

PLANNING & NATURAL SYSTEMS

ATTACHMENT B

**CONSOLIDATED LOCAL ENVIRONMENTAL
PLAN - MIDCOAST COUNCIL**

STRATEGIC MEETING

14 MARCH 2018

MCC LEP Clause Analysis – Gloucester LEP 2010, Greater Taree LEP 2010 & Great Lakes LEP 2014

Similarity	
Identical	
Minor diff	
Sig diff	
Site specific	

No.	Clause	Compulsory	Similarity	Retain	Dependent Strategy	Comment
Part 1 Preliminary						
1	Name of Plan	Y		Y		Easy – rename new LEP
2	Commencement	Y		Y		No change
3	Aims of Plan	Y		Y	ROLUS, HDAS	Minor difference in 1.2(2) of each – aims vary – need combined ones
4	Land to which Plan Applies	Y		Y		No change
5	Definitions	Y		Y		No change
6	Notes	Y		Y		No change
7	Consent Authority	Y		Y		No change
8	Maps	Y		Y		No change
9	Repeal of planning instruments applying to land	Y		Y		Easy – name each plan being repealed
10	Application of SEPPs	Y		Y		No change
11	Suspension of covenants, agreements and instruments	N/A		Y		No change

No.	Clause	Compulsory	Similarity	Retain	Dependent Strategy	Comment
Part 2 Permitted or prohibited development						
12	Land use zones	Y		Y	ROLUS,HDAS	Easy – list zones used
13	Zoning of land to which Plan applies	Y		Y	ROLUS,HDAS	No change
14	Zone objectives and Land Use Table	Y		Y	ROLUS,HDAS	No change
15	Unzoned land	Y		Y		No change
16	Additional permitted uses for particular land	Y		Y		No change
17	Subdivision-consent requirements	Y		Y		No change
18	Demolition requires development consent	Y		Y		No change
19	Temporary use of land	Optional		Y		No change – each use 52 days
Part 3 Exempt and complying development						
	Exempt development	Y		Y	20	No change
21	Complying development	Y		Y		Minor difference in that GT has extras 3.2(3)(<u>ca</u>), (<u>cb</u>) & (<u>cd</u>). Need to decide whether we want to continue to exclude complying dev in heritage conservation areas, ASS and flood areas?
22	Environmentally sensitive areas excluded	Y		Y		Minor difference in GL – has extra 3.3(2)(<u>ja</u>). Need to decide whether we want to continue to exclude land within 100m of coastal waters or lake? Does the draft Coastal Management SEPP impact this?
Part 4 Principal development standards						
23	Minimum subdivision lot	Optional		Y	ROLUS,HDAS	Each LEP has own objectives in 4.1(1). Gloucester (4), GT(3) & GL(2). Need to decide on desired objectives.

No.	Clause	Compulsory	Similarity	Retain	Dependent Strategy	Comment
	size					
24	Minimum subdivision lot size for community title schemes	Optional if 4.1 used		Y	ROLUS, HDAS	Minor differences in 4.1AA(2) in number of zones that apply – Gloucester(2), GT(5) & GL(6). Need to decide what zones we want community title lots to be same size as Lot Size Map? GT introducing clause to permit subdivision in RU1 for seniors living below minimum lot size.
25	Subdivision of certain residential lots	N/A		?	HDAS	GT clause that only permits subdivision in RU5, R5 (mapped as 4,000m ²), R1 & R2 when reticulated water & sewer connected. Need to decide whether to expand across new LGA?
26	Exception to minimum lot sizes for certain residential development	N/A		?		GL clause encourages housing diversity by lowering lot size in R2 to 300m ² and 200m ² in R3. Need to decide whether to expand across new LGA?
27	Exception to minimum subdivision lot sizes for certain split zones / Minimum subdivision lot sizes for certain split zones	N/A		?	ROLUS	GT & GL clauses permit urban zones to be subdivided as normal if residue within rural or environmental zone kept as one lot (used for subdivisions in recent rezonings e.g. P2B). Need to decide whether to expand across Gloucester? If yes, need to list all relevant zones (clauses differ).
28	Exception to minimum lot sizes for ecological protection	N/A		Y		GL has environmental incentive clause which permits subdivision down to 1ha if 'suitable arrangements' for management of environmental lands made. Need to decide whether to combine with upcoming GT environmental clause or keep one or both? GT clause permits 5ha lots versus 1ha lots under GL clause.
29	Exceptions to minimum subdivision lot size for boundary	N/A		Y		GL clause permits boundary adjustments between lots where less than minimum lot size. GT introducing similar clause with different wording. Choose one to apply to LGA (NB. GT also requires sewer

