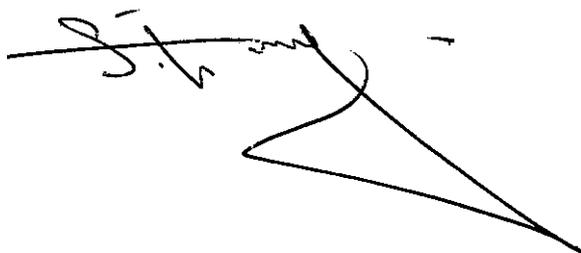


**Notice of Strategic Committee Meeting  
to be held at the Council Chambers  
4 Breese Parade, Forster  
14 February 2018 at 10.00am**

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

10.00am	1.	Acknowledgment 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	
10am - 10.30am	5.1	Greater Taree Local Environmental Plan 2010 - General Amendment Package 4 (Senior Strategic Planner, Sue Calvin) - See BP Report	
10.30am - 10.45am	5.2	Planning Proposal For Lot 612 Blackhead Road, Hallidays Point Report & presentation (Manager Strategic Planner - Roger Busby) - See BP Report	
10.45am - 11.15am	5.3	Child Protection policy – (Manager Community Services - Melissa Garton and Coordinator Community Strengthening - Lyndie Hepple) - See BP Report	
11.15am - 11.30am	5.4	Footpath Activities In Town Centres - (Director Community Spaces & Services - Paul De Szell) - See BP Report	
	6.	Consideration of Officers' reports	
	7.	Councillors' Business	
	8.	Close of meeting	



Steve Embry  
**Acting General Manager**

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## **CONSIDERATION OF OFFICERS' REPORTS:**

### **ACTING GENERAL MANAGER**

#### **1 NOMINATION FOR MEMBERSHIP OF A HUNTER JOINT ORGANISATION OF COUNCILS**

**Report Author Steve Embry, Acting General Manager**

**File No. / ECM Index Joint Organisation - Office of Local Government**

**Date of Meeting 14 February 2018**

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### **SUMMARY OF REPORT**

In 2014 the NSW State Government through the Office of Local Government began a consultation process on the introduction of a new model of regional organisation within the local government sector in our State. This has resulted in provision being made in the Local Government Act 1993 for the establishment of Joint Organisations across NSW

### **SUMMARY OF RECOMMENDATION**

That Council consider adopting the resolution outlined in this report at the 28 February 2018 Ordinary Council Meeting.

### **FINANCIAL/RESOURCE IMPLICATIONS**

Nil. There are no membership fees proposed as the Hunter Joint Organisation is to be funded through its commercial operations.

### **LEGAL IMPLICATIONS**

Council will become part of the Hunter Joint Organisation should it resolve to join the Joint Organisation.

### **BACKGROUND**

#### **REPORT**

In 2014 the NSW State Government through the Office of Local Government began a consultation process on the introduction of a new model of regional organisation within the local government sector in our State.

The decision to undertake this course of action arose out of the local government reform process led by the Independent Review Panel and the Local Government Acts Taskforce and had as its aim the creation of a robust yet flexible legislative framework to capitalise on past achievements in regard to regional cooperation, to resource and enable greater intergovernmental cooperation and to remove barriers to achievement such as inconsistent corporate structures, insufficient resourcing and haphazard membership.

A trial process was undertaken with five regions including the Hunter Region exploring a range of options in regard to structure, focus and resourcing.

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As a result of the trial process and a series of consultation exercises with councils across the State a preferred model was developed – and ultimately legislated in November 2017 – to drive the “Joint Organisation of Councils” agenda.

### **The Joint Organisation Model**

As enacted, the Joint Organisations of Councils will be new entities under the Local Government Act comprising member councils in regional NSW. The Joint Organisation will provide a strong voice for the communities they represent and a structured, permanent way for local councils, State agencies and other interested groups to collaborate on agreed strategic initiatives.

This structure and permanence is a radical departure from the previous model of regional cooperation whereby Regional Organisations – where they existed – varied in capacity and corporate status with no set benchmarks for performance and no mandated role for the State Government to help ensure their success.

Under the Joint Organisation model each region will decide its own priorities, its own resourcing and staffing structures.

### **Core functions**

The principal functions of each Joint Organisation will be:

- Strategic planning and priority setting
- Intergovernmental collaboration
- Shared leadership and advocacy.

One of the first activities for each new Joint Organisation will be to establish a Statement of Regional Priorities. This work will elevate shared priorities in councils’ Community Strategic Plans, as well as draw on other regional plans.

The statements will form the basis for discussions with the State Government about key projects and programs in each region and how shared priorities may best be delivered.

### **Optional functions**

Joint Organisations will be able to perform additional optional functions including delivering shared services or overseeing shared arrangements, such as procurement.

Although the focus for the first year will be on the core functions, JOs will have the tools they need to start working on their optional functions from commencement.

### **Councils to resolve to become members of a Joint Organisation with the Local Government Act**

As a consequence of passage of the Act all eligible councils are required to go through a series of steps prior to the end of February 2018 in regard to the formation of a Joint Organisation.

These steps are:

<i>Plan</i>	<p>Identify your council's planning region</p> <p>Consider the guidance material to be provided by the Office of Local Government (OLG)</p> <p>Review existing arrangements for regional collaboration in your area</p> <p>Consider the Key Design Criteria for JOs</p> <p>Consider the criteria for seed funding</p>
<i>Consult</i>	<p>Consult with councils within your preferred regional grouping to reach agreement on JO membership</p> <p>Each JO must have a minimum of 3 member councils</p>
<i>Endorse</i>	<p>Once the proposed JO membership is agreed, ensure each member endorses the proposal by a resolution of council</p>
<i>Nominate</i>	<p>Submit your request to establish a JO to OLG by 28 February 2018</p>

### **The Hunter Region and the key steps**

The Joint Organisation model is in large measure based on the governance and operational model developed by local government in the Hunter Region and all the current members of Hunter Councils Inc (meeting as the Hunter, Joint Organisation of Councils) are situated within – and in fact constitute in its entirety – the Hunter planning region. Hunter Councils is also, by far, the most established and well-resourced regional local government entity in the State and has demonstrated capacity on multiple levels to effectively partner with NSW and Commonwealth Government agencies.

Of all the regions in the State, therefore, ours is the best placed region to fully realise the potential of the model to drive regional outcomes.

### **Funding**

The \$3.3 million seed funding to be provided by the Office of Local Government for Joint Organisation start up processes will be allocated according to the number of Organisations ultimately formed. As it is proposed that the Joint Organisation comprise all the councils within the Hunter planning region it would be a reasonable expectation that the Hunter would receive the maximum funding available to it under the program.

Consultation with the Mayors and General Managers has been constant throughout the trial period of Joint Organisations and the Board of Hunter Councils has effectively operated and role modelled how a Joint Organisation is intended to operate under the legislation. Once formally established under the Local Government Act the Hunter Joint Organisation of Councils will have access to unprecedented resources and a strategic plan facilitated by external consultants which is to be made available to Councils for review in March.

Uniquely in our State, the operation of the Joint Organisation (in its current and future forms) is benefited by funding supplied by the commercial operations of our purposely formed company limited by guarantee, Strategic Services Australia Ltd and its wholly owned legal entity, Hunter Councils Legal Services. This underwriting totals \$500,000 for the current financial year and is derived from income generated from service provision to the public and private sectors. The Joint Organisation also derives rental income from 4 Sandringham Avenue (\$166,908 per annum) enabled by an interest only loan from the company.

Elsewhere in the state substantial funding is sourced from member councils and via other mechanisms such as rebates supplied by procurement aggregator operations such as Local Government Procurement (LGP). In the case of our own procurement aggregator, Regional Procurement, rebates are sent directly to the member councils.

### **From service provision to regional advocacy and policy support**

The high profile nationally of the Hunter Regional Organisation of Councils was built on the scale of its business services and their success in generating income. While this shared services approach will continue, the focus of the Hunter Councils as a Joint Organisation of Councils is shifting to the enhanced provision of policy and advocacy support and the funding of strategic initiatives. To assist in these roles the Hunter Joint Organisation of Councils will have the capacity to draw from a strategic fund resulting from the sale of a property and business by Strategic Services Australia Ltd. This fund, when the property sale is finalised, will be in excess of \$3 million. Protocols attaching to this funding are to be finalised in the first quarter of this year and will provide a firm foundation for strategic achievement.

### **Council Resolutions**

The council resolutions are a critical input in the process of getting Joint Organisation areas recommended to the Governor by the Minister.

In particular, it is a requirement that the resolutions of all the member councils are worded in a way that will allow for any changes in proposed membership that could potentially occur within 28 days (that is, during the period in which, an individual council has the capacity to rescind a decision to join the Joint Organisation) without compromising the ability of the remaining councils to still form the Joint Organisation.

The net effect of the above is that the resolution passed by each council must list all the potential members of the proposed Joint Organisation even if, at the end of the day, one or more of the listed councils does not ultimately resolve to follow through with membership.

The Office of Local Government has drafted a suggested Joint Organisation Resolution for councils (below). It is important to note that the Resolution must be adopted at a Council Meeting. Council's first available Council Meeting is 28 February 2018 which is also the deadline for Councils to notify the Office of Local Government of their resolutions. This report is being presented to the Strategic Committee Meeting to enable Council to give consideration to joining the Hunter Joint Organisation before adopting a formal resolution on 28 February 2018.

Once the resolutions have been made by councils the Minister will wait at least 28 days before recommending the Joint Organisation to the Governor.

For the Hunter, the suggested council resolution is as follows:

*In accordance with Part 7 of Chapter 12 of the Local Government Act 1993 (Act), the MidCoast (Council) resolves:*

- 1. That the council inform the Minister for Local Government (Minister) of the Council's endorsement of the Minister recommending to the Governor the establishment of a Joint Organisation (Joint Organisation) in accordance with this resolution.*
- 2. To approve the inclusion of the Council's area in the Joint Organisation's area.*
- 3. That the Joint Organisation be established to cover the Council's area and any one or more of the following council areas:*
  - a) Cessnock, Dungog, Lake Macquarie, Maitland, Muswellbrook, Newcastle, Port Stephens, Singleton and Upper Hunter*
- 4. That, on the expiry of a period of 28 days from the making of this resolution, the General Manager provide the Minister:*
  - a) with a copy of this resolution including the date on which Council made this resolution, and*
  - b) inform the Minister that this resolution has not been rescinded, for the purpose of the Minister issuing a certificate under section 400P of the Act.*

What happens if a current member council of Hunter Councils does not resolve to become a member of the Hunter Joint Organisation of Councils?

Membership of a Joint Organisation is not compulsory, however Councils can only join a Joint Organisation within its State Planning Region which, for MidCoast Council, is the Hunter Planning Region.

In the Hunter, the Joint Organisation function currently resides in an "acting capacity" within Hunter Councils Inc. Hunter Councils Inc is an incorporated association under the NSW Associations Incorporation Act 2009. Hunter Councils Inc was registered in 1990 and was the successor organisation to the grouping of Councils first established by our Region in 1955.

The NSW Office of Fair Trading administers the Associations Incorporation Act and determines the functions and the scale of functions that it considers are appropriate for an association within our State. The Office of Fair Trading considers that an incorporated association structure is appropriate for small, non-commercial community group activities such as sporting groups, arts and crafts groups, musical societies, etc. On that basis the Office has indicated that an incorporated association is an inappropriate vehicle for the activities of Hunter Councils. Because of the passage of the Joint Organisation enabling legislation it will now be possible to accede to the Office of Fair Trading's direction that Hunter Councils Inc to be wound up and for its assets to be transferred to the "like entity" Hunter Joint Organisation of Councils.

Note that the Associations Incorporation Act will not allow the distribution of any surplus assets of Hunter Councils Inc to its member councils.

The decision of a current member of Hunter Councils Inc (meeting as the Hunter Joint Organisation of Councils) will therefore be an effective decision to cease membership of Hunter Councils Inc. It will not, as a matter of necessity, also be a decision to cease membership of our trading entity, Strategic Services Australia Ltd. Whether continued membership of Strategic Services Australia Ltd would be appropriate in such a circumstance is a matter for future determination by its Board and membership.

## **RECOMMENDATION**

That Council consider adopting the resolution outlined in this report at the 28 February 2018 Ordinary Council Meeting.

## ANNEXURES

A: Letter from Office of Local Government Dated 20 December 2017



### Office of Local Government

5 O'Keefe Avenue NOWRA NSW 2541  
Locked Bag 3015 NOWRA NSW 2541

Our Reference: A576353  
Your Reference:  
Contact: Chris Presland  
Phone: 02 4428 4100

Mr Glenn Handford  
General Manager  
Mid-Coast Council  
PO Box 450  
FORSTER NSW 2428

Email: [glenn.handford@midcoast.nsw.gov.au](mailto:glenn.handford@midcoast.nsw.gov.au)

20 December 2017

Dear Mr Handford

Following on from recent correspondence regarding the establishment of a Joint Organisation (JO), I am writing to acknowledge the time and effort that councils and regional organisations of councils have taken over the past month to discuss the opportunities available.

I understand that there have been many conversations and regional meetings between councils and the Office of Local Government (OLG) to discuss the best way forward for councils in your region. This is a critical time when each council must consider the decision to join a JO.

I would like to reiterate that JOs are a key part of the Government's commitment to build stronger councils and improve service delivery and infrastructure across rural and regional NSW. The State Government will work closely with JOs to strengthen communities across the State.

I would like to advise that the *Local Government Amendment (Regional Joint Organisation) Act 2017* commenced on 15 December 2017. To ensure that your council is a part of the JO network, a council resolution is a critical part of the process of getting JO areas recommended to the Governor to enable proclamation.

It is important that these resolutions align for groups of councils that wish to form a JO and that councils provide the Minister for Local Government with a copy of this resolution by **28 February 2018**, a copy of which is again provided for ease of reference. This allows time to undertake the required processes in order to have JOs in operation by July 2018. This includes allocation of seed funding to help establish each JO under the NSW Government's \$3.3 million commitment.

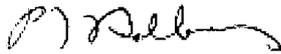
T 02 4428 4100 F 02 4428 4199 TTY 02 4428 4209  
E [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au) W [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au) ABN 44 913 630 046



Strengthening local government

Should you have any further enquiries, please contact Chris Presland, Director Reform Implementation or Melissa Gibbs, Director Policy and Sector Development on 02 4428 4100 or [onestopshop@olg.nsw.gov.au](mailto:onestopshop@olg.nsw.gov.au). Once again, I would like to thank you for your time and engagement during this process to date. The NSW Government looks forward to working with your council to find the best solutions for meeting the needs of your council and region into the future.

Yours sincerely



**Penny Holloway**  
**Acting Chief Executive**  
**Office of Local Government**

## Joint Organisation Frequently Asked Questions



### Q1: What is a Joint Organisation?

**A:** A Joint Organisation is a new entity under the Local Government Act comprising member councils in regional NSW to provide a stronger voice for the communities they represent.

Each Joint Organisation will comprise at least three member councils and align with one of the State's strategic growth planning regions. One of the member council's mayors will be elected chairperson and an Executive Officer may be appointed.

### Q2: How will Joint Organisations benefit councils and communities in regional NSW?

**A:** Joint Organisations will transform the way that the NSW Government and local councils collaborate, plan, set priorities and deliver important projects on a regional scale. These new partnerships will benefit local communities across regional NSW by working across traditional council boundaries.

### Q3: How do we know Joint Organisations will work?

**A:** The Joint Organisation model has been developed in close consultation with councils and the NSW Government has listened to regional councils to get the model right. This included a pilot program for five groups of councils to test a range of options, which involved the participation of 43 councils and delivered a range of initiatives and projects to those regions.

An independent evaluation of the pilot program found Joint Organisations bring benefits to regional communities in delivering on-the-ground projects and attracting more investment to regional communities.

### Q4: Why should councils choose to form a Joint Organisation?

**A:** Joint Organisations will provide a forum for councils, agencies and others to come together and focus on their regional priorities - the things that matter for that region. Joint Organisations will help drive the delivery of important regional projects - the infrastructure and services that local communities need and deserve.

Joint Organisations will also provide councils with a more efficient way to deliver shared services for members and the region. Where member councils agree, they can choose to share a common approach to services such as information technology, water management services and community strategic planning. The NSW Government will provide \$3.3 million to support councils to establish Joint Organisations

### Q5: Can councils determine their own regional boundaries?

**A:** While the choice to join, and composition of a Joint Organisation is voluntary, the NSW Government will only support the creation of Joint Organisations within existing State planning regions and in regional NSW. Councils have told us that effective collaboration will only be realised when State and local government boundaries are aligned.

To aid this process the NSW Government has consulted the sector on boundary criteria which they can take into account when determining the membership of their Joint Organisation.

Joint Organisation boundaries should:

- align with, or 'nest' within one of the State's planning regions
- demonstrate a clear community of interest between member councils and regions
- not adversely impact on other councils or JOs, for example, leaving too few councils to form a JO
- be based around a strong regional centre or centres
- be of an appropriate size to partner with State, Commonwealth and other partners.
- Consistent with previous Government decisions. Joint Organisations will not be considered for metropolitan Sydney and the Central Coast at this time.

