NSW GOVERNMENT Planning & Environment

Planning Team Report

Hawks Nest Village Centre and other Rezoning Opportunities

Proposal Title :	**Hawks Nest Village Centre and other Rezoning Opportunities**
Proposal Summary :	**The proposal seeks to rezone land and apply provisions that require consideration of wildlife corridors in the Hawks Nest town centre.**
PP Number :	**PP_2015_GLAKE_007_00**
Dop File No :	**15/12882**

Proposal Details

Date Planning Proposal Received :	**11-Dec-2015**	LGA covered :	**Great Lakes**
Region :	**Hunter**	RPA :	**Great Lakes Council**
State Electorate :	**PORT STEPHENS**	Section of the Act :	**55 - Planning Proposal**
LEP Type :	**Spot Rezoning**		

Location Details

Street :	**Various Streets**				
Suburb :	**Hawks Nest**	City :		Postcode :	**2324**
Land Parcel :	**Various Lots and DPs**				

DoP Planning Officer Contact Details

Contact Name :	**Dylan Meade**
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RPA Contact Details

Contact Name :	**Rebecca Underwood**
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DoP Project Manager Contact Details

Contact Name :	
Contact Number :	
Contact Email :	

Land Release Data

Growth Centre :	**N/A**	Release Area Name :	**N/A**
Regional / Sub Regional Strategy :	**Mid North Coast Regional Strategy**	Consistent with Strategy :	**Yes**

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MDP Number :		Date of Release :	
Area of Release (Ha) :	**0.00**	Type of Release (eg Residential / Employment land) :	**Both**
No. of Lots :	**0**	No. of Dwellings (where relevant) :	**20**
Gross Floor Area :	**0**	No of Jobs Created :	**20**

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes : **Council advises that a separate planning proposal will be prepared in the future to apply Clause 7.9 to the wider Hawks Nest area.**

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The statement of objectives provided explains that there are a number of intended outcomes of the planning proposal including to permit residential development whilst ensuring protection of wildlife corridors for Site A (Yamba Street, Tuloa Avenue, and Booner Street), and ensuring a range of uses a permitted near the beachfront for Site B (Mirreen Street, Russell Street, Beach Road and Booner Street).**

The statement of objectives is supported.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The explanation of provisions provided explains the planning proposal will be achieved by an amendment to Great Lakes LEP 2014 to amend zoning, floor space ratio, and minimum lot size for the two sites. It is also proposed to have Clause 7.9 Protection of Wildlife Corridors at Pacific Palms' apply to part of Site A.**

It is also intended to permit multi-dwelling housing with consent in the B4 zone and make minor wording changes to Clause 7.9.

The explanation of provisions is supported.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones
2.2 Coastal Protection
3.1 Residential Zones
3.4 Integrating Land Use and Transport
4.1 Acid Sulfate Soils
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council proposes to undertake community consultation for 3 months to take into account school and holiday period.**

The planning proposal is defined as a low impact proposal in 'A Guide to Preparing Local Environmental Plans', and as such, a minimum 14 day exhibition period is required. It is recommended that Council be required to undertake consultation for a minimum period of 14 days.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

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Proposal Assessment

Principal LEP:

Due Date : **April 2014**

Comments in relation to Principal LEP :	**The Great Lakes LEP 2014 is in force.**

Assessment Criteria

Need for planning proposal :	**The planning proposal is in response to recommendations outlined in the Hawks Nest Town Centre Review.**

Consistency with strategic planning framework :

MID NORTH COAST REGIONAL STRATEGY
The planning proposal is considered consistent with the Mid North Coast Regional Strategy as it provides additional housing choice in an established urban area.

LOCAL PLANNING STRATEGIES
The planning proposal is consistent with the Great Lakes Community Strategic Plan 2010-2030.

There are no endorsed local planning strategies applying to the area.

STATE ENVIRONMENTAL PLANNING POLICIES

SEPP No 44—Koala Habitat Protection
This SEPP is applicable as Council states that koala habitat has been identified over part of Site A. This habitat is not identified as core or potential habitat as defined by the SEPP. Council proposes to zone koala habitats from residential to environmental protection, and apply Clause 7.9 to protect wildlife corridors.

The study used to inform the planning proposal of the koala corridors dates from 2003. Furthermore, it is unclear how the rezoning of E2 land relates to the actual corridors as it appears the original study was not site specific. It is recommended that Council consults with OEH on the study and proposed boundaries of the E2 zoned land, as well as the appropriateness of applying Clause 7.9 to the town centre site. It is understood that it is proposed to apply Clause 7.9 to a wider area of Hawks Nest through a separate planning proposal.

SEPP No 55—Remediation of Land
The planning proposal is considered consistent with this direction. Council states that there is unlikely to be any contamination on the sites.