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	adjustments					connection for lots less than 1.5ha). Gloucester currently adding this using GL wording.
30	Rural subdivision	Compulsory if 4.1 used		Y	ROLUS	No change
31	Erection of dwelling houses on land in certain rural and environmental protection zones	N/A		Y	ROLUS	Each LEP clause differs slightly with different dates for each Existing Holding. Need to decide on whether to continue with existing holdings and if so on preferred wording.
32	Strata subdivisions in certain rural or environmental protection zones	N/A		?	ROLUS	Gloucester & GT clauses differ but each seek to prevent strata subdivisions in rural and env zones below the minimum lot size for residential or visitor/ tourist. Need to decide whether to expand across GL? Note - new GT clause for community title subdivision in R5 and rural zones to permit subdivision for Seniors Housing being introduced which may or may not be separate to clauses 4.2 or 4.2B.
33	Erection of dual occupancies and secondary dwellings in Zone RU2	N/A		Y		GL clause sets parameters (locational etc) for detached dual occupancies and secondary dwellings in RU2. GT introducing same clause to permit these in RU1. Change clause to relate to desired zones across new LGA.
34	Height of buildings	Optional		Y	ROLUS, HDAS	GL clause differs 4.3(2A) in that it permits 10% variation in certain zones. Need to decide on clause objectives and whether to use SI or GL varied clause.
35	Floor space ratio	Optional		?	ROLUS, HDAS	GL clause differs in 4.4(2A), (2B) & (2C) which provides written FSR for certain zones (instead of mapping these), permits 10% variation in certain zones and sets no FSR for RU5 if not residential. Need to decide on clause objectives and whether to use SI or GL varied clause.
36	Calculation of floor space ratio	Optional		Y		No change

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	and site area					
37	Exceptions to development standards	Y		Y		GT & GL clauses differ to SI in Clause 4.6(8)(ca) which for GL prohibits development if clauses 6.1, 6.2 & 6.3 are not met regarding State infrastructure, public utilities and a DCP in place. GT clause doesn't specify 6.3. Gloucester clause seems to have missed this part completely – use GL clause in new LEP.
Part 5 Miscellaneous provisions						
38	Relevant acquisition authority	Y		Y		GT & GL clauses differ as they specify more acquisitions on map. Need to list all circumstances where acquisition shown on map for new LGA.
39	Classification and reclassification of public land	Y		Y		No change
40	Development near zone boundaries	Optional		Y		Gloucester clause 5.3(2) uses 20m as distance and adds 5.3(3A) to list zones that do not apply. GT clause 5.3(2) uses 100m for certain zones and 20m for other zones. Clause provides flexibility but need to determine limits for new clause.
41	Controls relating to miscellaneous permissible uses	Y		Y		Gloucester 5.4: (1) uses 3 bedrooms for B&B, (2) 30m ² for home business (3) 30m ² for home industry, (4) 43% or 400m ² industrial retail outlets (5) 3 bedrooms for farm stays (6) 10m ² for kiosks (7) 80m ² neighbourhood shops (8) 10m ² roadside stalls (9) 33% for secondary dwellings GT 5.4: (1) uses 3 bedrooms for B&B, (2) 30m ² for home business (3) 50m ² for home industry, (4) 25% or 400m ² industrial retail outlets (5) 5 bedrooms for farm stays (6) 40m ² for kiosks (7) 80m ² neighbourhood shops (8) 10m ² roadside stalls (9) 43% for secondary dwellings

