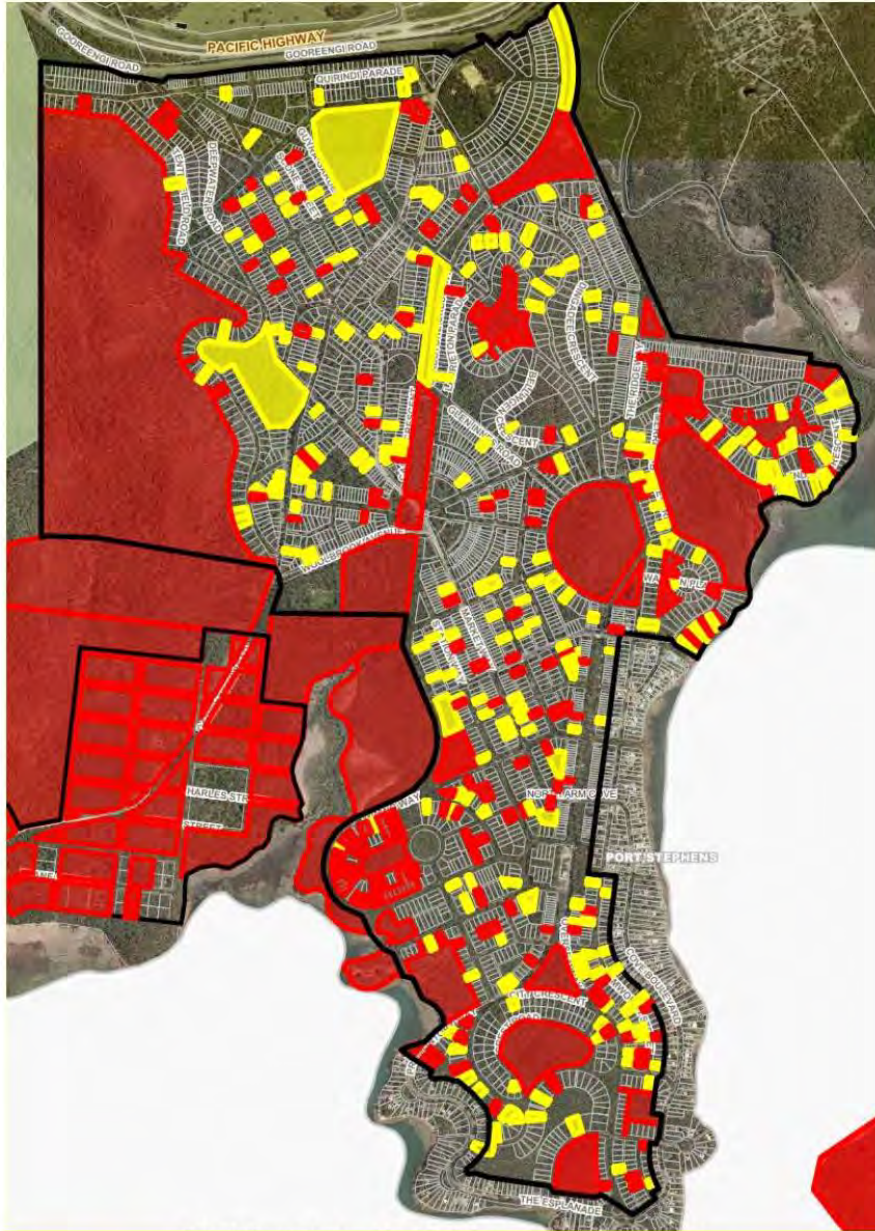
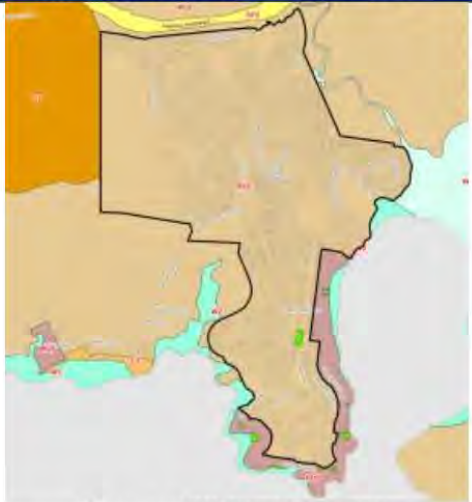





North Arm Cove Paper Subdivision



Black boundary – identified Paper Subdivision Extent
Yellow sites – phone, email or appointment enquiries from land owner in paper subdivision
Red sites – identified submission from land owner in paper subdivision

North Arm Cove Paper Subdivision	
	
<p>Current – RU2 Rural Landscape Minimum Lot Size 40ha 8.5m Height of Building</p>	<p>Proposed – C2 Environmental Conservation and C3 Environmental Management Minimum Lot Size of 40ha & 20ha respectively no Height of Building</p>
	
<p>Significant Private Ownership</p>	<p>Private Roads</p>
<p>Objection to Environmental zone and Support camping <i>S.97, S.167, S.364, S.405 requests that the land stay as it is and not be zoned environmental</i></p>	
<p>Report recommendations Response – No amendment to Rural Strategy or Paper Subdivision Analysis Report recommendations for implementation in the MidCoast LEP program.</p> <p>The Rural Strategy and associated Paper Subdivision Analysis Report represent the final stages of a comprehensive review of the existing zones and development standards that apply across the MidCoast within the Gloucester LEP 2010, Great Lakes LEP 2014 and Greater Taree 2010.</p> <p>This process, and the future development of a new MidCoast LEP and Development Control Plan, are required to be undertaken as a result of the merger of the three former Councils.</p>	

North Arm Cove Paper Subdivision

Based on the findings of these reports the identified paper subdivisions are generally:

- too constrained to support commercially viable primary production activities (a rural zone);
- too constrained to support development on all existing allotments (a residential or village zone); and
- environmentally constrained or ecologically significant in whole or part (an environmental zone).

The allocation of environmental zones and development standards (minimum lot size and height of building) have been allocated to each location based on the environmental values and constraints identified, for implementation through the MidCoast LEP program.