**Q6: Are Far West Councils able to form a JO?**

**A:** The Government will be writing to Far West councils to advise them of their opportunity to form or join a JO. This will include specific guidance applicable to Far West councils only.

**Q7: What are the next steps for interested councils?**

**A:** Councils are invited to nominate to form a Joint Organisation in their region. Councils are encouraged to open discussions with their neighbours as soon as possible.

The Office of Local Government is available to facilitate these discussions and provide support to councils through the nomination process. Specific requirements to form a Joint Organisation will be provided to councils shortly.

Each Joint Organisation will be created by a proclamation and the NSW Government will then ask the Commonwealth to endorse each Joint Organisation as a non-national system employer to ensure that any staff of a Joint Organisation, with the exception of the Executive Officer, are employed under the State local government award.

**Q8: What support will be provided to councils and Joint Organisations once established?**

**A:** The Office of Local Government will work with Joint Organisations to support their establishment and ensure they have the necessary systems and governance in place for the Joint Organisations to deliver results for regional communities.

The Office of Local Government and the Department of Premier and Cabinet will foster collaboration between Joint Organisations and State agencies to identify and act on opportunities to benefit regional communities.

**Q9: Can councils choose not to participate?**

**A:** Councils can choose not to become a member of a Joint Organisation. The Government strongly encourages all councils in regional NSW to consider the benefits and opportunities offered by Joint Organisations.

Councils that are members of Joint Organisations will be able to take advantage of investment opportunities that are delivered through the Joint Organisation.

**Q10: What funding is available to Joint Organisations?**

**A:** The Government will provide up to \$3.3 million in seed funding to Joint Organisations to support their establishment. The Government will identify opportunities for additional investment through Joint Organisations in regional economies.

Funding for each Joint Organisation will be based on the number of councils that choose to form a Joint Organisations, with maximum funding provided to regions where all councils in a region choose to be members of the new regional body.

All Joint Organisations, whether they were pilot regions or not, will be provided with seed funding.

Further details on funding arrangements will be provided to councils.

**Q11: Will this funding be enough to help councils establish a JO?**

**A:** The NSW Government is providing significant funding and support to help those councils that choose to establish a Joint Organisation. The pilot program demonstrated that groups of councils can achieve substantial benefits for their communities and significant cost savings by working together through a Joint Organisation.

**Q12: How are Joint Organisations different to Regional Organisations of Councils?**

**A:** The Joint Organisation model provides for greater certainty and continuity as well as recognising the unique differences in the many regions of NSW. While some ROCs have been effective, they have varied functions, membership, and governance structures which often makes collaboration more difficult.

# Joint Organisation Resource List



## Website

[www.olg.nsw.gov.au](http://www.olg.nsw.gov.au)

## OLG key contacts

Chris Presland, Director of Reform Implementation	0413 274 882
Melissa Gibbs, Director Policy and Sector Development	0491 225 904
Office of Local Government, Development Team	02 4428 4100

## Secure Stronger Councils Portal

A secure portal is available for councils to access information and share resources on Joint Organisations. To access the portal go to <https://portal.strongercouncils.nsw.gov.au>

You will need to login and register with your council email address.

OLG will use the portal to provide up to date information and share best practice between councils and Joint Organisations during the formation and implementation phase.

## Department of Premier and Cabinet Regional contacts

Hunter 0418406733   02 49212603	Aaron Spadaro, Senior Coordination Officer
Northern NSW (Tamworth) 0477316 189   0267602671	Alison McGaffin, Director, Northern NSW
Northern NSW (Coffs Harbour) 0481 919 697   02 66598651	Andrew Hegedus, Director North Coast
Southern NSW (Wollongong) 0477 320 822   0242536301	Anthony Body, Director Southern Region
Southern NSW (Queanbeyan) 0427 454 375   02 92283296	Heidi Stratford, Director South East and Tablelands
Western NSW (Dubbo) 0400 364 960   02 68267801	Ashley Albury, Director, Western NSW
Western NSW (Wagga) 0417947976	Trudi McDonald, Director Riverina Murray

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## 2 OFFICE RELOCATION INVESTIGATION, BIRIPI WAY, TAREE

Report Author Steve Embry, Acting General Manager

File No. / ECM Index Commercial Industrial Premises: Cnr Manning River Drive and Biripi Way

Date of Meeting 14 February 2018

---

### REPORT SUMMARY

The purpose of this report is to:

- provide the final Business Case prepared by Savills Project Management Pty Ltd which details the initial cost benefit analysis of the proposed office relocation to the newly acquired 2 Biripi Way, Taree site (**Project**) and
- consider the due diligence proposal prepared by Montlaur Project Services Pty Ltd (**Due Diligence Proposal**).

In accordance with Council's resolution to proceed to the Initiation Stage of the project, Montlaur Project Services has been appointed as the project manager to undertake the next stage of investigations (Due Diligence Proposal) and potentially other project management services on a staged basis regarding the possible office relocation. The result of the proposed investigations will allow Council to make an evidenced-based decision on whether to proceed to the Ready to Design stage.

### SUMMARY OF RECOMMENDATION

That Council:

1. Note the contents of this Report in relation to the final Business Case prepared by Savills Project Management Pty Ltd and the Due Diligence Proposal prepared by Montlaur Project Services Pty Ltd.
2. Accept the services, costs and program set out in the Due Diligence Proposal and proceed with those investigations as part of the Initiation Stage of the Project.

### FINANCIAL/RESOURCE IMPLICATIONS

As part of the Initiation Stage, Montlaur has prepared a Due Diligence Proposal which sets out the proposed activities, costs and program for all initial investigations necessary (including concept design and quantity surveyor report preparation) to determine the Project feasibility. The cost of these investigations is \$152,000. This can be funded from Council's Land Development Reserve.

### LEGAL IMPLICATIONS

Montlaur will be responsible for identifying (based on an appropriate procurement process having regard to the scope of services) relevant consultants capable of undertaking the services outlined in the Due Diligence Proposal and appointments of those consultants will be made by Council based on Council's standard consultancy agreement.

## ATTACHMENTS

- A: Final Business Case prepared by Savills Project Management Pty Ltd
- B: Due Diligence Proposal prepared by Montlaur Project Services Pty Ltd with commercial in confidence information removed
- C: **Confidential:** Due Diligence Proposal prepared by Montlaur Project Services Pty Ltd

Attachment C has been classified as confidential and circulated to the Councillors and Senior Staff only. The Attachment has been classified as **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993 for the following reasons:

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

It is considered that it would be contrary to the public interest to reveal confidential details contained in the proposal as Montlaur has provided a detailed breakdown of estimated pricing, which if disclosed to the general public would jeopardise any proposed procurement process necessary to appoint relevant consultants.

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## BACKGROUND

Prior to the Council meeting on 20 December 2017, a draft Business Case was prepared by Savills and distributed to Councillors for information and review. Also prior to the Council meeting on 20 December 2017, Mr Marcus Paget-Wilkes presented the Business Case to Councillors and answered all queries regarding the content of the draft Business Case (**Workshop Discussions**).

At the Council meeting held on 20 December 2017 Council adopted the following resolution:

*"That Council:*

1. *Acknowledge the contents of the draft Business Case prepared by Savills Project Management;*
2. *Note the preliminary finding by Savills that after weighing up the costs and benefits of the relocation of the administration operations to a single site at 2 Biripi Way, Taree (**Single Site Option**) against the refurbishment of the existing four administration sites and continued operation of a campus model (**Campus Option**), the Single Site Option is the preferred option;*
3. *Endorse the Gateway Process outlined in the Report;*
4. *Proceed to further investigate the Single Site Option in conjunction with the Project Manager (as part of the Initiation Phase) on the basis that the project is feasible and potentially affordable (subject to further investigation);*
5. *Note that the Project Manager will oversee the next stage in investigations being the preparation of a high level project program and budget for the project (**Program and Budget Report**); and*
6. *Require that the Program and Budget Report be submitted to Council for its approval before proceeding to the next stage in the project."*

The Gateway Process endorsed by Council for the project comprises the following stages and provides for a number of decision points. At each decision point Council will review the findings of investigations and determine whether to proceed with the Project.

1. **Initiation Stage** focussing on the project concept: This stage involves Council agreeing that the project is feasible and potentially affordable following consideration of the high level Business Case, subject to further investigation (this was resolved at the Ordinary Council Meeting on 20 December 2017). Council would also need to commit resources to develop a Due Diligence Proposal to investigate concepts to inform the design and confirm the high level feasibility result of the Business Case (this step is the subject of this report following the update report to Council at the Extra Ordinary meeting on 24 January 2018). In addition, the design scope would need to be agreed and the funding strategy investigated and confirmed (this step will occur once Council has considered the results of the Due Diligence Proposal). This stage is broken down into a number of decision points.
2. **Ready to Design Stage** focussing on design, costs and funding: Council would need to agree and specify updated and refined costs, benefits, risks, funding sources and project program. At this stage, resources would be committed to design and refine costs and schedule estimates.
3. **Ready to Build Stage** focussing on construction: This stage involves acceptance of the pre-construction activities and project outcomes as well as confirmation that stakeholders have been engaged and accept those outcomes. Procurement processes and tenders will need to be assessed and successful tenderers appointed. Construction undertaken in accordance with agreed project parameters and specifications to ensure that it meets required outcomes.
4. **Ready to Occupy Stage** focussing on occupation and operation: Agree that the solution provided meets the requirements and is ready to accept handover of the works and occupation.
5. **Finalisation Stage:** Agree on costs, benefits and lessons learned.

At the Council meeting on 20 December 2017 it was acknowledged that this process will be refined as the project parameters, scope and outcomes become more certain.

After a tender process, Montlaur Project Services Pty Ltd was appointed as the successful tenderer and awarded the contract for project management services in connection with the Project.

The spend to date on professional advice procured by Council to reach this stage in the project (excluding costs in relation to the purchase of the site) is \$55,500 (plus GST). This expenditure includes preparation of the Business Case, a high level concept design to determine if the building would be suitable for accommodating 400 staff, initial quantity surveyor on high level design and valuations on existing administrative offices in Forster and Taree.

## **CURRENT STATUS**

Savills has updated and issued to Council the final Business Case (Annexure A).

Montlaur has been briefed on the Gateway Process that has been approved by Council.

As part of the Initiation Stage, Montlaur was asked to prepare a high level summary of the following:

- An estimate for the likely cost of all necessary investigations (including concept design and quantity surveyor report preparation) in order to determine project feasibility; and
- A program outlining the anticipated timing of those investigations.

In response to that request, Montlaur has prepared a Due Diligence Proposal which outlines the proposed activities, costs and program required to determine project feasibility. A copy of the Due Diligence Proposal is attached at Annexure B. Annexure C is a more detailed proposal which is confidential as it contains details which would impact on obtaining best value from proposed procurement processes if disclosed.

At the conclusion of the activities outlined in Montlaur's proposal, a report will be presented to Council to enable it to consider whether the Project is feasible and determine whether or not to proceed to the next stage of the Project.

The following is a summary of the Due Diligence Proposal:

- The estimated total cost for services referenced in the Due Diligence Proposal is \$152,000 (plus GST);
- The program for provision of the services is estimated to be 10 to 12 weeks

The proposed services, costs and program appear to be fair and reasonable having regard to the desired outcome for this phase of work. The findings of the investigations included in the Due Diligence Proposal will inform a report to Council to enable an evidenced-based decision on whether or not the Project is feasible and should proceed to the next Gateway Process stage.

On the basis of the information outlined above and in the Due Diligence Proposal, it is recommended that the Due Diligence Proposal be endorsed by Council.

## **RECOMMENDATION**

That Council:

1. Note the contents of this Report in relation to the final Business Case prepared by Savills Project Management Pty Ltd and the Due Diligence Proposal prepared by Montlaur Project Services Pty Ltd.
2. Accept the services, costs and program set out in the Due Diligence Proposal and proceed with those investigations as part of the Initiation Stage of the Project.

## DIRECTOR PLANNING & NATURAL SYSTEMS

### 3 GREATER TAREE LOCAL ENVIRONMENTAL PLAN 2010 - GENERAL AMENDMENT PACKAGE 4

Report Author Sue Calvin, Senior Strategic Planning

File No. / ECM Index S671/03

Date of Meeting 14 February 2018

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#### SUMMARY OF REPORT

Community and State agency consultation on the fourth package of general amendments to the *Greater Taree Local Environmental Plan (LEP) 2010* has been completed and the amendments are at the final stage. The planning proposal (containing these amendments) aims to improve the efficiency of the LEP by streamlining the development assessment process and implementing zone changes to better reflect existing uses. Many of the provisions are consistent with provisions in the Great Lakes and Gloucester LEPs.

#### SUMMARY OF RECOMMENDATION

- i. That the fourth package of general amendments to the *Greater Taree Local Environmental Plan 2010* (Attachment A) be referred to the Department of Planning and Environment to be made.
- ii. Discussions are to be undertaken with the landowner of specific amendment N, being 25 Myalup Court, Red Head, to develop an agreement for the dedication of the 6m wide access strip. If no agreement can be made in a reasonable time, site specific amendment N is to be withdrawn from the fourth package of general amendments to the *Greater Taree Local Environmental Plan 2010* (Attachment A).

#### FINANCIAL/RESOURCE IMPLICATIONS

Nil.

#### LEGAL IMPLICATIONS

The *Greater Taree Local Environmental Plan 2010* amendments are being undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and the associated *Environmental Planning and Assessment Regulation 2000*.

#### ATTACHMENTS

A: Planning proposal.

Attachment A has been circulated in hard copy to the Councillors and Senior Staff, however this Attachment is publicly available on Council's website.

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#### BACKGROUND

Regular reviews of the *Greater Taree Local Environment Plan 2010* (LEP 2010) were undertaken to improve the efficiency of the plan by updating provisions, removing inconsistencies and providing greater clarity. The fourth package of general amendments was initially endorsed for exhibition by the former Greater Taree City Council on 9 December 2015, with amendments made by MidCoast Council at the Ordinary Meeting on 14 December 2016. These amendments were made to the planning proposal following discussions with the NSW Department of Planning and Environment (DPE).

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A Gateway determination was issued by DPE on 11 August 2017. The Gateway determination (Attachment F of the planning proposal) required a number of amendments to the planning proposal to be undertaken prior to the commencement of community consultation.

Community and State agency consultation was undertaken from 19 October to 17 November 2017. This report details the consultation and submissions received to the planning proposal.

This planning proposal is in the final stages of the process as outlined below.

Assess proposed amendments (Mar-Nov 2015) 	Report to Council (Dec 2015 & Dec 2016) 	Gateway determination (State) (Dec 2016-Aug 2017) 	Community and State agency consultation (Oct-Nov 2017) 	Council consider submissions (Feb 2018) 	Finalise amendments (Mar-June 2018)
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## DISCUSSION

### **Planning proposal:**

The fourth package of general amendments to the *Greater Taree LEP 2010* was developed following a review of LEPs across NSW, a review of the internal register of LEP amendments, internal workshops with Council officers and conversations with the community who identified inconsistencies in the LEP. As a result, the planning proposal contains a range of issues aimed at improving the application and operation of the LEP and to harmonise provisions with the Great Lakes and Gloucester LEPS as much as possible.

The planning proposal (Attachment A) contains two different types of amendments as summarised below.

