

MidCoast Amendment to Great Lakes LEP 2014 - Foreshore Building Line Setbacks

Proposal Title : **MidCoast Amendment to Great Lakes LEP 2014 - Foreshore Building Line Setbacks**

Proposal Summary : **The planning proposal aims to amend Great Lakes Local Environmental Plan 2014 by inserting two additional Foreshore Building Line Maps. This will transition the existing 9m foreshore building line setback at Forster Keys, Forster and 6m foreshore building line setback at Jonnel Cove, Tuncurry from Council's Development Control Plan into its Local Environmental Plan 2014.**

PP Number : **PP_2017_MCOAS_001_00**

Dop File No : **17/01839**

Proposal Details

Date Planning Proposal Received : **19-Jan-2017**

LGA covered : **Mid-Coast**

Region : **Hunter**

RPA : **Mid-Coast Council**

State Electorate : **MYALL LAKES**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Policy**

Location Details

Street : **Forster Keys and Jonnel Cove**

Suburb : **Forster and Tuncurry** City : **Great Lakes** Postcode : **2428**

Land Parcel :

DoP Planning Officer Contact Details

Contact Name : **Trent Wink**

Contact Number : **0249042716**

Contact Email : **trent.wink@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Aaron Kelly**

Contact Number : **0265917348**

Contact Email : **Aaron.Kelly@MidCoast.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : **N/A**

Release Area Name : **N/A**

Regional / Sub Regional Strategy : **Hunter Regional Plan 2036**

Consistent with Strategy : **Yes**

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MDP Number :

Date of Release :

Area of Release (Ha) **0.00**

Type of Release (eg **N/A**

Residential /

Employment land) :

No. of Lots : **0**

No. of Dwellings **0**

(where relevant) :

Gross Floor Area : **0**

No of Jobs Created : **0**

The NSW Government **Yes**

Lobbyists Code of
Conduct has been
complied with :

If No, comment :

Have there been **No**

meetings or
communications with
registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting
Notes :

Council advises that the building line setbacks for Forster Keys, Forster and Jonnel Cove, Tuncurry were previously provided on the building line register under the Building Alignment Policy. The policy was rescinded on 8 July 2014 after the building line setbacks were incorporated into Development Control Plan 2014.

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment :

The statement of objectives explains the purpose of the planning proposal is "to protect and maintain the character and amenity of the Forster Keys and Jonnel Cove canals by ensuring that established controls that have resulted in the current character and amenity can continue to be applied."

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment :

The explanation of provisions advises that it will be necessary to introduce two additional Foreshore Building Line Setback maps into the Great Lakes LEP 2014. Applying a 9m foreshore building line setback at Forster Keys, Forster and a 6m foreshore building line setback at Jonnel Cove, Tuncurry is consistent with the existing setback controls contained in Council's Development Control Plan.

Most forms of exempt development and all complying development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 are excluded from occurring within the prescribed foreshore building line setbacks identified under Environmental Planning Instruments or Development Control Plans adopted before 12 December 2008.

The following forms of development will no longer be exempt development within the prescribed building line setbacks:-

*** Animal shelters**

- * Aviaries
- * Balconies, decks, patios, pergolas, terraces and verandahs
- * cabanas, cubby houses, ferneries, garden sheds, gazeos and greenhouses
- * Carports
- * Clothes hoists and clothes lines
- * Driveways and hard stand spaces
- * Fences
- * Fowl and poultry houses
- * Garbage bin storage enclosures
- * Landscaping structures
- * Portable swimming pools and spas and child resistant barriers
- * Privacy screens
- * Rainwater tanks
- * Shade structures of canvas, fabric, mesh and the like
- * Sculptures and artwork.

The outcome of this amendment will be that these forms of development will require a development application and assessment against clause 7.10 of the Great Lakes LEP 2014. This clause stipulates the types of development permitted with consent in the prescribed foreshore building line setbacks and provides the development assessment considerations.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA : **5.10 Implementation of Regional Plans**

* May need the Director General's agreement

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified? **SEPP (Exempt and Complying Development Codes) 2008**

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

The planning proposal is consistent with the relevant SEPPs and Minister's S117 Directions.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 excludes most forms of exempt development and all complying development from occurring within the prescribed foreshore building line setbacks identified under Environmental Planning Instruments or Development Control Plans adopted before 12 December 2008.