Consideration of any alternative zones or development standards would require further investigation and resolution by land owners collectively, in accordance with the Department of Planning's Paper Subdivision Guidelines process.

Camping Provisions

Response – Additional information on camping will be provided on Council's Non-urban Land webpage to ensure all relevant information is available to land owners.

Private camping on private land is not a development matter that is addressed by a local environmental plan or development control plan but is regulated by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021.

However, to enable use of the land and installation of a caravan, land owners also need to ensure they have legal access and relevant permits to remove vegetation and build any structures on the site, which are regulated by other legislation such as the State Environmental Planning Policy (Exempt & Complying Development) 2008.

Additional information on these issues is available on Council's Non-urban Land webpage, but community feedback indicates it is unclear and applied inconsistently. Specific information from relevant legislation shall therefore be provided on the updated webpage, based on the information provided at the end of this document.

Impact of environmental zone on existing land uses

S.49 objects to the proposal and suggests Council ask for the subdivision to be dissolved and compensation paid to land owners equal to the land valuation.

S.81, S.86, S.158, S.159, S.194 objects to the proposal and will seek compensation

Rezoning or reducing property rights will be interpreted as compulsory acquisition and compensation will be sought. The author also asks if this proposal has been discussed with the State government.

S.80 & S.230 is not clear on the purpose of the environmental zone or why Council is stopping development on non-urban land

What is Council trying to achieve in the short, medium and long term in the paper subdivisions? Does Council receiving land create a conflict of interest for Council i.e. a future financial benefit if the land is rezoned for development?

North Arm Cove Paper Subdivision

Report recommendations

Response – No amendment to Rural Strategy or Paper Subdivision Analysis Report recommendations for implementation in the MidCoast LEP program.

The Rural Strategy and associated Paper Subdivision Analysis Report represent the final stages of a comprehensive review of the existing zones and development standards that apply across the MidCoast within the Gloucester LEP 2010, Great Lakes LEP 2014 and Greater Taree 2010.

This process, and the future development of a new MidCoast LEP and Development Control Plan, are required to be undertaken as a result of the merger of the three former Councils.

Based on the findings of these reports the identified paper subdivisions are generally:

- too constrained to support commercially viable primary production activities (a rural zone);
- too constrained to support development on all existing allotments (a residential or village zone); and
- environmentally constrained or ecologically significant in whole or part (an environmental zone).

The allocation of environmental zones and development standards (minimum lot size and height of building) have been allocated to each location based on the environmental values and constraints identified, for implementation through the MidCoast LEP program.

Consideration of any alternative zones or development standards would require further investigation and resolution by land owners collectively, in accordance with the Department of Planning's Paper Subdivision Guidelines process.

Environmental zones

Response – Rural Strategy and Paper Subdivision Analysis Report recommendations are to be reviewed for consistency prior to finalisation and implementation in the MidCoast LEP program.

The environmental zones applied to the land reflect the environmental constraints and sensitivity of the location, consistent with the zone criteria provided within the draft Rural Strategy. These criteria continue to be reviewed and refined in response to State agency and public submissions received during exhibition of the draft Rural Strategy.

The environmental zones applied to land within North Arm Cove generally reflect the provisions of the *Department of Planning & Environment Practice Note PN09-002 Environmental Protection Zones* and the draft environmental zone criteria from the Rural Strategy:

- coastal wetlands, ecologically and environmentally significant land (C2 Environmental Conservation);
- Council land that is heavily vegetated, flood affected, with biodiversity value or adjoining coastal wetlands (C3 Environmental Management);
- private land that is heavily vegetated, flood affected, with biodiversity value or adjoining coastal wetlands (C3 Environmental Management);
- private land used for low intensity residential uses in an environmentally sensitive location (C4 Environmental Living).

North Arm Cove Paper Subdivision

In response to many submissions and enquiries requesting additional information on the environmental value and or features of the land within and adjoining paper subdivisions, the PSA Report has been amended to include publicly available information from the Biodiversity Values Map and BioNet Threatened Species database (flora and fauna information).

The additional information may require reconsideration of the land use zones and minimum lot size development standards within the paper subdivisions, consistent with the broader environmental zone criteria considerations and recommendations for other locations documented within the Rural Strategy.

The environmental zones being considered do not require the removal or cessation of extensive agricultural activities; and other activities that may become prohibited would continue to have existing use rights.

The rezoning of land does not affect the existing use rights of approved and lawful activities or development; or require the removal of approved and lawful structures and development.

Within the PSA Report, consistent with existing Council policy and practice, land transferred to Council is to be rezoned environmental to reflect the level of constraint that exists on these sites. Council will also classify these lands to community purpose, to reflect the intent that these lands are not on-sold for development but retained for environmental or community purpose in the future.

[Land management in environmental zones](#)

Land use zones do not prohibit bushfire protection measures or actions permitted by the NSW Rural Fire Service.

The [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021](#) also continues to make provisions for the clearing and management of vegetation within environmental zones for activities associated with farm management.

The resolution of any inconsistency between plantation and/or exempt farm forestry activities and existing areas of environmental protection, is outside the scope of the Rural Strategy noting the provisions of the [Plantations and Reafforestation Act 1999](#).

Council will continue to consider the range of land uses and activities that may be permitted in the environmental management zone, noting the comments of the DPE Biodiversity & Conservation Division submission.

This may also include consideration of a range of additional exempt and complying development provisions for land within environmental zones that would otherwise require a development application, consistent with existing SEPP Exempt & Complying Development (2008) provisions for farm buildings and the like on existing rural land.

The rezoning of land does not affect the existing use rights of approved and lawful activities or development; or require the removal of approved and lawful structures and development.

North Arm Cove Paper Subdivision

The opportunity to make a development application for land uses currently permitted within the existing RU2 Rural Landscape zone will remain in place until the new MidCoast LEP is in force.

Dwelling entitlements and building approvals

Existing dwelling entitlements and development approvals for dwellings will not be affected by the proposed change in zone. The provisions of Great Lakes LEP 2014, detailed below, will remain in force until such time as the new MidCoast LEP is made.