Amendment	Purpose
<b>General amendments</b> are changes to provisions in LEP 2010 that can apply to the whole Manning region. There are thirteen general amendments	
<b>G1</b> - essential services	Ensures development has adequate services for the intended use
<b>G2</b> - events permitted without development consent	Enables temporary events to be permitted without consent where on Council roads/reserves. Relevant issues addressed in event application
<b>G3</b> - changes to boundaries in rural and environmental zones	Provides improved flexibility for lots in these zones, while not increasing the dwelling entitlements
<b>G4</b> - zone objective changes	Minor refinement to some zone objectives to make the zone intent clear
<b>G5</b> - detached dual occupancies on rural land	Enables dual occupancies to be detached where rural, environmental and locational requirements are met
<b>G6</b> - Primary Production (RU1) zone changes	Increases range of uses permitted with consent in the Primary Production zone consistent with uses found in rural areas and other NSW LEPs
<b>G7</b> - enabling a kiosk/take away food and drink premises in Enterprise Corridor zone	Enables kiosks to be permitted with consent in the Enterprise Corridor zone to provide food for nearby workers
<b>G8</b> - Bulky Goods in Light Industry (IN2)	Enables bulky goods premises as permitted with consent in the Light Industrial zone
<b>G9</b> - Rural Industries in Light Industry (IN2)	Clarification that rural industries are permitted with consent in the Light Industrial zone (currently both "permitted with consent" and "prohibited")
<b>G10</b> - Function Centre in recreation zones	Allows function centres as permitted with consent in recreation zones (public and private) given they are a common use
<b>G11</b> - Heritage Conservation	Increases the floor space ratio in Heritage Conservation Areas to be

<b>Amendment</b>	<b>Purpose</b>
Area floor space ratio	consistent with land in the same zone
<b>G12</b> - dams in rural zones	Enables dams larger than those specified in Schedule 2 of LEP 2010, to be permitted with consent in rural and Large Lot Residential zones
<b>G13</b> - subdivision of lots with split zones in the Village zone	Expands current provisions to enable the subdivision of lots with split zones in the Village zone
<b>Site specific amendments apply to one location. They are grouped as follows.</b>	
<b>Environmental</b> - amending the zone to reflect the environmental values of the property	
<b>A</b> - Lot 98 Ph Cooplacurripa, Cooplacurripa	Include the site in the National Parks and Reserves zone to reflect the purchase of the site by National Parks and Wildlife Service
<b>E</b> - 74 Longworths Rd, Harrington	Minor change to the zone to align with the cadaster boundary
<b>Village</b> - minor changes to reflect how the villages have developed at Coopernook and Johns River	
<b>B</b> - Johns River Rd, Johns River	Include the tavern and adjoining properties in the Village zone as they form part of the Johns River village
<b>C</b> - Coopernook village	Changes to the lot size consistent with that applied to the Village zone. Minor zone change to reflect the <i>Manning River Flood Study 2016</i>
<b>Existing use</b> - zone changes to reflect well established existing uses	
<b>D</b> - 586 Lansdowne Rd, Kundle	Former UGL site. The zone change will reflect the industrial use of the land while protecting an important environmental corridor
<b>H</b> - 202 Bushland Dr, Taree	RailCorp site. The zone change will reflect the industrial use of the land while protecting an important environmental corridor
<b>L</b> - 394 Diamond Beach Rd, Diamond Beach	Site withdrawn as per the DPE requirement in the Gateway determination
<b>Heritage</b> - to correctly identify heritage items identified in LEP 2010	
<b>K</b> - 16 Hayes Ln, Taree	Correct the property description for this heritage item
<b>P</b> - 2 Bungay Rd, Wingham	Correct the property description for this heritage item
<b>Q</b> - Community Hall Johns River	Correct the property description for this heritage item
<b>Open space</b> - minor changes to identify where land is not intended to be used for public open space	
<b>G</b> - 2 Pilot St, Harrington	Minor change to include the land in the Neighbourhood Centre zone
<b>J</b> - 11-29 Beeton Pde, Taree	Include the Public Recreation portion of the site in the Private Recreation zone to reflect the private ownership of the former bowling club
<b>M</b> - The Knoll, Tallwoods Village	Correct the residential zone to be consistent with property boundaries
<b>N</b> - 25 Myalup Crt, Red Head	Amend the Public Recreation and the General Residential zones on this lot to reflect the intended access to the headland park
<b>O</b> - High St, Black Head	Include land in a residential zone to reflect the intent that this privately owned land was not intended to be a park
<b>Land acquisition</b> - identify land to be acquired for future use as a road and part of the National Park estate	
<b>F</b> - 102 Industrial Rd and Lot 193 Glacken St, Harrington	Site identified to be acquired as extension of Crowdy Bay National Park. Applying the Environmental Conservation zone to reflect private ownership
<b>I</b> - River St, Cundletown	Include site on the Land Acquisition Layer map as it forms part of the Cundletown Bypass

### **Community consultation:**

The community consultation involved letters sent to over 400 landowners who were either directly affected by the proposed amendments or were neighbours to these changes. Over 40 public enquiries were received and 15 submissions were lodged, 5 of which supported one of the proposed amendments.

The summary of the submissions received are in Annexure A. The following table identifies where a submission has resulted in a proposed change to the planning proposal.

#### **Amendment G3 – changes to boundaries**

***Currently there are no provisions in LEP 2010 to enable changes to the boundaries of rural or environmental lots where the lot size is less than 40 ha. Landowners frequently request changes to boundaries for a range of reasons including improving the viability of agricultural lots, access, and accounting for natural features such as creeks and steep land. The proposed clause has been adopted by a number of NSW rural councils to enable minor boundary changes to occur where the lots are below the minimum lot size.***

A minor change was suggested by a consultant to clearly indicate that dwelling entitlements would not decrease when there was a change to boundaries in the rural and environmental zones. While this was addressed in the clause, it was agreed that including a new provision in the proposed clause would provide more certainty. This change is consistent with a provision included in the Great Lakes LEP 2014

It is recommended that the following be included in the changes to boundaries clause:

*(6) Despite clause 4.2A, development consent may be granted for the erection of a dwelling house on land that, immediately before the adjustment of its boundaries under this clause, was a lot on which the erection of a dwelling house was permissible.*

#### **Site specific amendment C – West St, Coopernook**

***Part of Coopernook village was included in the Village zone, but had a minimum lot size requirement larger than the typical 1,000m<sup>2</sup> (being 15,000 m<sup>2</sup> and 8,000 m<sup>2</sup>). A landowner requested further investigation. It was agreed to have a minimum lot size of 1,000m<sup>2</sup> apply to the part of the sites in the Village zone. With the completion of the Manning River Flood Study 2016, the zone boundary between the rural and village zone was also amended to reflect the new flood lines***

The new owner of one of the affected properties identified the difficulty in achieving a practical subdivision layout for 30 High Street, Coopernook. It was agreed that by reducing the minimum lot size for that part of the site fronting High Street in the Village zone to 900m<sup>2</sup>, it would result in an improved subdivision layout. Given the sites are connected to sewer, this minor change to the lot size was considered acceptable.

It is recommended that the minimum lot size for the part of 30 High Street, Coopernook in the Village zone, fronting High Street be reduced to 900m<sup>2</sup>.

#### **Site specific amendment D – 586 Lansdowne Rd, Kundle Kundle**

***In the 1980s an engineering business was lawfully established on the site to fabricate railway products. The site has continued to be used for industrial activities. However, LEP 2010 now lists the use as prohibited in the Primary Production (RU1) zone. This has led to difficulties when extensions have been proposed and new uses have been proposed. It is proposed to include part of the site in the General Industrial zone and the remainder in the Environmental Conservation zone***

An inspection of the site was undertaken with a GPS to more accurately record the extent of the industrial use of the site to refine the proposed General Industrial zone. In addition, the office at the front of the site and fenced off area were also included in the General Industrial zone. The changes were agreed to by both Council environmental and planning officers and the landowner.

It is recommended that the proposed zone boundary for the General Industrial and Environmental Conservation zones be amended to better reflect the industrial use of the land and to protect the most significant fauna corridors and habitat.

#### **Site specific amendment F – 102 Industrial Rd and Lot 193 Glacken St, Harrington**

***Part of this site is currently included in the National Parks and Nature Reserve (E1) zone which is typically applied to land owned by the National Parks and Wildlife Service. This zone was applied to this site in LEP 2010 as a direct transition from the former LEP 1995 - 8(b) National Parks and Nature reserves zone. Given the site is privately owned, the National Parks and Nature Reserve (E1) is inappropriate and it is proposed to change the zone to Environmental Conservation (E2) to reflect the private ownership of the land. The future acquisition of the site, by National Parks, is identified on the Land Reservation Acquisition Map in LEP 2010***

The owner objected to a reference in the planning proposal that "the landowner requested Council change the zone of part of their site". A representative of the firm verbally requested this investigation a number of years ago, on at least two occasions. Given the submission, it is proposed to amend the text in the planning proposal to remove reference to the landowner requesting the change.

It is recommended that the text in the planning proposal remove reference to the landowner requesting the change. As outlined in the summary of submissions, the proposed zone change is still warranted as the land is privately owned and highly constrained.

#### **Site specific amendment N – 25 Myalup Court, Red Head**

***This land formed part of the Seascape development. At the time of rezoning, the open space zone was applied over part the lot to enable driveway access to a public car park on the adjoining eastern land which formed part of the headland park. Since the rezoning, an assessment was undertaken of the open space needs in this location. It was decided that there is no need for a public car park on the adjoining site given the main access to the headland and viewing platform (including parking) is provided off Glenelg Crescent. This access to the park is mainly used by residents and there is sufficient on-road parking available. As a result, the provision of a 6m wide pedestrian access was considered sufficient for this site, so as to permit vehicle access to the site for Parks and Landcare vehicles to maintain the adjoining park.***

***To reflect this change, the width of land included in the Public Recreation zone will be 6m wide. This will enable residents to access the headland and connect to the open space network to the north and south of the site. This land has remained in private ownership. An agreement will be put in place to enable the transfer of this land to Council***

A mapping error was identified with regard to the maximum building height in the General Residential (R1) zone. In the Seascape development the height is restricted to 8m. While the text in the planning proposal referred to this height limit, the maps incorrectly showed 8.5m.

It is recommended that the maximum building height maps be corrected to show 8m.

Discussions are underway with the landowner to determine the process for dedication of the land for park purposes. An agreement may have to put in place to achieve this outcome. If a satisfactory outcome cannot be achieved site specific amendment N may need to be withdrawn from the planning proposal so that it does not delay the completion of the other LEP amendments.

The planning proposal (Attachment A) has been amended to include these recommended changes.

#### **State agency consultation**

Consultation was undertaken with State agencies as required by the Gateway determination. The NSW Office of Environment and Heritage (who responded on behalf of NSW National Parks and Wildlife Services) and NSW Department of Primary Industries (Minerals and Petroleum) had no objection to the proposed.

Two objections were received:

1. **NSW Rural Fire Service (RFS)** raised concerns about the potential impact of bushfires regarding the provision G2 - Events permitted without development consent. This clause aims to streamline the approval process by allowing the temporary use of public reserves and roads for exhibitions, markets, meetings, concerts or events as development without consent. Council's event application form then provides the process for ensuring that all aspects of the event are considered.

RFS required:

- a) that the clause specify that "nothing in the clause permits development for the purposes of overnight accommodation".

This request is considered onerous and unnecessary as the clause includes a definition being "an exhibition, market, meeting, concert or other event". It is unnecessary to prescribe exclusions, and may reduce the effectiveness of the clause if not all exclusions are listed.

- b) the inclusion of a note in the clause to effect that the Sect 68 Local Approvals process for events include a requirement for a suitable bush fire risk assessment.

RFS were concerned that the current event application form for the Manning region (where this amendment applies) does not specifically require the lodgement of a bushfire assessment. However, both a Risk Assessment Management Plan and an Emergency Management Plan are required to be lodged with the event application which would address the issue of bushfire risks. It is onerous to list every potential requirement on the forms and can be an issue if not all potential requirements are listed by Council.

The Department of Planning and Environment (DPE) were consulted on the RFS requirement and agreed that the requirements were onerous. Consequently, the requests from RFS are not supported and it is recommended that no changes be made to the planning proposal in this regard.

2. **NSW Department of Primary Industries (Agriculture) (DPI)** raised concerns regarding two amendments:

- i. Amendment G5 - Dual occupancies (detached) on rural land. This amendment proposes to allow detached dual occupancy in the Primary Production (RU1) zone with development consent.

DPI are concerned that the cumulative impact of various forms of housing permitted in rural zones will impact on the capacity of agricultural industries, lead to land use conflict, and compromise the availability of agricultural resources.

Dual occupancies (attached) are currently permitted with consent in the Primary Production zone. This zone prohibits secondary dwellings, but permits rural worker's dwellings in this zone. The proposed amendment aims to:

- continue to prohibit secondary dwellings
- prohibit rural worker's dwellings to negate the opportunity for people to apply for both a rural worker's dwelling and a dual occupancy on a site. A dual occupancy can provide a place for rural workers to live on a property
- enable dual occupancies to be detached to ensure the built form is separated to be more in keeping with the rural landscape.

As a result, it is considered that this proposed amendment does not increase the opportunity for additional residential uses in the zone. It is also noted that similar provisions are included in the Great Lakes and Gloucester LEPs and in other regional council's LEPs. Specifically, the proposed clause requires Council to be satisfied that the dual occupancy will not impair agricultural activities. This directly responds to some of the issues raised by DPI.

It is therefore recommended that the proposal to permit detached dual occupancy in the RU1 Primary Production zone be retained.

It is proposed to refer this objection to DPE for consideration given this provision is already applied throughout NSW and in both the Great Lakes and Gloucester LEPs.

- ii. Amendment G6 – Primary Production (RU1) zone changes. A comparative review of LEP's across NSW identified the restricted nature of uses permitted with consent in the Primary Production (RU1) zone. It was found that many of the prohibited uses are currently operating in the rural area (being approved under previous LEPs), and positively contribute to the rural nature of the zone. It was proposed to increase the number of permitted with consent uses in this zone.

DPI raised concern that some of the proposed uses were not in accordance with the zone objectives. Council is currently undertaking the Rural Opportunity Land Use Strategy (ROLUS) which will examine in detail appropriate uses for rural zones. As such, it is appropriate to amend the uses as required by DPI at this stage and incorporate findings of ROLUS in the consolidated LEP.

The following permitted with consent uses were removed from amendment G6:

*depots, educational establishments, function centres, industrial training facilities, information and education facilities, intensive plant agriculture, public administration buildings, recreational facilities (major), registered clubs and restaurants or cafes.*

The planning proposal (Attachment A) has been amended to remove these proposed permitted with consent uses in the Primary Production (RU1) zone.

Given the objections from RFS and DPI, Council does not have the delegation to make the plan. The planning proposal will be referred to DPE to determine an outcome of these objections and make the plan.

NSW Roads and Maritime Services were notified and provided with 21 days to comment (as required by the Gateway determination). Two reminder emails were sent on 21 and 27 November 2017. No response has been received and it is assumed that they have no concerns with the planning proposal.

## **CONSULTATION**

Community consultation was undertaken from 19 October 2017 to 17 November 2017. The following was undertaken to inform the community of these changes:

- advertisement in the Manning River Times, Great Lakes Advocate and Wingham Chronicle on 18 and 25 October, and the 1, 8 and 15 November 2017;
- a media release on 24 October 2017;
- over 400 letters sent to all affected landowners and their neighbours;
- making the planning proposal and associated documentation available on Council's website, in the Taree and Forster Administration Buildings, and the Taree, Harrington, Wingham, Old Bar and Hallidays Point Libraries;
- local planning consultants were directly advised of the proposed amendments and invited to discuss any concerns they may have.

State agency consultation was undertaken with:

- NSW Office of Environment and Heritage.
- NSW Rural Fire Service.
- NSW National Parks and Wildlife Services.
- NSW Department of Primary Industries (Minerals and Petroleum).
- NSW Roads and Maritime Services.
- NSW Department of Primary Industries (Agriculture).

## **COMMUNITY IMPACTS**

The amendments aim to improve the efficiency of LEP 2010 and are likely to provide a positive community impact.

## **ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN**

Amendments to LEP 2010 are consistent with Strategy 6 of the *Manning Valley Community Plan 2010-2030* which is to "maintain a strategic land-use planning framework that will establish a clear balance between development and conservation, and accommodate economic investment and lifestyle change demands."

The LEP amendments are not specifically listed in the *MidCoast Council Operational Plan 2017-18* as they form part of the continued improvement process for our planning tools.

## **TIMEFRAME**

The Gateway determination requires the planning proposal to be completed by 18 August 2018. Given a number of landowners are awaiting these amendments to enable their development to proceed, there is an element of urgency to complete this planning proposal at the earliest possible date.

## **BUDGET IMPLICATIONS**

Costs associated with processing the LEP amendments are covered in the existing Strategic Planning budget.

## **RISK CONSIDERATION**

The timeframe for this package of amendments has been delayed due to higher priority work commitments and the Council merger. There are a number of landowners and consultants awaiting these amendments. It is important to continue to provide good quality customer service by progressing these amendments at the earliest possible date.

## **RECOMMENDATION**

- i. That the fourth package of general amendments to the *Greater Taree Local Environmental Plan 2010* (Attachment A) be referred to the NSW Department of Planning and Environment with a request that the Local Environmental Plan (LEP) to give effect to the planning proposal be drafted and that the LEP be made.
- ii. That discussions be undertaken with the landowner of site specific amendment N being 25 Myalup Court, Red Head, to develop an agreement for the dedication of the 6m wide access strip. If an agreement cannot be finalised by the time the fourth package of amendments is ready to be made, site specific amendment N be withdrawn from the package of general amendments to the *Greater Taree Local Environmental Plan 2010* (Attachment A).

