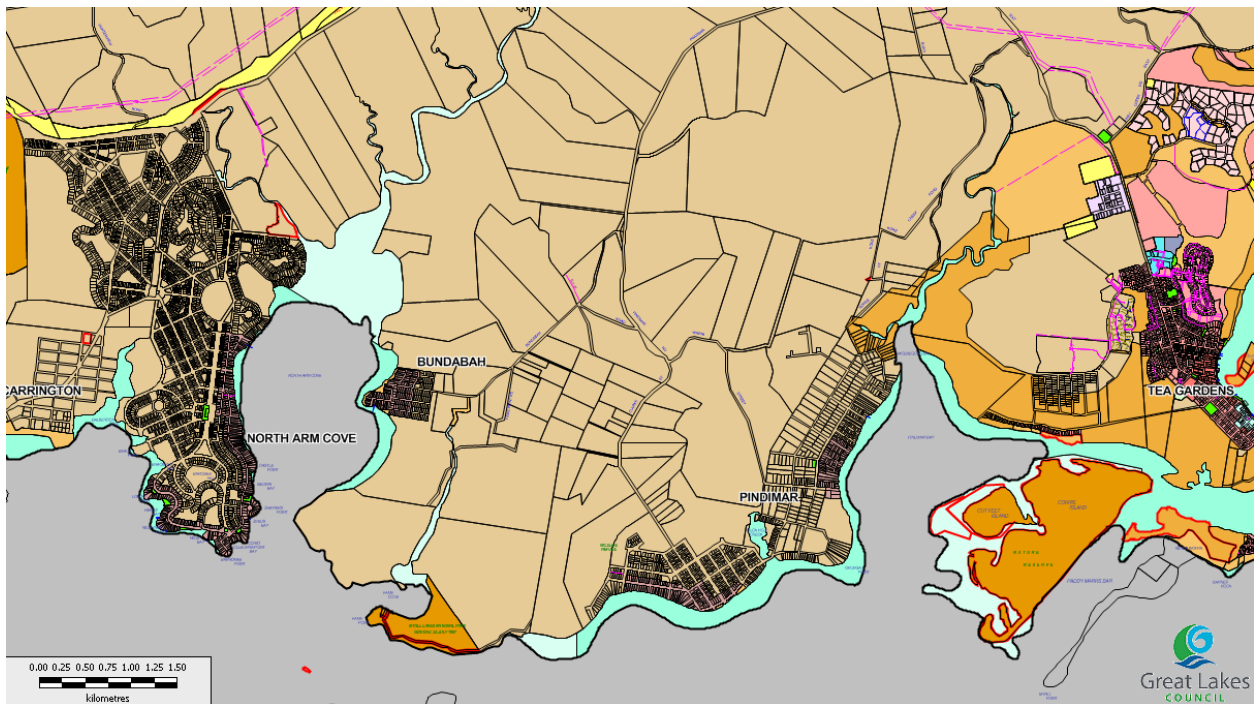


Figure 4: Great Lakes LEP 2014 zone overlay at North Arm Cove, Pindimar and Tea Gardens



3.B.2 Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The Planning Proposal is consistent with Council's Community Strategic Plan 2010-2030 (Great Lakes 2030). The Community Plan 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 a number of Key Directions and Objectives and the Planning Proposal is consistent with the following:

Key Direction 1: Our Environment

Objective 1: Protect and maintain the natural environment so it is healthy and diverse

Strategies

- 1.1 Undertake an active management program to support a healthy environment that also provides for economic, recreational and cultural opportunities
- 1.2 Encourage and support the community to embrace environmentally-friendly behaviours and sustainable business practices

Objective 2: Ensure that development is sensitive to our natural environment

Strategies

- 2.1 Base strategic land use planning on ecologically sustainable principles

Key Direction 2: Strong Local Economies

Objective 5: Promote the Great Lakes as an area that is attractive for residents and visitors

Strategies

- 5.1 Market the Great Lakes as an area that offers a range of opportunities for all
- 5.2 Explore new and emerging opportunities to promote the Great Lakes

Key Direction 3: Vibrant and Connected Communities

Objective 9: Plan for sustainable growth and development

Strategies

- 9.1 Manage growth to reflect current and future needs
- 9.2 Manage urban development and ensure it respects the character of the area in which it is located

Key Direction 4: Local Leadership

Objective 14: Deliver Council services which are effective and efficient

Strategies

- 14.1 Set a strategic direction for Council that focuses on current and future customer needs and deploy plans to achieve those strategies

As discussed previously within this document, the Planning Proposal is also consistent with Council's Rural Living Strategy (2004) and seeks to implement appropriate planning controls within the local environmental plan, in accordance with the Implementation Strategy (p.104) which states:

5.2.2. Land Use Planning

Objective: Develop a land use framework that will give a level of certainty to the people who live in the rural areas of the Great Lakes LGA

Implementation Strategy: 5. Provide controls and management requirements for specific land uses that are considered to be non-sustainable or problematic.

Policy Action: 5.1. Prepare specific controls for the following land uses and define and regulate them in a new rural LEP and DCP as set out in the strategy:

- Dual Occupancies
- Farmgate Sales
- Intensive Animal Establishment
- Intensive Plants
- Rural Residential development
- Rural Tourist Development
- Land Clearing

3.B.3 Is the Planning Proposal consistent with applicable state environmental planning policies?

The Proposal is consistent with the objectives and provision of the following relevant State Environmental Planning Policies (SEPPs):

State Environmental Planning Policy No 21—Caravan Parks

The aim of this Policy is to encourage:

- (a) the orderly and economic use and development of land used or intended to be used as a caravan park catering exclusively or predominantly for short-term residents (such as tourists) or for long-term residents, or catering for both, and
- (b) the proper management and development of land so used, for the purpose of promoting the social and economic welfare of the community, and
- (c) the provision of community facilities for land so used, and
- (d) the protection of the environment of, and in the vicinity of, land so used.

The Planning Proposal is considered to be consistent with the SEPP as it does not amend the 'Permissible with Consent' provisions of the land use tables within Great Lakes LEP 2014.

Despite this, it is acknowledged that the Planning Proposal will expand the current application of Clause 4.2A so that the development restrictions associated with this clause are applied consistently to dwelling houses and other forms of development with accommodation in the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones.

The purpose of the amendment is three-fold:

- ensure development restrictions and matters for consideration on non-urban lands from Manning LEP No.1 and Great Lakes LEP 1996 have been consistently transitioned into Great Lakes LEP 2014;
- address an anomaly where land uses incorporating permanent accommodation may be considered to be permissible with consent on lands where a dwelling entitlement does not exist; and
- implement recommendations of the Rural Living Strategy (2004) that are being exercised in the development assessment process, but have not been clearly documented within Great Lakes LEP 2014.

The intention is to amend Great Lakes LEP 2014 so that the requirements of *Clause 4.2A Erection of dwelling houses on land in certain rural and environment protection zones* apply to all development applications for residential and tourism-based land uses that incorporate accommodation, within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones.

The Planning Proposal would therefore, also require consideration of Clause 4.2A when an application for the development of a 'caravan park' on rural and environmental lands is being prepared.

In summary the provisions of Clause 4.2A currently allow for the development of a dwelling house on existing holdings under specific criteria, or on lands over 40 hectares, within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones.

Individual parcels that cannot satisfy the requirements of Clause 4.2A, commonly referred to as non-urban lands, often have other restrictions to development related to location, environmental sensitivity, services, infrastructure and access that would also restrict and limit opportunities for development generally.

However, properties and existing holdings (which may incorporate several parcels) that can satisfy the requirements of Clause 4.2A are more likely to be of a size, location and character that can accommodate a caravan park (and other residential and tourism-based activities incorporating

accommodation). In particular, these properties which are predominantly located in more isolated areas of the Great Lakes I are also more likely to be of a size, location and character that would enable the proper management and development of the land, the provision of community/communal facilities and the protection of the environment of the land, on which the caravan park is to be located.

Therefore the development of caravan parks could be undertaken in an orderly, economic, social and environmentally responsible manner, consistent with the aims of the State Environmental Planning Policy (SEPP) 21 - Caravan Parks.

Additional information regarding the Planning Proposal and its compliance with this Policy was provided in accordance with the Gateway Determination, as detailed in Appendix 3.

State Environmental Planning Policy No.36 - Manufactured Home Estates

The aims of this Policy are:

- (a) to facilitate the establishment of manufactured home estates as a contemporary form of medium density residential development that provides an alternative to traditional housing arrangements, and
- (b) to provide immediate development opportunities for manufactured home estates on the commencement of this Policy, and
- (c) to encourage the provision of affordable housing in well-designed estates, and
- (d) to ensure that manufactured home estates are situated only in suitable locations and not on land having important resources or having landscape, scenic or ecological qualities that should be preserved, and
- (e) to ensure that manufactured home estates are adequately serviced and have access to essential community facilities and services, and
- (f) to protect the environment surrounding manufactured home estates, and
- (g) to provide measures which will facilitate security of tenure for residents of manufactured home estates.

Schedule 2 Categories of excluded land that affect permissibility of manufactures home estates (but not caravan parks) in the Great Lakes:

3 Land which is within a water catchment area identified by a water supply authority.

5 Land which is identified in an environmental planning instrument, or in any planning strategy of the Department or the council approved for the time being by the Director, by words which are cognate with or a description consistent with any one or more of the following:

- littoral rainforest,
- water catchment,
- wetlands.

6 Land which under any environmental planning instrument is within an area or zone identified in that instrument by the description:

- environmental protection
- rural (where the land is not adjacent to or adjoining land zoned for urban use).

