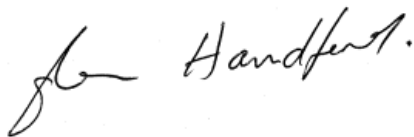


Notice of Strategic Committee Meeting to be held at the Council Chambers 4 Breese Parade, Forster 13 December 2017 at 8.30am

The order of the business will be as detailed below (subject to variation by Council)

- | | |
|------------------|---|
| 8.30am | 1. Acknowledgement of Country |
| | 2. Declaration of Pecuniary or Conflicts of Interest (nature of interest to be disclosed) |
| | 3. Apologies |
| | 4. Confirmation of previous Minutes |
| | 5. Briefing Session |
| 8.30am - 10am | 5.1 Civic Precinct Project - Contract Briefing (Closed to the Public - Refer to BP Report for Reasons for Confidentiality). |
| 10am - 10.30am | MCC Volunteers' Christmas Morning Tea |
| 10.30am - 11am | 5.2 Code of Meeting Practice (Manager Governance, Rob Griffiths) - see Draft Code of Meeting Practice attached |
| 11am - 12.30pm | 5.3 Implementation - Consolidated Local Environmental Plan - MidCoast Council (Manager Strategic Planning, Roger Busby) - see BP Report |
| | 5.4 Urban Land Monitor and Kolodong Planning Proposal (Manager Strategic Planning, Roger Busby; and Senior Strategic Planner, Sue Calvin) |
| | 5.5 Taree Package 4 LEP Amendments (Manager Strategic Planning, Roger Busby) |
| 12.30pm-12.45pm | 5.6 Water Services Development Charges (Director Water Services, Brendan Guiney) |
| 12.45pm - 1.30pm | 6. Consideration of Officers' reports |
| | 7. Councillors' Business |
| 1.30pm | 8. Close of meeting |



Glenn Handford
General Manager

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CONSIDERATION OF OFFICERS' REPORTS:

DIRECTOR PLANNING AND NATURAL SYSTEMS

1 IMPLEMENTATION - CONSOLIDATED LOCAL ENVIRONMENTAL PLAN - MIDCOAST COUNCIL

Report Author Roger Busby, Manager Strategic Planning

File No. / ECM Index SP-PP-39 - Consolidated LEP

Date of Meeting 13 December 2017

SUMMARY OF REPORT

Council, at the ExtraOrdinary meeting of 2 November 2017, resolved to review the three former Council area Local Environmental Plans to harmonise them as a matter of importance and call for a report from the General Manager on the extra cost needed to complete the new MidCoast Council Local Environmental Plan within 12 months.

This report outlines the process and approaches that can be taken to prepare a new Local Environmental Plan for MidCoast Council.

Staff will give a presentation to Council at the meeting on this matter.

SUMMARY OF RECOMMENDATION

That, as a short to medium term measure, Council support the preparation of a consolidated Local Environmental Plan with targeted strategies for the MidCoast area with a view to preparing a new strategic Local Environmental Plan in the next five (5) years.

FINANCIAL/RESOURCE IMPLICATIONS

The preparation of a new Local Environmental Plan in a shortened timeframe would involve considerable strategic planning and GIS resources currently not available in Council. In the event the resources were to be provided the cost would be in the vicinity of \$800,000.00 that would be required for contractors/consultants and community engagement.

LEGAL IMPLICATIONS

There are no legal implications as Council can continue to rely on the three (3) current Local Environmental Plans until a new Local Environmental Plan is prepared. A new Local Environmental Plan will provide more robust development controls which will more accurately reflect the aspirations and wishes of the community compared to the current Local Environmental Plans that are based on 1990s - 2000s planning principles and objectives.

BACKGROUND

In Late Business, at the ExtraOrdinary meeting of 2 November 2017, Council resolved to review the three (3) former council area Local Environmental Plans to harmonise them as a matter of importance and call for a report from the General Manager on the extra cost needed to complete the new MidCoast Council Local Environmental Plan within 12 months.

DISCUSSION

In establishing a work program for Council's Strategic Planning Department immediately after the merger it was necessary to review and prioritise the current projects on the work programs across the three (3) former Councils and to identify high priority projects to give MidCoast Council a solid framework for managing growth. Preparation of a new consolidated Local Environmental Plan for MidCoast Council is recognised by everybody as a high priority for Council but this had to be balanced with continuation of work on important rezonings that were underway at the time of the merger.

Consultation with the NSW Department of Planning and Environment (DPE) has occurred over the last 12 months and this has assisted in establishing key priorities for sustainable growth. Release of the Hunter Regional Plan in October 2016 also clarified key strategic directions for the new Council.

Stemming from the meetings with NSW Department of Planning and Environment was agreement that the focus should be upon completion of key strategies rather than the preparation of a single broad Local Planning Strategy as this would consume too much of Council's and the department's time and resources. The most important strategy was seen as being a rural strategy closely followed by a housing strategy.

Identification of urban growth areas beyond those areas nominated in current regional and local strategies was not seen as necessary. This is because the amount of land that is already zoned and has been nominated for urban expansion is considered adequate for the foreseeable.

Work already undertaken and underway to progress a consolidated Local Environmental Plan

Actions, including the following, have already been taken to inform the preparation of a new Local Environmental Plan:

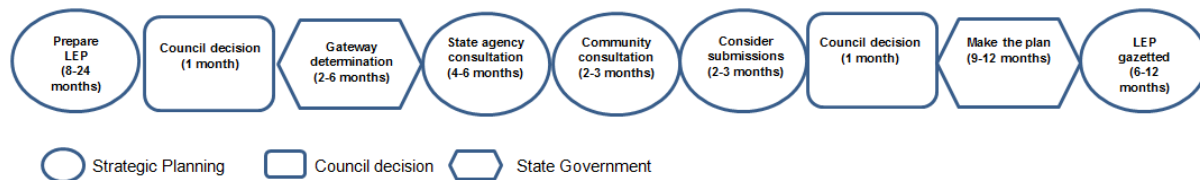
- Matrix prepared to enable comparison of all land use tables across the three (3) Local Environmental Plans.
- A table has been prepared to identify and compare all Local Environmental Plan clauses across the three (3) Local Environmental Plans.
- Amendments have been made to the three (3) Local Environmental Plans to introduce some consistent clauses.
- Consultants have been engaged to prepare a Rural Opportunities and Land Use Strategy to establish the strategic planning framework for all the rural areas of MidCoast Council.
- A brief has been prepared to seek quotations for consultants to prepare a Housing Strategy for MidCoast Council.
- A Regional Economic Development Strategy (REDS) is at the advanced stages of preparation by consultants. This document will give some high level direction on economic development priorities and may give some guidance on specific land use planning actions. A key issue emerging from community engagement during the preparation of the Regional Economic Development Strategy is the need for effective and consistent planning controls. It will be likely that this can be used as a platform for government funding for assistance to prepare a consolidated Local Environmental Plan.

