

## Planning Proposal

**Draft Amendment to Great Lakes Local Environmental Plan 2014  
(Short-term Holiday Accommodation)**

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Prepared by:

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# Background

This Planning Proposal (PP) has been prepared by Midcoast Council (Forster Office). It proposes to provide provisions under *Great Lakes Local Environmental Plan 2014* for the use of dwellings for Short-term Holiday Accommodation (STHA).

This PP outlines the effect of, and justification for the changes to existing planning controls.

The PP has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and the relevant Department of Planning and Environment (DP&E) Guidelines, including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

On 10 June 2014 the (former) Great Lakes Council resolved to include provisions in its Local Environmental Plan (LEP) to require consent for the use of a dwelling for STHA with five (5) bedrooms or more. It also resolved to prepare a Development Control Plan (DCP) to supplement the LEP clause to cover such matters as parking, duration of use, waste management and number of visitors/tourist residing in the dwelling.

During preparation of the LEP, discussions were held with Council's Investigations & Prosecutions Co-ordinator and members of the community. During these discussions, concern was raised that a threshold of five (5) bedrooms or more for development consent may not be effective in addressing the issues associated with STHA in the Great Lakes area.

As a result of the discussions, Council considered a report on 10 March 2015 recommending that the number of bedrooms requiring consent for the use of a dwelling for STHA be reduced from five (5) bedrooms or more to three (3) bedrooms or more. Council rejected the amendment.

A PP was prepared to give effect to the original recommendation to require consent for the use of a dwelling for STHA with five (5) bedrooms or more.

A Gateway Determination was issued by DP&E on 10 December 2014 along with delegations to make the plan.

The PP and associated DCP were placed on public exhibition for a period of sixty five (65) days from 15 April 2015 to 19 June 2015.

A total of eighteen (18) submissions were received from members of the community.

One (1) submission was received from the Rural Fire Service (RFS) who objected to the PP on bush fire safety grounds. In an attempt to resolve the issue Council liaised with the RFS and DP&E over a period of approximately eighteen (18) months. Details of the RFS objection including the intended course of action are included in Section D of this PP (State and Commonwealth Interests). Due to the issues raised by the RFS Council will not be using its delegations for this PP.

At around the same time the PP was on public exhibition the NSW Minister for Planning requested that a Parliamentary Inquiry be undertaken into the adequacy of the regulation of Short-term Holiday letting in NSW. Council made a submission to the inquiry. The inquiry is ongoing and to-date no formal position on the matter has been reached.

At its Ordinary meeting of 10 August 2016 Midcoast Council resolved to adopt a PP which would have the effect of amending *Gloucester Local Environmental Plan 2010* to enable the use of a dwelling for STHA without requiring development consent regardless of the number of bedrooms.

# Part 1 – Objectives and intended outcomes

*(s.55(2)(a) A statement of the objectives or intended outcomes of the proposed instrument)*

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The following are the objectives and intended outcomes of the PP:

- To enable the use of dwellings for Short-term Holiday Accommodation;
- To prescribe the circumstances when development consent is required for the use of dwellings for Short-term Holiday Accommodation;
- To allow the continuation of the letting of dwellings on a short term basis for the purposes of providing holiday accommodation in those zones where dwellings are lawfully permitted with consent; and
- To ensure the use operates at a scale that is compatible with maintaining the residential amenity of the surrounding neighbourhood.

## Part 2 – Explanation of provisions

*(s.55(2)(b) An explanation of the provisions that are to be included in the proposed instrument)*

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The proposed outcome of the draft plan will be achieved by amending *Great Lakes Local Environmental Plan 2014* to include a new local clause for STHA.

Based on advice provided by Parliamentary Counsels Office the Forster Office has amended its clause to include an explanatory note with the wording recommended by the RFS. While it is not a legal requirement to include the explanatory note, it will draw attention for owners to obtain a BFSA under the prescribed circumstances. For full details of the advice recommend by the RFS see Section D (State and Commonwealth Interests).