7 Land that is within the following coastal local government areas, being land that is not zoned or reserved under an environmental planning instrument for urban use and is not identified as suitable for urban development under the Coastal Urban Planning Strategies or Residential Strategies approved for the time being by the Director:
Great Lakes

The Planning Proposal is considered to be consistent with the SEPP as it clarifies when an application can be submitted for the development of a caravan park (and camping ground) on rural and environmental lands. Noting that under this SEPP, manufactured home estates are permitted with consent only on certain lands where caravan parks are permitted.

The provisions of Clause 4.2A allow development on existing holdings, under specific criteria, or on lands over 40 hectares within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones. Existing parcels that cannot satisfy the requirements of Clause 4.2A often have other restrictions to development related to location, environmental sensitivity, a lack of services, infrastructure and access.

Schedules within the SEPP similarly identify significant areas of the Great Lakes as being unsuitable for manufactured home estates by virtue of exclusions for environmental and rural zones (not adjoining an urban zone). The intent of the Planning Proposal to clarify appropriate locations and requirements for residential and tourism-based land uses within the local environmental plan is therefore generally consistent with the provisions of Schedule 2 of the SEPP.

Furthermore, by clarifying that new caravan parks and therefore manufactured home estates in the RU2, E2 and E3 zones can only occur where the requirements of Clause 4.2A can also be satisfied, there is an expectation that applications for manufactured home estates are more likely to be proposed on lands that can accommodate this land use and therefore be undertaken in an orderly, economic, social and environmentally responsible manner consistent with the aims of the SEPP.

State Environmental Planning Policy No. 71 - Coastal Protection

This SEPP aims to encourage proper environmental conservation and development management within the coastal zone.

The Planning Proposal is consistent with the SEPP as it clarifies when an application can be submitted for rural and environmental lands within the coastal zone to be used for residential and tourism development.

State Environmental Planning Policy (Rural Lands) 2008

This SEPP aims to facilitate the orderly and economic use and development of rural lands for rural and related purposes, reduce land use conflict and identify State significant agricultural land.

The Planning Proposal is consistent with the SEPP as it clarifies when an application can be submitted for rural and environmental land to be used for residential and tourism development.

3.B.4 Is the Planning Proposal consistent with applicable Ministerial Directions (s117 directions)?

The consistency of the planning proposal with State Environmental Planning Policies is outlined in the table below:

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 consistent with this Direction as it will clarify that the requirements of Clause 4.2A will apply to development applications for rural land to be used for residential or tourism-based development. The Planning Proposal will expand the current application of Clause 4.2A so that the development restrictions associated with this clause are applied consistently to dwelling houses and other forms of development with accommodation in the RU2 Rural Landscape zone. The purpose of the amendment is three-fold: • ensure development restrictions and matters for consideration on non-urban lands from Manning LEP No.1 and Great Lakes LEP 1996 have been consistently transitioned into Great Lakes LEP 2014; • address an anomaly where land uses incorporating permanent accommodation may be considered to be permissible with consent on lands where a dwelling entitlement does not exist; and • implement recommendations of the Rural Living Strategy (2004) that are being exercised in the development assessment process, but have not been clearly documented within Great Lakes LEP 2014.
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	The Proposal is consistent with this Direction as it clarifies that the requirements of Clause 4.2A will apply to development applications for rural land to be used for residential or tourism-based

s.117 Direction Summary	Consistency
Employment & Resources	
economic development of rural lands for rural and related purposes.	development. The Planning Proposal is considered to be consistent with the SEPP as it does not amend the 'Permissible with Consent' provisions of the land use tables within Great Lakes LEP 2014. The Planning Proposal will expand the current application of Clause 4.2A so that the development restrictions associated with this clause are applied consistently to dwelling houses and other forms of development with accommodation in the RU2 Rural Landscape zone. The purpose of the amendment is three-fold: • ensure development restrictions and matters for consideration on non-urban lands from Manning LEP No.1 and Great Lakes LEP 1996 have been consistently transitioned into Great Lakes LEP 2014; • address an anomaly where land uses incorporating permanent accommodation may be considered to be permissible with consent on lands where a dwelling entitlement does not exist; and • implement recommendations of the Rural Living Strategy (2004) that are being exercised in the development assessment process, but have not been clearly documented within Great Lakes LEP 2014. In summary the provisions of Clause 4.2A currently allow for the development of a dwelling house on existing holdings under specific criteria, or on lands over 40 hectares within the RU2 Rural Landscape zone. Individual parcels that cannot satisfy the requirements of Clause 4.2A, commonly referred to as non-urban lands, often have other restrictions to development related to location, environmental sensitivity, services, infrastructure and access that would also restrict and limit opportunities for development generally.
Environment & Heritage	
2.1 <u>Environmental Protection Zones</u> The objective of this Direction is to protect and conserve environmentally sensitive areas.	The Proposal is consistent with this Direction as it clarifies that the requirements of Clause 4.2A will apply to development applications for environmental land to be used for residential or tourism-based development.

s.117 Direction Summary	Consistency
Employment & Resources	
	The Planning Proposal is considered to be consistent with the SEPP as it does not amend the 'Permissible with Consent' provisions of the land use tables within Great Lakes LEP 2014. The Planning Proposal will expand the current application of Clause 4.2A so that the development restrictions associated with this clause are applied consistently to dwelling houses and other forms of development with accommodation in the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones. The purpose of the amendment is three-fold: • ensure development restrictions and matters for consideration on non-urban lands from Manning LEP No.1 and Great Lakes LEP 1996 have been consistently transitioned into Great Lakes LEP 2014; • address an anomaly where land uses incorporating permanent accommodation may be considered to be permissible with consent on lands where a dwelling entitlement does not exist; and • implement recommendations of the Rural Living Strategy (2004) that are being exercised in the development assessment process, but have not been clearly documented within Great Lakes LEP 2014. In summary the provisions of Clause 4.2A currently allow for the development of a dwelling house on existing holdings under specific criteria, or on lands over 40 hectares, within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones. Individual parcels that cannot satisfy the requirements of Clause 4.2A, commonly referred to as non-urban lands, often have other restrictions to development related to location, environmental sensitivity, services, infrastructure and access that would also restrict and limit opportunities for development generally.
2.2 <u>Coastal Protection</u> The objectives of this Direction are to implement the principles in the NSW Coastal Policy.	The Proposal is consistent with this Direction.

s.117 Direction Summary		Consistency
Employment & Resources		
2.3	<u>Heritage Conservation</u> This Direction aims to conserve items and places of heritage and indigenous heritage significance.	The Proposal is consistent with this Direction.
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 consistent 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 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 inconsistent with this Direction however this inconsistency is considered to be minor in nature, justified and consistent with the objectives of the Direction. The Planning Proposal is considered to be consistent with the SEPP as it does not amend the 'Permissible with Consent' provisions of the land use tables within Great Lakes LEP 2014. Despite this, it is acknowledged that the Planning Proposal will expand the current application of Clause 4.2A so that the development restrictions associated with this clause are applied consistently to dwelling houses and other forms of development with accommodation in the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones. The Planning Proposal would therefore, also require consideration of Clause 4.2A when an application for the development of a 'caravan park' on rural and environmental lands is being prepared. In summary the provisions of Clause 4.2A currently allow for the development of a dwelling house on existing holdings under specific criteria, or on lands over 40 hectares, within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones.

s.117 Direction Summary	Consistency
Employment & Resources	
	Individual parcels that cannot satisfy the requirements of Clause 4.2A, commonly referred to as non-urban lands, often have other restrictions to development related to location, environmental sensitivity, services, infrastructure and access that would also restrict and limit opportunities for development generally. However, properties and existing holdings (which may incorporate several parcels) that can satisfy the requirements of Clause 4.2A are more likely to be of a size, location and character that can accommodate a caravan park (and other residential and tourism-based activities incorporating accommodation). In particular, these properties which are predominantly located in more isolated areas of the Great Lakes I are also more likely to be of a size, location and character that would enable the proper management and development of the land, the provision of community/communal facilities and the protection of the environment of the land, on which the caravan park is to be located. Therefore the development of caravan parks could be undertaken in an orderly, economic, social and environmentally responsible manner, consistent with the aims of the State Environmental Planning Policy (SEPP) 21 - Caravan Parks. The Proposal is consistent with the intentions and requirements of the previous Great Lakes LEP 1996 and Manning LEP No.1 planning instruments; the recommendations of Council's Rural Living Strategy; and the principles of the Department's Mid North Coast Regional Strategy Furthermore, the Manufactures Home Estates SEPP excludes these estates in the relevant environmental and rural zones (where it does not adjoin an urban zone). However, the same clarification is not provided within the Caravan Parks SEPP, despite the requirement that manufactured homes can only be proposed in locations where caravan parks are permissible with consent. Therefore, while the Planning Proposal does not affect the implementation of SEPP 36 as the nominated RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones are identified as lands where manufactured home estates are

s.117 Direction Summary	Consistency
Employment & Resources	
	excluded; caravan parks and the installation of manufactured homes within a caravan park, are permissible with consent within these zones under the provisions of SEPP 21. Therefore, while the Planning Proposal's intention to clarify that residential and tourism-based development is only permitted with consent on land where the provisions of Clause 4.2A can be satisfied, is inconsistent with the Direction, this inconsistency created by the application of SEPP 36 on the basis of SEPP 21 land uses, is considered to be justified and unable to be overcome by the proposed amendment to Great Lakes LEP 2014. Additional information is provided in Appendix 3.
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 is consistent 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 is consistent with this Direction.
3.5 <u>Development Near Licensed Aerodromes</u>	Not Applicable.
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 is consistent 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 is consistent with this Direction.

s.117 Direction Summary		Consistency
Employment & Resources		
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 is consistent with this Direction.
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 clarifies that the requirements of Clause 4.2A will apply to development applications for rural and environmental land to be used for residential or tourism-based development.
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.		Not Applicable.
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 is consistent with this Direction as it clarifies that the requirements of Clause 4.2A will apply to development applications for rural land to be used for residential or tourism-based development.
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.		Not Applicable.
6.3 <u>Site Specific Provisions</u>		Not Applicable.