- Earlier this year Council endorsed the preparation of a strategy/masterplan for the area referred to as the Manning Health and CBD precinct. This is an important focus area for employment opportunities, housing diversity and retail activation and the strategy will inform the new MidCoast Council Local Environmental Plan.

What is involved in the preparation of a new Local Environmental Plan?

This depends on the approach that Council wants to take as there are four options with different outcomes, costs, timeframes and levels of resourcing. One of the largest components of any option would be allocation of GIS mapping resources.

At a minimum, when allowing for the statutory process, the timeframe for some form of consolidated Local Environmental Plan would be two (2) to three (3) years from the date of commencement as set out below. Council's process could be completed in one (1) to two (2) years, subject to resources, with the remainder of the time taken up with processing by the Department of Planning and Environment and engagement with other government agencies. Advice from the Regional Director Department Planning and Environment is that the department would require at least nine (9) months from the time the Local Environmental Plan is submitted to them to be finalised. This time involves the review and preparation of the final map sets, engagement with government agencies, and review and drafting of the final Local Environmental Plan instrument by the Department's Legal Branch and Parliamentary Counsels Office.



Total time - 3 to 5 years

What are options for a new Local Environmental Plan?

The time taken and resources required to prepare a single consolidated Local Environmental Plan are dependent on whether Council wishes to make any policy changes to its planning controls. This is because any changes will have to be underpinned by strategies to justify the change and to describe how the changes will be given effect. Examples include changes to zones and/or lot sizes in rural areas and whether to expand or reduce the application of the various LEP map layers. Another significant policy decision will be whether Council wishes to adhere to the single R1 General Residential zone in Taree or to divide these areas into low, medium and high density residential zones as currently is the case in the former Great Lakes and Gloucester. These questions would have to be investigated by a housing strategy.

In the event Council's preference is for a single consolidated Local Environmental Plan in as a short a time as possible then there could only be minimal policy change. This hastened approach could be done in two ways; "stitching" together the three (3) Local Environmental Plans into one (1) instrument or concurrently amending the three (3) Local Environmental Plans (harmonisation) to enhance their consistency in planning controls. Both of these approaches should only be undertaken with the knowledge that a strategic Local Environmental Plan, underpinned by the necessary strategies, would be produced in a further two (2) to three (3) years.

Both the "stitching" or harmonisation approach could not address significant policy issues, such as resolving situations where different zones exist across adjoining former Local Government Area boundaries unless strategies that address these policy issues are firstly prepared. As an example, at the juncture of the three former boundaries in the rural area there is an RU1 Primary Agriculture zone on one side of the boundary and an RU2 Rural Landscape on the other. There are also different lot sizes, building heights and floor space ratios across the boundaries.

The options to produce a consolidated Local Environmental Plan are:

1. Harmonisation of the three (3) Local Environmental Plans by retention of the three (3) current documents but make changes to each one to make them as consistent as possible. This would necessitate the preparation of a single comprehensive Local Environmental Plan at a later time.
2. Consolidated Local Environmental Plan - there are three (3) options:
 - Comprehensive Local Environmental Plan - this is where all strategies are completed to justify and describe policy changes and which sets the long term strategic direction for sustainable growth across MidCoast Council
 - Combined Local Environmental Plan where all the three (3) Local Environmental Plans are consolidated into one (1) instrument without any significant policy changes
 - Targeted strategic Local Environmental Plan - this would involve a combination of the two (2) approaches above where key strategic work is completed and incorporated into a single consolidated Local Environmental Plan. The key strategies would be completion of the Rural Opportunities and Land Use Strategy that addresses issues in the rural landscape and the Housing strategy that address the residential zones.

The benefits and disadvantages of each option are set out below.

Option	Description	Benefits	Disadvantages
1. Harmonising the three (3) current Local Environmental Plans	This is where the three (3) current Local Environmental Plans are amended to make as many of the clauses consistent and to harmonise some of the land use zones.	<p>Consistency achieved in many Local Environmental Plan clauses and common land uses in some zones.</p> <p>Less work as those components of the three Local Environmental Plans that are unique to each Local Government Area, such as Aims and zone Objectives could be retained until a new comprehensive Local Environmental Plan is prepared.</p> <p>No need to concurrently consolidate Development Control Plans but this work should still be done</p>	<p>Would not result in the production of a single MidCoast Council Local Environmental Plan.</p> <p>Would not resolve any current land use policy.</p> <p>Would not resolve mapping anomalies across adjoining Local Government Area boundary.</p> <p>Confusion in the community as a comprehensive Local Environmental Plan will follow in two (2) to three (3) years.</p> <p>Would not result in consistency in all land use controls</p> <p>Current plans are based on 1990s planning</p>

Option	Description	Benefits	Disadvantages
2. Strategic Local Environmental Plan		<p>Robust evidence based plan underpinned by all strategies</p> <p>All community issues addressed</p> <p>Consistent controls for all of MidCoast Council</p> <p>Considerable State Gov't involvement</p> <p>Simplifies processing of Development Applications</p> <p>Enables robust Development Control Plan development</p> <p>Enables e-planning</p>	Additional time and cost
3. Combination of the LEPs into one - "stitching" together the Local Environmental Plans	<p>Preparation of a single Local Environmental Plan for MidCoast Council with the aims of making as many clauses as possible consistent as well as harmonising some land use zones</p> <p>Minimal focus on policy issues</p>	<p>A single Local Environmental Plan for all of MidCoast Council.</p> <p>Consistency achieved in some Local Environmental Plan clauses and some land use zones.</p> <p>Shorter timeframe compared to new comprehensive Local Environmental Plan</p> <p>Considerable community and State Government involvement</p>	<p>More work than the harmonisation approach as a single set of provisions such as Aims and zone objectives would have to be created.</p> <p>Would not involve any significant change to current land use policy.</p> <p>Would not resolve mapping anomalies across adjoining Local Government Area boundary</p> <p>Need to also consolidate Development Control Plans</p> <p>Confusion in the community as a comprehensive Local Environmental Plan will follow in two to three years.</p> <p>Current plans are based on 1990s planning</p> <p>Inconsistency across some zones and clauses.</p>