## ANNEXURES

### A: Summary of Submissions.



#### General Amendment Package 4 to Greater Taree LEP 2010 Summary of submissions

Issue	Response	No.
<p><b>General comments</b></p> <p>Preference for a consolidated LEP rather than amendments to the Greater Taree LEP 2010. Create a vision and then prepare one LEP for the whole area</p>	<p>This package of amendments was proposed prior to the merger of Councils in May 2016 and aims to improve the assessment of development applications in the Manning Valley. While we are currently undertaking strategy work in preparation for a Community Strategic Plan and a consolidated LEP, we also need to ensure current priority planning proposals from the previous Councils are completed to provide a robust planning framework for development applications. Some clause harmonisation has been included in these changes.</p> <p style="text-align: center;"><b>No change</b></p>	11
<p><b>G3 – Changes to boundaries</b> Currently there are no provisions in LEP 2010 to enable changes to the boundaries of rural or environmental lots where the lot size is less than 40 ha. Landowners frequently request changes to boundaries for a range of reasons including improving the viability of agricultural lots, access, and accounting for natural features such as creeks and steep land. The proposed clause has been adopted by a number of NSW rural councils to enable minor boundary changes to occur where the lots are below the minimum lot size.</p>	<p>The suggested change would remove any uncertainty with regard to the issue of dwelling entitlements. This change is consistent with the provision included in the Great Lakes LEP 2014. It is agreed to include a new provision in the proposed clause, being: (6) <i>Despite clause 4.2A, development consent may be granted for the erection of a dwelling house on land that, immediately before the adjustment of its boundaries under this clause, was a lot on which the erection of a dwelling house was permissible.</i></p> <p style="text-align: center;"><b>Amendment proposed</b></p>	6
<p><b>G5 – Dual occupancies (detached) on rural land</b> Currently dual occupancies (attached) are permitted with consent in the Primary Production (RU1) zone. Given these buildings are attached, the resultant built form can be very large buildings that are not in keeping with the rural nature of the zone. To address this impact, a number of rural councils have permitted dual occupancies (detached) with development consent where the rural use of the land is not impacted (eg. separation distance, access and rural amenity).</p>	<p>Support this proposed amendment – facilitate economic development and better utilisation of rural lands</p> <p style="text-align: center;"><b>No change</b></p>	5, 10
<p>This provision should apply to the Large Lot Residential zone</p>	<p>This provision aims to retain the rural character of rural areas and provide alternate accommodation for rural families and workers. Given the Large Lot Residential sites vary from 4,000m<sup>2</sup> to 1.5ha it is expected that the character outcome would be very different. This approach is consistent with the Great Lakes LEP 2014.</p> <p>A strategic assessment of the possible impacts would need to be undertaken before supporting such a change (this would require a new Gateway determination and re-</p>	8



Issue	Response	No.
<p>Reduce the minimum lot size of the Primary Production zone to enable the land in this zone to be further subdivided</p>	<p>No change</p> <p>Given the land is flood prone, the zone of the land and minimum lot size cannot be reduced below 40ha. The proposed changes to the minimum lot sizes enable some further subdivision to occur for the land in the Village zone only.</p> <p>No change</p>	<p>4</p>
<p><b>Site D – 586 Lansdowne Rd, Kundle Kundle</b>  <i>In the 1980s an engineering business was lawfully established on the site to fabricate railway products. The site has continued to be used for industrial activities. However, LEP 2010 now lists the use as prohibited in the Primary Production (RU1) zone. This has led to difficulties when extensions have been proposed and new uses have been proposed. It is proposed to include part of the site in the General Industrial zone and the remainder in the Environmental Conservation zone</i></p> <p>The landowner requested a site inspection to discuss the extent of the zone boundaries proposed given areas used for industrial purposes were included in the Environmental Conservation zone.  After an inspection a revised zone boundary was proposed that was accepted by the landowner</p>	<p>The cadastral boundaries on the Council mapping can be out by up to 20m in rural areas. A GPS was used at the site meeting to clearly define the extent of the industrial use of the site. In addition, the office at the front of the site and fenced off area were also included in the General Industrial zone. It was agreed between Council staff and the landowner that this amended site boundary better reflected the extent of current industrial activity on the site.</p> <p><b>Amendment proposed</b></p>	<p>2</p>
<p><b>Site F – 102 Industrial Rd and Lot 193 Glacken St, Harrington</b>  <i>Part of this site is currently included in the National Parks and Nature Reserve (E1) zone which is typically applied to land owned by the National Parks and Wildlife Service. This zone was applied to this site in LEP 2010 as a direct transition from the former LEP 1995 – 8(b) National Parks and Nature reserves zone. Given the site is privately owned, it is proposed to change the National Parks and Nature Reserve zone to Environmental Conservation to reflect the private ownership of the land. The future acquisition of the site is identified on the Land Reservation Acquisition Map in LEP 2010.</i></p>	<p><b>Amendment proposed</b></p>	<p>14</p>
<p>Strong objection – incorrect statement that the owner wants the zone changed. The site has been identified for acquisition by National Parks and Wildlife Services 20 years ago and they have done nothing to resume the land. Preferred zone for the site is Primary Production</p>	<p>A representative of the firm verbally requested this investigation a number of years ago, on at least two occasions. Given the submission it is proposed to amend the text in the planning proposal to remove reference to the landowner requesting the change.</p> <p><b>Amendment proposed.</b></p> <p>The National Parks and Nature Reserve (E1) zone is applied to land that is reserved under the National Parks and Wildlife Act 1974 or that is acquired under Part 11 of that Act. This land is privately owned, but identified on the Land Reservation Acquisition Map as land to be purchased by National Parks and Wildlife Service (NP&amp;WS).</p> <p>Given the current zone is inappropriate, another zone is required. The Environmental Conservation zone is considered appropriate given the site contains a number of significant vegetation communities including Coastal Dune Dry Sclerophyll Forest and Coastal Heath Swamp which provide habitat for a range of threatened species including migratory bird species. Parts of the site have also been mapped as SEPP 14 Coastal Wetlands and form</p>	<p>14</p>

Issue	Response	No.
	<p>part of the Harrington-Old Bar Regional Corridor. The environmental significance of the site is also demonstrated by the identification of this site as a future acquisition site by NP&amp;WS. Given the environmental significance of this site, the Primary Production zone suggested by the landowner would not be appropriate. It is recommended that the Environmental Conservation zone is appropriate for this site.</p> <p>It is proposed to amend the planning proposal to include the above information on the environmental significance of the site.</p> <p><b>Amendment proposed</b></p>	
<p><b>Site N – 25 Myalup Court, Red Head</b></p> <p><i>This land formed part of the Seascape development. At the time of rezoning, the open space zone was applied over part of the lot to enable driveway access to a public car park on the adjoining eastern land which formed part of the headland park. Since the rezoning, an assessment was undertaken of the open space needs in this location. It was decided that there is no need for a public car park on the adjoining site given the park is mainly used by residents and there is sufficient on-road parking available. In addition, the main access to the headland and viewing platform (including parking) is provided off Glenelg Crescent. As a result, the provision of a 6m wide pedestrian access was considered sufficient for this site, so as to permit vehicle access to the site for Parks and Landcare vehicles to maintain the adjoining park.</i></p> <p><i>To reflect this change, the width of land included in the Public Recreation zone is to be reduced to 6m wide (refer proposed zone map over the page). This will enable residents to access the headland and connect to the open space network to the north and south of the site.</i></p> <p><i>This land has remained in private ownership. An agreement will be put in place to enable the transfer of this land to Council following this plan being made</i></p>		15
<p>Support the reduction of the path to 6m</p>	<p>Support noted.</p> <p><b>No change</b></p>	1
<p>The access path should be 4m wide which is sufficient to cater for vehicles (consistent with other paths in Seascape being 3m wide)</p>	<p>At the Council meeting on 9 December 2015, Council increased the required width of the access from 4m to 6m. The planning proposal was amended accordingly. This width will enable suitable access for pedestrians, Landcare and Council maintenance vehicles to access the adjoining reserve.</p> <p><b>No change</b></p>	1, 9, 15
<p>Access to the path should be restricted to minimise anti-social behaviour. Is this path needed given there is ample access?</p>	<p>Bollards to restrict vehicular access would be investigated by our Parks section after the land has been dedicated. This is common practice for access paths such as these.</p> <p><b>No change</b></p>	13
<p>The change is contrary to the original intent for a driveway, car park and facilities on the headland that would enable access to the park for all users. The area is currently accessed by people that are not locals for</p>	<p>it is agreed that the intent for this area has changed since the original rezoning was undertaken for Seascape. The main access to the headland and viewing platform is now provided off Glenelg Crescent. Parking and paths in this location provide access to the headland park.</p>	

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Issue	Response	No.
<p>fishing, rock climbing and paragliding. Not having a car park will cause congestion in Myalup Court.</p> <p>Access and manoeuvring needs to be maintained for emergency vehicles. Six metres is insufficient.</p> <p>Proposal is contrary to SEPP 71 Coastal Protection and guidelines that promote public access to the coast.</p> <p>Concern that the land will not be dedicated to Council.</p>	<p>A review of the parklands in Seascope identified that there is no need for the proposed public vehicular access and parking facilities off Myalup Court as they would be duplicating existing facilities in Glenelg Crescent.</p> <p><b>No change</b></p> <p>The proposed pedestrian access and vehicular access for maintenance or emergency vehicle will meet the needs of locals and is considered to be consistent with SEPP 71 Coastal Protection.</p> <p>Dedication of the land is being discussed with the landowner so as to be required within a reasonable timeframe following this amendment being made.</p> <p><b>No change</b></p>	
<p>The maximum building height for land in the residential zone should be 8m not 8.5m. Why does the land in the Public Recreation zone need a building height and floor space ratio</p>	<p>This was a mapping error in the exhibited documents. The maximum building height map has been amended to show 8m. The amendment removes the building height and floor space ratio from the land in the Public Recreation zone which is the standard for land in this zone.</p> <p><b>Amendment proposed</b></p>	15
<p>Does Council contribute to boundary fencing when it adjoins a park?</p>	<p>Councils are exempt from contributing to the cost of fencing common boundaries between private and community land.</p> <p><b>No change</b></p>	15

#### **4 PLANNING PROPOSAL FOR LOT 612 BLACKHEAD ROAD, HALLIDAYS POINT**

**Report Author** Angela Tinlin, Town Planner - Strategic

**File No. / ECM Index** S1250

**Date of Meeting** 14 February 2018

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#### **SUMMARY OF REPORT**

This Planning Proposal seeks to change the zoning of Lot 612 Blackhead Road, Hallidays Point from RU1 Primary Production to a combination of R1 General Residential and E2 Environmental Conservation in order to provide for the planned extension of the Tallwoods Village and protect ecological values on the land. This report also seeks to adopt the concurrently exhibited proposed amendments to Part L - Local Area Plans of the *Greater Taree Development Control Plan 2010* (DCP 2010). These amendments will further protect the small area of the site with ecological values and ensure only emergency services access is provided directly onto Blackhead Road.

Nine (9) submissions were received during the exhibition period raising a number of matters including traffic safety, services impact and concerns regarding the density and type of potential development on the site. A traffic impact assessment was prepared following exhibition to further investigate potential traffic impacts which confirms the ability of the road infrastructure to support the potential increase in traffic generation resulting from the rezoning.

This rezoning represents a logical expansion to the Tallwoods Village and has been identified in endorsed strategies for many years. This report seeks the finalisation of the rezoning over this site.

#### **SUMMARY OF RECOMMENDATION**

- A. That Council adopt the revised Planning Proposal (Attachment A) and submit it to the NSW Department of Planning and Environment with a request that the associated Local Environmental Plan (LEP) amendment be drafted and made.
- B. That Council adopt the exhibited draft amendment to Part L - Local Area Plans of the *Greater Taree Development Control Plan 2010* (Annexure A) with the plan to become effective upon the date of the associated LEP amendment being made.

#### **FINANCIAL/RESOURCE IMPLICATIONS**

This Planning Proposal is a developer-initiated rezoning application, and as such all costs associated with preparing studies and amendments to the Planning Proposal have been wholly borne by the applicant, in accordance with Council policy.

#### **LEGAL IMPLICATIONS**

The proposed amendments to *Greater Taree Local Environmental Plan 2010* and *Greater Taree Development Control Plan 2010* have been undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and the associated *Environmental Planning and Assessment Regulation 2000*.

#### **ATTACHMENTS**

A: Planning Proposal revised following exhibition.  
Attachment A has been circulated in hard copy to the Councillors and Senior Staff and is publicly available on Council's website.

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## BACKGROUND

The Planning Proposal aims to alter the zoning of Lot 612 Blackhead Road, Hallidays Point from rural to a combination of residential and environmental. The site has an area of approximately 17 hectares and is bordered by rural land to the east and west, Blackhead Road to the south and Tallwoods Village to the north. The site is currently used for low intensity grazing.

On 16 December 2015 a Planning Proposal for Lot 612 Blackhead Road, Hallidays Point was lodged seeking to alter the zoning of the lot from RU1 Primary Production to R1 General Residential. Council resolved at its Ordinary Meeting on 27 January 2016 to proceed with the Planning Proposal. A Gateway Determination for the proposal was received on 26 February 2016.

To address matters raised by government agencies and staff, Council resolved at its Ordinary Meeting on 22 March 2017 to prepare and exhibit concurrently with the Planning Proposal, an amendment to the Greater Taree Development Control Plan 2010. The purpose of the draft DCP is to ensure that issues surrounding offset planting, vegetation management, vegetation screening from Blackhead Road and only permitting emergency vehicle access to Blackhead Road would be addressed in any development application for the site.

The Planning Proposal was updated to incorporate the following comments from Government agencies:

- address feedback regarding the appropriate Environmental zone to apply;
- necessary protection mechanisms for the Endangered Ecological Communities on the site;
- the outcomes of the Aboriginal Cultural Heritage Assessment;
- outcomes of the contamination assessment;
- adjustments to the document following consultation with the NSW Rural Fire Service requiring emergency access provision to Blackhead Road;
- updating of the S117 Directions.

The revised proposal was then placed on public exhibition concurrently with the draft DCP amendment from 30 August 2017 to 29 September 2017. This report provides a summary of the feedback received during this period including the onsite drop-in session.

The table below shows the stages of the Planning Proposal.

PLANNING PROPOSAL					
 Application lodged (Dec 2015)	 Council refer to Minister (Jan 2016)	 Gateway determination (Feb 2016)	 Exhibit planning proposal (Sept 2017)	 Consider submissions Report to Council (Dec 2017)	Finalise LEP amendment (Jan-Mar 2018)

## DISCUSSION

Nine (9) submissions were received during the exhibition period 30 August 2017 to 29 September 2017. There were three main issues raised from submissions and during a drop-in session arranged by staff, these are addressed below.

### Traffic

Seven (7) submissions raised concerns about the suitability of the road infrastructure of the Tallwoods Village and Hallidays Point area to cater for an increase in traffic resulting from the future development of this site.

In response to these concerns a traffic impact assessment was undertaken which confirmed the ability of the existing infrastructure to support any potential increase in population resulting from development on the site. The traffic assessment has been reviewed by Council's Traffic Engineer and the findings were considered acceptable. This assessment can be found as Attachment F of the revised Planning Proposal (see Attachment A to this report).

### **Manufactured Homes Estates**

Five (5) submissions raised concerns about the impact and suitability of the site for manufactured homes estates. This was also the main issue raised at the drop-in session.

While the applicant has never expressed a desire to develop the site for a Manufactured Homes Estate (MHE), instead seeking standard residential development of the site, it would still be permitted in the R1 - General Residential zone.

While an MHE is not separately defined by the State government in the Standard Instrument (LEP Template) upon which Greater Taree LEP 2010 is based, it would still be permissible in the R1 zone under the definition of *multi dwelling housing*, or as an innominate use (i.e. a non-defined use) as the zone is an 'open zone'. An open zone refers to the land use table of a zone in the LEP being written in a fashion that permits, with consent, all other uses which are not identified as prohibited. A closed zone is the opposite whereby the zone prohibits all other uses not listed as permitted with or without consent.

Manufactured Homes Estates are a form of medium density residential development. The State government supports this type of development in residential areas and Council has limited ability to influence its prohibition. Whether it is possible or appropriate to limit such development in residential zones is a matter separate to this rezoning and something which should be considered in a strategic manner.

An alternative zone for this site to address this issue (to prohibit an MHE) would be to use the R2 - Low Density Residential zone in Greater Taree LEP 2010 as it is a closed zone and does not permit *multi dwelling housing* or a *caravan park*. However, this zone is not currently applied to any land under the Taree LEP as the intention is to revisit all residential land (only the R1 - General Residential zone is currently used) and to determine where low, medium and high density should best be applied. A decision such as this should be made in a strategic manner under the Housing Diversity and Affordability Strategy which Council has already resolved to prepare. This strategy should commence in the next couple of months and the zoning recommendations will then be included in the new MidCoast consolidated LEP.

On the basis of the above it is recommended that Council continue with the proposed R1 zoning of this site and to look at appropriately zoning land for medium density residential development through the current strategic work being undertaking for housing in the MidCoast LGA.

### **Impacts of increased population in the Hallidays Point area**

Three (3) submissions raised concerns about the potential impacts of population increases in the locality. The concerns include potential negative impacts on lifestyle and amenity, the environment, existing infrastructure and services and property values.

This site has been recognised as an extension to the Tallwoods Village since 2000. Environmental assessments have been undertaken as part of this process to ensure all environmental values on the site are protected and enhanced. Consultation was also undertaken with MidCoast Council Water Services (formerly MidCoast Water) which ensured water and sewer reticulation networks can service the site. There are mechanisms (Section 94 Contributions) established to ensure provision of necessary infrastructure and services to cater for any increase in population.

A more detailed summary of responses to submissions is provided in Attachment G to the Planning Proposal.

No submissions or comments were received in relation to the draft DCP 2010 amendment.

## **CONSULTATION**

Community consultation was undertaken from 30 August 2017 until 29 September 2017 (31 days) and involved:

- Letters being sent to all neighbouring land owners.
- Letter sent to a number of potentially impacted residents along Grangewood Avenue.
- Placing a notice in the Manning River Times, Wingham Chronicle and Great lakes Advocate on 30 August 2017, 6 September 2017, 13 September 2017, 20 September 2017 and 27 September 2017.
- Making the Planning Proposal and associated documentation available on Council's website, in the Taree and Forster Administration Buildings, and the Taree and Hallidays Point Libraries.
- An ABC radio interview about the proposal during the first week of exhibition.
- A drop-in session between 3:30 pm and 5:30 pm on 20 September 2017 attended by approximately 60 people.