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

Section C – Environmental, social & economic impact

3.C.1 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 provisions of the Planning Proposal are expected to have beneficial impacts on critical habitats and threatened species by reducing land clearing and vegetation removal associated with residential and tourism-based accommodation development and bushfire protection.

The clearing and removal of vegetation from individual sites is already a significant issue for Council in terms of regulation and compliance and the cumulative impact of clearing and intensive development on non-urban land as a result of the current anomaly would be expected to exacerbate this situation.

In particular, the majority of lots that will be affected by the Planning Proposal are of a residential size at Pindimar and North Arm Cove where threatened species and Endangered Ecological Communities are known to exist.

Council recently refused a development application for a motel and swimming pool on a lot of 1454sqm in the RU2 Rural Landscape zone at Pindimar. The application proposed the clearing of River-Flat Eucalypt Forest EEC (Flooded Gum regionally significant habitat) as well as Mangrove Woodland and Swamp Oak Forest communities. The potential impacts on these communities also extended to adjoining land as a result of: proposed clearing for bushfire protection; flooding and stormwater run-off as a consequence of filling (i.e. groundwater mounding; altered hydrology).

One of the grounds of refusal was that the proposed development would create an undesirable precedent for future development in the locality. In this regard the cumulative environmental impacts of similar types of development were considered to be unacceptable, especially on small rural lots.

Consequently, Council believes that it should be made clear in LEP 2014 that the opportunity for residential and tourism-based development is limited to lots where a dwelling can be lawfully be erected, which in the majority of cases, would be lots of greater than 40ha.

3.C.2 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

No.

The provisions of the Planning Proposal are expected to have beneficial impacts on the environment by reducing land clearing and vegetation removal associated with residential and tourism-based accommodation development and bushfire protection.

In addition, by clarifying where these land uses are permissible with consent, the cumulative environmental impacts of development may be significantly reduced. For example there would be a direct reduction in soil disturbance and run-off associated with construction of access, buildings and ancillary structures.

Reticulated sewerage is not available to the majority of properties within the zones to which this planning proposal applies. Reliance would therefore have to be upon on-site treatment and disposal of sewage and grey water or pump out systems. The environmental risks associated with such systems for more intensive development on the quality of receiving environments, such as estuaries, wetlands

and rivers is unacceptable. This risk is exacerbated by the fact that many of the lots affected by this planning proposal are close to sensitive waterways such as Port Stephens/Great Lakes Marine Park.

3.C.3 Has the Planning Proposal adequately addressed any social and economic effects?

It is considered that the Planning Proposal will have beneficial social and economic effects by clarifying when development for residential or tourism-based accommodation, is permitted on land in within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones of Great Lakes LEP 2014.

Section D – State and Commonwealth Interests

3.D.1 Is there adequate public infrastructure for the planning proposal?

There are no public infrastructure implications with the planning proposal.

3.D.2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Prior to exhibition Council identified that it may be appropriate to consult with the NSW Office of Environment and Heritage; and NSW Rural Fire Service

Gateway Determination condition No.3 stated that "No consultation is required with the public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions.

Part 4 - Mapping

(s.55(2)(d) Maps to be adopted by the proposed instrument.

The Planning Proposal will not require the creation of any new maps or map layers within Great Lakes Local Environmental Plan (LEP) 2014.

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 publicly available for a minimum of 28 days.

Council will undertake public notification of the Planning Proposal exhibition as follows:

- Notices in the local newspaper;
- Exhibition material and all relevant documents will be available at Great Lakes Council's Administrative and District Offices;
- Exhibition material and all relevant documents will be available on Council's website.

Approximately 8,500 parcels within the local government area are zoned RU2 Rural Landscape, E2 Environmental Conservation or E3 Environmental Management either in whole or in part. The notification of all affected land owners by direct mail is cost-prohibitive in this case.

Therefore other forms of direct notification will be undertaken where it is economically feasible to do so. This may include newsletters issued with rate notices, Facebook, twitter, local radio and media releases.

The Gateway Determination conditions stated that:

"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 is classified as low impact as described in A Guide to Preparing LEPs (Planning & Infrastructure 2013) and must be made publicly available for a minimum of 14 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 the public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions."

The community consultation undertaken complies with these conditions.

Council undertook notification in all local newspapers including the Great Lakes Advocate, Dungog Chronical, Gloucester Chronical and Myall Coast News. Council elected to undertake additional advertising in the Port Stephens Examiner based on previous community consultation that indicated this was also considered to be a 'local' newspaper in the areas of North Arm Cove, Karuah, Carrington, Pindimar and surrounds.

The required public exhibition period was also extended from fourteen (14) to thirty-eight (38) days to provide additional opportunities for community discussion and input.

Officers investigated options of including a notice within the Council Communicator, distributed with the rates notice on 27 January 2016, when the Planning Proposal was submitted for a Gateway Determination in November 2015. Unfortunately, the publisher's deadline for the Council Communicator was the 10 December 2015 and a Gateway Determination had not been received from the Department of Planning & Environment by this time.

Officers could not anticipate when the Gateway Determination would be issued and as a result the public exhibition period for the Planning Proposal was unknown. Therefore the pre-emptive inclusion of a notification within the Communicator was determined to be inappropriate.

Council's webpage - <http://www.greatlakes.nsw.gov.au/Develop-or-Build/Discover/Planning-Proposals> provides all relevant exhibition material on 'active' Planning Proposals, from the commencement of public exhibition until they are published on the NSW Publication website.

Council's <http://www.greatlakes.nsw.gov.au/Have-Your-Say> webpage is also updated with information on planning proposals and/or development controls while they are on public exhibition.

For the first time with the new website, all interested parties could make on-line submissions to Council and these are given the same weight and consideration as those received via mail or email.

Council officers are also very aware of limitations and gaps in our ability to communicate with interested parties. In recognition of this the new website includes the following invitations in the Have Your Say section:

"Have you considered joining Council's Community Reference Group? This group forms a panel of community members who participate in quick polls, surveys, focus groups, meetings or face to face meetings as well as provide feedback on documents and plans. Application forms are available on our volunteering page."

The 'How can we communicate better with you?' page also invites feedback and suggestions from land owners, community members and individuals on how Council may be able to communicate 'better' with our customers and community.

In accordance with the Environmental Planning & Assessment Regulation 2000, a notation is included on S149 Planning Certificates for all lands potentially affected by a Planning Proposal, from the date of commencement of public exhibition until it is made by the Minister).

Officers also provided additional opportunities for direct community consultation by extending an invitation to all objectors to make a presentation to the elected Council, prior to the finalisation of the Planning Proposal.

Therefore, while the number of submissions received may be limited, officer and Council consideration of the matters raised in support or objection to a Proposal are given full and appropriate consideration within a transparent process.

Part 6 – Project Timeline

In accordance with the Department of Planning & Environment 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)
Council resolution to support the Planning Proposal	Great Lakes Council	-	8 September 2015
Lodgement of Planning Proposal for Gateway Determination	Great Lakes Council	-	October 2015
Gateway Determination Issued	Minister for Planning and Infrastructure	-	December 2015
Consultation with Public Authorities in accordance with Gateway Determination	Great Lakes Council	Minimum 21 days	December 2015 - February 2016
Public exhibition of Planning Proposal	Great Lakes Council	Minimum 28 days	December 2015 - February 2016
Report to Council	Great Lakes Council	-	March 2016
Lodgement of Planning Proposal (with any amendments as a result of submissions)	Great Lakes Council	-	May 2016
Making of local environmental plan	Minister for Planning and Infrastructure	6 – 8 weeks	June 2016

Conclusion

The primary aim of the Planning Proposal is to clarify when development for residential or tourism-based accommodation is permitted on land within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones of Great Lakes Local Environmental Plan (LEP) 2014.

Great Lakes Local Environmental Plan (LEP) 2014 currently provides clear criteria for when dwelling houses are permitted on land within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones in *Clause 4.2A Erection of dwelling houses on land in certain rural and environment protection zones*.

However, in the transition from Great Lakes LEP 1996 and Manning LEP No.1 to Great Lakes LEP 2014, the application of these criteria to other residential and tourism-based land uses that incorporate accommodation, became unclear. Therefore the intention is to amend Great Lakes LEP 2014 so that:

- *Clause 4.2A Erection of dwelling houses on land in certain rural and environment protection zones* applies to all development applications for;
- residential and tourism-based land uses that incorporate accommodation;
- within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones.

The provisions of Clause 4.2A currently allow for the development of a dwelling house on existing holdings under specific criteria, or on lands over 40 hectares within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones.

Individual parcels that cannot satisfy the requirements of Clause 4.2A, commonly referred to as non-urban lands, often have other restrictions to development related to location, environmental sensitivity, services, infrastructure and access that would also restrict and limit opportunities for development generally.

It is acknowledged that the Planning Proposal, in clarifying this intention, will expand the current application of Clause 4.2A so that the development restrictions associated with this clause are applied consistently to dwelling houses and other forms of development with accommodation in the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones.