Option	Description	Benefits	Disadvantages
			Provisions will differ between regions Still need to review Local Environmental Plan in detail.
4. Targeted strategic Local Environmental Plan	Preparation of a single consolidated Local Environmental Plan that results in consistent clauses and zones. It would respond to the most significant policy issues by the preparation of key strategies.	<p>Would address priority policy issues in rural and residential areas</p> <p>A single Local Environmental Plan for all of MidCoast Council.</p> <p>Consistency achieved in many Local Environmental Plan clauses and land use zones.</p> <p>It may be necessary to retain some provisions that only apply to the former Local Government Area's.</p> <p>Shorter timeframe compared to new comprehensive Local Environmental Plan</p> <p>Targets key housing and rural issues</p> <p>Resolve some major issues</p> <p>Considerable community and State Government involvement</p>	<p>Additional cost to prepare key strategies. These are already underway.</p> <p>Longer timeframe compared to harmonised Local Environmental Plan due to some strategic work having to be completed</p> <p>Could cause some confusion in the community as a full strategic Local Environmental Plan will follow in two (2) to three (3) years.</p>

What is the estimated cost of a consolidated Local Environmental Plan?

Estimated resources for a new Local Environmental Plan would involve the following over three (3) years depending on the preferred approach:

Contractors/consultants planners (2)	\$480,000.00
GIS officer	\$250,000.00
Community engagement	\$60,000.00
Other technical	\$70,000.00

Total Approximately \$860,000.00

Once Council decides on the preferred approach more accurate costs can be prepared and factored into Council's long-term financial plan.

CONSULTATION

Considerable community engagement will be undertaken in the preparation of a new Local Environmental Plan.

Given that Council wishes to produce a consolidated Local Environmental Plan in as short a time as possible there will be two (2) rounds of community engagement. The first round will be with the consolidated Local Environmental Plan and the second round, two (2) to three (3) years later, with a final strategic Local Environmental Plan.

A community engagement plan will be prepared for the project. This will be directed by the Gateway Determination by the NSW Department of Planning and Environment when a planning proposal is submitted to them for endorsement for exhibition.

COMMUNITY IMPACTS

The current situation where Council is relying upon three older Local Environmental Plans is inefficient and confusing for all stakeholders. Creation of a single Local Environmental Plan, based on contemporary planning principles and which responds to community issues can only improve the situation for the community.

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

Preparation of a consolidated Local Environmental Plan is consistent with the following Key Directions and Actions from the 2017 -2018 Community Strategic Plan and Operational Plan.

Key Direction 1 Environmental focus

Objective 1: Protect and enhance our natural and diverse environments

- 1.1 Implement effective environmental management through well set plans, strategies and actions

Objective 4: Ensure that development is ecologically sustainable and appropriate

- 4.1 Implement appropriate land-use planning tools and controls that are based on ecologically sustainable principles

Key Direction 2 Economic responsibility

Objective 6: Provide a supportive environment that encourages our local businesses and tourism industry to grow and strengthen

- 6.1 Market the MidCoast region to visitors, businesses and residents based on the strengths of our area
- 6.2 Support our existing business community and encourage the development of new business and job opportunities

Objective 9: Provide the right spaces and places to support a diverse life balance

- 9.1 Ensure community and cultural facilities and services reflect current and future needs
- 9.2 Ensure sporting and recreational facilities and services reflect current and future needs
- 9.3 Maintain and deliver community infrastructure to agreed service standards

Objective 11: Plan for sustainable growth and development

- 11.1 Manage growth to reflect current and future needs
- 11.2 Manage urban development and ensure it respects the character of the area in which it is located with consideration to accessibility, adaptability and affordability
- 11.3 Plan for the conservation and protection of our built heritage

Key Direction 4 Civic leadership

- 14.1 Ensure effective governance practices are in place to enable councillors to fulfil their strategic role

Operational Plan Actions

- Develop a project plan and commence implementation of actions aimed at developing a single simplified planning framework for the MidCoast region through standardisation of the three (3) existing Local Environmental Plans.
- Create a new contemporary land use planning framework for the MidCoast region through undertaking a staged approach to the preparation of a Local Planning Strategy for MidCoast Council to guide and inform a comprehensive MidCoast Council Local Environmental Plan.
- Prioritise planning strategies and studies and focus on priority projects, including residential land supply and demand and servicing assessment, Rural Economic Diversity Strategy, Housing Needs Strategy (or similar) and Economic Development Strategy.
- Ensure the three (3) existing Local Environmental Plans remain current and deliver on community expectations for sustainable outcomes through preparation of high priority strategic planning proposals for amendments.
- Ensure Council's Local Environmental Plan, Development Control Plans and other policies and practices are responsive to the community, and reflect any changes made to State Government legislation or relevant initiatives.
- Establish a framework for the sustainable growth of the MidCoast Council area which aligns with the Hunter Regional Plan 2036.
- Commence priority projects, including residential land supply and demand and servicing assessment, Rural Economic Diversity Strategy, Housing Needs Strategy (or similar) and Economic Development Strategy.
- Facilitate and guide sustainable economic growth and diversity across the MidCoast Council rural landscape through preparation of a Rural Opportunities and Land Use Strategy.

RISK CONSIDERATION

The greater the time taken to consolidate the current Local Environmental Plans and to produce a new strategic Local Environmental Plan the greater the risk to Council in making inconsistent decisions and decisions that are based on older strategic planning principles.

CONCLUSION

Preparation of a consolidated Local Environmental Plan has been identified in Council's Operation Plan as a high priority. Work is underway to deliver this outcome and it is now the right time for Council to decide which approach is the preferred.

Unfortunately, the timeframe for the work will extend beyond that preferred by Council but this is unavoidable due the statutory process that has to be followed and the role of the NSW Department of Planning and Environment and other state agencies.