Clause 4.2A Erection of dwelling houses on land in certain rural and environment protection zones

(1) *The objectives of this clause are as follows—*

(a) *to minimise unplanned rural residential development,*
(b) *to enable the replacement of lawfully erected dwelling houses in certain rural and environment protection zones.*

(2) *This clause applies to land in the following zones—*

(a) *Zone RU2 Rural Landscape,*
(b) *Zone E2 Environmental Conservation,*
(c) *Zone E3 Environmental Management.*

(3) *Development consent must not be granted for the erection of a dwelling house on land to which this clause applies unless the land—*

(a) *is a lot that is at least the minimum lot size shown on the [Lot Size Map](#) in relation to that land, or*

(b) *is a lot created before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or*

(c) *is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement, or*

(d) *is an existing holding, or*

(e) *would have been a lot or a holding referred to in paragraph (a), (b), (c) or (d) had it not been affected by—*

(i) *a minor realignment of its boundaries that did not create an additional lot, or*

(ii) *a subdivision creating or widening a public road or public reserve or for another public purpose, or*

(iii) *a consolidation with an adjoining public road or public reserve or for another public purpose.*

Note—

A dwelling cannot be erected on a lot created under clause 9 of [State Environmental Planning Policy \(Rural Lands\) 2008](#) or clause 4.2.

(4) *Development consent must not be granted under subclause (3) unless—*

(a) *no dwelling house has been erected on the land, and*

(b) *if a development application has been made for development for the purpose of a dwelling house on the land—the application has been refused or it was withdrawn before it was determined, and*

(c) *if development consent has been granted in relation to such an application—the consent has been surrendered or it has lapsed.*

(5) *Development consent may be granted for the erection of a dwelling house on land to which this clause applies if there is a lawfully erected dwelling house on the*

North Arm Cove Paper Subdivision

land and the dwelling house to be erected is intended only to replace the existing dwelling house.

(6) In this clause—

existing holding means land that—

(a) was a holding on 15 May 1964, and

(b) is a holding at the time the application for development consent referred to in subclause (3) is lodged,

whether or not there has been a change in the ownership of the holding since 15 May 1964, and includes any other land adjoining that land acquired by the owner since 15 May 1964.

holding means all adjoining land, even if separated by a road or railway, held by the same person or persons.

Note—

The owner in whose ownership all the land is at the time the application is lodged need not be the same person as the owner in whose ownership all the land was on the stated date.

Consultation

Response – Council will undertake additional consultation and engagement when the Draft MidCoast Local Environmental Plan is on exhibition. The rezoning of land will only occur when the new MidCoast LEP comes into force.

During the Rural Strategy exhibition public health orders limited opportunities for public forums and meetings until November 2021. Council were also aware that many owners of land within paper subdivisions reside outside of the local government area and would have limited opportunities to attend public meetings, whether public health orders were in place or not.

To ensure a high level of customer service to land owners outside of the LGA, a call-back appointment process was established and maintained throughout the 22 week exhibition period. The program of review and strategy development has involved extensive consultation programs in accordance with the Environmental Planning & Assessment Act, Regulations and Council's Community Participation Plan.

Consultation on the future MidCoast LEP and DCP is planned as a combined consultation program and will involve notification of all land owners and rate payers and additional information and resources.

Camping Provisions

Response – Additional information on camping will be provided on Council's Non-urban Land webpage to ensure all relevant information is available to land owners.

Private camping on private land is not a development matter that is addressed by a local environmental plan or development control plan but is regulated by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021.

However, to enable use of the land and installation of a caravan, land owners also need to ensure they have legal access and relevant permits to remove vegetation and build any

North Arm Cove Paper Subdivision
<p>structures on the site, which are regulated by other legislation such as the State Environmental Planning Policy (Exempt & Complying Development) 2008.</p> <p>Additional information on these issues is available on Council's Non-urban Land webpage, but community feedback indicates it is unclear and applied inconsistently. Specific information from relevant legislation shall therefore be provided on the updated webpage, based on the information provided at the end of this document.</p>
<p>Support development outcome</p> <p>S.3, S.22, S.48 supports consolidation to enable development</p>
<p>S.5, S.213, S.233 is pleased Council is acting on paper subdivision lots</p> <p>Supports the provision of infrastructure and services by Council to allow development.</p>
<p>S.13, S.30, S.94, S.113, S.131, S.145, S.218, S.322, S.425 request that the village boundary be extended</p> <p>The authors request that Council reconsider the zone boundary to include areas adjoining the village, existing dwellings, community hall, with road access, power and reflecting the existing pattern of development.</p>
<p>S.17 encourages a moderate increase in development and population to allow the area to be sustainable</p> <p>A sustainable community would allow for rates, maintenance of roads, bushfire management a general store and tourism activity.</p>
<p>S.18, S.28, S36, S.63, S.73, S.88, S.91, S.98, S.108, S.140, S.144, S.266, S.279 supports working with other land owners to pursue a development outcome, understanding there would be costs involved</p> <p>Additional development would provide a positive economic contribution to the region through jobs, homes, trades and services. Council should seek support from the State government to investigate development options.</p> <p>The land owner does not know how to contact other land owners but would encourage Council contact all land owners to determine if the required 60% of land owners support further investigation into a concept Development Plan and Subdivision Order.</p>
<p>S.6, S.8, S.10, S.19, S.32, S.38, S.58, S.67, S.74, S.75, S.95, S.116, S.130, S.182, S.215, S.217, S.219, S.220, S.221, S.235, S.242, S.252, S.272, S.273, S.274, S.280, S.298, S.300, S.319, S.327, S.334, S.337, S.339, S.340, S.343, S.345, S.355, S.358, S.376, S.377, S.378, S.379, S.384, S.387, S.388, S.400, S.401, S.402, S.406 wants the subdivision recognised and rezoning to allow development.</p> <p>Council should use rates income to assist in allowing development on all existing lots, to obtain additional rates revenue. Development could occur in stages as access and services are provided or undertaken using off-grid and sustainable technology. Provide land owners with the opportunity to realise the promised potential of North Arm Cove.</p> <p>Council will need to compensate land owners or undertake a buy-back scheme if the land is rezoned environmental.</p>

North Arm Cove Paper Subdivision

S. 21 objects to the goals of the Rural Strategy and decision to not identify paper subdivisions for development

Goal 1 – Sustain Primary Production Opportunities – there are no opportunities in the NAC paper subdivision
Goal 2 – Enhance Rural Lifestyles and Livelihoods – this goal does not provide any justification for development in NAC
Goal 3 – Protect Natural Landscapes – there may be some areas in NAC, but most of the area is inaccessible because roads, access and walking trails are not maintained
Goal 4 – Improve Planning & Placemaking in Practice – this is not relevant if NAC is not identified for development

Council's justification for obtaining but not using rates within NAC is convenient, Council's reputation would improve if rates were instead used for better access and infrastructure.