However, the purpose of the amendment is three-fold:

- ensure development restrictions and matters for consideration on non-urban lands from Manning LEP No.1 and Great Lakes LEP 1996 have been consistently transitioned into Great Lakes LEP 2014;
- address an anomaly where land uses incorporating permanent accommodation may be considered to be permissible with consent on lands where a dwelling entitlement does not exist; and
- implement recommendations of the Rural Living Strategy (2004) that are being exercised in the development assessment process, but have not been clearly documented within Great Lakes LEP 2014.

The provisions and requirements of Clause 4.2A are considered to represent a suitable mechanism for this amendment, rather than increasing the number of prohibited land uses within the zone land use tables or specifying a minimum lot size for each specific land use, as the provisions of the clause already provide a degree of flexibility in assessment of land uses. Clause 4.2A:

- provides for merit-based assessment of a range of land uses on properties over 40 hectares;
- while the other criteria including those for existing holdings, allow for a range of development types of variable scale in the rural-environmental landscape, dependent the size and location of the lawfully approved property or existing holding.

Appendix 1 - Clause 4.2A of Great Lakes LEP 2014

Part 4 Principal development standards

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

- (1) The objectives of this clause are as follows:
 - (a) to minimise unplanned rural residential development,
 - (b) to enable the replacement of lawfully erected dwelling houses in certain rural and environment protection zones.
- (2) This clause applies to land in the following zones:
 - (a) Zone RU2 Rural Landscape,
 - (b) Zone E2 Environmental Conservation,
 - (c) Zone E3 Environmental Management.
- (3) Development consent must not be granted for the erection of a dwelling house on land to which this clause applies unless the land:
 - (a) is a lot that is at least the minimum lot size shown on the Lot Size Map in relation to that land, or
 - (b) is a lot created before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or
 - (c) is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement, or
 - (d) is an existing holding, or
 - (e) would have been a lot or a holding referred to in paragraph (a), (b), (c) or (d) had it not been affected by:
 - (i) a minor realignment of its boundaries that did not create an additional lot, or
 - (ii) a subdivision creating or widening a public road or public reserve or for another public purpose, or
 - (iii) a consolidation with an adjoining public road or public reserve or for another public purpose.

Note. A dwelling cannot be erected on a lot created under clause 9 of State Environmental Planning Policy (Rural Lands) 2008 or clause 4.2.

- (4) Development consent must not be granted under subclause (3) unless:
 - (a) no dwelling house has been erected on the land, and
 - (b) if a development application has been made for development for the purpose of a dwelling house on the land—the application has been refused or it was withdrawn before it was determined, and
 - (c) if development consent has been granted in relation to such an application—the consent has been surrendered or it has lapsed.
- (5) Development consent may be granted for the erection of a dwelling house on land to which this clause applies if there is a lawfully erected dwelling house on the land and the dwelling house to be erected is intended only to replace the existing dwelling house.
- (6) In this clause:
existing holding means land that:
 - (a) was a holding on 15 May 1964, and
 - (b) is a holding at the time the application for development consent referred to in subclause (3) is lodged,

whether or not there has been a change in the ownership of the holding since 15 May 1964, and includes any other land adjoining that land acquired by the owner since 15 May 1964.

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

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

Appendix 2 - Land Use Tables

Zone RU2 Rural Landscape

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.
- To provide for rural tourism in association with the primary industry capability of the land which is based on the rural attributes of the land.
- To secure a future for agriculture in the area by minimising the fragmentation of rural land and loss of potential agricultural productivity.

2 Permitted without consent

Extensive agriculture; Home occupations

3 Permitted with consent

Agriculture; Airports; Airstrips; Animal boarding or training establishments; Backpackers' accommodation; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Child care centres; Community facilities; Crematoria; Depots; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Educational establishments; Environmental facilities; Environmental protection works; Exhibition homes; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Hazardous storage establishments; Helipads; Heliports; Home-based child care; Home businesses; Hotel or motel accommodation; Industrial training facilities; Industries; Information and education facilities; Jetties; Kiosks; Landscaping material supplies; Marinas; Mooring pens; Moorings; Neighbourhood shops; Offensive storage establishments; Open cut mining; Places of public worship; Plant nurseries; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restaurants or cafes; Roads; Roadside stalls; Rural industries; Rural supplies; Secondary dwellings; Sewerage systems; Signage; Timber yards; Transport depots; Truck depots; Veterinary hospitals; Water recreation structures; Water supply systems; Wharf or boating facilities

4 Prohibited

Any development not specified in item 2 or 3

Zone E2 Environmental Conservation

1 Objectives of zone

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

2 Permitted without consent

Home occupations

3 Permitted with consent

Bed and breakfast accommodation; Building identification signs; Business identification signs; Car parks; Community facilities; Dwelling houses; Eco-tourist facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Home-based child care; Home businesses; Information and education facilities; Research stations; Roads; Sewerage systems; Water supply systems

4 Prohibited

Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

Zone E3 Environmental Management

1 Objectives of zone

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.

2 Permitted without consent

Home occupations

3 Permitted with consent

Backpackers' accommodation; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Caravan parks; Car parks; Community facilities; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Extensive agriculture; Farm buildings; Farm stay accommodation; Helipads; Home-based child care; Home businesses; Information and education facilities; Jetties; Kiosks; Recreation areas; Research stations; Roads; Roadside stalls; Sewerage systems; Water recreation structures; Water supply systems

4 Prohibited

Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

Appendix 3 - Gateway Determination Report

The Department of Planning & Environment issued the Gateway Determination for this planning proposal subject to the following condition:

"The Planning proposal be amended prior to exhibition to:

- a) clarify its consistency with SEPP 21 - Caravan Parks to ensure caravan parks are not unintentionally prohibited.
- b) provide a report that considers the objectives of this direction to support the inconsistency with s117 Direction 3.2 - Caravan Parks and Manufactured Home Estates."

The information below is provided in response to this condition and supplements the information within the Planning Proposal submitted to the Department of Planning & Environment.

a) Clarify its consistency with SEPP 21 - Caravan Parks to ensure caravan parks are not unintentionally prohibited.

The Planning Proposal is considered to be consistent with the SEPP as it does not amend the 'Permissible with Consent' provisions of the land use tables within Great Lakes LEP 2014.

The intention is to amend Great Lakes LEP 2014 so that the requirements of *Clause 4.2A Erection of dwelling houses on land in certain rural and environment protection zones* apply to all development applications for residential and tourism-based land uses that incorporate accommodation, within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones.

The Planning Proposal would therefore, also require consideration of Clause 4.2A when an application for the development of a 'caravan park' on rural and environmental lands is being prepared.

In summary the provisions of Clause 4.2A currently allow for the development of a dwelling house on existing holdings, under specific criteria, or on lands over 40 hectares, within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones of Great Lakes LEP 2014.

Individual parcels that cannot satisfy the requirements of Clause 4.2A, commonly referred to as non-urban lands, often have other restrictions to development related to location, environmental sensitivity, services, infrastructure and access that would also restrict and limit opportunities for development generally.

However, properties and existing holdings (which may incorporate several parcels) that can satisfy the requirements of Clause 4.2A are more likely to be of a size, location and character that can accommodate a caravan park (and other residential and tourism-based activities incorporating accommodation).

Therefore the development of caravan parks could be undertaken in an orderly, economic, social and environmentally responsible manner, consistent with the aims of the State Environmental Planning Policy (SEPP) 21 - Caravan Parks.

It is relevant to note that State Environmental Planning Policy (SEPP) 36 - Manufactured Home Estates are permissible on certain lands where caravan parks are also permissible. Manufactured home estates and moveable dwellings are not defined land uses or activities within Great Lakes LEP 2014 or the State Instrument Principle LEP.

This relationship between SEPP 21 and SEPP 36 creates an inconsistency that cannot be overcome by this Planning Proposal in so far as SEPP 36 Schedule 2 specifically excludes the development of manufactured home estates on *"land which under any environmental planning instrument is within an area or zone identified in that instrument by the description: open space, other than open space (private recreation); environmental protection; scenic protection; and rural (where the land is not adjacent to or adjoining land zoned for urban use)"*.

Therefore, while the Planning Proposal does not affect the implementation of SEPP 36 as the nominated RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones are identified as lands where manufactured home estates are excluded; caravan parks and the installation of manufactured homes/moveable dwellings within a caravan park, are permissible with consent within these zones under the provisions of SEPP 21.

Table 1 - Consistency with State Environmental Planning Policy No 21—Caravan Parks

State Environmental Planning Policy No 21—Caravan Parks Current version for 6 March 2009 to date	
1 Name of Policy This Policy may be cited as State Environmental Planning Policy No 21—Caravan Parks.	Noted
2 Commencement This Policy commences on 24 April 1992.	Noted
3 Aims, objectives etc (1) The aim of this Policy is to encourage: (a) the orderly and economic use and development of land used or intended to be used as a caravan park catering exclusively or predominantly for short-term residents (such as tourists) or for long-term residents, or catering for both, and	The Planning Proposal is consistent with this aim of the SEPP and these matters would be considered within any development application for a caravan park within the Great Lakes. Caravan parks are permissible with consent in the RU2 Rural Landscape, RU3 Forestry, RU5 Village, R2 Low Density Residential, R3 Medium Density Residential, SP3 Tourist, RE1 Public Recreation, RE2 Private Recreation, E3 Environmental Management and E4 Environmental Living zones under Great Lakes LEP 2014. This Planning Proposal is not proposing any amendment to the 'Permitted with consent' provisions of the land use tables for these zones. The intention of the Planning Proposal is to apply the requirements of Clause 4.2A to development applications for caravan parks and other residential and tourist-based land uses that incorporate accommodation, within the RU2, E2 and E3 zones. Clause 4.2A makes it clear that certain development in the RU2, E2 and E3 zones is permissible if the land is over 40 hectares or can satisfy other specific criteria. This amendment to Great Lakes LEP 2014 will ensure that caravan parks and other residential and tourist-based land uses, will only be proposed on lands that can appropriately accommodate these activities. In doing so, this will ensure the orderly and economic use and development of land for the purpose of a caravan park, based on the constraints of the individual parcel of land, consistent with this aim of the SEPP. Also, it is incongruous for a caravan park to be permissible on a lot where a dwelling is prohibited.

