

C2 PLANNING PROPOSAL TALLWOOD DRIVE AND OLD SOLDIERS ROAD, RAINBOW FLAT (S769)

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Applicant: Coastplan Consulting

SUMMARY

Coastplan Consulting has submitted a planning proposal for Lots 4 & 5 DP 243425 and Lot 22 DP 255386 Old Soldiers Road and Tallwoods Drive, Hallidays Point to allow rural residential subdivision development in order to achieve the re-alignment of Old Soldiers Road outside of Khappinghat Nature Reserve.

The land is identified as Stage One Development in the Rural Residential Strategy and Release Program 2000 endorsed by the Department of Planning, and also is identified within the endorsed Hallidays Point Development Strategy 2000.

Assessment indicates the potential to achieve sustainable outcomes with a community benefit to secure an improved second public road access to Hallidays Point. The rezoning of this land will have the effect of the developers funding the realignment of Old Soldiers Road outside of Khappinghat Nature Reserve.

If Council adopts the recommendation, the draft planning proposal will be submitted for a Gateway determination, which will then be the signal for the landowners to fund the required studies. The owner of the eastern most property will be required to enter into a voluntary planning agreement (VPA) to dedicate significant vegetation to the National Parks and Wildlife Service (NPWS) when the construction of the realignment of Old Soldiers Road occurs, whilst all landowners will be required to enter into a VPA with Council to ensure that the road realignment is a requirement of the development post rezoning.

RECOMMENDATION

- (i) That the planning proposal for Lots 4 & 5 DP 243425 and Lot 22 DP 255386 be amended to indicate that it is seeking a minimum lot size of 1.5ha for areas to be zoned R5 – Large Lot Residential.
- (ii) That the amended planning proposal for Lots 4 & 5 DP 243425 and Lot 22 DP 255386 be forwarded to the Department of Planning and Environment for a Gateway determination from the Minister for Planning to support the proposal and undertake community consultation;
- (iii) That, should a successful Gateway determination be provided, that the additional studies identified in this report be prepared by the applicant prior to

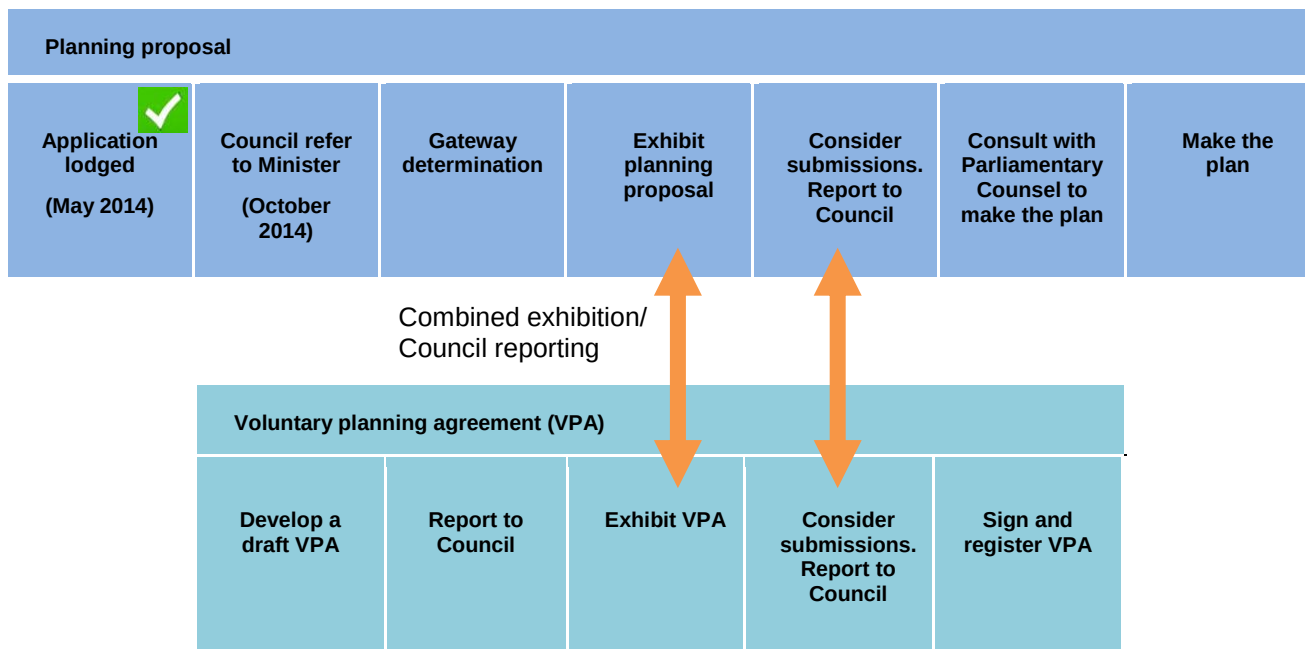
undertaking community consultation and that the planning proposal be amended accordingly on the findings of the specialist studies; and

- (iv) That community consultation be undertaken in accordance with the requirements determined by the Minister for Planning.
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BACKGROUND

The Process

The process involved in this application is shown below. This application is currently in the initial stages of the process.