S.24, S.35, S.69, S.76, S.99, S.109, S.112, S.115, S.122, S.179, S.180, S.184, S.193, S.198, S.199, S.204, S.205, S.209, S.210, S.214, S.216, S.222, S.223, S.229, S.239, S.244, S.246, S.257, S.277, S.281, S.282, S.285, S.287, S.288, S.289, S.290, S.291, S.292, S.293, S.296, S.303, S.304, S.311, S.317, S.335, S.336, S.341, S.347, S.383, S.389, S.390, S.391, S.395 object to the environmental zone, asking Council as a land owner, to pursue rezoning to enable development and sustainable occupation on each allotment.

Rural Strategy

It is suggested that land within the paper subdivisions be deferred from consideration in the Rural Strategy to enable further investigation on how key constraints may be resolved.

The land at NAC does not satisfy the environmental management zone criteria in the Rural Strategy and application of the zone will limit land uses compared to the RU2 Rural Landscape zone – shops, cafes, motels; prohibit dwelling entitlements; require agriculture to have approval; and limit existing camping activities.

Does not meet the criteria as provided from the E Zones Review and PSAR acknowledged no biodiversity study undertaken. The Land Based Conservation Report (Chapter 4, Table 4 p.19) is identified as a data gap. If no environmental study has been undertaken, application of an environmental zone cannot be demonstrated as 'evidence based'.

Council should also act to immediately improve road access and waste removal for camping activities and removing the 2 day limit would reduce squatting and dumping in the area.

Paper Subdivision Guidelines

Council cannot rezone land it owns, without following Paper Subdivision Guidelines.

The findings of the Paper Subdivision Analysis Report identify constraints, but there is scope for a residential or village zone to allow sustainable development using new technology and limiting impact. Specialist reports on the viability of water, sewer, waste and bushfire could be undertaken to determine costs and opportunities.

The original subdivision design should be identified as an opportunity, with new technology and solutions available for the provision of water, power and sewage. These

North Arm Cove Paper Subdivision

issues and the legal status of roads can also be resolved using rates from non-urban land owners. Council is asked to allocate funding to further investigation and studies to resolve these issues in the budget for 2022-23.

It is unfair that there are dwellings in the coastal village and other areas while many owners cannot build or use their land. Development in NAC would be a logical extension of these existing village areas.

Existing areas of Tea Gardens and Hawks Nest are already affected by rising sea levels, in comparison to NAC. These areas are also identified as some of the oldest communities in Australia, development at NAC would attract new families to the region.

Local & Regional Plans

Council's plans for NAC are not aligned with NSW Government plans for the Hunter region or MidCoast Council LGA which are to substantially increase housing supply with more decentralised towns and villages.

The population data within the LSPS and Rural Strategy should be updated to reflect population growth consistent with the regional plans. Additional development and residents would enable creation of a sustainable and environmentally-focused community.

The NAC area is also not identified for conservation within the regional plan and should be identified as a future potential growth area of the Hunter and MidCoast given its proximity to Newcastle.

The aims of Council's Housing Strategy are supported and should be implemented in NAC, which has access to the highway and surrounding areas including Newcastle and Williamstown. Council should work with the State government to have NAC identified in the Housing Strategy and identified as a potential future urban release area.

Rates

Council's justification for obtaining but not using rates within NAC is convenient, Council's reputation would improve if rates were instead used for better access and infrastructure. Council cannot absolve itself of past decisions by applying an environmental zone without considering land owner/key stakeholder input.

The option to transfer land to Council at no cost due to financial hardship is unethical and gives the impression Council is land-banking with the intention of selling the land to developers in the future.

Local Community Plan

Non-urban land owners were excluded from community engagement programs for the North Arm Cove area (Local Community Plan), when village residents were included. This was contrary to NSW planning legislation requirements and Council should develop new Community Participation Plans and Community Engagement Strategies that would properly engage with non-urban land owners.

S.27, S.40, S.42, S.43, S.47, S.52, S.64, S.114, S.125, S.132, S.136, S.139, S.167, S.173, S.181, S.225, S.264, S.433 objects to the proposal and wants Council to assist land owners to realise development using the rates income from non-urban land owners

North Arm Cove Paper Subdivision

Some land owners will stop paying rates; will sell land to recoup lost funds; or transfer land to avoid further rates and debts to Council.

Council is taking advantage of people who bought these lands, allowing the sale of these lands to get rates, without any improvements or road maintenance to even provide access to the land.

Council needs to explain how much rate revenue has been obtained since properties were sold and justify the preferential treatment of other areas with the provision of services and facilities.

Council need to explain how it values land that cannot be built upon, how it justifies rate increases, and should cancel future rate charges until land owners can build. Alternatively, Council should have a buy-back scheme, to compensate land owners.

The author does not know how to contact other owners but would encourage Council contact all land owners to determine if the required 60% of land owners support further investigation into a concept Development Plan and Subdivision Order.

S.33, S.134 provides feedback on the Paper Subdivision Analysis Report options

Option 1 to consolidate is unrealistic and a waste of time and effort

Option 2 to continue camping requires land owners to do the right thing by removing rubbish, bringing water and complying with fire restrictions

Option 3 to transfer land to Council is insulting and should be removed from the Report

Alternative Option – land owners approach State government with MidCoast Council assistance to seek funding, in addition to land owner contributions and Council rate revenue to engage additional assistance to develop NAC. This could include a proper sewage treatment plant for the existing village to reduce environmental impacts on the bay.