State Environmental Planning Policy No 21—Caravan Parks Current version for 6 March 2009 to date	
(b) the proper management and development of land so used, for the purpose of promoting the social and economic welfare of the community, and (c) the provision of community facilities for land so used, and	The Planning Proposal is consistent with this aim of the SEPP and these matters would be considered within any development application for a caravan park within the Great Lakes. The Planning Proposal is consistent with this aim of the SEPP and these matters would be considered within any development application for a caravan park within the Great Lakes. It is noted that land that cannot satisfy Clause 4.2A would generally be of insufficient size to provide the community and recreation facilities, parking and other ancillary structures associated with a caravan park. In this regard it is noted that <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005</i> Regulation 83 specifies that: <i>(1) A caravan park must not have an area of less than one hectare or, if a lesser area is prescribed by a relevant environmental planning instrument, that lesser area.</i> An alternative minimum site area is not specified within the Great Lakes Local Environmental Plan 2014.
(d) the protection of the environment of, and in the vicinity of, land so used.	The Planning Proposal is consistent with this aim of the SEPP and these matters would be considered within any development application for a caravan park within the Great Lakes. It is noted that large areas of land within the RU2, E2 and E3 zones of the Great Lakes are subject to environmental constraints such as flooding, bushfire, water catchment, wetland, buffers to wetlands, waterways, marine park and other matters of ecological and scenic sensitivity. This land may also be located in areas where essential services such as reticulated water and sewer, electricity, constructed and legal road access may not be available or able to be provided without significant clearing and removal of vegetation and environmental impact. Therefore development applications for the establishment of caravan parks on land that cannot satisfy Clause 4.2A are more likely to have significant environmental impacts.
(2) The strategies by which that aim is to be achieved are: (a) (Repealed)	Noted.

State Environmental Planning Policy No 21—Caravan Parks Current version for 6 March 2009 to date	
(b) by requiring that development consent be obtained from the local Council for development for the purposes of caravan parks, and	Caravan parks are permissible with consent in the RU2 Rural Landscape, RU3 Forestry, RU5 Village, R2 Low Density Residential, R3 Medium Density Residential, SP3 Tourist, RE1 Public Recreation, RE2 Private Recreation, E3 Environmental Management and E4 Environmental Living zones under Great Lakes LEP 2014. This Planning Proposal is not proposing any amendment to the 'Permitted with consent' provisions of the land use tables for these zones. The intention of the Planning Proposal is to apply the requirements of Clause 4.2A to development applications for caravan parks and other residential and tourist-based land uses that incorporate accommodation, within the RU2, E2 and E3 zones. Clause 4.2A makes it clear that certain development in the RU2, E2 and E3 zones is permissible with consent if the land is over 40 hectares or can satisfy other specific criteria.
(c) by providing that development consent may be granted that will authorise the use of sites for short-term stays (whether or not by tourists) or for long-term residential purposes, or for both, and	The Planning Proposal is consistent with this provision of the SEPP and these matters would be considered within any development application for a caravan park within the Great Lakes.
(d) by requiring that development consent be obtained from the local Council for the subdivision of land for lease purposes under section 289K of the <i>Local Government Act 1919</i>.	The planning proposal is not changing any provisions of Great Lakes LEP 2014 relating to the subdivision of land. The <i>Local Government Act 1919</i> has been repealed.
4 Land to which this Policy applies (1) This Policy applies to all land in the State that is within a local government area.	Noted.
(2) Despite subclause (1), this Policy does not apply to land to which <i>State Environmental Planning Policy (Western Sydney Parklands) 2009</i> applies.	Not applicable.
5 Relationship to other environmental planning instruments (1) In the event of an inconsistency between this Policy and another environmental planning instrument (whether made before or after this Policy) this Policy prevails to the extent of the inconsistency. This subclause is subject to section 36 of the <i>Environmental Planning and Assessment Act 1979</i>.	The Planning Proposal is consistent with this provision of the SEPP and these matters would be considered within any development application for a caravan park within the Great Lakes.
(2) This Policy repeals <i>State Environmental</i>	Noted.

State Environmental Planning Policy No 21—Caravan Parks Current version for 6 March 2009 to date	
<i>Planning Policy No 21—Movable Dwellings.</i> (3) This Policy amends <i>State Environmental Planning Policy No 26—Littoral Rainforests</i> by omitting clause 10 (5). (4) Nothing in <i>State Environmental Planning Policy No 36—Manufactured Home Estates</i> prevents development consent from being granted pursuant to this Policy for the use of land as a caravan park in which manufactured homes are or are to be installed or placed.	Clause 10 of <i>SEPP No.26 Littoral Rainforests</i> has been repealed. The Planning Proposal is consistent with this provision of the SEPP and these matters would be considered within any development application for a caravan park within the Great Lakes. However it is noted that this provision creates an inconsistency between SEPP 21 and SEPP 36 that cannot be overcome by this Planning Proposal. This also creates an inconsistency with <i>S117 Direction - 3.2 Caravan Parks and Manufactured Home Estates</i> that is discussed in more detail in Part B of this appendix: • Under SEPP 36 - Manufactured Home Estates are permissible on certain lands where caravan parks are also permissible; however • SEPP 36 Schedule 2 specifically excludes the development of manufactured home estates on "<i>land which under any environmental planning instrument is within an area or zone identified in that instrument by the description: open space, other than open space (private recreation); environmental protection; scenic protection; and rural (where the land is not adjacent to or adjoining land zoned for urban use)</i>". Therefore, while the Planning Proposal does not affect the implementation of SEPP 36 as the nominated RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones are identified as lands where manufactured home estates are excluded; caravan parks and the installation of manufactured homes/movable dwellings within a caravan park, are permissible with consent within these zones under the provisions of SEPP 21.
6 Definition In this Policy: caravan park means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed. moveable dwelling has the same meaning as it has in the <i>Local Government Act 1993</i>. (LGA 1993: moveable dwelling means: (a) any tent, or any caravan or other van or other portable device (whether on wheels or not), used for human habitation, or (b) a manufactured home, or	The Great Lakes LEP 2014 is consistent with this clause in so far as the Standard Instrument Principle LEP is consistent.

State Environmental Planning Policy No 21—Caravan Parks Current version for 6 March 2009 to date	
(c) any conveyance, structure or thing of a class or description prescribed by the regulations for the purposes of this definition.)	
7 Application of certain planning controls to places licensed for movable dwellings In any environmental planning instrument (whether made before or after this Policy), references (however expressed) to caravan parks or to camping grounds, or to caravan parks and camping grounds, include references to caravan parks, within the meaning of this Policy.	Noted.
8 Development consent required for caravan parks (1) Development for the purposes of a caravan park may be carried out only with the development consent of the Council. (2) Before granting development consent to the use of land for the purposes of a caravan park, a Council must determine: (a) the number of sites (if any) within that land that the Council considers are suitable for long-term residence, within the meaning of the <i>Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993</i> , and (b) the number of sites (if any) within that land that the Council considers are not suitable for long-term residence, but are suitable for short-term residence, within the meaning of that Regulation. (3) A Council must not grant development consent to the use of land for the purposes of a caravan park unless it imposes as a condition of that consent a condition specifying the maximum number of sites (if any) within that land that may be used for long-term residence. (4) The holder of an approval under Part 1 of Chapter 7 of the <i>Local Government Act 1993</i> to operate a caravan park or camping ground	Caravan parks are permissible with consent in the RU2 Rural Landscape, RU3 Forestry, RU5 Village, R2 Low Density Residential, R3 Medium Density Residential, SP3 Tourist, RE1 Public Recreation, RE2 Private Recreation, E3 Environmental Management and E4 Environmental Living zones under Great Lakes LEP 2014. This Planning Proposal is not proposing any amendment to the 'Permitted with consent' provisions of the land use tables for these zones. The <i>Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993</i> has been repealed. However, the Planning Proposal is consistent with these provisions of the SEPP as the <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005</i> which replaced the 1993 Regulation, would be considered within any development application for a caravan park within the Great Lakes. The Planning Proposal is consistent with this provision of the SEPP and an appropriate condition would be applied to any development approval for a caravan park within the Great Lakes. The Planning Proposal is consistent with this provision of the SEPP and an appropriate condition would be applied to any development approval for a caravan