The draft LEP clause (as exhibited) is shown below. Text added as a result of advice received from the RFS is underlined (clause subject to change at the legal drafting stage):

Insert within **Part 7 Additional Local Provisions:**

- (1) *The objective of this clause is to enable the temporary use of dwellings as short-term tourist and visitor accommodation*
- (2) *Despite any other provision of this Plan, development consent is not required for the use of a lawful dwelling containing no more than four (4) bedrooms as short-term tourist and visitor accommodation.*
- (3) *Despite any other provision of this Plan, development consent may be granted for the use of a lawful dwelling containing five (5) or more bedrooms as short-term tourist and visitor accommodation*

***Note:** Despite any other provision of this clause, short-term tourist and visitor accommodation of land mapped bush fire prone by MidCoast Council, must obtain and be in compliance, with any conditions of a Bush Fire Safety Authority, issued under Section 100B of the Rural Fires Act 1997.*

Insert in appropriate order in the Dictionary, the following definition:

***short-term tourist and visitor accommodation** is tourist and visitor accommodation (except bed and breakfast accommodation) where the maximum period for which any person is accommodated is 60 consecutive days in a 12 month period.*

## Part 3 – Justification

*(s.55(2)(c) the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117).*

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### SECTION A – NEED FOR THE PLANNING PROPOSAL

#### **Is the Planning Proposal a result of any strategic study or report?**

The PP is not considered to be linked directly to any study or report. However the need to develop provisions for STHA is not unique to MidCoast Council.

The catalyst for the PP was a decision in the NSW Land and Environment Court on 2 May 2013 (*Dobrohotoff vs Bennic*). In this instance, the court determined that the short-term holiday letting of residential dwellings was a prohibited land use in the (then) 2(a) low density residential zone in the Gosford City Local Government Area, and that it is not a “dwelling”, but a separately defined land use. MidCoast Council (Forster Office) has also received complaints from the community on the use of dwellings for short-term holiday rental and Council now wishes to introduce a requirement for consent for such use when the operation is of a certain scale.

The use of residential dwellings for STHA has been in operation for many years in coastal locations and the intent is to allow this use to continue. However, Council has deemed it necessary to provide land-use controls over this use to ensure residential amenity and to reduce land use conflict.

It is noted that a number of Council’s, including but not limited to Gosford, Wyong and Port Stephens contain similar provisions within their Standard Local Environmental Plan to those proposed. These provisions have been developed to address the land-use, which is now defined as “*short-term tourist and visitor accommodation*”.

#### **Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

*Great Lakes Local Environmental Plan 2014* became effective on 4 April 2014 and does not address this land-use.

The PP is considered to be the most effective means of permitting the use of lawful dwellings for STHA that does not impact upon the amenity of the surrounding locality.

A Development Control Plan (DCP) is proposed to supplement provisions in the LEP. The DCP will cover such matters as parking, waste management duration of use and number of visitors/tourist residing in the dwelling and will be developed in conjunction with the PP.

## **SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK**

### **Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

The Mid North Coast Regional Strategy (MNCRS p25-26) states that the region ‘is an important tourist destination’ and ‘that it will be necessary to ensure that future tourist development is designed to blend with the urban settlement pattern, thereby protecting the ambience of the Region’s village, coastal and rural areas.’

The PP is consistent with the MNCRS as it continues to permit tourist accommodation which supports the local economy while providing a mechanism to protect the amenity of localities within the region where dwelling houses are permitted.

### **Is the Planning Proposal consistent with the local council’s Community Strategic Plan, or other local strategic plan?**

Council’s Community Strategic Plan 2010-2030 (Great Lakes 2030) is the community's plan for the future. It represents the long term aspirations for the area and encompasses an overarching vision developed by the community and objectives and strategies to achieve community goals. Great Lakes 2030 identifies 4 Key Directions. The PP is consistent with these directions as follows:

#### **Key Direction 1: Our Environment.**

The objectives of this direction are to protect and maintain the natural environment so that it is healthy, diverse and to ensure that development is sensitive to this environment. The PP enables the use of dwellings of up to 4 bedrooms for STHA as Exempt Development. The appropriateness of the dwelling on site, including its relationship to the natural environment, has therefore been previously assessed and consent granted. For dwellings in excess of 4 bedrooms wishing to act STHA, the development application process would consider environmental factors as part of the approval process.