If Council wants NAC land, pay the original purchase price, legal costs and reimburse rates. Council have inherited a problem but could create a better outcome.

S.117, S.197, S.212 objects to the Report and requests that development be permitted

Many towns and villages across NSW allow for dwellings on land that relies on dirt road access, septic tanks and tank water. These areas provide a great lifestyle choice for families.

S.120 objects to the minimum lot size and requests consideration of smaller allotments

Achieving consolidation to the new minimum lot size of 20ha will still be difficult and costly. Council is asked to consider an alternative of 1ha to 5ha which is more achievable and assist land owners in contacting each other to buy and sell in order to consolidate.

The author also asks if there is a guarantee of approval for a dwelling if they can consolidate.

North Arm Cove Paper Subdivision
<p><i>S.136 acknowledges their land was purchased without the right to build, but asks if Council should now consider development options</i></p> <p>The lands have legal titles and have been sold over time.</p> <p>Council should consider the mega-trends in the Rural Strategy and consider development potential in NAC as an opportunity to work with other levels of government and a private developer who can fund alternative forms of infrastructure and pay fees to realise development.</p> <p>Council resources seem to be focused on existing areas like Hawks Nest, where residents resist expansion and development, rather than investing in the opportunities of NAC.</p>
<p><i>S.398 objects to the unjustified application of an environmental zone and do not believe consolidation of lots can occur to provide a development outcome.</i></p> <p>The zoning decision should be reviewed and compensation provided to land owners who have no opportunity to build.</p>
<p><i>S.402 is disappointed that North Arm Cove is no closer to being developed.</i></p> <p>The author provided a copy of historic documents and supports the contribution of the Rural Strategy to the new local environmental plan and development control plan.</p>
<p>Note: Several submissions repeat and reflect comments from key landowners, the non-urban land owners association and other key interest groups. These are grouped into common themes where possible.</p> <p>Consultation Process <i>Response – No amendment to Rural Strategy or Paper Subdivision Analysis Report recommendations. Council will undertake additional consultation and engagement when the Draft MidCoast Local Environmental Plan is on exhibition. The rezoning of land will only occur when the new MidCoast LEP comes into force.</i></p> <p>The Rural Strategy considers all waterways, rural and environmental lands across the MidCoast, as part of a strategic and comprehensive process for establish a framework of planning controls for the new MidCoast Local Environmental Plan and Development Control Plan.</p> <p>During the Rural Strategy exhibition public health orders limited opportunities for public forums and meetings until November 2021. Council were also aware that many owners of land within paper subdivisions reside outside of the local government area and would have limited opportunities to attend public meetings, whether public health orders were in place or not.</p> <p>To ensure a high level of customer service to land owners outside of the LGA, a call-back appointment process was established and maintained throughout the 22 week exhibition period. The program of review and strategy development has involved extensive consultation programs in accordance with the Environmental Planning & Assessment Act, Regulations and Council’s Community Participation Plan.</p>

North Arm Cove Paper Subdivision

Consultation on the future MidCoast LEP and DCP is planned as a combined consultation program and will involve notification of all land owners and rate payers and additional information and resources.

The rezoning of land does not affect the existing use rights of approved and lawful activities or development; or require the removal of approved and lawful structures and development.

Local Community Plans

Response – The Local Community Plan program is not related to the strategic land use planning program of the Rural Strategy and Paper Subdivision Analysis Report.

In April 2022 Council resolved not to have any future role in the preparation of local community plans. The plan prepared for North Arm Cove was facilitated by Council but undertaken by members of the local community.

When the local community plan process was commenced under the MidCoast Local Community Planning Framework (prior to its rescission) there was no exclusion of any member of the community.

The zoning of land and issues associated with non-urban land at North Arm Cove were however excluded from the process, as they are outside the scope of a local community plan, which is not a plan for the purpose of considering land use zones, development or to inform the preparation of an environmental planning instrument.

Council's community participation plan and community engagement strategy are currently being reviewed and will be on public exhibition during October for community feedback.

Rates

Response – No amendment to Rural Strategy or Paper Subdivision Analysis Report recommendations as calculation of property values and the calculation and collection of rates is outside the scope of this project.

Under the Local Government Act 1993, Council must levy rates on all land, whether it can be built upon or not, as a result non-urban land is not exempt from rates.

The only land which is exempt from the payment of rates is as follows: vacant crown land; national parks; state forests; schools; reserves; and land used for charitable or religious purposes.

Additional information on rates is available on Council's website [Your rates explained - MidCoast Council \(nsw.gov.au\)](#).

The calculation of property values, rate classifications, rating of property and allocation of rates to services and infrastructure within the local government area are outside the scope of the Rural Strategy and Paper Subdivision Analysis Report.

PSA Report recommendations

Response – No amendment to Rural Strategy or Paper Subdivision Analysis Report recommendations for implementation in the MidCoast LEP program.

The Rural Strategy and associated Paper Subdivision Analysis Report represent the final stages of a comprehensive review of the existing zones and development standards that apply across the MidCoast within the Gloucester LEP 2010, Great Lakes LEP 2014 and Greater Taree 2010.

North Arm Cove Paper Subdivision

This process, and the future development of a new MidCoast LEP and Development Control Plan, are required to be undertaken as a result of the merger of the three former Councils.

Based on the findings of these reports the identified paper subdivisions are generally:

- too constrained to support commercially viable primary production activities (a rural zone);
- too constrained to support development on all existing allotments (a residential or village zone); and
- environmentally constrained or ecologically significant in whole or part (an environmental zone).

The allocation of environmental zones and development standards (minimum lot size and height of building) have been allocated to each location based on the environmental values and constraints identified, for implementation through the MidCoast LEP program.

The rezoning of land does not affect the existing use rights of approved and lawful activities or development; or require the removal of approved and lawful structures and development.

Consideration of any alternative zones or development standards would require further investigation and resolution by land owners collectively, in accordance with the Department of Planning's Paper Subdivision Guidelines process.