State Environmental Planning Policy No 21—Caravan Parks Current version for 6 March 2009 to date	
on land must not, without the development consent of the Council, allow a person to occupy a site within that land: (a) for a continuous period of more than 3 months, except as provided by paragraph (b), or (b) for a continuous period longer than the period (if any) for which the person is allowed to be accommodated within the land by an extension that has been granted under clause 19 (6) of the <i>Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993</i>, if such a use of that site was not lawful under the <i>Environmental Planning and Assessment Act 1979</i> when this Policy commenced. (4A) Except as provided by subclause (4), nothing in this Policy or any other environmental planning instrument requires separate development consent to be obtained for the installation or placement of a moveable dwelling on land on which development for the purposes of a caravan park is being lawfully carried out. (5) This clause does not apply to any land that is authorised to be used for the purposes of a manufactured home estate by a development consent granted pursuant to <i>State Environmental Planning Policy No 36—Manufactured Home Estates</i> or dedicated or reserved under the <i>National Parks and Wildlife Act 1974</i>.	park within the Great Lakes. Noting that the provisions of the <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005</i> which replaced the 1993 Regulation, would be considered. The Planning Proposal is consistent with this provision of the SEPP and these matters would be considered within any development application for a caravan park within the Great Lakes. Noted.
9 Subdivision of caravan parks for lease purposes (1) Land may be subdivided for lease purposes under section 289K of the <i>Local Government Act 1919</i>, but only with the development consent of the Council. (2) A Council must not grant such a development consent unless the Council is satisfied that each of the lots intended to be created for lease purposes by the proposed	The planning proposal is not changing any provisions of LEP 2014 relating to the subdivision of land. The <i>Local Government Act 1919</i> has been repealed. However, the Planning Proposal is consistent with these provisions of the SEPP as the <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005</i> would be considered within any development application to subdivide a caravan park within the Great Lakes. The planning proposal is not changing any provisions of Great Lakes LEP 2014 relating to the subdivision of land.

State Environmental Planning Policy No 21—Caravan Parks Current version for 6 March 2009 to date	
subdivision meets the requirements of the <i>Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993</i> for a site to be used for long-term residence.	The <i>Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993</i> has been repealed. However, the Planning Proposal is consistent with these provisions of the SEPP as the <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005</i> which replaced the 1993 Regulation, would be considered within any development application to subdivide a caravan park within the Great Lakes.
(3) Any prohibition or restriction on the subdivision of land imposed by any other environmental planning instrument (whether made before or after this Policy) does not apply to a subdivision for lease purposes under section 289K of the <i>Local Government Act 1919</i> .	Noted.
(4) This clause does not apply to land that is authorised to be used for the purposes of a manufactured home estate by a development consent granted pursuant to <i>State Environmental Planning Policy No 36—Manufactured Home Estates</i> or that has been reserved or dedicated for any public purpose under the <i>Crown Lands Act 1989</i> .	The Planning Proposal is consistent with this provision of the SEPP and these matters would be considered within any development application for a caravan park within the Great Lakes. However it is noted that there is an inconsistency between SEPP 21 and SEPP 36 that cannot be overcome by this Planning Proposal and creates an inconsistency with S117 Direction - 3.2 Caravan Parks and Manufactured Home Estates that is discussed in more detail in Part B of this appendix: • Under SEPP 36 - Manufactured Home Estates are only permissible on certain lands where caravan parks are also permissible; however • SEPP 36 Schedule 2 specifically excludes the development of manufactured home estates on "<i>land which under any environmental planning instrument is within an area or zone identified in that instrument by the description: open space, other than open space (private recreation); environmental protection; scenic protection; and rural (where the land is not adjacent to or adjoining land zoned for urban use)</i>". Therefore, while the Planning Proposal does not affect the implementation of SEPP 36 as the nominated RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones are identified as lands where manufactured home estates are excluded; caravan parks and the installation of manufactured homes/moveable dwellings within a caravan park, are permissible with consent within these zones under the provisions of SEPP 21.

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10 Matters to be considered by Councils

A Council may grant a development consent required by this Policy only after it has considered the following:

(a) whether, because of its location or character, the land concerned is particularly suitable for use as a caravan park for tourists or for long-term residence,

The Planning Proposal is consistent with this aim of the SEPP and these matters would be considered within any development application for a caravan park within the Great Lakes.

It is noted that large areas of land within the RU2, E2 and E3 zones of the Great Lakes are subject to environmental constraints such as flooding, bushfire, water catchment, wetland, buffers to wetlands, waterways, marine park and other matters of ecological and scenic sensitivity.

These lands are also predominantly located within the SEPP 71 Coastal Zone, as illustrated in Figure 3 in the Planning Proposal. The majority are heavily vegetated and isolated in character where essential services such as reticulated water and sewer, electricity, constructed and legal road access may not be available or able to be provided.

Therefore development applications for the establishment of caravan parks on land that cannot satisfy Clause 4.2A are also likely to be of a location and character unsuitable for the establishment of a caravan park.

By amending the Great Lakes LEP 2014 to clarify when Clause 4.2A is relevant, there is an expectation that caravan parks and other residential and tourist-based land uses, will only be proposed on lands that are by their location or character, suitable for these purposes consistent with this provision of the SEPP.

(b) whether there is adequate provision for tourist accommodation in the locality of that land, and whether existing or potential tourist accommodation will be displaced by the use of sites for long-term residence,

The Planning Proposal is consistent with this provision of the SEPP and these matters would be considered within any development application for a caravan park within the Great Lakes.

(c) whether there is adequate low-cost housing, or land available for low-cost housing, in that locality,

The Planning Proposal is consistent with this provision of the SEPP and these matters would be considered within any development application for a caravan park within the Great Lakes.

(d) whether necessary community facilities and services are available within the caravan park to which the development application relates or in the locality (or both), and whether those facilities and services are reasonably accessible to the occupants of the caravan park,

The Planning Proposal is consistent with this aim of the SEPP and these matters would be considered within any development application for a caravan park within the Great Lakes.

It is noted that land that cannot satisfy Clause 4.2A, would generally be of insufficient size to provide the community and recreation facilities, parking and other ancillary structures associated with a caravan park.

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(e) any relevant guidelines issued by the Director, and (f) the provisions of the <i>Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993</i>.	The majority are heavily vegetated and isolated in character where essential services such as reticulated water and sewer, electricity, constructed and legal road access may not be available or able to be provided. It is also noted that the environmental and rural lands affected by the provisions of Clause 4.2A are predominantly located in areas that are not adjacent to or adjoining land zoned for urban use where community facilities and services would be available and accessible to residents and visitors of any proposed caravan park. A limited number of allotments are located adjoining or adjacent to land zoned RU5 Village, however this zone is classified as being for rural not residential/urban purposes under the Standard Instrument Principle LEP. These villages are also small in nature and have limited community facilities and services available and accessible to residents and visitors of any proposed caravan park or tourist-based accommodation. The Planning Proposal is consistent with this provision of the SEPP and these matters would be considered within any development application for a caravan park within the Great Lakes. The provisions of the s117 <i>Direction 3.2 - Caravan Parks and Manufactured Home Estates</i> are addressed in Part B of this Appendix. The <i>Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993</i> has been repealed. However the Planning Proposal is consistent with this provision of the SEPP as the <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005</i> which replaced the 1993 Regulation, would be considered within any development application for a caravan park within the Great Lakes.
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b) Provide a report that considers the objectives of this direction to support the inconsistency with s117 Direction 3.2 - Caravan Parks and Manufactured Home Estates.

The Proposal is inconsistent with this Direction however this inconsistency is considered to be minor in nature, justified and consistent with the objectives of the Direction. Each section of the Direction has been addressed below:

Section 117 Ministerial Direction 3.2 - Caravan Parks and Manufactured Home Estates Objectives

(1) The objectives of this direction are:

- (a) to provide for a variety of housing types, and*
- (b) to provide opportunities for caravan parks and manufactured home estates.*

The Planning Proposal is not amending any 'Permitted with consent' provisions of the land use tables within Great Lakes Local Environmental Plan (LEP) 2014. Therefore the opportunities for a variety of housing types, caravan parks and manufactured home estates are not changed by this planning proposal.

The intention of the Planning Proposal is to apply Clause 4.2A to development applications for caravan parks and other residential and tourist-based land uses that incorporate accommodation, within the RU2, E2 and E3 zones.

Clause 4.2A makes it clear that certain development in the RU2, E2 and E3 zones is permissible if the land is over 40 hectares or can satisfy other specific criteria. In doing so the Planning Proposal will clarify where opportunities for caravan parks and manufactured home estates exist within the rural and environmental zones of the Great Lakes.

Note: Manufactured home estates are not defined within Great Lakes LEP 2014, consistent with the Standard Instrument Principle LEP. SEPP 36 - Manufactured home estates specifies that manufactured home estates are permitted with consent only on certain lands where caravan parks are permitted.

Where this direction applies

(2) This direction applies to all relevant planning authorities. This direction does not apply to:

- (a) Crown land reserved or dedicated for any purposes under the Crown Lands Act 1989, except Crown land reserved for accommodation purposes, or*
- (b) land dedicated or reserved under the National Parks and Wildlife Act 1974.*

This Direction applies to Great Lakes Council.

When this direction applies

(3) This direction applies when a relevant planning authority prepares a planning proposal.

This Direction applies to this Planning Proposal.

What a relevant planning authority must do if this direction applies

It is noted that the provisions and requirements of this part of the Section 117 Direction do not permit full compliance due to the inconsistent requirements of SEPP 21 - Caravan Parks and SEPP 36 - Manufactured Home Estates. In particular, SEPP 36 - Manufactured home estates specifies that manufactured home estates are permitted with consent only on certain lands where caravan parks are permitted.

The restrictions within SEPP 36 that apply to this Planning Proposal include exclusions in Schedule 2 relating to rural and environmental zones and site constraints including but not limited to waterways, wetlands, water catchments and natural hazards mapped within Great Lakes LEP 2014.

These are described in detail within the previous sections of this Planning Proposal.

