

# **APPENDIX 2: GATEWAY DETERMINATION**



## Department of Planning, Housing and Infrastructure

Mr Adrian Panuccio  
General Manager  
MidCoast Council  
PO BOX 402  
TAREE NSW 2430

Dear Mr Panuccio,

### **Planning proposal PP-2023-2287 for the MidCoast Local Environmental Plan**

I am writing in response to the planning proposal you have forwarded to the Minister for Planning and Public Spaces under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act), and the additional information received on 27 October 2023 and 28 February 2024 in respect of the proposed MidCoast local environmental plan.

Both Augustus and Cosimo de' Medici took as their motto to 'make haste slowly'. To achieve a balance between urgency and diligence. This motto aptly symbolises the approach taken by MidCoast Council in preparing the new proposed local environmental plan.

I commend council for achieving this important milestone for the MidCoast community. The local environmental plan will form the basis for delivering council's vision for future planning for the local government area consistent with the *Hunter Regional Plan 2041* and your Local Strategic Planning Statement.

As delegate of the Minister for Planning and Public Spaces, I have determined the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

There are conditions in the Gateway determination that seek to align the proposed new local environmental plan with the *Hunter Regional Plan 2041*, including for matters relating to management of agricultural lands, paper subdivision sites, low to mid rise housing and accessibility to everyday services. Other conditions relate to ensuring alignment with relevant policy and guidance issued by the department.

In the absence of a development plan and subdivision order, the proposed development standards for paper subdivision sites needs to balance the ability of landowners to have a fair and reasonable pathway to lodge a development application of a dwelling with the need to manage essential services, natural hazards and biodiversity values.

The application of a C4 Environmental Living zone to paper subdivision sites better reflects this balanced outcome. The additional zone objective above proposed by council should be applied in the C4 Environmental Living zone instead.

A minimum lot size of 5 hectares is also more appropriate for these paper subdivision sites. It would provide for a development application to be lodged that would consider the ability of a proposed dwelling to address matters of servicing, bushfire and biodiversity values.

While not a condition in the gateway determination, I would encourage council to consider further the optional local environmental plan clause 5.22 Special Flood Considerations in the LEP to ensure flood risks associated with sensitive and hazardous land uses are appropriately considered at the development application stage.

I have also agreed, as delegate of the Planning Secretary, the inconsistency of the planning proposal with applicable directions of the Minister under section 9.1 of the Act, 1.3 Approval and Referral Requirements, 1.4 Site Specific Provisions, 5.2 Reserving Land for Public Purposes, 6.2 Caravan Parks and Manufactured Home Estates and 7.1 Employment Zones are justified in accordance with the terms of the directions. No further approval is required in relation to the directions.

Council may still need to obtain the agreement of the Planning Secretary to comply with the requirements of relevant applicable directions of the Minister under section 9.1 of the Act:

- Implementation of Regional Plans
- 1.4A Exclusion of Development Standards from Variation
- 3.1 Conservation Zones, 3.2 Heritage Conservation
- 4.1 Flooding
- 4.2 Coastal Management
- 4.3 Planning for Bushfire Protection
- 5.1 Integrating Land Use and Transport
- 6.1 Residential Zones
- 8.1 Mining, Petroleum Production and Extractive Industries
- 9.1 Rural Zones
- 9.2 Rural Lands, and
- 9.3 Oyster Aquaculture.

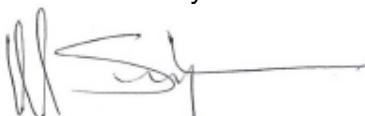
Council should ensure this agreement occurs prior to finalisation of the local environmental plan.

Given the nature of the local environmental plan and need for alignment with relevant state policies and frameworks, I have determined not to authorise council to be the local plan-making authority because the planning proposal.

The amending local environmental plan (LEP) is to be finalised on or before 21 January 2025. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning, Housing and Infrastructure to draft and finalise the local environmental plan should be made 12 weeks in advance of the date the LEP is projected to be made.

Should you have any enquiries about this matter, I have arranged for Paul Maher, Senior Planning Officer, Central Coast and Hunter to assist you. Mr Maher can be contacted on 4904 2719.