The objective in delivering a new Local Environmental Plan should be to produce a workable system of planning controls in as short a timeframe as possible that responds to the main strategic issues across the Local Government Area. To deliver this outcome the recommended approach is the targeted Local Environmental Plan that will consolidate the three (3) Local Environmental Plans into one (1) while at the same time responding to the main strategic policy issues in the rural and residential areas. This is option 4 in the table in the report.

The next longer term step will be the preparation of a new strategic Local Environmental Plan that addresses all the main strategic issues that will confront Council into the foreseeable future.

The Rural Opportunities and Land Use Strategy, Housing Strategy and Manning Health and CBD Precinct Strategy that have already been endorsed for commencement, and which are underway, will provide the strategic framework to address the main issues across MidCoast Council in the short to medium term. Work can continue on the preparation of consolidated Local Environmental Plan while these strategies are being completed.

Once Council endorses a preferred approach a more detailed work program and budget will be prepared for Council.

RECOMMENDATION

- A. That, as a short to medium term measure, Council support the preparation of a consolidated single Local Environmental Plan for MidCoast Council that will also target the main strategic policy issues that are being addressed by the Rural Opportunities and Land Use Strategy and the Housing Strategy that are currently underway.
- B. That in the longer term, a new strategic Local Environmental Plan be prepared that establishes a sound framework for the long term growth of MidCoast Council.

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2 VOLUNTARY PLANNING AGREEMENT - 661 THE LAKES WAY DARAWANK

Report Author Mathew Bell, Senior Ecologist
File No. / ECM Index Wetlands Conservation - Programs
Date of Meeting 13 December 2017

SUMMARY OF REPORT

The Registered Proprietor of land at Lot 1 DP125692, 661 The Lakes Way Darawank has proposed to utilise *Great Lakes Local Environmental Plan 2014 Clause 4.1B Exceptions to minimum lot sizes for ecological protection* for the purposes of subdividing the subject land and creating a conservation lot that is to be dedicated to Council for ongoing protection and management to safeguard water quality and ecological values.

Council Officers have considered, in preliminary terms, the proposal and the appropriateness of the use of Clause 4.1B in the context of the subject land and are satisfied that the proposal is of significant merit.

In order to progress the proposal, it is recommended that Council resolve to enter a Voluntary Planning Agreement with the Registered Proprietors of the subject land.

SUMMARY OF RECOMMENDATION

That Council agrees to enter a Voluntary Planning Agreement with the Registered Proprietor of Lot 1 DP125692, 661 The Lakes Way Darawank for the purpose of accepting the dedication of land associated with the subdivision of the land under the provisions of clause 4.1B of Great Lakes Local Environmental Plan 2014.

FINANCIAL/RESOURCE IMPLICATIONS

There are some resource implications for Council staff in negotiating, exhibiting and executing the Voluntary Planning Agreement. This would be undertaken in-house and would be accommodated within existing staff work programs. The project delivers on outcomes identified in the Wallis Lake Wetland Strategy and the Wallis Lake Catchment and Estuary Management Plan.

The long-term management of the area to be dedicated would be incorporated in the current Council program for restoration sites that adjoin or are proximal to the land at Manns Road and at Darawakh Creek wetland. Activities to be undertaken by Council would include weed, pest and fire management.

LEGAL IMPLICATIONS

A Voluntary Planning Agreement is a legally-binding agreement entered into by a planning authority (such as a Council) and a developer for contributions made through dedications of land, monetary contribution, construction of infrastructure and/ or the provision of materials for public benefit or use.

Voluntary Planning Agreements cannot be entered into with a Council unless there is a formal resolution to do so and then only after public notice has been given and an explanatory note is made available for inspection for at least 28 days.

ATTACHMENTS

- A: Plan of Proposed Subdivision of the Subject Land
- B: Subject Land in the Context of Existing Reserves

Attachments A and B have been circulated in hard copy to the Councillors and Senior Staff, however these Attachments are publicly available on Council's website.

DISCUSSION

The land that is the subject of this report is Lot 1 DP125692, 661 The Lakes Way Darawank (hereafter referred to as the "*subject land*"). The subject land is 13.05-hectares in size and is presently zoned RU2 Rural Landscape under the Great Lakes Local Environmental Plan 2014. It is presently owned by Mr R. J. Hill and Mrs S. E. Hill (who are the Registered Proprietors).

The subject land contains an existing approved single dwelling and detached shed, within an area of managed Asset Protection Zone and driveway access to The Lakes Way. There are powerline easement corridors on parts of the subject land.

Outside the area of the single dwelling and its curtilage and the powerline corridors, the subject land is naturally-vegetated with Swamp Oak swamp forest and Broad-leaved Paperbark/ Swamp Oak swamp forest, which form part of the Swamp Oak Floodplain Forest and Swamp Sclerophyll Forest on Coastal Floodplain Endangered Ecological Communities (recognised under the *Biodiversity Conservation Act 2016*). The condition of the natural vegetation ranges from low to high quality, with some areas affected by weed invasion and edge-effects. Reduced quality vegetation is generally confined to the south-east portion of the subject land, in the vicinity of the existing dwelling. The threatened flora species, *Asperula asthenes*, has been observed on parts of the subject land and the vegetation present is expected to be utilised as habitat by a range of threatened fauna species.

The subject land forms an important part of a local wildlife corridor that extends from habitats to the west of Tuncurry through to Darawank Nature Reserve.

The natural vegetation types of the subject land comprise vegetation that is regarded as wetland habitats pursuant to the Wallis Lake Wetlands Strategy (Great Lakes Council, 2010).

The natural vegetation types of the subject land are known to be types that provide very important water quality protection ecosystem services within the Wallis Lake catchment.

The Registered Proprietors have been in discussion with Council officers in regards to the potential subdivision of the subject land under the *Great Lakes Local Environmental Plan 2014 Clause 4.1B Exceptions to minimum lot sizes for ecological protection*.

Correspondence has been received by Council from Mr Ray Hill dated 18 August 2017, which requests the use of Clause 4.1B for the purpose of subdivision of the subject land and includes an offer to enter a Voluntary Planning Agreement with Council. This correspondence is provided as Annexure A.

The correspondence identifies a possible three-lot subdivision of the land, with proposed lot 10 comprising the existing single dwelling and its curtilage in a 1-hectare area, proposed lot 11 (a vacant 1-hectare area) and proposed lot 12 (of 11.05-hectares) comprising a residue lot that is to be dedicated to Council for wetland conservation and water quality protection purposes. A plan of the proposed subdivision is provided as Attachment A.