In summary, the SEPPs, which over-ride the provisions of the local environmental plan, contain inconsistencies that cannot be overcome within the Planning Proposal and therefore result in inconsistencies with this part of the Section 117 Direction, as noted below.

(4) In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:

(a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and

(b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park.

The Proposal is inconsistent with this Direction however this inconsistency is considered to be minor in nature, justified and consistent with the objectives of the Direction.

Caravan parks are permissible with consent in the RU2 Rural Landscape, RU3 Forestry, RU5 Village, R2 Low Density Residential, R3 Medium Density Residential, SP3 Tourist, RE1 Public Recreation, RE2 Private Recreation, E3 Environmental Management and E4 Environmental Living zones under Great Lakes LEP 2014.

The Planning Proposal is not amending any 'Permitted with consent' provisions of the land use tables for these zones.

The intention is to amend Great Lakes LEP 2014 so that the requirements of *Clause 4.2A Erection of dwelling houses on land in certain rural and environment protection zones* apply to all development applications for residential and tourism-based land uses that incorporate accommodation, within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones.

Therefore, the requirements of Clause 4.2A will also apply to development applications for caravan parks within the specified zones.

The provisions of Clause 4.2A currently allow for the development of a dwelling house on existing holdings under specific criteria, or on lands over 40 hectares within the RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management zones.

Individual parcels that cannot satisfy the requirements of Clause 4.2A often have other restrictions to development related to location, character, environmental sensitivity, services, infrastructure and access that would also restrict and limit development opportunities for other forms of residential and tourist-based development.

Therefore, by amending LEP 2014 to require consideration of Clause 4.2A for residential and tourist-based development in the specified rural and environmental zones this creates a minor inconsistency with this clause of the S117 Direction.

However, the properties and existing holdings (which may incorporate several parcels) where these activities are proposed will generally be of a size, location and character to accommodate these land uses, consistent with the objectives of this Direction and SEPP 21 - Caravan Parks.

(5) In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:

- (a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located,*
- (b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and*
- (c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the Community Land Development Act 1989 be permissible with consent.*

The Planning Proposal will improve consistency between Great Lakes LEP 2014 and SEPP 36 - Manufactured Home Estates.

As detailed within the previous sections of this Planning Proposal, lands that cannot satisfy the requirements of Clause 4.2A often have other restrictions to development related to location, character, environmental sensitivity, services, infrastructure and access that would also restrict and limit development opportunities for caravan parks, manufactured home estates, and other forms of residential and tourist-based development. These and other assessment matters are also identified in Clause 9 of the SEPP for consideration when assessing a manufactured home estate development application.

The specific exclusions with Schedule 2 also affect significant portions of the land affected by this Planning Proposal as summarised below:

- Parts 1 and 2 exclude the development of manufactured home estates on lands identified in the local environmental plan as being affected by tidal inundation or flooding. The Great Lakes LEP 2014 Flood Planning Area represents lots affected by flood-related development controls and addresses both catchment flooding and flooding incorporating tidal inundation as a result of sea level rise.
- Parts 3 and 5 exclude the development of manufactured home estates on land mapped within Great Lakes LEP 2014 includes these areas in the E2 and E3 zones and the Drinking Water Catchment maps, representing littoral rainforest, water catchment and wetlands.
- Part 6 excludes the establishment of manufactured home estates on "*Land which under any environmental planning instrument is within an area or zone identified in that instrument by the description: open space, other than open space (private recreation); environmental protection; scenic protection; and rural (where the land is not adjacent to or adjoining land zoned for urban use).*"

Consistency

(6) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:

- (a) justified by a strategy which:*
 - (i) gives consideration to the objective of this direction, and*
 - (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
 - (iii) is approved by the Director-General of the Department of Planning, or*
- (b) justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or*
- (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
- (d) of minor significance.*

As detailed within previous sections of this Planning Proposal, the amendments put forward are consistent with the intentions and requirements of the previous Great Lakes Local Environmental Plan 1996 and Manning Local Environmental Plan No.1 planning instruments; the recommendations of Council's Rural Living Strategy (2004); and the principles of the Department's Mid North Coast Regional Strategy (2009).

The inconsistency is therefore considered to be minor and justified, given it cannot be overcome due to existing inconsistencies between SEPP 21 - Caravan Parks and SEPP 36 - Manufactured Home Estates SEPP, which specifies that manufactured home estates can only be proposed in locations where caravan parks are permissible but only excludes these estates and not caravan parks, in environmental and rural zones (that do not adjoin an urban zone).

The Planning Proposal will not be retrospective and does not affect existing caravan parks or manufactured home estates.

The Planning proposal is also addressing an anomaly in Great Lakes LEP 2014 by clarifying that residential and tourist based accommodation, in certain rural and environmental zones can only be undertaken on land where a dwelling house is permissible in accordance with Clause 4.2A.

Appendix 4 - LEP Transition Tables

The following information provides a summary of the zone and land use definition transitions from Manning Local Environmental Plan (LEP) No.1, Great Lakes LEP 1996 and Great Lakes LEP 2014.

The following table summarises which zones from Manning LEP No.1 and Great Lakes LEP 1996 were transitioned into the Standard Instrument Principle Local Environmental Zones subject to this Planning Proposal:

Table 1: Local Environmental Zone Transition

Manning LEP No.1 Zones	Great Lakes LEP 2014 Zones
1(a) Non-Urban 'A' & 1(b) Non-Urban 'B'	RU2 – Rural Landscape

Great Lakes LEP 1996 Zones	Great Lakes LEP 2014
1(a) Rural 1(c) Future Urban Investigation	RU2 – Rural Landscape
7(a) Wetlands and Littoral Rainforest 7(a1) Environmental Protection Zone 7(f1) Coastal Lands Protection 7(f2) Coastal Lands Acquisition	E2 – Environmental Conservation
7(b) Conservation	E3 – Environmental Management

The following table summarises the transition of land use definitions from Manning LEP No.1 and Great Lakes LEP 1996 into the Standard Instrument Principle Local Environmental Plan (LEP) Dictionary definitions that could be specified within the land use tables of each zone subject to this Planning Proposal.

Note: the term "dwelling" is used within various definitions and clauses of Great Lakes LEP 2014, however in accordance with the Directions of the Standard Instrument Principle LEP this specific land use cannot be referred to within land use tables.

Table 2: Transition of Local Environmental Plan Definitions

Manning LEP No.1 Specified Land Uses	Great Lakes LEP 1996 Defined Land Uses	Great Lakes LEP 2014 Defined Land Uses permissible in RU2, E2 or E3 zone
	Backpackers accommodation means a dwelling, residential flat building or hostel having an average of two beds or more per room and providing shared accommodation for persons who have their principal place of residence elsewhere.	backpackers' accommodation means a building or place that: (a) provides temporary or short-term accommodation on a commercial basis, and (b) has shared facilities, such as a communal bathroom, kitchen or laundry, and (c) provides accommodation on a bed or dormitory-style basis (rather than by room). Note. Backpackers' accommodation is a type of tourist and visitor accommodation —see the definition of that term in this Dictionary.
bed and breakfast establishment means a building used as a dwelling-house and for providing overnight accommodation for not more than 6 travellers at any one time.	Bed and breakfast establishment means the use of no more than three bedrooms, contained within a building lawfully being used as a dwelling house, for the overnight accommodation of no more than six travellers.	bed and breakfast accommodation means an existing dwelling in which temporary or short-term accommodation is provided on a commercial basis by the permanent residents of the dwelling and where: (a) meals are provided for guests only, and (b) cooking facilities for the preparation of meals are not provided within guests' rooms, and (c) dormitory-style accommodation is not provided. Note. See clause 5.4 for controls relating to the number of bedrooms for bed and breakfast accommodation. Bed and breakfast accommodation is a type of tourist and visitor accommodation —see the definition of that term in this Dictionary
Caravan parks	Camping ground or caravan park means a site used for the purpose of: (a) placing moveable dwellings (as defined in the <u>Local Government Act 1993</u>) for permanent accommodation or for temporary accommodation by tourists, or (b) the erection, assembly or	camping ground means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park. caravan park means land (including a camping ground) on which caravans (or

Manning LEP No.1 Specified Land Uses	Great Lakes LEP 1996 Defined Land Uses	Great Lakes LEP 2014 Defined Land Uses permissible in RU2, E2 or E3 zone
	placement of cabins for temporary accommodation by tourists.	caravans and other moveable dwellings) are, or are to be, installed or placed.
Dual occupancy building means a building containing 2 dwellings only;	Multiple dwellings means a building or buildings consisting of 2 or more dwellings (whether or not attached) on one allotment of land, each with an individual entrance and direct private access to ground level open space, and includes villas, townhouses, terraces, cluster housing and the like.	dual occupancy means a dual occupancy (attached) or a dual occupancy (detached). Note. Dual occupancies are a type of residential accommodation—see the definition of that term in this Dictionary. dual occupancy (attached) means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling. Note. Dual occupancies (attached) are a type of dual occupancy—see the definition of that term in this Dictionary. dual occupancy (detached) means 2 detached dwellings on one lot of land, but does not include a secondary dwelling. Note. Dual occupancies (detached) are a type of dual occupancy—see the definition of that term in this Dictionary.
Dwelling-houses	Dwelling-house means a dwelling which is the only dwelling erected on an allotment of land. <i>Dwelling means a room or number of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate domicile.</i>	dwelling house means a building containing only one dwelling. Note. Dwelling houses are a type of residential accommodation—see the definition of that term in this Dictionary. <i>dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.</i>
		eco-tourist facility means a building or place that: (a) provides temporary or short-term accommodation to visitors on a commercial basis, and (b) is located in or adjacent to an area with special ecological or cultural features, and (c) is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact. It may include facilities that are used to provide information or education to visitors and to exhibit or display items. Note. See clause 5.13 for requirements in relation to the granting of development