[Paper Subdivision Guidelines](#)

Response – No amendment to Rural Strategy or Paper Subdivision Analysis Report recommendations for implementation in the MidCoast LEP program.

The rezoning of these lands for the purpose of informing the new MidCoast LEP has not triggered the criteria that would require implementation of the Planning for Paper Subdivision Guidelines or "prohibit dwelling entitlements".

These key contributors to submissions at North Arm Cove are engaging in discussions and preliminary investigations for future development options, but the outcomes and process is at an **inception stage only** and do not yet satisfy the commencement provisions of the Planning for Paper Subdivision Guidelines.

The Department of Planning & Environment's Planning for Paper Subdivision Guidelines provides a separate framework for the resolution of issues associated with services, infrastructure, environmental constraints and development potential by land owners and a relevant authority, through a concept Development Plan and Subdivision Order.

The zones and development standards recommended by the Rural Strategy for land within paper subdivisions and implemented in the future MidCoast LEP, may therefore, be amended in the future, in accordance with location-specific investigations and assessments that are produced through this separate process.

The policy and practice of rezoning land without development potential that has been transferred to Council to an environmental zone in North Arm Cove is consistent with Council's policy and practice as evidenced by the rezoning of land through Great Lakes

North Arm Cove Paper Subdivision

LEP 2014 and has been on hold during the strategic land use planning review process undertaken since merger in 2016.

Local & Regional Plans

Response – The Rural Strategy and Paper Subdivision Analysis Report will be updated to reflect any amended and updated local and regional strategy documents wherever possible

The land within the North Arm Cove paper subdivision is not identified as a potential urban growth area of urban release area within the MidCoast Urban Release Area Report or the Hunter Regional Plan.

The Department of Planning recognised the unique challenges associated with realising development potential within paper subdivisions across NSW, when it released the Planning for Paper Subdivisions Guideline in 2013.

Council, in preparing the PSA Report, has reviewed each identified paper subdivision in the MidCoast, and provided two key outcomes based on the information currently available:

- A. The PSA Report provides zone, land use and development standard recommendations consistent with the Rural Strategy, for implementation in the MidCoast LEP program; and
- B. The PSA Report identifies the key issues and constraints that would require further investigation and resolution should land owners collectively, wish to fund and pursue a development outcome using the process outlined within the Department's [Planning for Paper Subdivisions Guideline](#).

Environmental zones

Response – The Rural Strategy and Paper Subdivision Analysis Report recommendations are to be reviewed for consistency prior to finalisation and implementation in the MidCoast LEP program.

The environmental zones applied to the land reflect the environmental constraints and sensitivity of the location, consistent with the zone criteria provided within the draft Rural Strategy. These criteria continue to be reviewed and refined in response to State agency and public submissions received during exhibition of the draft Rural Strategy.

The environmental zones applied to land within North Arm Cove generally reflect the provisions of the *Department of Planning & Environment Practice Note PN09-002 Environmental Protection Zones* and the draft environmental zone criteria from the Rural Strategy:

- coastal wetlands, ecologically and environmentally significant land (C2 Environmental Conservation);
- Council land that is heavily vegetated, flood affected, with biodiversity value or adjoining coastal wetlands (C3 Environmental Management);
- private land that is heavily vegetated, flood affected, with biodiversity value or adjoining coastal wetlands (C3 Environmental Management);
- private land used for low intensity residential uses in an environmentally sensitive location (C4 Environmental Living).

North Arm Cove Paper Subdivision

In response to many submissions and enquiries requesting additional information on the environmental value and or features of the land within and adjoining paper subdivisions, the PSA Report has been amended to include publicly available information from the Biodiversity Values Map and BioNet Threatened Species database (flora and fauna information).

The additional information may require reconsideration of the land use zones and minimum lot size development standards within the paper subdivisions, consistent with the broader environmental zone criteria considerations and recommendations for other locations documented within the Rural Strategy.

The environmental zones being considered do not require the removal or cessation of extensive agricultural activities; and other activities that may become prohibited would continue to have existing use rights.

The rezoning of land does not affect the existing use rights of approved and lawful activities or development; or require the removal of approved and lawful structures and development.

Within the PSA Report, consistent with existing Council policy and practice, land transferred to Council is to be rezoned environmental to reflect the level of constraint that exists on these sites. Council will also classify these lands to community purpose, to reflect the intent that these lands are not on-sold for development but retained for environmental or community purpose in the future.

[Land management in environmental zones](#)

Land use zones do not prohibit bushfire protection measures or actions permitted by the NSW Rural Fire Service.

The [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021](#) also continues to make provisions for the clearing and management of vegetation within environmental zones for activities associated with farm management.

The resolution of any inconsistency between plantation and/or exempt farm forestry activities and existing areas of environmental protection, is outside the scope of the Rural Strategy noting the provisions of the [Plantations and Reafforestation Act 1999](#).

Council will continue to consider the range of land uses and activities that may be permitted in the environmental management zone, noting the comments of the DPE Biodiversity & Conservation Division submission.

This may also include consideration of a range of additional exempt and complying development provisions for land within environmental zones that would otherwise require a development application, consistent with existing SEPP Exempt & Complying Development (2008) provisions for farm buildings and the like on existing rural land.

The rezoning of land does not affect the existing use rights of approved and lawful activities or development; or require the removal of approved and lawful structures and development.

North Arm Cove Paper Subdivision

The opportunity to make a development application for land uses currently permitted within the existing RU2 Rural Landscape zone will remain in place until the new MidCoast LEP is in force.

Dwelling entitlements and building approvals

Response – The Rural Strategy include a draft clause provision that requires consolidation of existing holding allotments, where that existing holding is relied upon for the purpose of development approval for a dwelling house.

Existing dwelling entitlements and development approvals for dwellings will not be affected by the proposed change in zone.