The Proposal

The applicant formally lodged a planning proposal on 1 May 2014. The land has a total area of approximately 107ha, and the proposal includes an:

- Amendment of the *Greater Taree Local Environmental Plan 2010* Land Zoning Map to zone areas of the site R5 - Large Lot Residential and other areas E2 - Environmental Conservation or E3 - Environmental Management, with zone boundaries to be finalised based on further specialists' studies undertaken after a Gateway determination, and
- Amendment of the *Greater Taree Local Environmental Plan 2010* Lot Size Map and Height of Buildings (HOB) map to apply a minimum lot size of 1.0 to 1.5ha

(depending upon suitability of land for effluent disposal) and a maximum Height of Buildings (HOB) of 8.5m.

In addition, the proposed rezoning will facilitate the achievement of the Old Soldiers Road realignment in accordance with the preferred option adopted by Council at its Ordinary Meeting of 19 June 2013.

History

Old Soldiers Road has been used as a secondary access road to Diamond Beach and Red Head for many years. With the growth of these beachside villages, the use of this road increased. It also provides an alternate route when there are delays on Diamond Beach Road, Blackhead Road and The Lakes Way.

Old Soldiers Road provides a convenient link to The Lakes Way, which reduces travel times. However, the road is currently an unsealed winding road, which is often perceived by tourists and residents as dangerous. The community has consistently requested that Council consider options to formalise this 'track' to make it safer and more suitable for current usage levels.

Options for formalising the track were identified in the Old Soldiers Road Options Analysis Report June 2013 (Attachment (ii)). This option has been endorsed by the Minister for the Environment and we are currently going through a separate process with NPWS for dedication of this portion of the road to Council. The adopted option involves the construction of approximately 500m of road within Khappinghat Nature Reserve which will be funded by Council and Section 94 developer contributions. Section 94 of the Environmental Planning and Assessment Act 1979 enables the levying of contributions for public amenities and services required as a consequence of development.

The Planning Proposal Site

The site comprises of Lots 4 and 5 DP 243425 and Lot 22 DP 255386, being 467 and 502 Tallwood Drive and 186 Old Soldiers Road Rainbow Flat (as shown in Figure 1). The total area of the site is approximately 107ha, and the land is zoned RU1 - Primary Production under the *Greater Taree Local Environmental Plan 2010*.

The land adjoins areas zoned R5 - Large Lot Residential to the east and land zoned E1 - National Parks and Nature Reserves to the north (shown in Figure 2). Land to the south and west is zoned RU1 - Primary Production, with the Tallwoods Urban area located close to 1.5km south along Tallwood Drive.