#### **Key Direction 2: Strong Local Economies**

Objectives of this direction are to promote the Great Lakes area as an attractive area for residents and visitors which encourages a supportive business environment, job opportunities and that provides transport and infrastructure that meets future needs. The PP enables the use of existing dwellings of up to 4 bedrooms for STHA without consent which provides important economic benefits for the local community. Through preserving the amenity of local neighbourhoods, the PP promotes liveable communities which are more attractive to residents and visitors, in turn further supporting local economies. The use of dwellings with 5 or more bedrooms will still be able to be used for holiday accommodation provided development consent is obtained. This will assist in meeting the broad range of accommodation needs of visitors to the Great Lakes.

#### **Key Direction 3: Vibrant and Connected Communities**

The objectives of this direction encourage the provision of the ‘right places and spaces’, supporting positive and safe communities which promote education, sustainable growth and connectivity. The PP has a strong focus on maintaining local amenity and creating a safe and



enjoyable environment for the local community and visitors alike. The PP is consistent with this Key Direction.

**Key Direction 4: Local Leadership**

This Key Direction promotes Council as a leader within the community and has a strong focus on community participation. This PP responds to representations made from within the community for Council to be proactive in maintaining the amenity of local its communities.

**Is the Planning Proposal consistent with applicable state environmental planning policies?**

There are no State Environmental Planning Policies which are applicable to this PP.

**Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?**

This PP applies to the Great Lakes area where a dwelling house is permitted. As such, a significant number of s.117 Directions are applicable. It is considered that the PP is consistent with the applicable Directions. A summary of the consideration against the relevant Ministerial Section 117 Directions is provided below.

A more detailed assessment of the applicable s.117 Directions is included in Annexure 2.

**Table 1: Summary - consistency with s.117 Directions**

No.	Direction	Applicable	Consistent
<b>Employment &amp; Resources</b>			
1.1	Business & Industrial Zones	N	N/A
1.2	Rural Zones	Y	Y
1.3	Mining, Petroleum Production and Extractive Industries	N	N/A
1.4	Oyster Aquaculture	N	N/A
1.5	Rural Lands	Y	Y
<b>Environment &amp; Heritage</b>			
2.1	Environmental Protection Zones	Y	Y
2.2	Coastal Protection	Y	Y
2.3	Heritage Conservation	Y	Y
2.4	Recreation Vehicle Areas	Y	Y
<b>Housing, Infrastructure &amp; Urban Development</b>			
3.1	Residential Zones	Y	Y
3.2	Caravan Parks and Manufactured Home Estates	Y	N/A
3.3	Home Occupations	Y	Y
3.4	Integrating Land Use & Transport	Y	Y
3.5	Development Near Licensed Aerodromes	N	N/A

No.	Direction	Applicable	Consistent
3.6	Shooting Ranges	N	N/A
<b>Hazard &amp; Risk</b>			
4.1	Acid Sulfate Soils	Y	N/A
4.2	Mine Subsidence and Unstable Land	N	N
4.3	Flood Prone Land	Y	Y
4.4	Planning for Bushfire Protection	Y	May not be (see Section D)
<b>Regional Planning</b>			
5.1	Implementation of Regional Strategies	Y	Y
5.2	Sydney Drinking Water Catchments	N	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	N	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	Y	Y
<b>Regional Planning (Continued)</b>			
5.5, 5.6 & 5.7	REVOKED		
5.8	Second Sydney Airport: Badgerys Creek	N	N/A
<b>Local Plan Making</b>			
6.1	Approval and Referral Requirements	Y	Y
6.2	Reserving Land for Public Purposes	Y	Y
6.3	Site Specific Provisions	N	N/A
<b>Metropolitan Planning</b>			
7.1	Implementation of the Metropolitan Plan for Sydney 2036	N	N/A

## SECTION C – ENVIRONMENTAL, SOCIAL & ECONOMIC IMPACT

**Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

No. The PP will not impact upon critical habitats, threatened species, populations or ecological communities or their habitats.

**Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?**

No. The PP will not have any likely environmental effects.