State agency consultation was undertaken with:

- NSW Office of Environment and Heritage.
- NSW Rural Fire Service.
- Water Services Division of MidCoast Council (formerly MidCoast Water).

A draft DCP amendment was prepared in response to the agency feedback provided, to ensure the outcomes required by these agencies are complied with in the future.

## **COMMUNITY IMPACTS**

Following the community feedback regarding traffic concerns, a traffic assessment was undertaken. This report concluded that the road infrastructure in the Tallwoods Village and the wider Hallidays Point area is sufficient to support the potential increase in traffic movements created by development on this site and as such the impact has been deemed acceptable.

The rezoning of this site for urban development has been included in endorsed strategies for many years and as such there is a community expectation that the site would be rezoned and developed at some time as an expansion of the Tallwoods village. The site is a logical expansion of the village and enables additional residents to take advantage of the amenity that our coastal settlements provide.

### **ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN**

The rezoning of the land is consistent with a number of strategies in the Manning Valley Community Plan 2010-2030, in particular Strategy 6:

*Maintain a strategic land-use planning framework that will establish a clear balance between development and conservation, and accommodate economic investment and lifestyle change demands"*

The MidCoast Council Operational Plan 2017-2018 identifies the processing of high priority planning proposals as a key initiative.

## **TIMEFRAME**

The Gateway determination requires this amendment process be completed by 5 March 2018. The project is on target for this timeframe.

## **BUDGET IMPLICATIONS**

The application was processed on a user-pays basis, and all required studies and fees in association with the Planning Proposal have been, and will continue to be incurred by the applicant.

## **RISK CONSIDERATION**

Nil.

## **RECOMMENDATION**

- A. That Council adopt the revised Planning Proposal (Attachment A) and submit it to the NSW Department of Planning and Environment with a request that the associated Local Environmental Plan (LEP) amendment be drafted and made.
  - B. That Council adopt the exhibited draft amendment to Part L - Local Area Plans of the *Greater Taree Development Control Plan 2010* (Attachment B) with the plan to become effective upon the date of the associated LEP amendment being made.
-

## ANNEXURES

A: DCP Amendment to Part L - Local Area Plans.

### L11 - Lot 612 Blackhead Rd, Hallidays Point

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**About this part:**

This part provides detailed guidelines for development of the land located in the south western section of Tallwoods village which has been rezoned for residential development. This part applies in addition to the other requirements of the DCP.

**Applies to:**

Land within the site shown in Figure L11.1 and identified as Lot 612 DP 1160096, being Lot 612, Blackhead Road, Hallidays Point.

**Date adopted by Council:**

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**Effective date:**

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**Related Policy / Technical Manual:**

Nil

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#### L11.1 Introduction

The subject land is located in the south western part of the Tallwoods village in the Hallidays Point area. This land has been identified to provide residential growth of the Tallwoods village.

Future development of the subject land is to ensure that environmental and visual objectives are maintained and enhanced; and an effective road network is achieved.

#### L11.2 Relationship to other parts

All standard relevant provisions from within this DCP apply to development on the subject land where not varied by this part.

#### L11.3 Principle objectives for the site

- Ensure that the ecological values of the site (wetland and woodland vegetation) are maintained and enhanced.
- Enhance the vegetated buffer along the frontage of Blackhead Road to visually screen the road for future residents.
- Ensure an effective and efficient road network is achieved.

#### L11.4 Performance Criteria

**Ecological and landscape values:**

1. A vegetation management plan is to be lodged with any development application and must address the following requirements in the locations identified in Figure 20:
    - improvements to the Environmental Protection Area to enhance the ecological (wetland and woodland) values of the site by:
-

- maintaining the surface water regime (current hydrological pattern and volume) that feeds into the wetland
  - avoiding disturbance of the remnant plant communities, particularly the wetland community
  - implementing appropriate weed control measures
  - promoting natural regeneration of native plants including groundcover, understorey and canopy
  - installing permanent fencing to control access
- establish a vegetated buffer along the Blackhead Road frontage which is a minimum of 10 metres wide and planted with native species
  - provide offset planting to compensate for the loss of vegetation associated with the development. The offset planting is to be provided in the Environmental Protection Area and vegetated buffer and must be:
    - provided at a ratio of 2 trees for each native tree that is removed. At the time of lodgement of the development application an inventory of trees is to be undertaken to determine the number required. The number of trees present on the site may change over time. The minimum number of trees to be considered in this offset ratio is 70 trees (present on the site at the time of the land being rezoned)
    - of the same species as the native trees being removed (representative of the dry sclerophyll forest vegetation community)
    - appropriately managed to ensure an 80% survival rate after 12 months and replacement planting where required.

The vegetation management plan is to:

- provide a maintenance regime to ensure the ecological and landscape objectives are maintained. To achieve this outcome, the vegetation management plan should be implemented early in the development of the site
  - ensure effective ecological and landscape outcomes at the time the use commences through the planting of local native tube stock and at an appropriate density
  - be registered on the title of the affected land through a Section 88b instrument under the Conveyancing Act 1919.
2. Land included in the Environmental Protection Area, must remain in single ownership to minimise disturbance of the site. This land must form part of one of the adjoining residential lots. Any construction proposed on this lot is to be located outside of land included in the Environmental Protection Area.
  3. Ensure the water quality of the site is maintained or improved.

**Traffic:**

4. Vehicular access to/from the site will be via southern extension of The Pulpit. Provision will be made in any subdivision of the land for public road connections to Lot 62 DP 1077935 (east) and Lot 1 DP 242332 (west) to facilitate access for future development of those lands.

No vehicular access is to be provided directly to Blackhead Road, other than restricted emergency access to enable residents and emergency services access during bushfires.



## **5 PLANNING PROPOSAL FOR 353 - 465 KOLODONG ROAD, TAREE**

**Report Author** Angela Tinlin, Town Planner - Strategic

**File No. / ECM Index** S1436

**Date of Meeting** 14 February 2018

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### **SUMMARY OF REPORT**

The planning proposal aims to change the rural zone of Lot 6 DP 614114, Lots 52, 53 and 54 DP 1042462, Lot 3 DP 607547, Lots 7 and 8 DP 1170882, and Lots 5 and 6 DP 833772 from rural to residential to enable the expansion to the Taree township. The planning proposal will involve amendments to the *Greater Taree Local Environmental Plan 2010* (LEP 2010).

### **SUMMARY OF RECOMMENDATION**

That the planning proposal (Attachment A) be referred to the Minister for Planning for a Gateway determination and plan making delegation. Consultation to be undertaken with agencies and the community in accordance with the Gateway determination.

### **FINANCIAL/RESOURCE IMPLICATIONS**

All required studies and fees in association with the planning proposal are paid by the applicant. The application is assessed on a user-pays basis in accordance with Council's fees and charges.

### **LEGAL IMPLICATIONS**

The planning proposal has been prepared in accordance with *A guide to preparing planning proposals* as required under Section 55(3) of the *Environmental Planning and Assessment Act 1979*.

### **ATTACHMENTS**

A: Planning Proposal.

Attachment A has been circulated in hard copy to the Councillors and Senior Staff, however this Attachment is publicly available on Council's website.

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### **BACKGROUND**

#### **The site**

The subject site is located along Kolodong Road and Wingham Road, Taree (Lot 6 DP 614144, Lots 52, 53 and 54 DP 1042462, Lot 3 DP 607547, Lots 7 and 8 DP 1170882, and Lots 5 and 6 DP 833772) and has an area of approximately 130ha.

The site is included in the RU1 Primary Production zone and is bordered by farmland and residential development along Kolodong Road. There are currently a number of uses operating from the site including a childcare centre, school and café. The remainder of the land is cleared farmland and has a history of farming use (refer to the site location map in Annexure A).

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## The process

On 18 November 2015, the applicant lodged a planning proposal (formerly known as a rezoning application) to include part of the site in the R1 General Residential zone. A site inspection was undertaken on 2 December 2015 with Council staff. Discussions with the applicant revealed that consent of all owners had not been confirmed at the time of initial lodgement. As a result, the assessment of the planning proposal was delayed until confirmation of owners support was received on 25 July 2016.

The zone change under the *Greater Taree Local Environmental Plan 2010* would enable the expansion of the township of Taree. The Planning proposal (Attachment A) shows the proposed zones. This land is identified in the NSW State Government's *Mid North Coast Regional Strategy* and subsequently the *Hunter Regional Plan 2036* for future urban development.

When Council merged, consultation was undertaken with the NSW Department of Planning and Environment (DPE) on a prioritised work program for the new Council. DPE expressed concerns with supporting the rezoning as there appeared to be sufficient supply of zoned residential land in Taree. DPE requested that a supply and demand assessment be prepared to justify the rezoning. This work has now been completed for Taree and a summary of the findings is included later in this report.

In response to Council's request, the proponent has amended the planning proposal to address some outstanding issues. The final planning proposal was lodged with Council on 27 November 2017 (see Attachment A). A summary of the assessment and recommendations for additional studies is outlined in this report.

The process for considering a planning proposal is shown below. This application is currently in the early stages of the process.

 Application lodged (Nov 2015)	 Council Report (Feb 2018)	Gateway Determination (April 2018)	Prepare additional studies (May-June 2018)	State + community consultation (July-Aug 2018)	Council Report (Sept-Oct 2018)	Make the plan (Nov-Feb 2019)
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## DISCUSSION

The site has been identified as a future urban release area since the release of the *Mid North Coast Regional Strategy* in 2006. The planning proposal (Attachment A) examines the extent of residential proposed, any environmental or rural constraints and the infrastructure requirements.

The assessment of the planning proposal has identified that the land is generally suitable for residential purposes, subject to additional studies or consultation with State agencies being undertaken.

It is anticipated that an amendment to the *Greater Taree Development Control Plan 2010* (DCP) may also be required in the form of a Local Area Plan, to clearly identify future development requirements specific to the site. Once drafted, the Local Area Plan will be reported to Council for endorsement for community engagement.

The following is a summary of the main issues and findings associated with the rezoning:

- **Residential Demand**

An assessment of available land in Taree was undertaken which identified that sites providing equivalent residential amenity are in high demand. There are large areas of land currently zoned residential, but many of these are subject to a number of constraints including vegetation, ownership and location. Many of these sites have remained undeveloped for over 10 years, whereas sites with a higher level of amenity like Taree West, have been significantly developed over an 8 year period.

When Taree West was fully developed, the level of development dropped significantly in Taree. It appears that people then sought residential sites in coastal locations to meet their lifestyle needs like Old Bar and Harrington.

The conclusion of this assessment was that while there is a large amount of vacant land included in the residential zone, much of it is constrained and given the lead time for land development it is appropriate to commence the rezoning of the next major release area. The Kolodong site offers an opportunity for residential land to become available on the market that offers a high level of residential amenity with the rural and river outlook. Based on this assessment it is recommended to proceed with the planning proposal.

- **Traffic**

Council recommends that a full traffic assessment report be undertaken for this rezoning to determine the effects on Kolodong Road and Wingham Road with recommendations for the necessary upgrading for these roads and intersections to cater for the additional traffic from this development.

Traffic requirements outlined in this report will be contained in a future DCP amendment.

- **Cultural heritage assessment**

The site has been cleared and used for rural activities for a number of years. An AHIMS search has been undertaken which did not identify any Aboriginal sites or places on the land or surrounding area. An Aboriginal Cultural Assessment will be required to determine if there are any potential Aboriginal cultural values on the site. This assessment will be undertaken after the Gateway determination.

- **Rural lands**

Consultation is required with NSW Department of Primary Industries (DPI) to determine the extent of good quality agricultural lands. The delineation of the zone boundary between rural and residential land was determined by utilising the existing natural low ridge as a boundary. The proposed urban zoned areas occupy part of the Class 3 (reasonable quality agricultural land as identified in maps prepared in consultation with the NSW Department of Agriculture in 1992) area over the subject site. The majority of the area is proposed to remain in the RU1 zone to be utilised for agricultural purposes. The 1992 study involved detailed investigation of the land and the rural capability of the soils. DPI are currently reviewing their mapping and need to be consulted to determine the extent of good quality agricultural lands.

DPI will also be consulted on measures to minimise potential land use conflicts between the rural and residential lands. Measures will be incorporated into a DCP and may include the provision of public roads or open space to provide separation along with appropriate landscaping.

Consultation with the NSW Department of Primary Industries (Minerals and Petroleum) will also be undertaken to confirm that the proposal will not impact on mining and extractive industries. A land contamination preliminary investigation will be undertaken following a gateway determination to determine if any contamination is present on the land that would require remediation.

- ***Stormwater***

The proposed development will generate increased stormwater run-off from the land. The proposed rezoning area is above the 1% AEP flood level. The natural drainage system for the land provides suitable opportunities for drainage of future development. Future development of the land must provide a suitable storm water drainage system with control of flows (on-site detention system) and water quality. A preliminary stormwater assessment is required to determine stormwater discharge and quality objectives, elements and features to be included in a DCP.

- ***Bushfire***

The subject land is partly identified as Bushfire prone land. Consultation with NSW Rural Fire Service will be required following the Gateway determination.

- ***Environmental values***

The site is relatively cleared and used for rural purposes. A small area of remnant native woodland is located in the north western corner of the site. It is proposed to include this vegetation in the E2 Environmental Conservation zone. Further investigation of koala utilisation of the vegetation in the proposed E2 zone will be undertaken following a Gateway determination to confirm the vegetation is not essential for koala populations in the area.

- ***Serviceability of the site***

Serviceability of the site will be confirmed following a Gateway determination.

- ***Residential lot size***

The applicant requested a minimum lot size for the R1 General Residential zone to be 600m<sup>2</sup> which is not consistent with the 450m<sup>2</sup> lot size applied to the General Residential zone. It is proposed to maintain the 450m<sup>2</sup> minimum lot size to be consistent with the development standards applied across the MidCoast Council area and to be in accordance with 117 Ministerial Direction which requires that the planning proposal must “not contain provisions which will reduce the permissible residential density of land”. The planning proposal has been amended to require a minimum lot size of 450m<sup>2</sup> in the General Residential zone.

In summary, the land is generally suitable for residential purposes, subject to the above additional studies or consultation with State agencies being undertaken. It is proposed to proceed for a Gateway determination from the NSW Department of Planning and Environment.

Given the planning proposal is consistent with the long term planning for this area, it is proposed to seek delegation to undertake the final stages of making the plan. This involves Council's Strategic Planners working directly with Parliamentary Counsel to draft the LEP provisions, and the General Manager having the delegated authority to recommend approval of the proposed amendment. The use of delegations accelerates the rezoning process.

## **CONSULTATION**

Consultation with the following agencies will be undertaken following a Gateway Determination:

- NSW Rural Fire Service (RFS).
- NSW Office of Environment and Heritage (OEH).
- NSW Roads and Maritime Service (RMS).
- Department of Primary Industries.
- MidCoast Council Water Services.
- Department of Education and Training.
- Department of Health - Hunter New England.

The Gateway determination will outline the community consultation requirements for this project. The community consultation will occur for a minimum of 28 days. Consultation will involve an advertisement in the local paper, letters to adjoining landowners and information being available at Council offices (Taree and Forster), Taree and Wingham Libraries and on Council's website.

## **COMMUNITY IMPACTS**

The planning proposal is anticipated to have a positive community impact by providing for additional urban living within the township of Taree, which will also support the existing services in the locality. Any impacts identified during the community consultation will be reported to Council.

## **ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN**

The planning proposal is consistent with Strategy 17 of the *Manning Valley Community Plan 2010-2030* which is to ensure adequate provision of appropriately zoned land that is suitable for the needs of all economic sectors of the local community.

This site was originally identified as a future urban release area in the *Taree Wingham Growth Plan 1990* and more recently in the *Mid North Coast Regional Strategy 2006-31* and subsequently the *Hunter Regional Plan 2036*. Although the areas identified in this planning proposal vary slightly from the strategies, it is considered consistent with the aim of the strategy.

## **TIMEFRAME**

The Gateway determination will provide a timeframe for state agency consultation, community consultation and completing the planning proposal.

## **BUDGET IMPLICATIONS**

The planning proposal is assessed on a user-pays basis. All required studies and consultant fees are paid by the applicant.

## **RECOMMENDATION**

1. That a request be made for a Gateway determination from the Department of Planning and Environment, pursuant to the *Environmental Planning and Assessment Act (EP&A Act) 1979*, in relation to the planning proposal contained in Attachment A.
2. That community engagement be undertaken on the planning proposal upon receipt of a Gateway determination.
3. The Department of Planning and Environment be advised that Council requests the use of delegations in respect of the Minister for Planning's plan making function under section 59 of the *EP&A Act 1979* for the planning proposal.
4. That consultation with State Government agencies and service authorities be undertaken in accordance with the Gateway determination.