The dedication of proposed lot 12 to Council is the subject of the Voluntary Planning Agreement referred to in this report.

Council's Manager – Development Assessment has considered the merits of the proposed subdivision through the use of Clause 4.1B and makes the following comments:

The subject land is zoned RU2 Rural Landscape and has a minimum subdivision lot size of 40 hectares. Clause 4.1B however specifically allows for subdivision that will result in the improvement and protection of high value conservation land for ecological and ecosystem service purposes to be carried out to create lots below this minimum size. The creation of two 1-hectare lots and a residue parcel for conservation purposes is considered acceptable and in accordance with the provisions of this clause.

The objective of Clause 4.1B is to "*facilitate subdivision that will result in the improvement and protection of high value conservation land for ecological and ecosystem service purposes.*"

Council Officers have considered the proposal and are of the view that the subject land does contain high value conservation land for ecological and ecosystem services provisions. Such high conservation land equates to the area within the proposed lot 12.

The proposal from the Registered Proprietor of the subject land endeavours to utilise s2(c) of Clause 4.1B to make a Voluntary Planning Agreement for provision for the conservation or enhancement of the natural environment. Such use is entirely appropriate.

One of the pertinent matters of Clause 4.1B is that the subdivision results in the creation of a lot that contains the recognised area for conservation and enhancement of the natural environment and that all other resulting lots are not less than 1-hectare in size. This is demonstrably-achieved under the development proposal attached to the correspondence of Ray Hill dated 18 August 2017 (Attachment A).

Finally, Clause 4.1B requires that the consent authority cannot grant development consent pursuant to the clause unless the consent authority is satisfied that suitable arrangements have been, or will be, made for the conservation and management of the high conservation value land.

In this case, the Registered Proprietor has offered the land to Council for public reservation and conservation management. This area is strategically-important as it is located within a broader local conservation framework associated with wetland protection in the Manns Road and Darawank precincts. This is a priority area for Council wetland and water quality efforts.

The proposal can appropriately be considered under Clause 4.1B to deliver on the desired outcomes.

The context of the subject land in relation to Manns Road and the Darawakh Creek wetland conservation framework is illustrated in Attachment B.

The fact that Council owns and manages a number of landholdings in this local context for water quality ecosystem services and wetland protection means that there are rational efficiencies for the cost-effective long-term management of the land that is to be dedicated under the terms of the proposed Voluntary Planning Agreement. As such, the land proposed to be dedicated is an important part of local water quality protection efforts and wetland protection and it can be effectively-managed without undue financial burden to Council. The land would be managed for conservation through ongoing bushland restoration, weed and feral pest animal control, bushfire management and other enhancement actions.

Consideration has been given within the correspondence of Ray Hill dated 18 August 2017 (Annexure A) to the matters outlined in the Interim Policy regarding the operation of Clause 4.1B (Great Lakes Council). This demonstrates that none of the considerations of the Interim Policy act to preclude the proposed subdivision or use of Clause 4.1B in the manner proposed. There are however two (2) minor variations to the Interim Policy, which are discussed below:

- The Interim Policy seeks the conservation of 30-hectares of land for every bonus lot created. This project would conserve an area of 11.05-hectares for the creation of a single bonus lot. The original lot is only 13.05-hectares in total size and therefore does not permit conservation of an area greater than the 11.05-hectares proposed. Council Officers have considered the conservation area proposed and are satisfied that it is an area of high conservation value suitable for application of the clause, and
- The Interim Policy states that Council will not generally accept the responsibility for the management of the conservation land. As mentioned, the conservation land proposed in this project occurs within a broader public conservation framework (existing reserves) such that Council dedication and management is the most feasible and appropriate mechanism in this particular context. Council can utilise Environmental Special Rate funds, combined with external funding opportunities, to rationally and effectively conserve and manage the conservation area.

The Interim Policy allows variations to the stated policy instruments where there are exceptional environmental outcomes. In this case, there are exceptional environmental outcomes. 11.05-hectares of land with very important water quality values and comprising endangered ecological communities and threatened species habitat would be permanently, publicly-conserved. This land, if retained in private ownership, could be subject to degradation and disturbance through altered or intensified land use changes or future development.

In the event of consent being granted for the subdivision proposed for the land, the Registered Proprietor would be responsible for the erection of a suitable dividing fence between the development lots and the conservation lot.

Therefore, the proposed Voluntary Planning Agreement and associated development are suitable and appropriate for the use of Clause 4.1B of the Great Lakes Local Environmental Plan 2014. As such, this report has been prepared seeking Council resolution to enter a Voluntary Planning Agreement with the Registered Proprietor of the subject land under these terms.

CONSULTATION

There has been extensive consultation between the Registered Proprietor of the subject land and Council Officers in relation to the development proposal and the use of Clause 4.1B for the protection of high conservation value lands.

Wetland conservation and the importance of wetland conservation for water quality protection has been extensively-communicated with the general public through the preparation and adoption of Council plans and strategies including the Water Quality Improvement Plan for the Wallis, Smiths and Myall Lakes Catchments, the Wallis Lake Wetlands Strategy and the Wallis Lake Coast and Estuary Management Plan, as well as the successful and award-winning Darawakh Creek/ Frogalla Swamp wetland restoration project.

COMMUNITY IMPACTS

There are no adverse community impacts associated with this proposal. There are significant positive outcomes in entering into the Voluntary Planning Agreement as described in this report for the broader community.

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

The *MidCoast Council 2017/18 Operational Plan* (Adopted 28 June 2017) identifies the *Key Direction 1 Environmental Focus*, with the following objectives:

- *Protect and enhance our natural and diverse environments, and*
- *Manage our expansive water catchments to provide healthy waterscapes*

The entering of a Voluntary Planning Agreement over the subject land assists Council deliver the following activities as identified in the *MidCoast Council 2017/18 Operational Plan*:

- *Activity 1.1.3 Implement adopted plans and strategies aimed at improving water quality and biodiversity throughout the MidCoast area*

The Voluntary Planning Agreement, facilitated by the provisions of clause 4.1B of the Great Lakes Local Environmental Plan 2014, will result in the strategic protection (public conservation) of 11.05-hectares of wetland habitat that provides very important water quality ecosystem services provisions as well as associated biodiversity conservation outcomes. It also facilitates orderly and appropriate subdivision of the subject land.