LOCAL PLANNING (SECTION 117) DIRECTIONS

***1.1 Business and Industrial Zones**
The planning proposal is inconsistent with this direction as it does not retain areas of existing business zones as it is proposed to rezone land within the Hawks Nest town centre from B1 to R3 at Site A. The planning proposal advises that the inconsistency is justified by the findings of the 'Hawks Nest 3A Business Zone Review and Strategy (2003)' which identified an excess of zoned business land in Hawks Nest town centre now and in the future. The Hawks Nest 3A Business Zone Review and Strategy (2003) assumes that any growth in retail will occur in the Myall Quays shopping centre at Tea Gardens. The planning proposal advises that based on the current population of Hawks Nest there is demand for 450m2 of gross retail floor space with 1200m2 required during peak holiday season. It is stated that there is 2800m2 built floor space at the moment in Hawks Nest, with only 13 of 25 shops tenanted.

The planning proposal is also inconsistent with this direction as it proposes new employment areas that are not in accordance with a strategy endorsed by the Department of Planning as it is proposed to create a new employment area by rezoning land from R3 to B4 at Site B. The planning proposal states that this proposed change is in response to community feedback to allow greater flexibility of uses closer to the beach, and is of minor significance and consistent with the recommendations of the 'Hawks Nest 3A Business Zone Review and Strategy (2003)'.

The planning proposals inconsistencies with the direction are considered of minor significance and is justified by the 'Hawks Nest 3A Business Zone Review and Strategy (2003)'. The B1 zoned area to be rezoned is underutilised and not the most efficient use of land. Furthermore the loss of B1 zoned business land will be offset by an increase in B4, which will enable a wider range of uses.

***2.2 Coastal Protection**

The planning proposal is consistent with this direction as it includes provisions that give effect to the objectives of this direction and are consistent with the listed coastal policies.

***3.1 Residential Zones**
The planning proposal is consistent with this direction as it includes objectives and provisions that encourage a variety of housing and makes efficient use of infrastructure.

***3.4 Integrating Land Use and Transport**
The planning proposal is consistent with this direction as it locates urban zones that gives effect to the aims, objectives and principles of Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and The Right Place for Business and Services – Planning Policy

***4.1 Acid Sulfate Soils**
The planning proposal identifies that the subject sites are mapped as containing Class 4 acid sulfate soils. The direction requires that a planning proposal must not be prepared that proposes an intensification of land uses on land with acid sulfate soils unless Council has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. Although it is proposed to rezone land from R3 to B4, it is considered that the intensity of development will not increase as height and FSR provisions are not proposed to be changed. The planning proposal is considered consistent with this direction.

***4.3 Flood Prone Land**
The planning proposal identifies that part of site A is flood affected. The planning proposal is considered consistent with Clause (5) of this Direction as it is only proposed to rezone land from business to residential and environmental protection zones.

However, it is considered that the planning proposal is inconsistent with Clause (4) as it rezones land to residential on flood prone land, and is thus inconsistent with the Floodplain Manual. Further justification is required to support this inconsistency.

4.4 Planning for Bushfire Protection
The planning proposal identifies part of Site B as being mapped as a 'buffer' bushfire prone area. In accordance with the direction, Council must consult with the Commissioner of the NSW Rural Fire Service.

5.1 Implementation of Regional Strategies
As discussed above, the planning proposal is considered consistent with the Mid North Coast Regional Strategy.

Environmental social economic impacts :	**There are unlikely to be any significant negative environmental and social impacts associated with the proposal. There may be a negative impacts for property owners through the rezoning of land from B1 Neighbourhood Centre to E2 Environmental Conservation. However, it is understood that dwelling houses will still be permitted in the E2 zone regardless. Feedback on the implications of the rezoning to E2 will be provided through the exhibition period.**

Assessment Process

Proposal type :	**Consistent**	Community Consultation Period :	**14 Days**
Timeframe to make LEP :	**12 months**	Delegation :	**RPA**
Public Authority Consultation - 56(2)(d) :	**Office of Environment and Heritage** **NSW Rural Fire Service**		

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Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

1.1 Business and Industrial Zones
2.2 Coastal Protection
3.1 Residential Zones
3.4 Integrating Land Use and Transport
4.1 Acid Sulfate Soils
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies

Additional Information :

1. Prior to exhibition, Council is to consult with the Office of Environment and Heritage in regards to the date and methodology of the 'Hawks Nest 3A Business Zone Review and Strategy (2003)' and any other studies used to inform the boundaries of the proposed E2 Environmental Conservation Zone.

2. Prior to exhibition, Council is to provide additional information in regards to the inconsistency with Clause (4) of Direction 4.3 Flood Prone Land.

3. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:

(a) the planning proposal is classified as low impact as described in A Guide to Preparing LEPs (Planning & Infrastructure 2013) and must be made publicly available for a minimum of 14 days; and
(b) the relevant planning 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 section 5.5.2 of A Guide to Preparing LEPs (Planning & Infrastructure 2013).

4. Consultation is required with the NSW Rural Fire Service and Office of Environment

	and Heritage under section 56(2)(d) of the EP&A Act. The agencies are to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal. **5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A 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).** **6. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.**
Supporting Reasons :	**The planning proposal is supported as it responds to an oversupply of business zoned land in Hawks Nest, and proposes alternative provisions to achieve the best use of the land. Although it is understood the E2 zone will enable Council to acquire the koala habitat corridor, further information and consultation with OEH is required to confirm the appropriateness of the proposed E2 Environmental Conservation zoning and its boundary.**

Signature:

Printed Name: KOFlaherty Date: 18/12/15