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						GL 5.4: (1) uses 3 bedrooms for B&B, (2) 50m ² for home business (3) 120m ² for home industry, (4) 10% or 50m ² industrial retail outlets (5) 3 bedrooms for farm stays (6) 65m ² for kiosks (7) 120m ² neighbourhood shops (8) 10m ² roadside stalls (9) 20% for secondary dwellings Use least conservative from each clause to promote economic development.
42	Development within the coastal zone	Y if LGA in coastal zone		Y		No change - include
43	Architectural roof features	Optional		N		No change – do not include
44	Development below mean high water mark	Y if tidal waters apply to LGA		Y		No change - include
45	Conversion of fire alarms	Y		Y		No change - include
46	Preservation of trees or vegetation	Y except (9)		Y		Gloucester and GT do not use (9), whereas GL does. Need to decide whether to use (9) – subclause is optional in SI.
47	Trees or vegetation not prescribed by development control plan	Y		Y		No change - include
48	Heritage conservation	Y		Y		Easy - need to insert new LGA name in 5.10(1)(a).
49	Bush fire hazard reduction	Y		Y		No change - include
50	Infrastructure development and use of existing	Y		Y		No change - include

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	buildings of the Crown					
51	Eco-tourist facilities	Y if permitted with consent		Y	ROLUS	Gloucester should be using clause as use permitted in E3 with consent – clause currently being added. Include clause as per SI.
52	Siding Spring Observatory – maintaining dark sky	Optional		N		No change – do not include
53	Defence communications facility	Optional		N		No change – do not include
Part 6 Urban release areas						
54	Arrangements for dedicated State public infrastructure	N/A		Y		GT & GL clauses the same. Include unless DPE advise otherwise. Does SIC replace need for this clause?
55	Public utility infrastructure	N/A		Y		GT & GL clauses the same – requires essential utility services are available before urban release areas can be developed. Include unless DPE advise otherwise.
56	Development control plan	N/A		Y		GT & GL clauses the same except (4)(d). Include unless DPE advise otherwise and use GL wording as more recent
57	Relationship between Part and remainder of Plan	N/A		Y		GT & GL clauses the same. Include unless DPE advise otherwise.
Part 7 Additional local provisions						
58	Acid sulfate soils	N/A		Y		Minor difference between GT & GL clauses – GT in clause (2) divides Class 2 into 2a & 2b. This was agreed between DELTA & all relevant agencies – use GT clause in new LEP and change legend in GL maps from Class 2 to Class 2a
59	Flood planning	N/A		Y		Differences between each clause with Gloucester and GL using an LEP map while GT not referring to a map. GL also uses different FPL for ocean boundary. Use GL as more recent wording but need to liaise with engineers as

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						to whether GL FPL can be used at Harrington & Farquhar river entrances – can it be mapped?
60	Earthworks	N/A		Y		Minor difference in each clause. Gloucester & GT divide (1) into (a) & (b), whereas GL does not – (b) is real difference and provides an additional objective of not requiring consent for minor earthworks. Minor difference in wording in (2)(a) between Gloucester/GT & GL. GL clause also has additional matter for consideration (3)(h) which Gloucester & GT do not. Use GL clause as more recent.
61	Airspace operations	N/A		Y		GT clause requires referral to CASA if DA exceeds OLS for concurrence. Clause required for continued airport use.
62	Development in areas subject to airport noise	N/A		Y		Gloucester & GT have same clause objectives but differ throughout remainder of clause with GT having land clause applied to and Gloucester not having this subclause but having more development criteria. Both use ANEF map and relevant AS. Need to liaise with DPE and CASA on best/latest wording.
63	Coastal risk planning	N/A		?		GL clause relates to 2060 hazard line and provides development criteria for DA assessment. If clause desired across GT it would need to be amended to refer to 2050 hazard line.
64	Stormwater	N/A		?		To be resolved. Another option is to include the GL clause in a Comprehensive DCP.
65	Drinking water catchments	N/A		Y	ROLUS	Use GL clause and map. Need to also identify any drinking water catchments in GT and Gloucester and consider whether these should be added (if not unnecessarily curtailing agriculture).
66	Riparian land and watercourses	N/A		?	ROLUS	To be resolved. Clause relates to land within 40m of a watercourse and seeks to minimise impacts from development. Another option is to include the GL clause in a Comprehensive DCP.
67	Wetlands	N/A		?	ROLUS	To be resolved. Clause relates to wetlands and seeks to minimise development impacts. Need to consider whether this clause is still relevant as a result of new Coastal