## **6 TAFE NSW TEMPORARY LICENSE - GREAT LAKES (MINIMBAH) LANDFILL**

**Report Author** Peter Brabant, Projects Coordinator

**File No. / ECM Index** Waste - Minimbah Landfill

**Date of Meeting** 28 February 2018

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### **SUMMARY OF REPORT**

This report provides information on arrangements between MidCoast Council and TAFE NSW regarding a Temporary Licensing Agreement at Great Lakes (Minimbah) Landfill for the purposes of TAFE undertaking student training in Certificate III Civil Construction.

### **SUMMARY OF RECOMMENDATION**

That Council note the information included in this report.

### **FINANCIAL/RESOURCE IMPLICATIONS**

Agreement to a Temporary Licensing Agreement is contingent on any arrangement having cost neutral or positive cost and resourcing implications to Council.

### **LEGAL IMPLICATIONS**

Nil.

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### **BACKGROUND**

MidCoast Council was contacted by Andrew Latimore of TAFE NSW in late 2017 seeking the availability of a site for TAFE NSW to deliver a Certificate III in Civil Construction. TAFE NSW has previously had a successful temporary license with Nambucca Council and are seeking to mirror the same arrangement within the Forster area.

Great Lakes (Minimbah) Landfill has been developed to accommodate landfilling activities following the closing of Tuncurry Landfill which was operated by the former Great Lakes Council. On the formation of the merged MidCoast Council, waste operations were consolidated, and all waste is currently sent to Bucketts Way Landfill Taree. A strategic review of waste operations is currently underway, and Minimbah Landfill is currently on hold pending that strategic review. It is anticipated that should a strategic review recommend the immediate opening of Landfill, that could be operationally ready within a 3 month window.

MidCoast Council currently operates a quarry within the footprint of the Landfill site, and surrounding properties owned by MidCoast Council are agisted with cattle. The interaction of the various stakeholders requiring access to the landfill site can be adequately managed by agreement between all groups and by maintaining shared access routes.

TAFE NSW has described the proposed training delivery activities as follows:

- A maximum area of 70m x 60m for plant operation and earthworks activities.
  - A fenced construction site using, in the first instance, temporary construction site fencing.
  - The earthworks onsite itself would consist of a number of areas for different plant operations:
-

- Compacted area for roller operations.
- Batters and mounds for excavator operations.
- Excavations to a maximum depth of 1.5m for pipe laying and dewatering of site training.
- Stockpiles of material for loading and moving material.
- Area for manoeuvring of plant and loading trucks etc.
- The activity would be managed to minimise impact of the operations. For example:
  - o Establishment and execution of a site sediment and erosion control plan which would include use of sediment fencing, covering of stockpiles.
  - o Use of drums or tanks for dewatering training to minimise water wastage and impact of water laden work areas.
  - o Appropriate bunding and containment for storage of fuels and oils.
  - o Watering of site and material to suppress dust.
- The site would have established Safety Management Procedures including:
  - Weekly review of the Safety Management Procedures and risk management plan

## **DISCUSSION**

MidCoast Council Waste Operations has been in internal consultation with Property Management to consider and prepare the Temporary License Agreement and Council's insurance advisors to ensure the appropriate insurances are in place. TAFE students will actually undertake meaningful construction works on site.

## **CONSULTATION**

05 January 2018 - Site Inspection Meeting Landfill with TAFE NSW - Peter Brabant (MCC), Andrew Latimore (TAFE), Alacia Bales (TAFE).

12 January 2018 - Site Inspection Meeting Landfill with TAFE NSW - Peter Brabant (MCC), Leonie Cooke (MCC), Stephen Gregory (TAFE), Alacia Bales (TAFE), Russell Adams (TAFE), Marty (TAFE Trainer).

The key stakeholders in the preparation of this report include the Waste Division, Property Management Section and Engineering Operations South Sections.

The cattle owner utilising the neighbouring Council properties for agistment has been noticed by mail.

## **COMMUNITY IMPACTS**

It is anticipated that the agreement with TAFE NSW would have a positive community impact in the following ways:

- A number of students currently enrolled for the course are from the local Nabic area and would benefit from a local project.
- The site offers some real world exercises in Civil Construction for TAFE students.
- Positive community impact of government bodies working in consultation with each other to provide positive training outcomes.
- Supports the upskilling of local people in Civil Construction, an area of skill that will become in higher demand throughout the region with the MidCoast Roads and Bridges Program.
- An external stakeholder utilising the site will improve the transparency of the site to the community and dispel some local rumours surrounding the activities being undertaken at Landfill.

No negative impacts are anticipated.

## **ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN**

Landfill finalisation for operations is currently on hold pending a strategic review of waste operations following the merger. A temporary license permits the site to be utilised in a productive and meaningful way until its operational future is determined.

## **TIMEFRAME**

The Temporary License Agreement will be for a period of 6 months with an option for the license to extend. There will be an option for MidCoast Council to cancel the agreement with a 3 month notice should waste operational requirements for the site change at short notice.

TAFE NSW is targeting the commencement of teaching activities on site commencing 29 January 2018.

## **BUDGET IMPLICATIONS**

A negotiated weekly fee of \$280 has been agreed to.

## **RISK CONSIDERATION**

Each individual project is proactively managed to reduce risks associated with the project.

## **RECOMMENDATION**

That Council note the information included in this report.

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## DIRECTOR COMMUNITY SPACES & SERVICES

### 7 CHILD PROTECTION POLICY

Report Author Lyndie Hepple, Co-ordinator, Community Strengthening

File No. / ECM Index Child Protection Legislation; Policy Register - General

Date of Meeting 14 February 2018

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#### SUMMARY OF REPORT

To bring back the draft Child Protection Policy to Council for adoption.

#### SUMMARY OF RECOMMENDATION

That the draft Child Protection Policy be adopted.

#### FINANCIAL/RESOURCE IMPLICATIONS

Implementation of the policy and associated procedures will be undertaken within existing resources.

#### LEGAL IMPLICATIONS

Council has an obligation to comply with the Child Protection (Working with Children) Act 2012. Adoption of the draft Child Protection Policy and implementation of the requirements set out in the Procedures endorsed by MANEX will allow Council to meet those requirements.

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#### BACKGROUND

Council at its ordinary meeting of 22 November 2017 considered a report on a draft Child Protection Policy. At this meeting it was resolved that:

*“the matter be deferred for further information and a report back to Council”*

The matter is now being brought back to Council for further consideration.

#### REPORT

In 2012, as part of changes to the child protection system, the Child Protection (Working with Children) Act 2012 was enacted. This Act commenced on 15 June 2013.

The object of the Act is to protect children:

- a) *By not permitting certain persons to engage in child-related work, and*
- b) *By requiring persons engaged in child-related work to have working with children check clearances.*

Procedures are in place to enact the provisions of the Child Protection Policy, including processes in relation to Working with Children Checks, Mandatory Reporting, Dealing with Reports of Unacceptable Behaviour and Working with Children. These procedures have been endorsed by MANEX and implementation is under way.

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The draft Child Protection Policy is provided to Council as Annexure A and sets out Council's position in relation to its responsibilities under the Child Protection Act 2012.

This draft policy was presented to the November 2017 Council meeting, where Council resolved to defer the matter for further information and report back to Council. Further information, in the form of procedures underpinning the policy, is provided as Annexures B and C.

### **RECOMMENDATION**

That the draft Child Protection Policy provided in Annexure A be adopted.

**ANNEXURES**

A: Draft Child Protection Policy



**Policy**

<b>Name of Policy:</b>	Child Protection		
<b>Policy Code:</b>			
<b>Adoption by Council</b>		<b>Minute No.</b>	
<b>Last Review Date:</b>			
<b>Review Timeframe:</b>	4 Years		
<b>Next Scheduled Review Date:</b>	March 2022		
<b>Related Legislation:</b>	Local Government Act, 1993 Children and Young Persons (Care and Protection) Act, 1998 Child Protection (Working with Children) Act, 2012 Adoption Act, 2000 Child Protection (Working with Children) Regulation, 2013 Children and Young Persons (Care and Protection) (Child Employment) Regulation, 2015 Children and Young Persons (Care and Protection) Regulation, 2012 Adoption Regulation, 2015 Child Protection Legislation Amendment Act, 2015 Commission for Children & Young People Act 1998: Child Protection (Prohibited Employment) Act, 1998 Ombudsman Act, 1974 (Amendment 68); Ombudsman Amendment (Child Protection and Community Services) Act, 1998 Community Services (Complaints, Reviews and Monitoring) Act, 1993		
<b>Associated Policies/Documents:</b>	MidCoast Council Child Protection Procedure MidCoast Council Working with Children Check Procedure MidCoast Council Code of Conduct MidCoast Council Vacancy Management protocols and associated documents MidCoast Council Complaint Handling Policy and associated documents		
<b>Responsible Department:</b>	Community Services		

### **Policy Objective**

The objectives of this policy are to:

- prevent harm to children and young people accessing Council services through effective risk management;
- guide Council officers on how to behave with children and young people in the organisation; and
- promote the participation of children and young people in the organisation and make it a child-safe organisation.

### **Policy Statement**

MidCoast Council ('Council') is committed to ensuring that children and young people who access Council services are safeguarded from harm.

### **Coverage of the Policy**

This policy applies to all Council services and Council officers.

### **Strategic Plan Link**

Direction 4 – Civic Leadership – Objective 12 – Provide good governance.

### **Policy Content**

Council will:

- maintain rigorous and consistent recruitment, screening and selection processes and ensure Council officers working in identified child-related roles hold a valid Working with Children Check;
- ensure that Council officers engaged in identified child-related roles are supported, supervised and trained to deliver child-safe services;
- maintain clear standards of conduct for Council officers working with children and young people;
- maintain robust procedures to enable concerns or complaints regarding child protection to be raised and managed;
- ensure the private information of children and young people accessing Council services is managed effectively; and
- ensure that Council's policies, procedures and associated documents regarding child protection are effectively promoted, enforced and reviewed.

## **Definitions**

**Child/ren** is defined as a person who is under the age of 16 years.

**Child-related employment** is defined as work in a specific, child-related role or face-to-face contact with children in a child-related sector, as per the Child Protection (Working With Children) Act and Regulation.

**Council officer** is defined as any person who carries out work on behalf of Council including, but not limited to, Council employees, contractors, sub-contractors, labour hire employees, apprentices, trainees, work experience students and volunteers.

**Designated agency** is defined as an agency accredited in accordance with the regulations under the Children and Young Persons (Care and Protection) Act 1998 to provide out-of-home care services. In respect to reporting allegations against employees (as per the NSW Ombudsman Act 1974) designated agencies are: Community Services, Department of Education and Training, Department of Health (including area health services), Juvenile Justice, Corrective Services, NSW Sport and Recreation, NSW Ageing, Disability and Home Care, Non-Government Schools, Child Care Centres, and agencies that provide substitute care to children, whether in foster care or in a residential care facility.

**Mandatory reporter** is defined as an individual required under Section 7 of the Children and Young Persons (Care and Protection) Act 1998 to report to the Child Protection Helpline when he/she has reasonable grounds to suspect a child is at risk of significant harm from abuse or neglect, and those grounds arise during the course of or from the person's work.

**Risk of significant harm** is defined as a child/young person is at risk of significant harm if the circumstances that are causing concern for the safety, welfare or well-being of the child/young person are present to a significant extent ('significant' being sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent).

**Reportable conduct** is defined as any sexual offence or misconduct committed against, with or in the presence of a child; or any assault, ill treatment or neglect of a child; or any behaviour that causes psychological harm to a child, whether or not, in any case, with the consent of the child.

**Supervisor** is defined as a Council officer in a supervisory position.

**Young person** is defined as a person who is aged up to 18 years.

## **Responsible Officer**

Manager Community Services.

## **Attachments**

Nil.

B: Child Protection Procedure



**Procedure**

<b>Name:</b>	Child Protection	
<b>Procedure code:</b>		
<b>Approved by MANEX/Manager:</b>	<b>Date:</b> 14/11/17	<b>By:</b> MANEX
<b>Last review date:</b>	November 2017	
<b>Review timeframe:</b>	2 years	
<b>Next scheduled review date:</b>	March 2020	
<b>Related legislation:</b>	Local Government Act, 1993 Children and Young Persons (Care and Protection) Act, 1998 Child Protection (Working with Children) Act, 2012 Adoption Act, 2000 Child Protection (Working with Children) Regulation, 2013 Children and Young Persons (Care and Protection) (Child Employment) Regulation, 2015 Children and Young Persons (Care and Protection) Regulation, 2012 Adoption Regulation, 2015 Child Protection Legislation Amendment Act, 2015 Commission for Children and Young People Act 1998: Child Protection (Prohibited employment) Act, 1998 Ombudsman Act 1974 (Amendment 68); Ombudsman Amendment (Child Protection and Community Services) Act, 1998 Community Services (Complaints, Reviews and Monitoring) Act, 1993 Mandatory Reporter Guide, 2010	
<b>Association policies/documents:</b>	MidCoast Council Code of Conduct MidCoast Council Child Protection Policy MidCoast Council Working with Children Check Procedure MidCoast Council Vacancy Management protocols and associated documents MidCoast Council Complaint Handling Policy and associated documents MidCoast Council Work Health and Safety management system	
<b>Responsible division:</b>	Community Services	

## **Purpose**

This procedure supports Council's Child Protection Policy and outlines the processes Council will implement in order to ensure that children and young people who access Council services are safeguarded from harm.

## **Process**

### **1. Recruitment**

The processes for design, recruitment, screening and selection for child-related roles are outlined in Council's protocols and procedures regarding vacancy management and working with children checks.

### **2. Staff support**

All new Council officers in child-related roles receive a copy of Council's Child Protection Policy and Procedure, Code of Conduct and Complaint Handling Policy prior to commencement.

All Council officers in child related roles:

- have a more senior officer assigned to support and supervise their work; and
- undertake training and refreshers on mandatory reporting obligations.

### **3. Staff conduct**

All Council officers are required to comply with Council's Code of Conduct. In addition, Council officers engaged in child-related roles will:

- treat children and young people with dignity and respect at all times;
- communicate with children and young people in an age-appropriate manner;
- listen to and respond appropriately to the views and concerns of children and young people;
- always ensure another adult is present or in sight when working with children and young people;
- set clear boundaries about appropriate behaviour between themselves and the children and young people with whom they work;
- only have physical contact with a child or young person in ways that are appropriate to the officer's professional or agreed role and responsibilities as well as the child's age;
- be a positive role model to children and young people;
- immediately record, report and act on concerns or complaints regarding child safety in accordance with Council's policies and procedures;
- ensure that information regarding children and young people accessing Council services is not disclosed, verbally or in writing, to any third party who is not authorised to receive that information, unless otherwise required by law.

Council officers will not:

- develop any 'special' relationships with a child or young person that could be seen as favouritism, such as the offering of gifts or special treatment;
- do things of a personal nature that a child or young person can do for themselves, such as toileting or changing clothes, unless this is part the Council officer's role and in line with an agreed client/participation plan;
- communicate with a child or young person in a way that is likely to humiliate, frighten or distress them;
- swear or use inappropriate language in front of a child or young person;
- smack or hit a child or young person, or subject them to any form of corporal punishment, social isolation, immobilisation, sexual suggestion, offence or misconduct;
- direct or encourage a child or young person to perform in a sexually provocative or unsafe manner;
- use tobacco products or possess or be under the influence of alcohol or illegal drugs at any time while working with a child or young person, in line with Council's Work Health & Safety management system;
- take photographs or other images of a child or young person unless for the purpose of communications/promotion and where a consent form has been signed by the child or young person's parent/guardian for that purpose; and
- take any mobile phone or recording device into the bathroom if assisting a child or young person.

#### 4. Concerns and complaints

Council officers in child-related roles are considered mandatory reporters under the Children and Young Persons (Care and Protection) Act ('the Act').

Council mandatory reporters will utilise the Family and Community Services' Online Mandatory Reporter Guide (MRG) if they have concerns that a child or young person is at risk of being neglected or physically, sexually or emotionally abused.

Council mandatory reporters will complete the MRG on each occasion they have risk concerns, regardless of their level of experience or expertise.

If any Council officer has concerns about another Council officer's conduct in regard to child safety, they will report their concerns to Council's Co-ordinator Community Strengthening or Manager Human Resources.

If members of the public have concerns about a Council officer's conduct in regard to child safety, they can raise their concerns in accordance with Council's Complaint Handling Policy and Procedure.

Any concerns or complaints regarding child safety must be reported as soon as practicable.

#### **Review and revision**

This procedure is reviewed every two years.

#### **Responsible officer/department/section**

Manager Community Services.

#### **Attachments**

Nil.

C: Working With Children Check Procedure.