Council's decision to identify the foreshore building line setback at Forster Keys, Forster and Jonnel Cove, Tuncurry in its Local Environmental Plan is supported. The planning proposal is not considered inconsistent with this SEPP, which has the underlying objective to protect and maintain the character and amenity of foreshore areas.

Minister's S117 Directions

5.10 Implementation of Regional Plans

The planning proposal is consistent with Goal 3 Thriving communities of the Hunter Regional Plan 2036 by ensuring that future development within the building line

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setbacks will be environmentally sensitive, maintain the character and amenity of the foreshore area.

The Gateway determination has been conditioned that prior to commencing community consultation, the planning proposal needs to be updated to explain how the it is consistent with the Minister's S117 Direction 5.10 Implementation of Regional Plan and delete reference to Direction 5.1 Implementation of Regional Strategies.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The additional Foreshore Building line Setback Maps will be prepared in accordance with the Standard LEP technical requirements.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council's proposed exhibition period of 28 days is supported.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Great Lakes LEP 2014 was prepared in accordance with the Standard Instrument.**

Assessment Criteria

Need for planning proposal : **Yes. The preparation of a Planning Proposal is the most appropriate mechanism to protect the environment and maintain the character and amenity of the foreshore area.**

Consistency with strategic planning framework : **The planning proposal is consistent with Goal 3 Thriving communities of the Hunter Regional Plan 2036 by ensuring that future development within the building line setback will be environmentally sensitive, maintain the character and amenity of foreshore areas.**

Since the introduction of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 it has been difficult for Council to control boundary setbacks to foreshore areas. The SEPP excludes most forms of exempt development and all complying development from occurring within prescribed foreshore building line setbacks identified in a environmental planning instruments or development control plans adopted before 2008.

As a consequence of the SEPPs exempt and complying provisions, Council resolved to amend Great Lakes Local Environmental Plan 2014 to adopt the Foreshore Building Line Setbacks currently contained in its development control plan.

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Environmental social
economic impacts :

Environmental Impacts

Council's assessment of future development applications within the foreshore areas should ensure that it is environmentally acceptable by protecting existing vegetation and ensuring appropriate erosion control methods are used throughout construction.

Social Impacts

The planning proposal should have positive social impacts by maintaining the character and amenity of the foreshore areas.

Economic Impacts

Excluding most forms of exempt development and all complying development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 from occurring within the prescribed foreshore building line setbacks may have a minor financial imposition on some property owners by requiring the lodgement of development applications.

Overall, the planning proposal should provide a net community benefit by ensuring that future development within the building line setback will be environmentally sensitive, maintain the character and amenity of foreshore areas.

Assessment Process

Proposal type : **Consistent** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority
Consultation - 56(2)(d)

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
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MidCoast Planning Proposal Foreshore Building Line Setbacks (Version 1) January 2017.pdf	Proposal	Yes
Midcoast Council_19-01-2017_Request for Gateway Determination - Foreshore Building Line Maps Great Lakes LEP 2014_.pdf	Proposal Covering Letter	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **5.10 Implementation of Regional Plans**

Additional Information : **The planning proposal should proceed subject to the following conditions:**

1. Prior to undertaking community consultation, amend the planning proposal as follows:-

a) amend Part 2 Explanation of Provisions and Appendix C Consistency with State Environmental Planning Policies to explain that most forms of exempt development and all complying development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 will not be permitted within foreshore building line setbacks prescribed under the Great Lakes Local Environmental Plan 2014; and

b) update appendix D and explain how the planning proposal is consistent with the Minister's S117 Direction 5.10 Implementation of Regional Plans and delete reference to Direction 5.1 Implementation of Regional Strategies.

2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:

(a) the planning proposal must be made publicly available for a minimum of 28 days, and

(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013).

3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

4. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

5. Council be given the Minister's plan making delegations under s59 of the Environmental Planning and Assessment Act 1979.

Supporting Reasons : Council did not request the Minister's plan making delegations. It is recommended that Council be given the Minister's delegation because the proposed amendment to the Great Lakes Local Environmental Plan 2014 is consistent with the existing setback controls contained in Council's Development Control Plan.

A 9 month time frame should be sufficient to finalise this planning proposal.

Signature:



Printed Name:

Robert Hodgkins

Date:

6/2/2017