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						Management SEPP, or whether it should be a DCP clause if still required.
68	Limited development on foreshore areas	N/A		?		To be resolved. Is clause achieving its aims? Is clause replicating s79C? Another option is to include the GL clause in a Comprehensive DCP. If clause is a good one, should the mapped area be expanded?
69	Development on land proposed to be acquired by the Council	N/A		Y		GT clause provides ability for Council to approve uses on land to be acquired in the future if they don't increase cost of acquisition, thereby effectively not sterilising land – would require immediate purchase otherwise. Good clause to expand across new LGA.
70	Development for farm stay accommodation	N/A		?	ROLUS	Clause prevents farm stay accommodation where a dwelling is not permitted. GL clause 7.24 does this for a number of uses. Consider whether to expand across LGA or whether GL clause 7.24 should be used across new LGA instead.
71	Development on the foreshore must ensure access	N/A		?		To be resolved. Clause appears to be an extension of Clause 7.10(3)(e). If clause 7.10 is kept, should it be expanded to include 7.11 instead of a separate clause?
72	Converting serviced apartments to residential flat buildings	N/A		?		To be resolved. Clause brings SEPP 65 into the DA assessment – isn't this the case anyway? Maybe this is a unique site specific issue (Forster) which should be retained?
73	Active street frontages	N/A		?		To be resolved. Clause aims to keep ground floor of buildings for business/retail premises to activate street frontage. Should clause be kept? Should mapped affected area be increased?
75	Significant extractive resources	N/A		?		To be resolved. Clause maps areas affected by clause 13 of Mining SEPP. Is the GL clause still required? Should it be expanded to map other areas?
76	Neighbourhood shops	N/A		?		Clause restricts approval of neighbourhood shops to one per lot to prevent construction of a group of shops/shopping centre which should be in a business zone instead.

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77	Protection of wildlife corridors at Pacific Palms	N/A		Y		GL specific clause - No change.
78	Development at Seven Mile Beach, The Lakes Way, Forster	N/A		?		Has the development been built? If so, is it still required?
79	Residential accommodation in Zone R4, Zone B1 or Zone B2	N/A		?	HDAS	GL clause requires any residential development in these zones to be consistent with AS 4299-1995, Adaptable Housing. To be resolved. Is intent still desired? If so, should it be expanded to other zones or is it only GL specific? GL currently updating AS reference to accord with new standard.
80	Residential accommodation at Winda Woppa	N/A		Y		GL specific clause – but could be considered for coastal erosion at Old Bar.
81	Development at Carmona Drive, South Forster	N/A		Y		GL specific clause – no change.
82	Events permitted on public reserves and roads without development consent	N/A		Y		GL clause enables temporary events on public land with DA consent (separate approvals are issued by LG Act). GT and Gloucester are currently including the same clause. Expand to new LGA as per GL clause.
83	Essential services	N/A		Y		GL clause requires DA consent not to be issued unless services are currently or will be available. GT currently including same clause. Expand to new LGA using GL clause.
84	Location of sex services premises	N/A		Y		GL clause seeks to avoid approving such premises in the vicinity of areas frequented by children. Expand to new LGA using GL clause.
85	Minimum dwelling density	N/A		Y	HDAS	GL clause seeks to achieve a minimum dwelling density of such greenfield sites as mapped. Are there any other medium density areas that should be mapped? Include

