

Planning and Assessment

IRF20/5496

Plan finalisation report

Local government area: Mid Coast Council

1. NAME OF DRAFT LEP

Great Lakes Local Environmental Plan 2014 (Amendment No 22)

2. SITE DESCRIPTION

The planning proposal (**Attachment A**) applies to land at Lot 1 DP 653396, Lot 83 DP 753168 & Lot 427 DP 861736 The Lakes Way, Pacific Palms, being the Palms Oasis caravan park.



Figure 1: Locality plan

PURPOSE OF PLAN

The draft local environmental plan seeks to:

- enable the subdivision of land to excise an existing house and structures by amending the minimum lot size;
- enable the expansion of the existing caravan park through rezoning from E2 Environmental Conservation to RE2 Private Recreation and amending minimum lot size and floor space ratio maps; and
- ensure asset protection zones are within the development lots.

The planning proposal states it would facilitate a planning agreement for the permanent protection of approximately 62 hectares of ecologically sensitive land in the existing E2 Environmental Conservation zone. It is understood this planning agreement was executive and finalised on 17 March 2020.

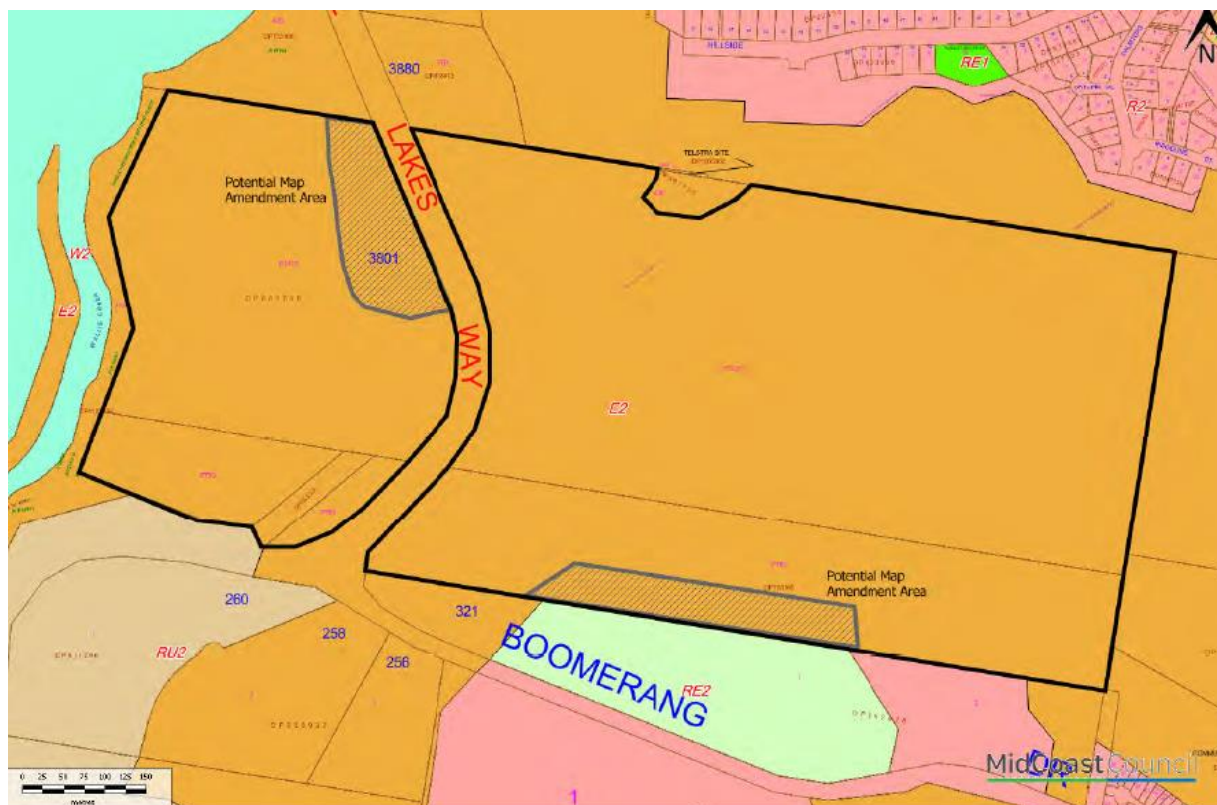


Figure 2: Site and existing zoning plan

3. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Myall Lakes state electorate. Stephen Bromhead MP is the State Member.

The site falls within the Lyne federal electorate. David Gillespie MP is the Federal Member.

To the Central Coast and Hunter team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

4. GATEWAY DETERMINATION AND ALTERATIONS

On 6 February 2020, the Gateway determination was issued subject to conditions (**Attachment B**). The Gateway determination was altered on the following dates:

- 26 July 2018 - to extend the timeframe for completion to 13 February 2019;
- 18 June 2019 - to extend the timeframe for completion to 20 December 2019; and
- 3 February 2020 - to extend the timeframe for completion to 20 June 2020.

On 18 December 2019, Mid Coast Council resolved to seek the making of the planning proposal, following registration of a proposed planning agreement between Council and INA Operations Pty Ltd.