## **Has the Planning Proposal adequately addressed any social and economic effects?**

### **Social**

The PP will not impact on the any items or places of European or Aboriginal cultural heritage as previously indicated. It will not place unreasonable demands on existing social infrastructure such as schools, hospitals or existing retail centres.

From a social perspective, the main objective of this PP is to reduce the negative impacts associated with the use of dwelling houses for visitor accommodation, while recognising that such use is an important component of the tourist economy. The draft amendment will assist with maintaining the amenity in locations where dwelling houses are permitted and help facilitate safer, more liveable spaces for the local community. Social benefits exist through increased services that are generated by tourists using STHA that are also available for use by local residents.

A DCP is proposed to supplement provisions in the PP. The DCP will cover such matters as parking, waste management duration of use and number of visitors/tourist residing in the dwelling and will be developed in conjunction with the PP. Together the PP, DCP will assist in reducing anti-social behaviour which has been associated with the use of dwellings for STHA.

### **Economic**

It is recognised that short term holiday accommodation is a major source of holiday accommodation for tourists who visit the Great Lakes. They offer an alternate style of accommodation to traditional caravan parks or high rise apartments and often attract families. Tourism has been a major industry in Great Lakes and is an important economic activity for the area. The continued support for short term holiday rental of dwellings by Council through this PP is considered to be important in maintaining the economic benefits of tourism.

Increased amenity, which will be facilitated by the PP and associated guidelines, will also have positive economic effects such as increased visitation, growth capacity, improved visitor experience and increased visitor spend.

## SECTION D – STATE AND COMMONWEALTH INTERESTS

### Is there adequate public infrastructure for the PP?

The PP does not require the provision of any additional public infrastructure. The availability of public infrastructure is a matter for consideration during the development assessment process for the dwelling house.

### What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Consultation for the PP was undertaken to the following State Agencies:

- The NSW Rural Fires Service (RFS)

The RFS advised that they consider STHA to be *'tourist accommodation'* under section 100B of the *Rural Fires Act 1997* and as such dwellings located on bushfire prone land being used for STHA should be required to obtain a Bush Fire Safety Authority (BFSA) under section 100B of the *Rural Fires Act 1997*.

The RFS provided the Gloucester Office with similar advice during the preparation of their PP for STHA. The Gloucester Office opted to include wording provided by the RFS as a 'sub clause' in *Gloucester Local Environmental Plan 2010* with the view that PCO would advise on the wording at the legal drafting stage. For further details refer to the Midcoast Council Ordinary report of 10 August 2016.

The Forster office sought advice from Parliamentary Counsel's Office (PCO) on the subclause recommended to the Gloucester Office. In this regard PCO advised that:

*"the RFS requirements are dealt with under section 79BA of the Environmental Planning and Assessment Act 1979 and section 100B of the Rural Fires Act 1997. It is not appropriate or necessary for an Environmental Planning Instrument to repeat the provisions of those Acts. However, attention may be drawn to their effect by inserting a note in the text of the Short-term Accommodation clause. The terms of the clause and the note will be settled by PCO when the matter is referred to us for drafting."*

Based on the advice provided by PCO the Forster Office has amended its clause to include an explanatory note with the wording recommended by the RFS. While it is not a legal requirement to include the explanatory note, it will draw attention to the need to obtain a BFSA under the prescribed circumstances.

The main implication of the advice from PCO is that the RFS issues may still not be resolved as the subclause recommended by the RFS is unable to be included as a statutory provision in the LEP; it can only be used a note inserted under the clause. On this basis DP&E have advised Council to not use its delegations to finalise the PP and that it should be submitted to DP&E with a request for the plan to be drafted and made.

Additional note:

As indicated by the note to be included within the proposed draft LEP clause, dwellings located on bushfire prone land being used for STHA will need to obtain a BFSA. This requirement is prescribed by the *Rural Fires Act 1997*. Therefore the need to obtain a BFSA is not a matter for Council to become involved in. The need to obtain a BFSA is the responsibility of the owner of any STHA and is a matter for the RFS.

## Part 4 - Mapping

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No maps are required for the PP.

## Part 5 – Community consultation

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In accordance with Section 56(2)(c) and 57 of the *Environmental Planning and Assessment Act 1979*, the PP and associated DCP were placed on public exhibition for a period of sixty five (65) days from 15 April 2015 to 19 June 2015.