Manning LEP No.1 Specified Land Uses	Great Lakes LEP 1996 Defined Land Uses	Great Lakes LEP 2014 Defined Land Uses permissible in RU2, E2 or E3 zone
		consent for eco-tourist facilities. Eco-tourist facilities are not a type of tourist and visitor accommodation —see the definition of that term in this Dictionary.
Exhibition dwelling means a new dwelling, including a dwelling that is used for a pre-determined period, used for the exhibition of the dwelling and interior household fixtures and may include a sales office for the purpose of promoting the sale of that or other dwellings and the exhibited products;	Exhibition home means a dwelling-house or dwelling used temporarily for display purposes, and includes a sales office for the purpose of promoting the sale of that or other dwellings and interior household fixtures.	exhibition home means a dwelling built for the purposes of the public exhibition and marketing of new dwellings, whether or not it is intended to be sold as a private dwelling after its use for those purposes is completed, and includes any associated sales or home finance office or place used for displays.
		farm stay accommodation means a building or place that provides temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production. Note. See clause 5.4 for controls relating to the number of bedrooms. Farm stay accommodation is a type of tourist and visitor accommodation —see the definition of that term in this Dictionary.
Hotels	Hotel means a building or place specified or proposed to be specified in a hotelier's licence granted under the <u>Liquor Act 1982</u> .	hotel or motel accommodation means a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that: (a) comprises rooms or self-contained suites, and (b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles, but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation. Note. Hotel or motel accommodation is a type of tourist and visitor accommodation —see the definition of that term in this Dictionary. pub means licensed premises under the <u>Liquor Act 2007</u> the principal purpose of

Manning LEP No.1 Specified Land Uses	Great Lakes LEP 1996 Defined Land Uses	Great Lakes LEP 2014 Defined Land Uses permissible in RU2, E2 or E3 zone
		which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises. Note. Pubs are a type of food and drink premises—see the definition of that term in this Dictionary. registered club means a club that holds a club licence under the <u>Liquor Act 2007</u>.
	Motel means a building or place used for the temporary or short-term accommodation of travellers or the general public, whether or not a restaurant is included, but does not include a hotel.	hotel or motel accommodation means a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that: (a) comprises rooms or self-contained suites, and (b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles, but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation. Note. Hotel or motel accommodation is a type of tourist and visitor accommodation—see the definition of that term in this Dictionary.
	Multiple dwellings means a building or buildings consisting of 2 or more dwellings (whether or not attached) on one allotment of land, each with an individual entrance and direct private access to ground level open space, and includes villas, townhouses, terraces, cluster housing and the like.	dual occupancy means a dual occupancy (attached) or a dual occupancy (detached). Note. Dual occupancies are a type of residential accommodation—see the definition of that term in this Dictionary. multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building. Note. Multi dwelling housing is a type of residential accommodation—see the definition of that term in this Dictionary.
Residential buildings	No equivalent land use definition	residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following: (a) attached dwellings, (b) boarding houses,

Manning LEP No.1 Specified Land Uses	Great Lakes LEP 1996 Defined Land Uses	Great Lakes LEP 2014 Defined Land Uses permissible in RU2, E2 or E3 zone
		(c) dual occupancies, (d) dwelling houses, (e) group homes, (f) hostels, (g) multi dwelling housing, (h) residential flat buildings, (i) rural workers' dwellings, (j) secondary dwellings, (k) semi-detached dwellings, (l) seniors housing, (m) shop top housing, but does not include tourist and visitor accommodation or caravan parks.
Second dwelling		secondary dwelling means a self-contained dwelling that: (a) is established in conjunction with another dwelling (the principal dwelling), and (b) is on the same lot of land as the principal dwelling, and (c) is located within, or is attached to, or is separate from, the principal dwelling. Note. See clause 5.4 for controls relating to the total floor area of secondary dwellings. Secondary dwellings are a type of residential accommodation —see the definition of that term in this Dictionary.
	Tourist facility means an establishment providing for holiday accommodation or recreation, and includes a boatshed, boat landing facilities, camping ground, caravan park, holiday cabins, a hotel, house boat, marina, motel, playground, restaurant or water sports facilities or for a club used in conjunction with any such establishment, but does not include bed and breakfast establishments. Note: no definitions existing in Great Lakes LEP 1996 for 'holiday cabins' or 'house boat'	No equivalent land use definition, however, individual land uses within 'tourist facility' have comparable definitions: boat launching ramp means a structure designed primarily for the launching of trailer borne recreational vessels, and includes associated car parking facilities. boat shed means a building or other structure used for the storage and routine maintenance of a boat or boats and that is associated with a private dwelling or non-profit organisation, and includes any skid used in connection with the building or other structure. camping ground means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park. caravan park means land (including a

Manning LEP No.1 Specified Land Uses	Great Lakes LEP 1996 Defined Land Uses	Great Lakes LEP 2014 Defined Land Uses permissible in RU2, E2 or E3 zone
		camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed. hotel or motel accommodation means a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that: (a) comprises rooms or self-contained suites, and (b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles, but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation. Note. Hotel or motel accommodation is a type of tourist and visitor accommodation—see the definition of that term in this Dictionary. marina means a permanent boat storage facility (whether located wholly on land, wholly on a waterway or partly on land and partly on a waterway), and includes any of the following associated facilities: (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats, (b) any facility for providing fuelling, sewage pump-out or other services for boats, (c) any facility for launching or landing boats, such as slipways or hoists, (d) any car parking or commercial, tourist or recreational or club facility that is ancillary to the boat storage facility, (e) any berthing or mooring facilities. recreation area means a place used for outdoor recreation that is normally open to the public, and includes: (a) a children's playground, or (b) an area used for community sporting activities, or (c) a public park, reserve or garden or the like, and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).

Manning LEP No.1 Specified Land Uses	Great Lakes LEP 1996 Defined Land Uses	Great Lakes LEP 2014 Defined Land Uses permissible in RU2, E2 or E3 zone
		registered club means a club that holds a club licence under the Liquor Act 2007. restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided. Note. Restaurants or cafes are a type of food and drink premises—see the definition of that term in this Dictionary. tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following: (a) backpackers' accommodation, (b) bed and breakfast accommodation, (c) farm stay accommodation, (d) hotel or motel accommodation, (e) serviced apartments, but does not include: (f) camping grounds, or (g) caravan parks, or (h) eco-tourist facilities. water recreation structure means a structure used primarily for recreational purposes that has a direct structural connection between the shore and the waterway, and may include a pier, wharf, jetty or boat launching ramp.

The range of restrictions imposed by land use tables, definitions and clause restrictions from each local environmental plan are summarised below.

Note: in accordance with the Department of Planning & Environment guidelines and circulars regarding the preparation of the new LEP, Council was unable to transition the majority of local clauses from Manning LEP No.1 and Great Lakes LEP 1996 into Great Lakes LEP 2014.

Table 3: Manning LEP No.1 Restrictions to Land Uses

Manning LEP No.1 Land uses	Definition, Land Use Table and Clause Restrictions
	Land use table - Certain activities were permissible only with Council consent and Departmental concurrence
Dwelling houses	Clause 9B - Dwelling houses are only permissible on land that is 40 Ha or an existing holding in rural zones
Additional dwelling	Clause 9B - Additional dwelling house on 40ha or existing holding only for employee of agricultural land use in rural zones
Exhibition dwellings	Clause 11B - Exhibition dwellings prohibited unless within a residential or village zone
Hotel, motel and caravan parks	Clause 15 - Hotel, motel and caravan parks prohibited on rural land less than 4ha
Second dwelling	Clause 22A - Second dwelling house only permitted in residential or village zone
Bed & breakfast	Clause 38 - Definition of bed & breakfast - within a dwelling house and only where dwelling houses permissible

Table 4: Great Lakes LEP Restrictions to Land Uses

Great Lakes LEP 1996 Land Uses	Definition, Land Use Table and Clause Restrictions
Bed & breakfast	Definition of bed & breakfast - only within a lawful dwelling house
Exhibition home	Definition of exhibition home - dwelling house or dwelling used temporarily for exhibition purposes
Bed & breakfast	Clause 14A - Bed & breakfast permissible in zones other than 7(a) Wetland & Littoral Rainforest and 7(a1) Environmental Protection
Multiple dwellings	Clause 18 - Multiple dwellings (2 or more) in rural and environmental zones only where lawful dwelling under C19
Dwelling houses	Clause 19 - Dwelling houses only on 40 Ha, approved subdivision or existing holding in certain rural and environmental zones

Table 5: Great Lakes LEP 2014 Restrictions to Land Uses

Great Lakes LEP 2014 Land Uses	Definition, Land Use Table and Clause Restrictions
Bed & breakfast	Definition of bed & breakfast - within an existing dwelling
Eco-tourist facility	Definition of eco-tourist facility - minimal environmental impact and sensitive design
Farm stay accommodation	Definition of farm stay accommodation - secondary activity only permissible on a working farm
Dwelling houses	Clause 4.2A - Dwelling houses only on 40 Ha, approved subdivision or existing holding in certain rural and environmental zones
Eco-tourist facility	Clause 5.13 - Eco-tourist facility - special ecological and cultural features of the land; minimal environmental impact; sensitive design; energy efficiency