Yours sincerely



20 March 2024

**Dan Simpkins**  
**Director, Central Coast and Hunter**  
**Planning, Land Use Strategy and Housing**  
**Department of Planning, Housing and Infrastructure**

Encl: Gateway determination



## Gateway Determination

**Planning proposal (Department Ref: PP-2023-2287):** MidCoast Comprehensive Local Environmental Plan.

I, the Director, Central Coast and Hunter at the Department of Planning, Housing and Infrastructure, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that the MidCoast Comprehensive Local Environmental Plan should proceed subject to the following conditions:

1. The planning proposal is to be updated prior to consultation with relevant public authorities and public exhibition to:
  - (a) include an additional aim of the local environmental plan relating to rural enterprises and agricultural economic diversity
  - (b) update the explanation of provisions to:
    - i. include the information in Appendix 2 Summary of the LEP, and
    - ii. clarify the purpose of the proposed clause 7.18 Caretakers residences is to enable a dwelling house as an ancillary uses to an approved use
  - (c) remove the proposed clause 4.1D Minimum subdivision lot sizes for dual occupancies and manor homes
  - (d) remove the proposed clause 4.1H Exceptions to minimum lot sizes for State Significant Agricultural Land
  - (e) include justification for the proposed removal of controls relating to industrial buildings and warehousing from Schedule 3 Complying development
  - (f) amend the objectives of the proposed R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential and R4 High Density Residential zones to clarify development should be compatible with the desired future character and amenity of the surrounding neighbourhoods, including by removing reference to current character and amenity
  - (g) include the proposed land use zone and relevant development standards for the map amendments resolved by council on 28 February 2024, and include the amendments as an attachment to the planning proposal
  - (h) confirm the coastal risk mapping for the Old Bar and Manning Point Coastal Management Plan could be included in the local environmental plan if the coastal management plan is certified prior to the making of the local environmental plan
  - (i) update the proposed mapping for the RU1 Primary Production and relevant minimum lot size to reflect the Rural Zone Supplementary Review, and include the review as an attachment to the planning proposal

- (j) update the proposed height of building map to include a height of building control for the proposed RE1 Public Recreation zoned lands
  - (k) include a floor space ratio map for land that allows residential development where the maximum building height is 26 metres or more
  - (l) amend the proposed land use table for the proposed zones to:
    - i. prohibit 'sewerage system' in the proposed C2 Environmental Conservation zone
    - ii. permit with consent 'environmental facility' in the proposed RE1 Public Recreation zone
    - iii. permit with consent 'take away food and drink premises' in the proposed R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential and R4 High Density Residential zones
    - iv. permit with consent 'neighbourhood supermarket' in the proposed R4 High Density Residential zone, and
    - v. permit with consent 'attached dwellings' and 'multi dwelling housing' in the proposed R2 Low Density Residential zone
  - (m) amend the proposed local environmental plan for paper subdivision sites to:
    - i. seek to apply a C4 Environmental Living zone and 5 hectare minimum lot size, and
    - ii. combine the proposed clause 7.28 Lot consolidation on land in certain paper subdivisions with the proposed clause 7.29 Master planning on certain land in certain paper subdivisions into a single clause that applies a consistent approach
  - (n) update the assessment against section 9.1 Ministerial direction 1.4A Exclusion of development standards from variation, including consistency with the department's Guide to exclusions from clause 4.6 of the Standard Instrument (November 2023)
  - (o) confirm section 9.1 Ministerial direction 4.4 Remediation of Contaminated Land has been considered for the proposed rezoning of the former NSW Forestry site at Mackenzie Street, Bulahdelah, and
  - (p) confirm section 9.1 Ministerial direction 6.1 Residential Zones, including adequately servicing of the proposed residential zone and any other zone in which residential development is permitted or proposed to be permitted, has been considered for the proposed local environmental plan amendments at Taree.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
- (a) the planning proposal is categorised as principal as described in the *Local Environmental Plan Making Guidelines* (Department of Planning, Housing and Infrastructure, 2023) and must be made publicly available for a minimum of 20 working days;

- (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021); and
- (c) exhibition must commence within two months following the date of the Gateway determination.
3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:
- Department of Primary Industries
  - NSW Rural Fire Service
  - Department of Environment, Climate Change and Water
  - Heritage NSW
  - Local Aboriginal Land Councils
  - Forestry NSW
  - Forestry Corporation
  - National Parks Wildlife Service
  - Crown Lands
  - School Infrastructure
  - TAFE NSW
  - Department of Regional NSW
  - NSW Health
  - NSW Water

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 40 days to comment on the planning proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The local environmental plan should be completed on or before 21 January 2025.

Dated 20 day of March 2024.



**Dan Simpkins**  
**Director, Central Coast and Hunter**  
**Department of Planning, Housing and Infrastructure**

**Delegate of the Minister for Planning and Public Spaces**