Clause 4.2A of Great Lakes LEP 2014 is documented in full within the Submissions summary table in Attachment 1 and provides a definition of an existing holding (dwelling entitlements) will remain in force until such time as the new MidCoast LEP is made:

Clause 4.2A Erection of dwelling houses on land in certain rural and environment protection zones

(6) In this clause— **existing holding** means land that—

(a) was a holding on 15 May 1964, and

(b) is a holding at the time the application for development consent referred to in subclause (3) is lodged, whether or not there has been a change in the ownership of the holding since 15 May 1964, and includes any other land adjoining that land acquired by the owner since 15 May 1964.

holding means all adjoining land, even if separated by a road or railway, held by the same person or persons.

Note— The owner in whose ownership all the land is at the time the application is lodged need not be the same person as the owner in whose ownership all the land was on the stated date.

Response – A development outcome on every existing allotment within the identified paper subdivisions is not possible given identified constraints and legislative requirements, therefore the Paper Subdivision Analysis Report recommendations will be progressed through the MidCoast LEP program.

A form to enable contact between adjoining land owners will be attached to the final PSA Report.

Key principles for each location, based on identified constraints and legislative requirements, will be provided where possible, to provide additional context for land owners willing to fund the studies, investigations and master planning required to follow the Department of Planning’s Paper Subdivision Guidelines process.

The Paper Subdivision Analysis Report was prepared as a high-level assessment of paper subdivisions, to determine if any of these areas could be rezoned to enable development on each existing allotment as part of the MidCoast LEP program. There were no locations where this scenario was found to be possible.

Council has prepared the Report in good faith, based on information that is either publicly available and/or Council would normally consider in the preliminary stages of any rezoning proposal – infrastructure, services, bushfire, flood and ecological constraints.

North Arm Cove Paper Subdivision

The Report also provides information to all landowners on the constraints that apply to the land that would have to be addressed and resolved, should they wish to collectively pursue a development outcome in accordance with the Paper Subdivision Guideline process and requirements.

Council acknowledges that initiating communication between land owners is challenging given privacy restrictions, however, the PSA Report will be amended to include the [Request to initiate contact with adjoining property owner form](#) available on Council's website.

While the Report can be amended to identify key principles for each location, should land owners within any of the identified subdivisions wish to pursue a development outcome, this would be reliant on more detailed studies being undertaken.

These detailed studies and additional work required to prepare a Development Plan are outside the scope of the Rural Strategy and the Paper Subdivision Analysis Report.

These detailed studies would be required to inform the preparation of a concept Development Plan and to make an application to the Minister in accordance with the Department of Planning's Paper Subdivision Guidelines process.

This work is also beyond the resource capacity of MidCoast Council and would likely require financial and resource commitments from affected land owners prior to commencement, and the State government throughout the process, as has been the case in other locations in NSW.

Costs associated with consolidation, subdivision, development and any other associated processes are borne by the land owner and/or developer.

Within the Report, consistent with existing Council policy and practice, land transferred to Council is to be rezoned environmental to reflect the level of constraint that exists on these sites. Council will also classify these lands to community purpose, to reflect the intent that these lands are not on-sold for development but retained for environmental or community purpose in the future.

Support for the application of environmental zones

S.105 supports the protection of environmental areas and recognition of existing use rights for camping and horticulture

S.126, S.200, S.201, S.203, S.250, S.261, S.301, S.324, S.328, S.330, S.338, S.429 support the application of environmental zones

The zoning of these lands as rural does not reflect the state of the land and inability to operate viable agriculture in this location. Clearing provisions in the rural zone and potential development of the area in a residential zone both have the potential to significantly impact on the environment of North Arm Cove.

The actions of some land owners appear to be directed at forcing a development outcome from Council and the local community, evidenced by the increase in unauthorised development, clearing and environmental damage to non-urban lots by land owners who disregard rules and regulations, up to and including the unauthorised occupation of sheds.

North Arm Cove Paper Subdivision

Council should provide clear guidelines regarding the temporary use of land for camping to address unauthorised clearing, waste management and development restrictions. Additional clarity on the legislation around camping, exempt and complying development and temporary structures on bushfire affected properties – not relevant in North Arm Cove – are required.

The lack of building entitlements in NAC have been well documented by Council for decades. Real estate agents and other vested interests perpetuate misinformation about future development opportunities.

Council have commissioned numerous specialist reports on the potential of paper subdivisions, which have identified numerous challenges, while the State encourage development in locations with existing infrastructure. Based on lot numbers, sizes and population information, any residential development in this location, with no services, bushfire hazards and limited road access, would create significant environmental and social issues.

Environmental and wildlife protection cannot be balanced with the expectation for development on each lot, and affordable housing cannot be realised with the costs of access, services and infrastructure to enable development.

Land that is transferred to Council should be rezoned for environmental protection and a suitable long-term management plan developed, including education about the threatened species that live in the area.

Council is asked to enforce existing regulations, require removal of unauthorised structures and enforce penalties for environmental damage. Council is also encouraged to remove the term “in a rural setting” from the objectives of the Environmental Management zone and prohibit “fences” in this zone to ensure the free movement of wildlife.

Environmental zones

Response – Rural Strategy and Paper Subdivision Analysis Report recommendations are to be reviewed for consistency prior to finalisation and implementation in the MidCoast LEP program.

Response – C3 Environmental Management zone objective to be amended to read “To conserve biological diversity and native vegetation corridors, and their scenic qualities, in a rural setting”.

The environmental zones applied to the land reflect the environmental constraints and sensitivity of the location, consistent with the zone criteria provided within the draft Rural Strategy. These criteria continue to be reviewed and refined in response to State agency and public submissions received during exhibition of the draft Rural Strategy.

The environmental zones applied to land within North Arm Cove generally reflect the provisions of the *Department of Planning & Environment Practice Note PN09-002 Environmental Protection Zones* and the draft environmental zone criteria from the Rural Strategy:

- coastal wetlands, ecologically and environmentally significant land (C2 Environmental Conservation);

North Arm Cove Paper Subdivision

- Council land that is heavily vegetated, flood affected, with biodiversity value or adjoining coastal wetlands (C3 Environmental Management);
- private land that is heavily vegetated, flood affected, with biodiversity value or adjoining coastal wetlands (C3 Environmental Management);
- private land used for low intensity residential uses in an environmentally sensitive location (C4 Environmental Living).