In accordance with Council's adopted consultation protocols:

- Notices appeared in the relevant local newspapers;
- Exhibition material and all relevant documents were made available at all Council's Offices within the (then) Great Lakes Local Government area;
- A media release was prepared;
- Exhibition document were made available on Council's website; and
- Letters were sent out to all real-estate agents within the area, including key property owners and those who made representations to Council on the issue.

A total of eighteen (18) submissions were received from members of the community. For details of the submissions including the planner's response refer to the report tabled to the MidCoast Council Ordinary meeting of 26 October 2016.

## Part 6 – Project timeline

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In accordance with DP&E guidelines the following timeline is provided which includes the tasks deemed necessary for the making of this local environmental plan.

**Table 2: Estimated project timeline**

Task	Responsibility	Timeframe	Date (approximate)
Lodgement of PP for Gateway Determination	Great Lakes Council	-	November 2014
Gateway Determination	Minister for Planning and Infrastructure	4 weeks	December 2014
Public exhibition of amended PP	Great Lakes Council	65 days	April to June 2015
Consultation with Public Authorities in accordance with Gateway Determination	Government Authority	Approx. 18 months	December 2014 – May 2016 (allow for office closures & public holidays)
Making of local environmental plan	Minister for Planning and Infrastructure	6 – 8 weeks	October 2016



# Appendix 1

**Table 3: Detailed consistency with s.117 Directions**

s.117 Direction Summary		Consistency
<b>Employment &amp; Resources</b>		
1.1	<u>Business and Industrial Zones</u>	Not Applicable
1.2	<u>Rural Zones</u> Aims to protect the agricultural production value of rural land.	The Proposal is not inconsistent with this Direction.
1.3	<u>Mining, Petroleum Production and Extractive Industries</u>	Not Applicable
1.4	<u>Oyster Aquaculture</u>	Not Applicable
1.5	<u>Rural Lands</u> The objectives of this Direction are to protect the agricultural productions value of rural lands and to facilitate the orderly and economic development of rural lands for rural and related purposes.	The Proposal is not inconsistent with this Direction.
<b>Environment &amp; Heritage</b>		
2.1	<u>Environmental Protection Zones</u> The objective of this Direction is to protect and conserve environmentally sensitive areas.	The Proposal will facilitate the use of dwellings in those areas where they have been lawfully permitted. Environmental considerations are matters for consideration during the assessment process in association with the erection of a dwelling.
2.2	<u>Coastal Protection</u> The objectives of this Direction are to implement the principles in the NSW Coastal Policy.	The Proposal applies to land in the Coast Zone and therefore this Direction applies. The Proposal will facilitate the use of existing lawful dwellings. It is consistent with the principles of NSW Coastal Policy namely for the conservation of biological diversity and ecological integrity including the principles of Ecologically Sustainable Development. The Proposal is not inconsistent with this Direction.
2.3	<u>Heritage Conservation</u> This Direction aims to conserve items and places of heritage and	The Proposal will facilitate the use of dwellings in those areas where they have been lawfully permitted. Heritage items and places of heritage and indigenous heritage significance are

<b>s.117 Direction Summary</b>		<b>Consistency</b>
	indigenous heritage significance.	matters for consideration during the assessment process in association with the erection of a dwelling.
2.4	<p><u>Recreational Vehicle Areas</u></p> <p>The objective of this direction is to protect sensitive land or land with significant conservation value from adverse impacts from recreation vehicles.</p>	The Proposal is not inconsistent with this Direction.
<b>Housing, Infrastructure and Urban Development</b>		
3.1	<p><u>Residential Zones</u></p> <p>This Direction aims to encourage a range of housing that makes use of existing infrastructure and services that do not impact on environment and resource lands.</p>	The Proposal will facilitate the use of dwellings in those areas where they have been lawfully permitted. It involves the use of existing dwellings and does not propose any new infrastructure or services. It will not impact on the environment or resource lands. The PP is consistent with this Direction.
3.2	<p><u>Caravan Parks and Manufactured Home Estates</u></p> <p>The objectives of this direction are to provide for a variety of housing types including opportunities for caravan parks and manufactured home estates.</p>	The Proposal is not inconsistent with this Direction.
3.3	<p><u>Home Occupations</u></p> <p>The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.</p>	The Proposal does not impact on Home Occupations and reinforces the principle that low impact activities that encourage economic activity are permissible where a dwelling house has been lawfully approved. The Proposal is not inconsistent with this Direction.
3.4	<p><u>Integrating Land Use and Transport</u></p> <p>The purpose of this Direction is to ensure that development achieves objectives with regard to the improvement of access by walking, public transport and other means that reduce dependence on private car travel.</p>	The Proposal will not impact upon access with regards to walking, public transport or other means. It will not increase dependence on private car travel. The Proposal is not inconsistent with this Direction.
3.5	<p><u>Development Near Licensed Aerodromes</u></p>	Not Applicable.