No.	Clause	Compulsory	Similarity	Retain	Dependent Strategy	Comment
						GL clause and GL map.
86	Restriction of certain development in rural and environment protection zones	N/A		Y	ROLUS	GL clause seeks to not permit development consent for tourist development etc if a dwelling is not permitted. Expand to new LGA and add additional relevant zones.
87	Subdivision of land at Brimbin in Zone RU4	N/A		Y		GT clause for ag/horticultural common land with dwelling sites of any size under community title. Include in new LGA for mapped Brimbin site.
88	Subdivision of land at Brimbin in Zone E4	N/A		Y		GT clause for ASS common land to be managed effectively in exchange for dwelling sites of any size under community title. Include in new LGA for mapped Brimbin site.
89	Use of land at 10, 34 and 44 Emerton Close, Cundletown	N/A		Y		GT clause for Northern Gateway Transport Hub limited use of site to transport related facilities. Include in new LGA for Northern Gateway site.
Schedule 1 Additional permitted uses						
90	Use of certain land at Gloucester Country Club	N/A		Y		Gloucester clause to permit tourist and visitor accommodation (excluding serviced apartments) at Gloucester Country Club
91	Use of certain land at Gloucester Showground precinct	N/A		Y		Gloucester clause to permit tourist and visitor accommodation (excluding serviced apartments) at Gloucester Showground precinct
92	Use of particular land at Pacific Highway Glenthorne	N/A		Y		GT clause to permit a highway service centre at Purfleet highway interchange
93	Use of particular land at Grangewood Avenue,	N/A		N		GT clause to permit up to 37 residential units in RE2 zone. Site should be zoned R3 Medium Density Residential in Comprehensive LEP instead of using Schedule 1, as original rezoning proposed.

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	Tallwoods Village					
94	Use of particular dwelling at The Bucketts Way, Taree South	N/A		Y		GT clause to permit use of a dwelling as a managers residence in conjunction with existing landscaped garden.
95	Use of particular land identified as Area 1 on the Additional Uses Map	N/A		?		GT clauses apply to SP3 – Tourist zone in Old Bar, Diamond Beach (north) and Red Head. Zone identified in draft Manning Valley Local Strategy to move from SP3 to R3 – Medium Density Residential to permit level playing field (for investment and operation) of tourist facilities, namely serviced apartments. If zone change not possible in comprehensive LEP (as not including in an adopted and endorsed strategy) then combine these three clause into one.
96	Use of particular land identified as Area 2 on the Additional Uses Map	N/A		?		
97	Use of particular land identified as Area 3 on the Additional Uses Map	N/A		?		
98	Use of certain land at Forster, Forster South, Smiths Lake and Tea gardens	N/A		?		GL clause permits development for environmental protection works (drainage and wetlands) on this land. Comprehensive LEP may wish to consider whether this use could be permitted in zones covering these sites
99	Use of certain land at The Lakes Way, Forster South (Seven Mile Beach)	N/A		?		GL clause permits shops with gross flood area of not more than 1,000m ² . Maybe use could be permitted in SP3 zone in comprehensive LEP (SI does not prohibit any use).
100	Use of certain land at Tea Gardens (Riverside)	N/A		?		GL clause permits a range of uses (shops through to boating facilities) if water frontage of more than 100m. Comprehensive LEP could consider whether zoning in this area appropriate (B4 zone could be the answer to permit this wide range of uses).