In response to many submissions and enquiries requesting additional information on the environmental value and or features of the land within and adjoining paper subdivisions, the PSA Report has been amended to include publicly available information from the Biodiversity Values Map and BioNet Threatened Species database (flora and fauna information).

The additional information may require reconsideration of the land use zones and minimum lot size development standards within the paper subdivisions, consistent with the broader environmental zone criteria considerations and recommendations for other locations documented within the Rural Strategy.

The environmental zones being considered do not require the removal or cessation of extensive agricultural activities; and other activities that may become prohibited would continue to have existing use rights.

The rezoning of land does not affect the existing use rights of approved and lawful activities or development; or require the removal of approved and lawful structures and development.

Within the PSA Report, consistent with existing Council policy and practice, land transferred to Council is to be rezoned environmental to reflect the level of constraint that exists on these sites. Council will also classify these lands to community purpose, to reflect the intent that these lands are not on-sold for development but retained for environmental or community purpose in the future.

Camping Provisions

Response – Additional information on camping will be provided on Council's Non-urban Land webpage to ensure all relevant information is available to land owners.

Private camping on private land is not a development matter that is addressed by a local environmental plan or development control plan but is regulated by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021.

However, to enable use of the land and installation of a caravan, land owners also need to ensure they have legal access and relevant permits to remove vegetation and build any structures on the site, which are regulated by other legislation such as the State Environmental Planning Policy (Exempt & Complying Development) 2008.

Fences are not a land use that can be listed in a land use table within the local environmental plan. Fences are permitted as Exempt Development under certain conditions, by the provisions of the [State Environmental Planning Policy \(Exempt & Complying Development\) 2008](#) Subdivision 18 Fences (certain rural zones, environment protection zones and Zone R5).

North Arm Cove Paper Subdivision
<p>However, fences cannot be constructed as exempt development if, for example, the site is identified as a heritage item, within a heritage conservation area, or State heritage item; or involves the removal or pruning of a tree or other vegetation that requires a permit, approval or development consent.</p> <p>Additional information on these issues is available on Council's Non-urban Land webpage, but community feedback indicates it is unclear and applied inconsistently. Specific information from relevant legislation shall therefore be provided on the updated webpage, based on the information provided at the end of this document.</p>
Request alternative environmental zone
<p>S.24 requests that the C4 Environmental Living zone be applied on sites with minimal vegetation</p>
<p>S.236, S.237 support an environmental zone that allows a sustainable community development</p> <p>Creating a sustainable carbon-neutral community would provide economic opportunities and right an historic wrong.</p>
<p>S.278 supports the application of the C4 Environmental Living zone.</p> <p>The C4 zone would enable consideration of “low impact residential development in areas with special ecological, scientific or aesthetic values” and is consistent with the broad objectives of the Mid North Coast Strategy 2006-2031 and Hunter Regional Strategy 2036.</p> <p>Note: the Rural Strategy and PSAR appear to have inconsistent advice on the application of the C2 Environmental Conservation zone to coastal wetlands (within villages and rural areas equally), and RS does not specifically endorse recommendations of PSAR.</p>
<p><u>Environmental zones</u></p> <p>Response – Rural Strategy and Paper Subdivision Analysis Report recommendations are to be reviewed for consistency prior to finalisation and implementation in the MidCoast LEP program.</p> <p>The environmental zones applied to the land reflect the environmental constraints and sensitivity of the location, consistent with the zone criteria provided within the draft Rural Strategy. These criteria continue to be reviewed and refined in response to State agency and public submissions received during exhibition of the draft Rural Strategy.</p> <p>The environmental zones applied to land within North Arm Cove generally reflect the provisions of the <i>Department of Planning & Environment Practice Note PN09-002 Environmental Protection Zones</i> and the draft environmental zone criteria from the Rural Strategy:</p> <ul style="list-style-type: none"> • coastal wetlands, ecologically and environmentally significant land (C2 Environmental Conservation); • Council land that is heavily vegetated, flood affected, with biodiversity value or adjoining coastal wetlands (C3 Environmental Management); • private land that is heavily vegetated, flood affected, with biodiversity value or adjoining coastal wetlands (C3 Environmental Management);

North Arm Cove Paper Subdivision

- private land used for low intensity residential uses in an environmentally sensitive location (C4 Environmental Living).

In response to many submissions and enquiries requesting additional information on the environmental value and or features of the land within and adjoining paper subdivisions, the PSA Report has been amended to include publicly available information from the Biodiversity Values Map and BioNet Threatened Species database (flora and fauna information).

The additional information may require reconsideration of the land use zones and minimum lot size development standards within the paper subdivisions, consistent with the broader environmental zone criteria considerations and recommendations for other locations documented within the Rural Strategy.

The environmental zones being considered do not require the removal or cessation of extensive agricultural activities; and other activities that may become prohibited would continue to have existing use rights.

The rezoning of land does not affect the existing use rights of approved and lawful activities or development; or require the removal of approved and lawful structures and development.

Heritage and Cultural recognition

S.307 supports initiatives to recognise the heritage value of the North Arm Cove subdivision

The subdivision by Walter Burley Griffin includes a network of public open spaces and cultural heritage that is not recognised in the Strategy but is to be nominated as a heritage item of State Significance.

Response – The Paper Subdivision Analysis Report is to be updated to indicate ‘The subdivision layout should be reflected in any consolidation, concept Development Plan or Subdivision Order for North Arm Cove.’

The matter of the proposed identification of the North Arm Cove subdivision layout being nominated for State Significant heritage listing has been referred to Council’s Heritage Advisor and the following comments provided:

Heritage listing is not appropriate for this site.

The significance is the subdivision design by Walter Burley Griffin and associated documentation is a historical archival record kept in several organisations including the Land Registry office, NSW State Library and MidCoast Council. This would apply to most original parish plans and old town plans that have historical value but have no heritage influence on the ground.

Given there is nothing tangible or interpretable at North Arm Cove, it would fail to satisfy the NSW Heritage Council’s criteria for heritage significance and therefore would be unable to be listed as a heritage item.