The project assists deliver actions identified in the *Wallis Lake Wetlands Strategy* (Great Lakes Council, 2010), including:

- *Action A5. Protect, restore and reinstate wetland function, and*
- *Action A7. Conserve wetlands*

The Wallis Lake Wetlands Strategy proposed that relevant agencies including Council "act proactively, strategically and in partnership and utilise all appropriate means available to acquire and/ or transfer the ownership to the public conservation estate of identified wetlands that are of high conservation value. The means to achieve such may be through direct acquisition at market rate, acceptance of dedication, development incentives for conservation schemes, development consent, deeds of agreement, joint management agreements (Aboriginal land) or any other relevant means ... Preference for acquisition should be directed to existing programs (such as Darawakh Creek/ Frogalla Swamp Wetlands and wetlands of the ... Wallamba Riverine Floodplain)."

This project would lead to the public conservation of 11.05-hectares of priority wetland in a cost-effective and efficient manner, thereby delivering on actions within the adopted Wallis Lake Wetlands Strategy. This is considered an exceptional environmental outcome.

TIMEFRAME

The Voluntary Planning Agreement requires negotiation and consultation with the Registered Proprietor of the subject land as well as statutory public notification and will fit within the work programs of relevant Council staff.

BUDGET IMPLICATIONS

The Voluntary Planning Agreement will be prepared by Council staff from the Natural Systems and the Strategic Planning Branches of the Planning and Natural Systems Division. Relevant officers will schedule appropriate time in their work programs. The direct funding requirements are expected to be minimal. Ongoing land management of the land dedicated to Council would be managed using environmental special rate funds (and external grants). The land would be managed as part of a wider network of existing public reserves, with resultant budgetary efficiencies.

RISK CONSIDERATION

There are no special risk considerations for this item.

RECOMMENDATION

That Council agrees to enter a Voluntary Planning Agreement with the Registered Proprietor of Lot 1 DP125692, 661 The Lakes Way Darawank for the purpose of accepting the dedication of land associated with the subdivision of the land under the provisions of clause 4.1B of Great Lakes Local Environmental Plan 2014.

ANNEXURES:

A: Correspondence from Ray Hill to MidCoast Council dated 18 August 2017.

Ray Hill
661 The Lakes Way
Darawank NSW 2430

18 August 2017

MidCoast Council
PO Box 482
TAREE NSW 2430

Attention: Roger Busby

Dear Roger,

RE: VOLUNTARY PLANNING AGREEMENT – 661 THE LAKES WAY, DARAWANK

We are the owners of land at 661 The Lakes Way, Darawank (Lot 1 DP 125692) and have been in discussions with Gerard Tuckerman and other Council Officers in regards to a potential subdivision of the land under Clause 4.1B of the Great Lakes LEP 2014.

Under the provisions of this clause, the land may be subdivided in certain circumstances, where it contains land of certain environmental value, including the following:

land the subject of a planning agreement that makes provision for the conservation or enhancement of the natural environment.

In relation to our land, and our discussions with Mr Tuckerman and Mr Bell of your office, we would seek to enter an agreement with Council in this regard, which would be executed with a development consent for subdivision of the land.

We note that the former Great Lakes Council had an interim policy in regard to operation of clause 4.1B which provided the following criteria for the use of the clause:

1. *That one bonus lot will be considered for every 30 hectares of land that will be protected under clause 4.1B.*
2. *A maximum of two bonus lots will be considered for any development application submitted under clause 4.1B.*
3. *The area to which clause 4.1B applies be limited to a distance of 15km by a continuous Council maintained road from the service towns of Forster and Tuncurry, Nahiic, Bulahdelah, Tea Gardens, Hawks Nest, Pacific Palms and Bulahdelah.*
4. *That the access to the nearest service town, as set out in 3 above, is to be of a satisfactory standard to support the additional traffic that will be generated.*
5. *That Council will generally not accept responsibility for the management of the conservation land.*

In regard to these matters, the following is noted:

- The proposal creates one (1) bonus lot (ie. lot for a dwelling in addition to the existing entitlement) and provides 11.05 hectares of conservation land.
- The site is in close proximity to Tuncurry, and well within the 15km limit.
- The Lakes Way which connects the site is a suitable standard for the traffic generated.
- As per the discussions, Council will acquire proposed Lot 12 for conservation purposes to add to their previous strategic land purchases in the area.

We note that the proposal does not meet point 1 of the interim policy, however, as stated in the policy:

Variations to the above will only be considered where exceptional environmental outcomes are demonstrated, and provided there will be no unreasonable additional loading upon services and infrastructure.

Relevant to the above, the identified conservation area to be dedicated/acquired by Council was as a result of Council approaching us to seek acquisition of the land, due to its environmental qualities and strategic location for Council's Darawank restoration and corridor program. It is noted that the land:

- Contains endangered ecological community as identified by Council.
- Is contiguous with other adjoining and adjacent land, which was dedicated/acquired by Council as part of their Darawank program.
- Will enhance and enlarge the core habitat corridor identified by both Council and OEH.

Our DA will be lodged to seek consent for subdivision of the land under clause 4.1B to create 3 lots as follows:

- Lot 12 – 11.05 hectares (conservation lot to be dedicated to Council)
- Lot 10 – 1.0 hectares (existing dwelling)
- Lot 11 – 1.0 hectares (bonus lot)

We can advise that we would agree to a planning agreement over the land which provided for the following:

1. Dedication of land in proposed Lot 12 to Council.
2. Dedication to occur after consent is issued and upon Stage 1 subdivision creating the three lots.

We would be prepared to enter into a planning agreement on these terms as part of a planning proposal which would facilitate a subdivision under clause 4.1B of Great Lakes LEP 2014.

Yours faithfully

RAY HILL

3 CONTAINER DEPOSIT SCHEME

Report Author John Cavanagh, Manager Waste Health & Regulatory Services

File No. / ECM Index Waste Strategy

Date of Meeting 13 December 2017

SUMMARY OF REPORT

The NSW Government has announced it will introduce a Container Depot Scheme with stage 1 commencing on 1 December 2017 with a 10c refund for specific containers. The Environment Protection Authority has been tasked with the implementation which is now known as the 'Return and Earn' scheme. The service is being operated under a state wide contract to Tomra-Cleanaway who is known as the Scheme Operator. The system will initially operate with Reverse Vending Machines. Council has not been formally approached to participate.