## Procedure

<b>Name:</b>	Working with Children Checks	
<b>Procedure code:</b>		
<b>Approved by MANEX/Manager:</b>	<b>Date:</b> 14/11/17	<b>By:</b> MANEX
<b>Last review date:</b>	November 2017	
<b>Review timeframe:</b>	2 years	
<b>Next scheduled review date:</b>	March 2020	
<b>Related legislation:</b>	Local Government Act, 1993 Children and Young Persons (Care and Protection) Act, 1998 Child Protection (Working with Children) Act, 2012 Adoption Act, 2000 Child Protection (Working with Children) Regulation, 2013 Children and Young Persons (Care and Protection) (Child employment) Regulation, 2015 Children and Young Persons (Care and Protection) Regulation, 2012 Adoption Regulation, 2015 Child Protection Legislation Amendment Act, 2015 Commission for Children and Young People Act 1998: Child Protection (Prohibited Employment) Act, 1998 Ombudsman Act 1974 (Amendment 68); Ombudsman Amendment (Child Protection and Community Services) Act, 1998 Community Services (Complaints, Reviews and Monitoring) Act, 1993 Mandatory Reporter Guide, 2010 Local Government (State) Award	
<b>Association policies/documents:</b>	MidCoast Council Code of Conduct MidCoast Council Child Protection Policy MidCoast Council Child Protection Procedure MidCoast Council Vacancy Management protocols and associated documents MidCoast Council Complaint Handling Policy and associated documents MidCoast Council Work Health and Safety management system	
<b>Responsible division:</b>	Community Services	

## **Purpose**

This procedure supports Council's Child Protection Policy and outlines the processes Council will implement to ensure that all Council officers in child related roles are assessed and deemed fit to work with children.

## **Process**

### **1. Job design**

All new Council positions are assessed as part of the job design and recruitment request process to determine whether they are deemed child-related roles.

Identified child-related roles are documented in the Child-Related Roles Register, provided as Attachment A. This register may be amended from time to time.

Roles have their 'Child-related' status identified in their Position Description. The requirement for a current Working with Children Check (WWCC) is included in the selection criteria for such roles.

### **2. Recruitment and selection**

All advertisements for child-related roles include notification that a WWCC is required for the role.

Applicants for a child-related role will be required to provide their WWCC clearance number in their application. Offers of employment will be conditional upon a 'clearance' result when the check is verified online.

Job applicants who have applied for a WWCC, but have not yet received the outcome, may be offered a role subject to receipt of a 'clearance'.

### **3. Checks**

An individual's WWCC status is re-assessed every 24 hours by the Commission for Children and Young People to ensure currency. Both the individual and Council's designated representative (Co-ordinator Community Strengthening) will be notified by the Commission should a check status change from 'Cleared' to 'Bar' or 'Interim Bar'.

- A result of 'cleared' indicates the national police check and review of finding of misconduct involving children resulted in a clear record, and the individual is cleared to work with children;
- A result of 'Interim Bar' indicates the applicant has been barred from working with children whilst awaiting the outcome of a risk assessment. It is an offence to engage this person in child-related work or a child-related role.
- A result of 'Bar' indicates prior relevant criminal record exists, or an individual who was previously cleared to work with children has had their clearance revoked as a result of the outcome from an investigation leading from an interim bar. It is an offence to engage this person in child-related work or a child-related role.

### **4. Renewals**

All existing Council officers in child-related roles are responsible for obtaining and renewing their WWCC. Staff may claim reimbursement of check fees by submitting an expense claim form to the Finance Section. The Manager Community Services is responsible for managing the budget for employment screening checks, including WWCC's.

Council's delegated officers (Co-ordinator Community Strengthening or staff under their direction) are required to validate the check via the Commission for Children and Young People's ('the Commission') secure on-line portal, and record the date of the verification, outcome of the verification process and expiry date of the check.

The Co-ordinator Community Strengthening will maintain a register of Council officers engaged in child-related roles, including their WWCC number, outcome and expiry date. The register is stored in the organisation's electronic records management system, with access limited to relevant staff, in line with Council's privacy requirements.

The Co-ordinator Community Strengthening shall immediately produce the register of child-related positions, WWCC numbers and expiry dates should it be requested by NSW Police or the Commission.

#### 5. Response to non-compliance, bar and interim bar statuses

Where an applicant for a child-related role with Council either refuses to obtain a WWCC or receives WWCC status of 'Interim Bar' or 'Bar', the applicant will not be offered employment with Council.

Where a Council officer engaged in a child-related role refuses to obtain a WWCC on request, they will immediately be removed from the child-related role and have no further contact with children or young people through Council. Such employees may be dismissed at Council's discretion, in accordance with the Award.

Where a Council officer engaged in a child-related role has their WWCC status change to 'Interim Bar' (upon notification by the Commission), they will immediately be removed from the child-related role. Council employees may be given alternative duties if such alternate duties are available, until the outcome of further investigation is known. If no alternate duties are available, then the employee may be suspended, directed to take leave or leave without pay, or have casual work withdrawn, as deemed appropriate by Human Resources in consultation with management, until the outcome of further investigation is known.

Where a Council officer engaged in a child-related role has their WWCC status change to 'Bar', they will immediately be removed from the child-related role and have no further contact with children or young people through Council. Such employees may be dismissed at Council's discretion, in accordance with the Award.

It is noted that under the Child Protection (Working with Children) Act, where Council has formally identified a position as child-related, and dismisses an employee from such a position as a result of their clearance status changing to 'Bar' or 'Interim Bar', then Council is protected for actions of wrongful dismissal by the Act.

Where an investigation is required, or may potentially be required as a result of:

- a Council officer's status change from 'Cleared' to 'Interim Bar' or 'Bar'; or
- an allegation of misconduct against a Council officer be made as a result of his/her actions in the course of their Council duties

the Co-ordinator Community Strengthening will contact the Commission to implement an independent investigation into the matter.

**Review and revision**

This procedure is reviewed every two years.

**Responsible officer/department/section**

Manager Community Services.

**Attachments**

A: MidCoast Council Child-Related Roles Register.

## 8 FOOTPATH ACTIVITIES IN TOWN CENTRES

Report Author Paul De Szell, Director Community Spaces & Services

File No. / ECM Index S503/02

Date of Meeting 14 February 2018

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### SUMMARY OF REPORT

This report seeks Council's approval to expand the current 'Vibrant Spaces' initiative to all town centres across MidCoast Council via a revised Footpath Activities Policy.

### SUMMARY OF RECOMMENDATION

That Council

1. Extend the current Vibrant Spaces initiative to all town centres across MidCoast Council.
2. Rescind all existing policies and procedures which applied to footpath use in the former Local Government Areas.
3. Adopt a revised Footpath Activities in Town Centre Policy as per **Attachment D**.

### FINANCIAL/RESOURCE IMPLICATIONS

The introduction of the revised Policy will see the waiving of fees for outdoor eating licences, A-frame signs and busking licence fees currently applicable in the former Great Lakes Council area and will result in a reduction of revenue in the order of \$30,000. This impact is considered acceptable given the potential economic benefits the expansion of the initiative has to offer the local business community.

Expansion of the Vibrant Spaces initiative will require a review of current administration practices within the Economic Development section which will assume responsibility for the application of the new policy. The approach will be to provide a supportive and educational environment that encourages a safe, vibrant, innovative and fluid use of footpath space which is primarily self-regulated. This approach will support the reallocation of Compliance/Regulatory resources to higher risk matters.

### LEGAL IMPLICATIONS

Nil

### ATTACHMENTS:

- A: Report to Council - Vibrant Spaces Trial - 23 November 2016
- B: Report to Council – Vibrant Spaces - 28 June 2017
- C: Footpath Activities in Town Centres Policy – Adopted June 2017
- D: Revised Footpath Activities Policy - Feb 2018

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

## BACKGROUND

An initial Vibrant Spaces trial was conducted in Taree in 2014. The trial concluded that the most appropriate way to manage footpath space in towns is not through existing regulation but by way of policy. Consequently the original “Footpath Activities in Town Centres” Policy was adopted by the former GTCC in 2015.

Following the merger, a report was presented to Council (November 2016 – see **Attachment A**) seeking a proposed trial extension of the Vibrant Spaces initiative to the town centres of Bulahdelah, Gloucester, Tea Gardens, Hawks Nest, Pacific Palms & Stroud.

The positive outcomes of the trial were reported back to Council in June 2017 and a revised policy, reflecting the expanded area, was adopted. (refer **Attachments B & C**).

## DISCUSSION

Since the implementation of the revised policy there has been:

- positive application of the principles of vibrant spaces in eligible areas
- no complaints received in relation to any “Vibrant Spaces footpath activities”
- no personal injury claims in relation to any “Vibrant Spaces footpath activities”
- positive interest from other Councils and business communities outside the MidCoast area in adopting this approach.

Successful application of the existing policy has seen businesses in excluded areas express interest in utilising the same vibrant spaces principles. Businesses have cited inconsistency, cost and regulation of current footpath licencing arrangements as being impediments to the vibrant and innovative use of the footpath space.

## COMMUNITY IMPACTS

The revised Footpath Activities in Town Centres Policy (**Attachment D**) outlines the principles and activities that will guide practices to ensure the vibrancy and attraction of our town centres and support business development.

The revised Policy contains the following changes:

Change	Description / Impact
Expansion of areas to incorporate all town centres.	This will provide for a consistent approach to town centres across the MidCoast area.  The application of the Policy across the MidCoast will result in a change to how community groups and buskers in some communities currently book spaces for activities such as community stalls or other fundraising activities
Removal of temporary stalls.	It was felt this was a duplication of the provision of community stalls and the definition may cause concern for existing businesses in town centres.
Additional and more prescriptive usage requirements for footpath activities.	Additional guidelines are provided for in the policy to maintain community safety (e.g. compliance with Food Act, requirements around maintaining access) and buskers and community stall holders seeking agreement of adjoining businesses.

<p>Introducing a 3 month limit on the lead in time for community stall holders and busking activities and Council discretion to limit the number of these activities in a given area.</p>	<p>This is to help ensure fair and equitable access to public spaces for a range of community uses.</p>
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**BUDGET IMPLICATIONS**

The waiving of outdoor eating licences and A-frame sign fees currently applied to the Forster and Tuncurry town centres will reduce general revenue by approximately \$30,000 per annum. The majority of this revenue comes from 6 businesses within the Forster Tuncurry area and removal of this cost to businesses is seen as acceptable given the potential economic benefits. Busking fees will also be removed which currently accounts for less than \$250 per year.

**RISK CONSIDERATION**

The use of footpaths typically presents a “low risk” environment supporting the removal of traditional regulatory approaches for the management of footpaths in town centres. The revised policy (**Attachment D**) incorporates additional detail on placement of items and size of signs to ensure the use of footpaths remains low risk. Revision of the policy administration process will require registering parties to supply a certificate of insurance currency at the time of registration.

**POLICY IMPLICATIONS**

Introduction of the new policy will result in the rescission of relevant policies from the former Great Lakes Council.

**RECOMMENDATION**

That Council

1. Extend the current Vibrant Spaces initiative to all town centres across MidCoast Council.
2. Rescind all existing policies and procedures which applied to footpath use in the former Local Government Areas.
3. Adopt a revised Footpath Activities in Town Centre Policy as per **Attachment D**.

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## DIRECTOR WATER SERVICES

### 9 WATER USAGE, WATER RESOURCES AND THE OUTLOOK FOR 2017/18

Report Author Graeme Watkins, Manager Water Management & Treatment

File No. / ECM Index A630097

Date of Meeting 14 February 2018

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#### SUMMARY OF REPORT

The purpose of this report is to provide information on water usage, water resources and the outlook for 2017/18. The outlook for water resources looks poor for the immediate future. Water restrictions have been implemented from 1 February 2018.

#### SUMMARY OF RECOMMENDATION

That the report on water usage, water resources and the outlook for 2017/18 be received and noted.

#### FINANCIAL/RESOURCE IMPLICATIONS

Weather impacts have a major influence on water usage revenue, increasing consumption in dry/hot periods and reducing in wet/cold periods.

#### LEGAL IMPLICATIONS

Nil

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#### BACKGROUND

This report provides Council with information on bulk water usage, water resource data used as the source to supply each scheme and the water resource outlook for the coming three months.

#### DISCUSSION

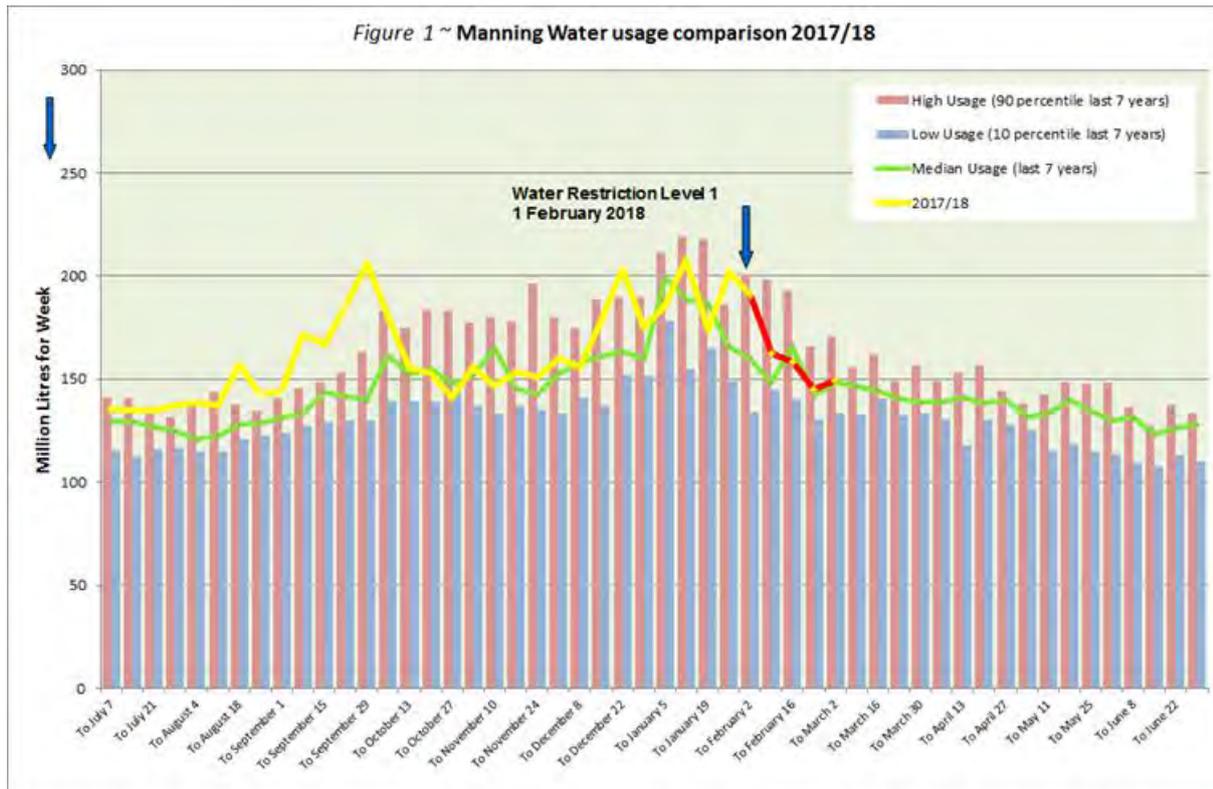
##### Water Usage

During 2017/18 water usage for the Manning scheme has been high from July to September and through December and January due to the extended mild and dry conditions. If current conditions continue and given the below forecast, water consumption will remain at high levels until substantial rain occurs. Water restrictions will now limit demand.

The attached *Figure 1 ~ Manning Water Usage Comparison 2017/18* graphs weekly water usage in the Manning supply compared to the "high", "low" and median comparison lines. The red line shows expected usage for the next four weeks.

As at 31 January 2018, water usage for the Manning scheme in 2017/18 was 4.3% **above** that during 2016/17 and 9.0% **above** the median of usage over the last seven years.

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### Use of water restrictions

Implementation of water restrictions consider flow in river, demand for water from our customers, storage levels, immediate rain outlook (one to two weeks) and season.

Water restrictions have been generally aligned with rural irrigators, so rural and town users cut usage (in the case of town users outside watering) at the same time.

Need for restrictions usually occurs first at Stroud, then those in the Manning. Bulahdelah and Tea Gardens typically much later if at all. On occasions water restrictions have been common for all schemes for ease of administration and demonstration of equity within our service area for a common rate.

Given the current forecast, season and river flow water restrictions have been implemented uniformly across all five water supply schemes due to low water resources in all schemes. The main focus at this stage is with the Manning and Stroud schemes.