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101	Use of certain land at Manning Street, Tuncurry	N/A		?		GL clause permits vehicle repair station, vehicle sales or hire premises in this location. Comprehensive LEP could consider whether the zoning is appropriate for these sites
102	Use of certain land at The Lakes Way and Northern Parkway, Tuncurry	N/A		?		GL clause permits an advertising structure at these locations. Comprehensive LEP could consider whether the zoning is appropriate for these sites
103	Use of certain land on the islands and peninsulas in Wallis Lake	N/A		Y		GL clause permits extractive industries. Consider merging these two clauses in comprehensive LEP
104	Use of certain land at Jimmy's Beach, Winda Woppa	N/A		Y		
Schedule 2 Exempt						
105	Advertising structures (Gloucester) Signs, advertising and notices (GT)	N/A		?		Gloucester clause has 11 subclauses. GT has 3 separate categories with a number of subclauses. Code SEPP (Division 2) has advertising and signage exemptions – are these sufficient? Consider removing from comprehensive LEP
106	Change of use of buildings from industry to light industry	N/A		N		Gloucester clause allows change from industry to light industry as exempt under certain conditions. Code SEPP permits this exemption. Do not include in comprehensive LEP
107	Solid fuel heaters	N/A		Y		Gloucester clause allows installation in residential dwellings as exempt development.
108	Boundary adjustments	N/A		Y		GT clause exempts boundary adjustments if changing area by less than 5%. Division 1, Subdivision 38 of Code SEPP covers boundary realignments but does not permit same activity
109	Bus shelters (other than by or	N/A		Y		GT clause permits as exempt the construction of bus shelters. Code SEPP does not cover this.

No.	Clause	Compulsory	Similarity	Retain	Dependent Strategy	Comment
	for council)					
110	Dams (rural and R5 zones)	N/A		Y	ROLUS	GT clause allows dams up to 3ML under certain conditions as exempt. Code SEPP does not cover this activity.
111	Demolition	N/A		N		Permits demolition of structures that are exempt themselves. Code SEPP has exact same exemption – Division 1, Subdivision 13. Do not include in comprehensive LEP
112	Fences (swimming pool safety fences)	N/A		Y		GT clause exempts swimming pool safety fences. Code SEPP does not specifically exempt these.
113	Tennis courts (private and non-commercial)	N/A		N		GT clause exempts construction of a court in rural and R5 zones. Code SEPP has same provisions. Do not include in comprehensive LEP
Schedule 3 Complying development						
114	Industrial buildings and warehouses	N/A		Y		GT clause provides for erection of new and alterations to existing industrial buildings and warehouses in an industrial zone but not on bushfire prone land. Code SEPP only permits internal alterations to existing buildings with development consent. GT clause could be expanded to refer to ancillary structures (mentioned in Gloucester clause)
115	Industrial buildings (other than light industrial buildings) – minor additions and ancillary structures	N/A		N		Gloucester clause does not specify zone and only provides for minor additions and ancillary structures. Code SEPP covers internal alterations but not minor additions or ancillary structures.
Schedule 4 Classification and reclassification of public land						
116	Part 1 Land classified, or reclassified, as operational land – no interests	N/A		N		Lot 42 DP 871948 The Boulevard, Tallwoods was classified under LEP 2010 as Operational. This land is planned to be added to through a VPA to the east and through acquisition to the north (S94 plan) to provide for a sports field. Consider not including in comprehensive LEP

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	changed					as land now Operational.
117	Part 2 Land classified, or reclassified, as operational land – interests changed	N/A				Part Lot 2 DP 579557 (20m wide) was reclassified as part of a land swap with The Taree Leagues Sports Club Ltd for Council to take on ownership and management/maintenance of Jack Neil Oval and to provide public land to the club for additional car parking. MOU to land swap lapsed and neither party wished to continue. Consider not including in comprehensive LEP as strip is now Operational and Council could lease or sell to the club for parking.
Schedule 5 Environmental heritage						
118	Part 1 Heritage items	N/A		Y	Taree HSR, Gloucester HS	All 423 heritage items will need to be placed in alphabetical suburb name, renumbered and re-mapped.
119	Part 2 Heritage conservation areas	N/A		Y	Taree HSR, Gloucester HS	All 3 LEPs display these differently. Advice from DPE should be sought on format for comprehensive LEP.
120	Dictionary	Yes		Y		As per SI