SUMMARY OF RECOMMENDATION

That Council:

1. Note the information.
2. Register its interest with the Network Operator for Council to provide for Container Deposit Scheme drop-off at its waste facilities.

FINANCIAL/RESOURCE IMPLICATIONS

According to the Environmental Protection Authority, Councils which are not providing drop-off points should not shoulder any costs. This is not considered to be realistic as Local Government has the legislative responsibility for providing Domestic Waste Services and in regional rural NSW generally provides all waste collection, recycling and disposal services. It is expected the general public will look to Council for information and service provision. At this stage Council is providing current information on our website and will adjust our communications as further information comes to hand.

Due to the expected revenue from containers in Council's kerbside collection service, a temporary equal refund sharing arrangement has been entered into with its contractor JR Richards & Sons. It is anticipated that because Council has an interest in the ownership of this recycling facility that there may be a new revenue stream evolving towards the end of 2018.

Alternatively, it is possible there may be a perverse outcome either with gouging of the kerbside system and associated product loss by Council's contractor. The actual implications of these issues will not be known unless they actually eventuate which is also expected 12 months after commencement.

LEGAL IMPLICATIONS

Nil.

BACKGROUND

On 21 February 2015, the then Premier, the Honourable Mike Baird MP, announced that, if re-elected, the Government would implement a Container Deposit Scheme (CDS) for the recycling of drink containers by 1 July 2017. Due to the complications associated with a high risk, costly (expected to be \$500M annually) and diversity of players, the commencement date was deferred to three stages with the new commencement date being 1 December 2017.

The Government focus for the scheme is to deliver significant gains in litter reduction and resource recovery. The Government's preferred model is a cost-effective scheme in which consumers, or a charity of their choice, receive a small financial reward for depositing a used drink container in a reverse vending machine. The scheme should also complement, rather than compete with, the existing kerbside recycling system.

The Government is also committed to consulting broadly with the community and key stakeholders throughout the development process, as well as underpinning the development process with a cost benefit analysis.

The Environmental Protection Authority established a number of Advisory Groups to ensure consultation is representative and that the outcomes meet the scheme goals and not create perverse outcomes. The author of this report was invited to participate in the Community and Local Government Working Group and represent regional NSW Councils.

REPORT

The NSW Government established a peak committee to oversee the implementation and six working groups to explore implications and options for the Container Deposit Scheme.

Container Deposit Scheme Advisory Committee

To assist in the development of the scheme, the then Minister for Environment, Mark Speakman, established a nine member Advisory Committee, which was tasked to provide advice on four key aspects of the design and implementation of the scheme:

- The incentive for community participation.
- The scope of containers to be redeemable under the scheme.
- The location of reverse vending machines.
- The involvement of local government and the recycling industry in the scheme.

Container Deposit Scheme Working Groups

The NSW Environmental Protection Authority then established the following Container Deposit Scheme Working Groups to assist the Advisory Committee:

- Community and local government.
- Environmental protection.
- Retailer engagement.
- Business and financial model development.
- Technology and innovation.
- Resource recovery and industry engagement.

The purpose of the Working Groups is to draw in stakeholder views, experience and knowledge and to provide input throughout the development process. The Working Groups will therefore remain active until the scheme is established.

The Community and Local Government Working Group

The Community and Local Government Working Group was established to provide input to the Container Deposit Scheme Advisory Committee on the overall design of the scheme, with a particular focus on:

- The potential impact of the Container Deposit Scheme on the existing kerbside waste and recycling system.
- The potential impact of the Container Deposit Scheme on Local Government waste and recycling contracts.
- The location of reverse vending machines and other collection facilities.

- The Container Deposit Scheme in regional and remote areas.
- Community awareness and education.
- The cost of litter.
- Any regulatory issues relating to the Container Deposit Scheme.

While participating in the Local Government Working Group the author reinforced the view that New South Wales needs a system that:

1. Is cost effective.
2. Reduces litter.
3. Supports positive action by consumers and community groups.
4. Does not lead to perverse economic outcomes (especially for Local Government).
5. Provides drop-off points that meet community needs and expectations ie regional rural areas are not neglected.

The general consensus of the Working Group (and Environmental Protection Authority) was Councils could readily assist with a speedy and relatively trouble free implementation in regional rural areas for a range of reasons. Some of these are:

- Councils have existing infrastructure to accommodate the service at its waste facilities ie buildings, storage facilities, sorting facilities, staff on hand, cash handling, recycling plants, existing transport suppliers etc.
- Waste facilities already have consent to operate a Container Deposit Service.
- Residents are already accustomed to taking surplus recyclable materials to Council's waste and recycling facilities

Container Deposit Scheme Issues

The scheme design issues which have now been established are:

- There will be a 10c refund which is recoverable by container suppliers.
- There are specific eligible containers. These are attached as Annexure B.
- The scheme is voluntary ie the public has the option to use the new Container Deposit Scheme system, existing recycling systems or not use any system at all.
- Existing Recycling Facility operators and some Councils are involved in the system and may receive refunds for containers collected in the kerbside recycling system.

The Network Operator has advised that the initial roll out will involve the establishment of Reverse Vending Machines. Regrettably, and as advised during consultation, these will not permit adequate coverage for residents in regional and rural NSW. The author has been unofficially advised there will be one machine each in Forster and Tuncurry, likely three in Taree and none anywhere else in the Council area. Although this was raised as unacceptable and personally with senior Environmental Protection Authority staff in Sydney on 16 November 2017, the author is not convinced any additional services will be available this year.

Regrettably, at this stage of implementation, information is sketchy and actual locations of drop-off sites were not released at the time of writing this report.

CONCLUSION

It is expected there will certainly be some 'teething problems' with 1 December 2017 commencement as outlined in the report. It is also now known the Network Operator is struggling to source additional drop-off points eg shop fronts, service stations etc. For Councils to provide drop-off points then the following would need to occur:

- Council would need to approve for its facilities and contracts to accommodate the new service.
- There would need to be a full cost recovery arrangement with the Container Deposit Scheme Operator.