s.117 Direction Summary		Consistency
3.6	<u>Shooting Ranges</u>	Not Applicable.
<b>Hazard and Risk</b>		
4.1	<p><u>Acid Sulfate Soils</u></p> <p>The purpose of the Direction is to avoid significant adverse environmental impact from the use of land that has a probability of containing acid sulphate soils.</p>	The Proposal will facilitate the use of dwellings in those areas where they have been lawfully permitted and therefore is not inconsistent with this Direction.
4.2	<u>Mine Subsidence and Unstable Land</u>	Not Applicable.
4.3	<p><u>Flood Prone Land</u></p> <p>The purpose of this Direction is to ensure the provisions of the LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential of the flood impacts both on and off the subject land.</p>	The Proposal will facilitate the use of dwellings in those areas where they have been lawfully permitted and as such have been assessed with regard to flooding. The Proposal is not inconsistent with this Direction.
4.4	<p><u>Planning for Bushfire Protection</u></p> <p>The objectives of this Direction are to encourage the sound management of bushfire prone areas, and to protect life, property and the environment from bushfire hazards.</p>	<p>The Proposal will facilitate the use of dwellings for STHA in those areas where they have been lawfully permitted. During the development assessment process the 'dwellings' in questions have been deemed to comply with the requirements of the RFS.</p> <p>From research into this matter with regards to bushfire protection, the RFS may impose conditions with regards to the development of a bushfire evacuation plan for those dwellings located within areas deemed to be bushfire prone land.</p> <p>Within the clause an explanatory note is to be included which draws attention to the fact that a BFSa may be required for some STHA.</p> <p>Council is unsure if this will meet the requirements of the RFS. However, it is noted that many other Councils have included the STHA clause within their LEP without mention of provisions for bushfire safety.</p>
<b>Regional Planning</b>		
5.1	<u>Implementation of Regional Strategies</u>	The Proposal is consistent with the provisions of the Mid North Coast Regional Strategy, as it

<b>s.117 Direction Summary</b>		<b>Consistency</b>
	This Direction provides that a draft LEP should be consistent with the applicable Regional Strategy.	continues to permit tourist accommodation which supports the local economy while also providing a mechanism to protect the amenity of localities within the region where dwelling houses are permitted.
5.2	<u>Sydney Drinking Water Catchments</u>	Not Applicable.
5.3	<u>Farmland of State and Regional Significance on the NSW Far North Coast</u>	Not Applicable.
5.4	<u>Commercial and Retail Development along the Pacific Highway, North Coast</u>  The aim of this Direction is to manage commercial and retail development along the Pacific Highway.	The Proposal will facilitate the use of dwellings in those areas where they have been lawfully permitted. It does not apply to commercial or retail development or highway service centres. The Proposal is not inconsistent with this Direction.
5.5, 5.6, 5.7 - Revoked.		
5.8	<u>Second Sydney Airport: Badgerys Creek</u>	Not Applicable.
5.9	<u>North West Rail Link Corridor Strategy</u>	Not Applicable.
<b>Local Plan Making</b>		
6.1	<u>Approval and Referral Requirements</u>  The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The Proposal minimises the need for referrals by requiring the use apply to existing dwellings. The Proposal is not inconsistent with this Direction.
6.2	<u>Reserving Land for Public Purposes</u>  The objectives of this Direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	The Proposal is not inconsistent with this Direction.

s.117 Direction Summary		Consistency
6.3	<u>Site Specific Provisions</u>	Not Applicable.
<b>Metropolitan Planning</b>		
7.1	<u>Implementation of the Metropolitan Plan for Sydney 2036</u>	Not Applicable.