### Water Resources as at 31 January 2018:

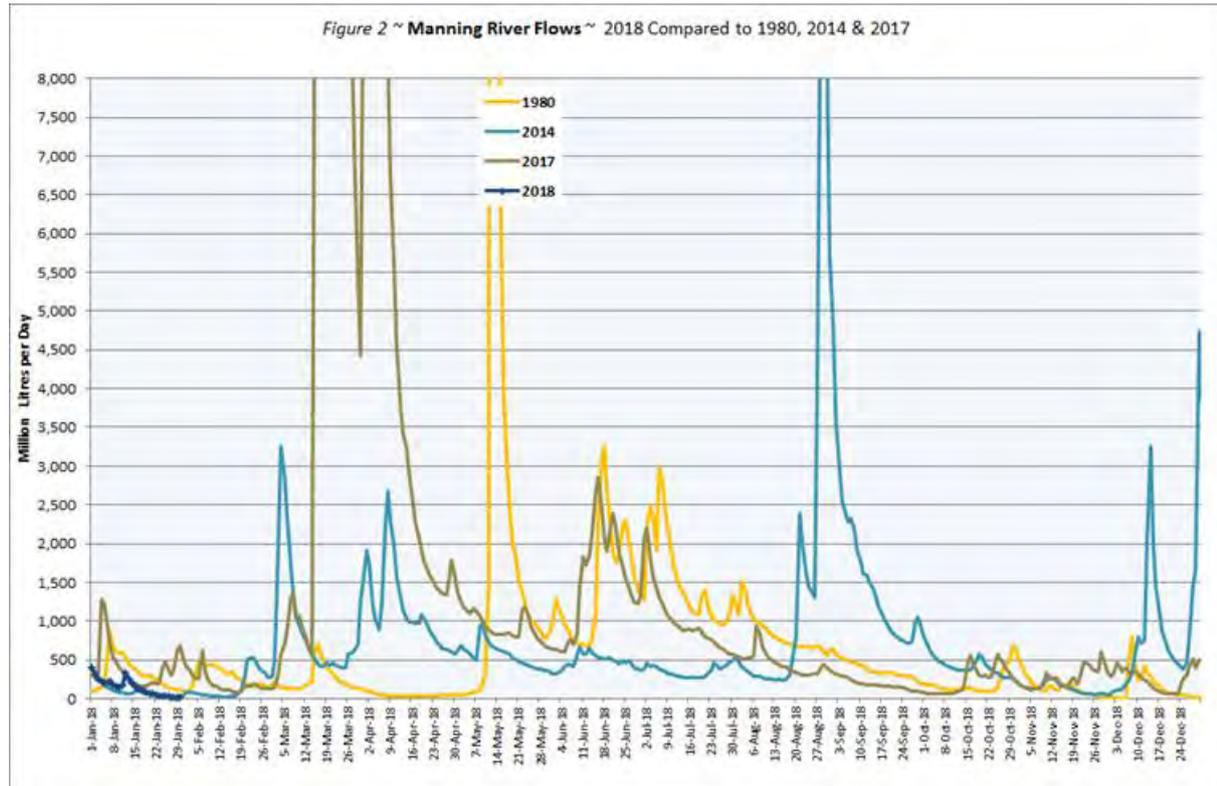
#### Manning River Flows

The current year flows are plotted against other recent dry years in figure 2. The Manning River flow for 2018 at Killawarra had a minor rise during the early part of January however rain has remained limited and as a consequence the Manning is very low at Killawarra. Worst case scenarios have been plotted for 1994, 2002 and the recent year of 2016 for comparison. The current river flows are a similar magnitude to 2014 in recent months.

There have been 10 days so far below 50ML/d at Killawarra, the longest period below 50ML/d was 26 days in 1980 and 2002. The Manning at Killawarra is currently 13ML/d with the lowest recorded of 7ML/d in 1980 and 1981.

Rural irrigators have voluntarily stopped extraction on the lower Manning and MidCoast Water Services also voluntarily ceased extraction on 23 January 2018 to preserve the river flow past the town water supply intake.

The level in Bootawa Dam is currently at 90% or currently 30 to 35 days of supply still available by gravity out of a starting point of 40 to 50 days' supply full. A further 18 to 20 days storage is available via deep pump access. In total Bootawa dam has a full supply of 60 to 70 days.



**Crawford River flows (Bulahdelah scheme)**

The Crawford on river storage is 0.5metre below the fish passage which allows flow, so there is no flow in the Crawford River. Water consumption remains average for this time of year. There is approximately 150+ days remaining in the on river storage.

**Tea Gardens aquifer**

Tea Gardens aquifer water levels are low consistent with other historical events. Water consumption remains average for this time of year. There is no cease to pump for this aquifer.

**Barrington River flows (Gloucester scheme)**

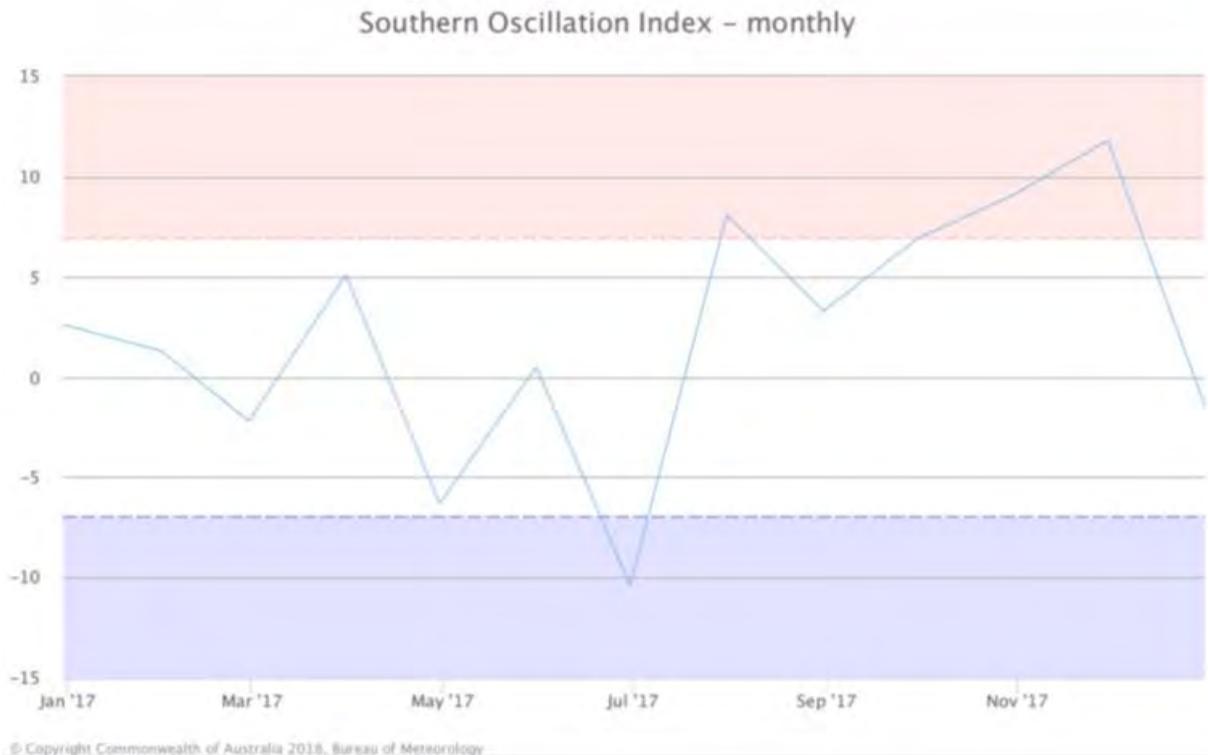
Barrington River has flow of over 44ML/d (no cease to pump for MidCoast Water Services). Water consumption remains average for this time of year. There is no water security for this scheme as there is no storage provided, once the river stops flowing there is no water available, however in over 70 years of river flow data the Barrington River has never completely stopped flowing.

### Karuah River flows (Stroud scheme)

The Karuah River has ceased to flow round 17 January (3.5ML/d cease to pump for MidCoast Water Services). Water consumption remains modest. Off river storage some 50ML is 95% full or equivalent to 80 days remaining.

### Weather Outlook

The Southern Oscillation Index for 2017/18 has remained neutral inferring no clear direction in rainfall.



A weak La Niña pattern continues in the tropical Pacific. This event is likely to be at or near its peak, with most models suggesting this La Niña will end during the southern autumn.

Sea surface temperatures currently show a clear La Niña pattern, with coolest waters concentrated in the eastern Pacific Ocean. Likewise, some atmospheric indicators such as trade winds and cloudiness also show a clear La Niña signal. However, a continuing build-up of warmer water beneath the surface of the western Pacific is a likely precursor to the end of this event.

In order for 2017/18 to be classed as a La Niña year, thresholds need to be exceeded for at least three months. Most climate models surveyed by the Bureau suggest this event is likely to last through the southern summer, and decay in the early southern autumn of 2018, so these thresholds are likely to be met.

La Niña typically brings above average rainfall to eastern Australia during summer, particularly in northern New South Wales and Queensland. However, a weak La Niña will have less influence on Australian rainfall than a strong event. La Niña events can also increase the likelihood of prolonged warm spells for southeast Australia.

The Indian Ocean Dipole (IOD) is currently neutral. IOD events are unable to form between December and April.

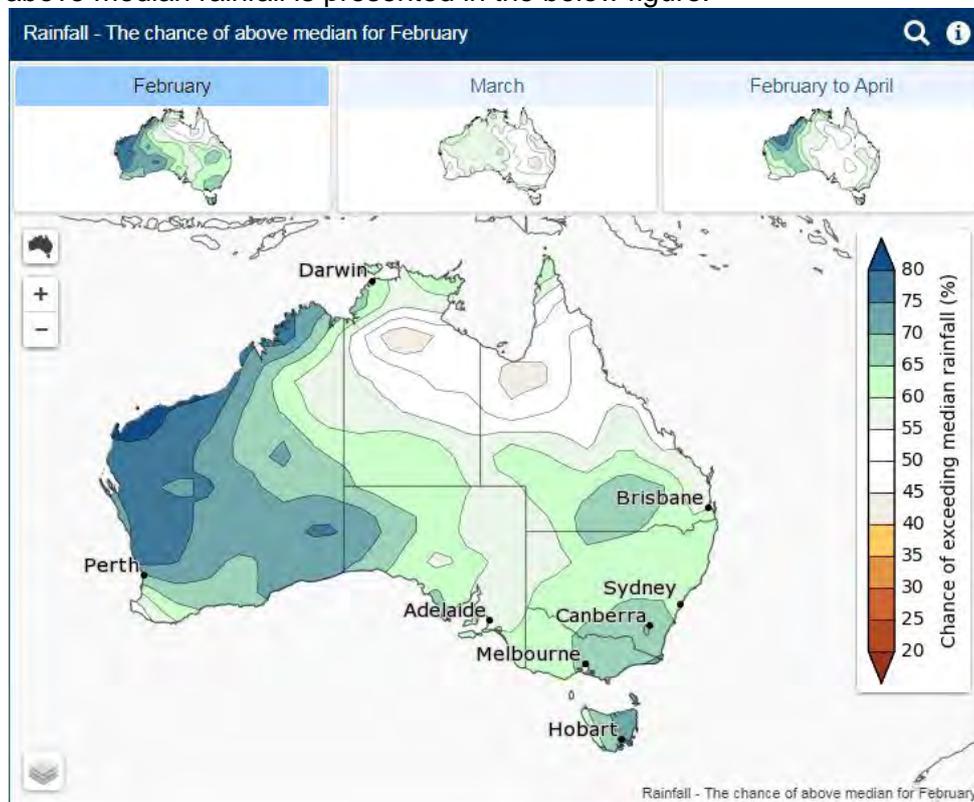


Issued 16 January 2018

**Main rainfall forecast features:**

- A wetter than average February to April is likely for most of WA except the southwest. Smaller patches in the tropical north and the far southeast of the country are also likely to have a wetter three months.
- February is likely to be wetter than average for western and southern Australia, extending into southern Queensland. Chances are highest for western WA, which has a greater than 75% chance of being wetter than average.
- Weak La Niña conditions are present in the tropical Pacific Ocean. Models suggest this event will end by mid-autumn.
- Historical outlook accuracy for February to April rainfall is moderate across much of the eastern half of Australia, western WA, and the Top End of the NT. Elsewhere, accuracy is generally low to very low.
- Our region has a 60% chance of above average rainfall, with average rainfall for this time of the year at its highest.

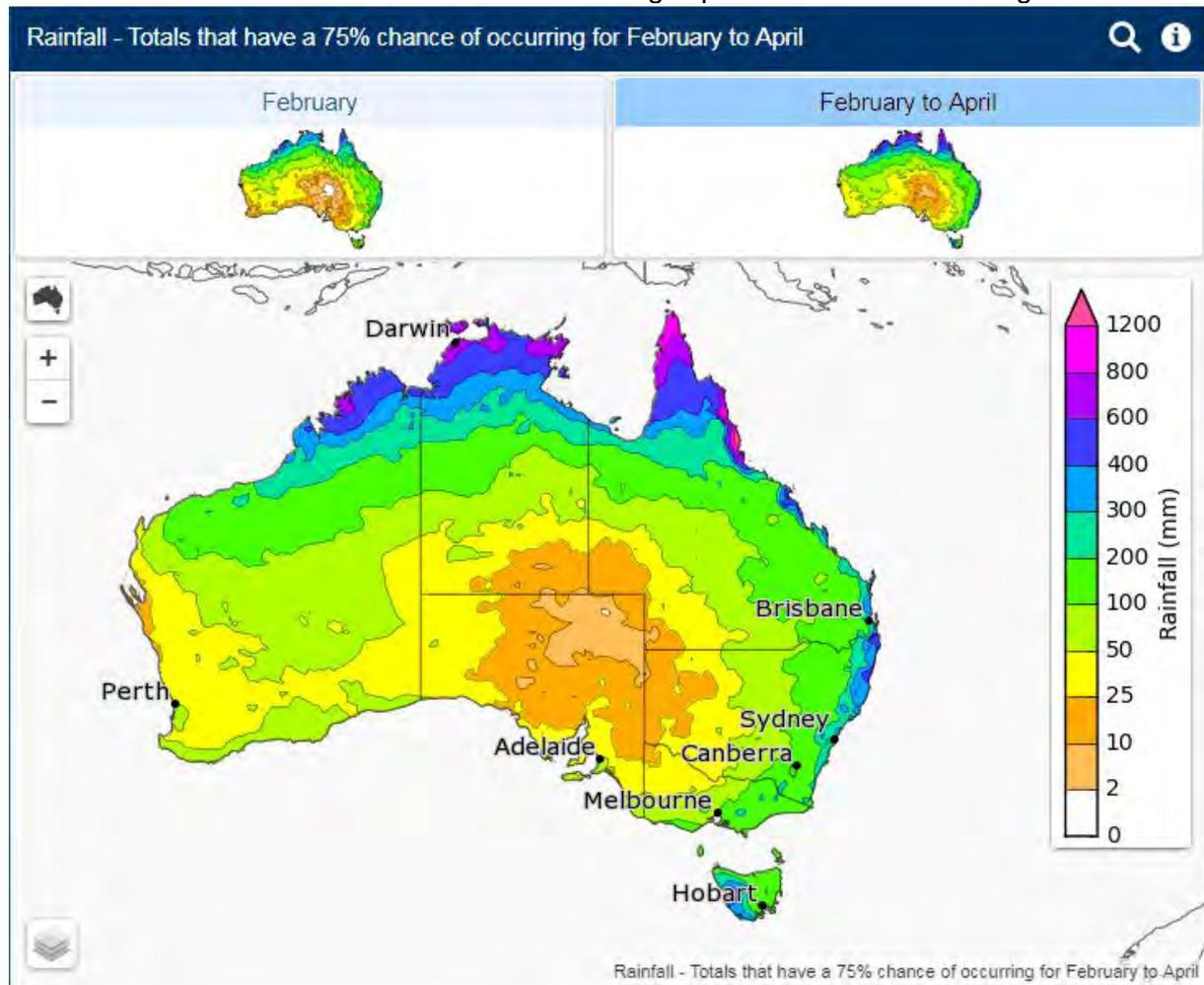
Chance of above median rainfall is presented in the below figure.



Date of issue 25 January 2018 Bureau of Meteorology

Rainfall totals are low within our region between February and April 2018 will remain reasonable between 200 to 300mm for the three month period.

Rainfall totals that have a 75% chance of occurring is presented in the below figure.



Date of issue 25 January 2018 Bureau of Meteorology

## Conclusion

Moderate (Level 1) water restrictions have been introduced uniformly across all schemes. River flows will likely remain low in the short term. The forecast has remained promising however has not materialised in rain on the ground. Consumption is high in the Manning and Stroud while average for other water supply schemes. It is expected that Very High (Level 3) water restrictions would be required in approximately 14 days if river flows persist.

## CONSULTATION

Continue waterwise program for customers and awareness of low river lows

## COMMUNITY IMPACTS

Weather plays a big part in water consumption, with dry and hot periods increasing water usage. MidCoast Water Services continues to issue its waterwise summertime message to remind customers to use their water wisely and efficiently.

## **ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN**

- 1.1.1 Implement a drinking water quality assurance program.
- 1.2.1 Provide timely, accurate and relevant access
- 2.4.1 Identify risks to sustainability and threats to security of supply
- 2.4.2 Provide multiple water quality controls
- 2.4.3 Develop and implement risk controls

## **TIMEFRAME**

For the period February to April 2018.

## **BUDGET IMPLICATIONS**

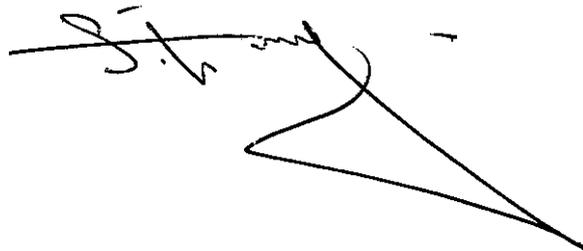
Weather impacts have a major influence on water usage revenue, increasing consumption in dry/hot periods and reducing in wet/cold periods.

## **RISK CONSIDERATION**

Nil

## **RECOMMENDATION**

That the report on water usage, water resources and the outlook for 2017/18 be received and noted.

A handwritten signature in black ink, appearing to read 'Steve Embry', with a large, stylized flourish extending downwards and to the right.

Steve Embry  
**Acting General Manager**