5. PUBLIC EXHIBITION

In accordance with the Gateway determination, the planning proposal was publicly exhibited by Mid Coast Council from 18 October to 24 November 2017. Two submissions were received that raised the following issues:

ISSUE	RESPONSE
Eroding the role of the existing environment protection zone.	<p>The planning proposal seek to make planning provision changes to 3.5 hectares of land covering two separate sites.:</p> <ul style="list-style-type: none"> • An existing approved house and associated clearing for an asset protection zone for the house is to remain in the E2 Environment Protection zone. • An expansion of the caravan park of around two hectares, including asset protection zones. This land is to be zoned RE2 Private Recreation consistent with the existing caravan park; and <p>A separate process of negotiating a planning agreement for the environmental conservation of the remaining 61 hectares intends to have this land dedicated to Council and includes a 10 year restoration and management plan for the site.</p> <p>The provisions of the planning agreement will apply stricter controls on the conservation and management of the land than the E2 Environmental Protection provisions.</p>
Concerns with paying for biodiversity offsetting and loss of Koala habitat	<p>The funds/contributions contained in the planning agreement are associated with the restoration and management of the site, not for offsetting.</p> <p>The advice from the then Office of Environment and Heritage validated the environmental reports over the site and Council's ecologist has concluded that the 61 hectare environmental offset contains the required number of ecosystem credits for each vegetation type that may be impacted by the development.</p> <p>Council's ecologist also goes on to say that the offset would also satisfy the likely Koala offset requirements, should it be required.</p>

6. ADVICE FROM PUBLIC AUTHORITIES

In accordance with the Gateway determination, Mid Coast Council was required to consult the Office of Environment and Heritage and NSW Rural Fire Service.

Council also the Department of Industry in relation to adjoining crown reserves.

Office of Environment and Heritage

ISSUE	RESPONSE
Did not accept the request to dedicate the 61 hectare site as National Park.	Noted.

ISSUE	RESPONSE
Required confirmation of sufficient environmental credits exist, validity of the previous environmental studies and noted the planning proposal is substantially the same as the previously exhibited proposal in 2015.	The planning agreement implements the environmental requirements to manage impacts.
Support the planning proposal and notes the proposed offset lands are strategically located as part of the regional biodiversity corridor.	As above.

NSW Rural Fire Service

ISSUE	RESPONSE
No objection, subject to the asset protections zones being within the lots for the caravan park and house.	Council confirmed these details and the local environmental plan maps confirm this approach.

Department of Industry

ISSUE	RESPONSE
No objection, subject to asset protection zones being contained entirely within the site and not to impact on crown land,	Council has confirmed these details and the local environmental plan maps confirm this approach.
The planning proposal shall not facilitate unauthorised access on crown land.	The E2 Environmental Conservation zoned land will be in the care, control and management of Council, hence access and impacts will be managed.

The Department is satisfied that the issues raised have been adequately addressed.

7. POST-EXHIBITION CHANGES

No changes have been made to the planning proposal following public exhibition.

8. ASSESSMENT

The planning proposal addresses the environmental issues through the dedication of land to Council with funding and management mechanisms via a Planning Agreement to offset impacts. This provides an overall environmental outcome.

The environmental issues raised by the community and agency consultation process have also been addressed through the planning proposal and associated planning agreement.

The planning proposal enables asset protection zones for bushfire planning and safety to be provided within the house site and caravan park, and enables the caravan park to expand which is considered to be a community benefit.

Enabling around 3.5 hectares for development and asset protection purposes is considered acceptable in this instance.

The explanation of provisions implements the aims of the planning proposal.

9.1 Section 9.1 Directions

The Gateway determination issued on 6 February 2017 and correspondence on 2 October 2017 the delegate agreed the following directions were of minor significance:

- 2.1 Environmental Protection Zones;
- 3.4 Integrating Land Use and Transport;
- 4.1 Acid Sulfate Soils;
- 4.3 Flood Prone Land

Based on no outstanding objection from the relevant public authority, the planning proposal is now considered consistent with the section 9.1 Ministerial direction 4.4 Planning for Bushfire Protection.

There are no outstanding inconsistencies which need to be approved the Secretary's delegate before finalising the planning proposal.

9.2 State environmental planning policies

State Environmental Planning Policy (Koala Habitat Protection) 2019

As koalas are identified as a threatened species under the *Biodiversity Conservation Act 2016*, the development assessment will consider impacts on biodiversity values, including Koala habitat. The initial assessment states the offset as provided for in the planning agreement would also satisfy the likely Koala offset requirements, should it be required.

9.3 State, regional and district plans

The planning proposal is consistent with the *Hunter Regional Plan 2036*, specifically:

- Direction 6 – Grow the economy of MidCoast and Port Stephens;
- Direction 9 – Grow tourism in the region; and
- Direction 14 – Protect and connect natural areas.

The planning proposal is also consistent with the Mid Coast Council's Community Strategic Plan, the Forster/Tuncurry Conservation and Development Strategy and the Pacific Local Environmental Study.

9. MAPPING

The planning proposal includes the following local environmental plan maps:

- Land Zoning map;
- Lot Size Map; and
- Floor Space Ratio Map.

The final maps have been checked by the Department's ePlanning Team and provided to Parliamentary Counsel (**Attachment Maps** and **Attachment MCS**).

10. CONSULTATION WITH COUNCIL

Mid Coast Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment C**).

On 7 December 2020, Council confirmed it supported the draft local environmental plan and that the plan should be made (**Attachment D**).

11. PARLIAMENTARY COUNSEL OPINION

On 13 October 2020 Parliamentary Counsel provided the final Opinion that the draft local environmental plan could legally be made. This Opinion is provided at **Attachment PC**.

12. RECOMMENDATION

It is recommended the Minister's delegate as the local plan-making authority determine to make the draft local environmental plan under clause 3.36(2)(a) of the *Environmental Planning and Assessment Act 1979* because:

- the planning proposal is consistent with state, regional and local planning strategies;
- the planning proposal has complied with the Gateway determination conditions (**Attachment B**);
- the matters raised by relevant public authorities and during public exhibition have been appropriately addressed; and
- the planning proposal has satisfactorily balanced the environmental impacts with the social benefits of providing for the expansion of a caravan park and home site and provision of greater conservation controls of across the conservation lands.



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16/12/2020

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