# Appendix 2

**Report and resolution from the (the Great Lakes Council) Strategic Committee Meeting 10 June 2014** *(report & resolution have been modified to include only the sections relevant to this PP)*

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## **SUMMARY OF REPORT:**

Council has made previous resolutions to amend Great Lakes Local Environmental Plan 2014 (LEP 2014) as time and resources permit. This report puts forward a program of PPs to amend LEP 2014 in accordance with these resolutions.

## **SUMMARY OF RECOMMENDATION:**

Council endorse the PP program outlined within the report and the preparation of two PPs to amend Great Lakes Local Environmental Plan 2014 (LEP 2014).

## **FINANCIAL/RESOURCE IMPLICATIONS:**

There are significant resource implications for the Strategic Land Use Planning, Natural Systems, Design & Investigations and Information Technology (GIS Mapping) sections of Council.

## **POLICY IMPLICATIONS:**

Nil.

## **LEGAL IMPLICATIONS:**

Not determined at this stage.

## **LIST OF ANNEXURES:**

Nil.

## **LIST OF ATTACHMENTS:**

- A: Outline of the PP for General Amendments to Great Lakes LEP 2014
- B: Preliminary PP to amend Flood Planning Area mapping in Great Lakes LEP 2014
- C: North Arm Cove Site Analysis Map
- D: Smiths Lake Site Analysis Map
- E: Lot size analysis maps of North Arm Cove and Smiths Lake

## **REPORT:**

At the Strategic Committee Meeting on 12 November 2013 Council determined that several outstanding strategic and development matters should be progressed as priority amendments to Great Lakes Local Environmental Plan 2014 (LEP 2014) and that a report be prepared outlining which amendments could be combined and which should be considered as separate PPs.

This report provides a proposed program of amendments to LEP 2014 in accordance with this resolution. The program makes recommendations on amendments that can be incorporated into a single PP and matters that should proceed as separate PPs.

The amendments outlined within this report have been discussed with the Hunter-Central Coastal Regional Office of the Department of Planning and Environment (DP&E) (formerly NSW Planning & Infrastructure). The recommendations of this report are consistent with the advice of NSW P&E with regards to amendments that may be progressed as group or separate PPs.

At this meeting the Department of Planning and Environment (NSW DP&E) also outlined the new approach being taken by Parliamentary Counsel (PC) to new PPs. Essentially, Parliamentary Counsel no longer requires Council to prepare the wording of any new clause and it is at Council's discretion whether or not a draft or sample clause is incorporated into the PP.

Either way, provided the intention of a new clause is clear within the PP, Parliamentary Counsel will draft the new clause at the conclusion of the community engagement process, prior to the PP being submitted to the Minister to be made.

In this respect Council officers are of the opinion that, wherever possible and reasonable, providing a sample clause within the PP will assist in the process of community consultation.

Therefore, while the information contained within this report outlines the intent of any proposed clause and identifies whether or not an associated map layer is required in accordance with the Department of Planning and Environment (NSW DP&E) advice, sample clauses are included in Attachment A which will form the basis of the PP and information that will be used during community consultation.

### **PP of General Amendments**

It is recommended that the following matters relating to development assessment be consolidated into one 'general amendments' PP, the draft content of which is provided in Attachment A to this report. These matters include:

#### **New Local Clause - Short-term rental accommodation**

In response, to a recent court case (*Dobrohotoff vs Bennic*) Council resolved at the Strategic Committee Meeting on 13 August 2013 to include provisions to require consent for the use of dwellings for short term tourist and visitor accommodation where more than four bedrooms are to be used for such accommodation.

The Department of Planning and Environment (NSW DP&E) recommends that when Council submits the PP for this matter, the intent of the clause be made clear to ensure that Parliamentary Counsel can draft a clause which reflects this intent.