It is worth noting that 'packaging' represents around 4% of the waste sent to landfill. As a result, a well-run Container Deposit Scheme will have a very small impact on waste to landfill.

The proposed NSW Container Deposit Scheme may be a direct initiative towards litter reduction and a small step in a much longer journey of creating a circular economy based upon economically sustainable and efficient resource recovery.

Council will be kept informed of major developments with the scheme.

RECOMMENDATION

That Council:

1. Note the information.
2. Register its interest with the Network Operator for Council to provide for Container Deposit Scheme drop-off at its waste facilities.

ANNEXURES

A: Environmental Protection Authority letter to Council General Managers.



DOC17/502981

Dear General Manager

Container Deposit Scheme assistance package for local government

As you may be aware, the NSW Container Deposit Scheme, called Return and Earn, starts on 1 December 2017. Return and Earn has been designed to reduce the volume of litter caused by drink containers, which amounts to nearly 50% of all litter discarded in NSW.

I write to you to provide more information about Return and Earn and seek your nomination for a contact person that the Environment Protection Authority (EPA) will liaise with to provide more details and support for your organisation.

The main beneficiaries of Return and Earn will be the environment and the community. Economic analysis shows that as a litter reduction initiative, Return and Earn will deliver \$1.33 of benefits for every \$1 of cost. Councils are expected to benefit through reduced waste and litter collection, while also having the ability to arrange a profit sharing arrangement with Material Recovery Facility Operators (MRFs) regarding eligible containers collected through kerbside recycling.

Refund sharing arrangements between local government and waste facilities

Councils will play an important role in helping the NSW Government deliver this vital project. Kerbside recycling remains very important to our community, and Return and Earn will complement this system.

Eligible containers can continue to be placed in the kerbside system, and kerbside recycling will continue to be important for containers that are typically consumed at home, some of which aren't eligible for a refund within Return and Earn.

The estimated value of CDS eligible containers currently processed through kerbside recycling is \$140 million. Under Return and Earn, councils will have the opportunity to negotiate a share of those funds.

Under the Waste Avoidance and Resource Recovery (Container Deposit Scheme) Regulation 2017, councils and Material Recovery Facility Operators (MRFs) are required to enter into a refund sharing agreement by 1 December 2018. MRFs cannot claim the processing refund from the Scheme Coordinator after 1 December 2018 if a refund sharing arrangement is not in place or an alternative arrangement has not been agreed to by the council.

EPA support for local government

To help councils prepare for the launch and roll out of Return and Earn, the EPA is working with the Office of Local Government (OLG) to prepare a support package for local government including:

PO Box A290 Sydney South NSW 1232
59-61 Goulburn St Sydney NSW 2000
Tel: (02) 9995 5000 Fax: (02) 9995 5999
TTY (02) 9211 4723
ABN 43 692 285 758
www.epa.nsw.gov.au

1. electronic communication materials comprising suggested website content, fact sheets on the scheme and frequently asked questions. These were sent to councils in early November 2017 to help educate residents about Return and Earn
2. an electronic fact sheet outlining collection point types will be sent to councils in the week commencing 20 November 2017
3. a guidance document to inform and support council refund-sharing discussions with MRFs. The EPA and OLG are currently considering the most effective approach to prepare this guidance document, and plan to share the document in mid 2018.

Next steps

To ensure the success of this project for your community and the State more widely, the EPA seeks a nominated officer in your organisation with whom the EPA can liaise directly. Please email container.deposit@epa.nsw.gov.au with your nomination by **12 December 2017**.

The EPA will liaise with your contact in early 2018 to obtain any information required from your council, and will send the guidance document to your nominee for them to implement any recommendations or findings within your organisation directly.

We would additionally appreciate you uploading the communication materials to your website to ensure accurate and timely information is shared with your residents. Some Return and Earn specific images are available, which can be provided at your request. Please email container.deposit@epa.nsw.gov.au for information.

This is an important program for the State, and one that has substantial social, economic and environmental benefits for councils and their communities.

I look forward to your support for this important initiative. Please contact Alex Young, Director Community and Behaviour Change at the EPA on 02 9995 6882 to discuss any queries about the scheme or the assistance package.

Yours sincerely

BARRY BUFFIER AM
Chair & CEO
Environment Protection Authority

B: List of eligible containers.

Eligible drink containers

Under Return and Earn, most empty 150-millilitre to 3-litre drink containers will be eligible for a 10-cent refund when presented to an approved NSW collection point. Container materials that may be eligible for a refund include

- PET
- HDPE
- glass
- aluminium
- steel
- liquid paperboard

Eligible containers in kerbside recycling bins will also be redeemable. Return and Earn will allow recycling facilities to use an EPA-approved method for

- accurately estimating the number of containers recovered in the facility
 - claiming the refund from the Scheme Coordinator
- The recycling facility will only receive the refund amount. They will not be able to claim a handling fee, but they will also not need to separate out containers or substantially change their existing recovery processes.

Containers not eligible for a refund

Containers that are not included in the Scheme and, therefore, do not qualify for a refund are

- plain milk or milk substitute containers
- flavoured milk containers of 1 litre or more
- pure fruit or vegetable juice containers of 1 litre or more
- glass containers for wine and spirits
- casks (plastic bladders in boxes) for wine and casks for water of 1 litre or more
- sachets for wine of 250 millilitres or more
- containers for cordials, or concentrated fruit and vegetable juices
- registered health tonics
- These exceptions are like those in the South Australian and Northern Territory container deposit schemes, to aid consistency.

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DIRECTOR CORPORATE & BUSINESS SYSTEMS

4 CIVIC PRECINCT PROJECT - CONTRACT BRIEFING

Report Author Steve Embry, Director Corporate & Business Systems

File No. / ECM Index Civic Precinct Library Forster

Date of Meeting 13 December 2017

Council is to be provided with a briefing from Council Officers and the Civic Precinct Developer, Enyoc Pty Ltd.

This briefing is to provide information to Council to assist in the consideration of a report to the 20 December 2017 Council meeting. The information to be provided is commercial information and the briefing will be closed to the public for that reason.

REASON FOR CONFIDENTIALITY

This briefing is **CONFIDENTIAL** in accordance with Section 10A(2)(d)(i) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

- (d) commercial information of a confidential nature that would if disclosed:
- (i) prejudice the commercial position of the person who supplied it



Glenn Handford
GENERAL MANAGER