Therefore, Council officers recommend that a new local clause for short-term tourist and visitor accommodation be prepared that:

- *enables the temporary use of dwellings as short-term tourist and visitor accommodation;*
- *permit the use of a dwelling containing no more than four (4) bedrooms as short-term tourist and visitor accommodation without development consent;*
- *permit the use of a dwelling containing five (5) or more bedrooms as short-term tourist and visitor accommodation only with development consent; where*
- *short-term tourist and visitor accommodation is tourist and visitor accommodation (except bed and breakfast accommodation); and*

- *the maximum period for which any person is accommodated is 60 consecutive days in a 12 month period.*

Council has also resolved to prepare DCP provisions to cover such matters as parking, waste management, duration of use and number of visitors/tourist residing in the dwelling. These draft provisions shall be tabled for Council's consideration prior to public exhibition of the PP.

## **CONCLUSION:**

There were numerous matters that were not able to be included in Great Lakes Local Environmental Plan 2014 that Council resolved to undertake as amendments as time and resources permit.

The program outlined within this report provides a process for addressing these matters as either combined or independent PPs. Council's endorsement for this PP program is requested so that it may be incorporated into the general work program of the Strategic Land Use Planning section.

## **RESOLUTION**

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### **PP of General Amendments**

A. *In accordance with Section 55 of the Environmental Planning and Assessment Act 1979 Council resolve to prepare a PP to undertake General Amendments to Great Lakes Local Environmental Plan (LEP) 2014 incorporating:*

- 1. Map Amendments - Rezoning Council land for environmental protection*
- 2. New Local Clause - Short-term rental accommodation**
- 3. Additions to Schedule 5 - Heritage Items on Council and Crown land*
- 4. New Local Clause - Development near zone boundaries on land known as Riverside, Tea Gardens; and*
- 5. New Local Clauses - Boundary realignment and subdivision which may create lots less than the minimum lot size*

*and once prepared, the PP be submitted to NSW Planning and Environment for a Gateway Determination.*

B. *In accordance with Section 59 of the Environmental Planning and Assessment Act 1979 Council request written authorisation from NSW Planning & Environment to exercise its plan making delegations to undertake the PP of General Amendments.*

C. *If NSW Planning & Environment grant a Gateway Determination to proceed with the PP of General Amendments, consultation be undertaken with the community and government agencies in accordance with Section 57 of the Environmental Planning and Assessment Act 1979 and any directions of the Gateway Determination.*



# Appendix 3

Advice received from the RFS regarding the use of STHA – dated 29 May 2016

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**NSW RURAL FIRE SERVICE**



Mr Roger Busby  
Manager Strategic Planning  
Planning & Environmental Services Division  
Great Lakes Council  
C/O Ms Rebecca Underwood  
[rebecca.underwood@greatlakes.nsw.gov.au](mailto:rebecca.underwood@greatlakes.nsw.gov.au)

Friday 29<sup>th</sup> May 2015

Dear Mr Busby,

**Re: Planning Proposal for Short Term Holiday Rental Accommodation in the Great Lakes**

Thank you for your letter dated 27<sup>th</sup> May 2015 requesting the NSW Rural Fire Service to clarify its position on Short Term Holiday Rental Accommodation (STHRA) in the Great Lakes.

Pursuant to receiving your letter, I have spoken with Rebecca Underwood from your office and advised that under Section 100B STHRAs are considered to be tourist accommodation. We therefore believe that a Bush Fire Safety Authority (ie 100B approval) is required whether or not development consent is needed.

The RFS recognises that there are practical issues around requiring approval for STHRAs and is committed to working towards streamlining the process for 100B approvals.

As discussed, we are planning on meeting with the Department of Planning and the Environment on Friday 5<sup>th</sup> June 1015 to discuss the issues you have raised and I will brief your office of the meeting afterwards.

If you have any questions please do not hesitate to contact me at 0458 715 952 or [david.boverman@rfs.nsw.gov.au](mailto:david.boverman@rfs.nsw.gov.au).

Regards,

A handwritten signature in black ink that reads 'David Boverman'.

**David Boverman**  
Manager Development Assessment & Planning

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