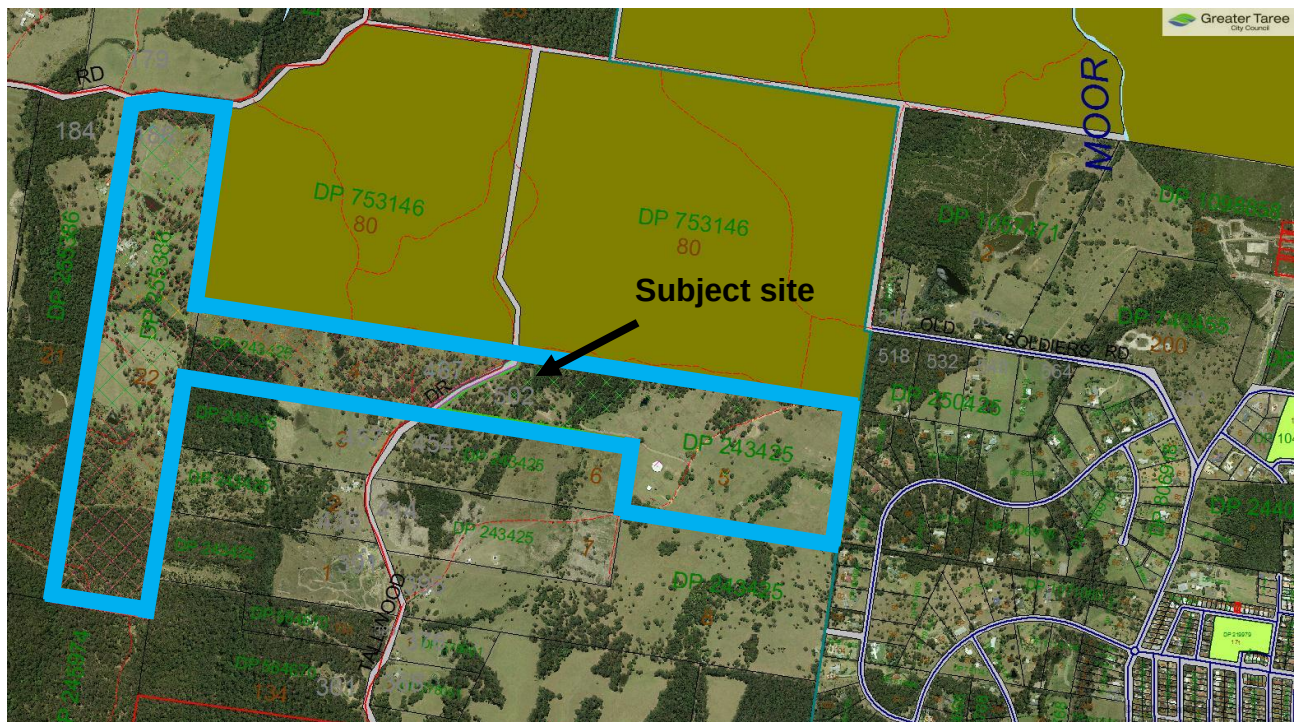


Figure 1: Location of Lots 4 and 5 DP 243425 and Lot 22 DP 255386, being 467 and 502 Tallwood Drive and 186 Old Soldiers Road Rainbow Flat

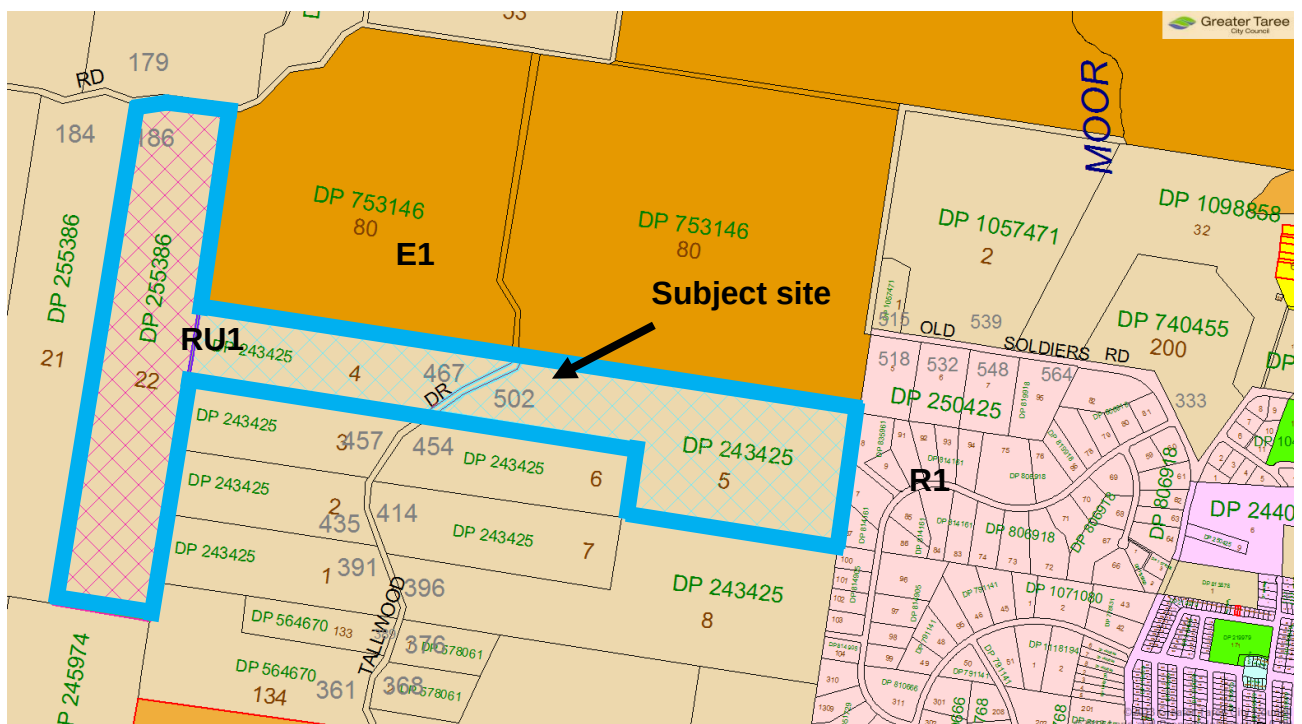


Figure 2: Current zoning of the subject site under the Greater Taree Local Environmental Plan 2010

DISCUSSION

Road Realignment through private property

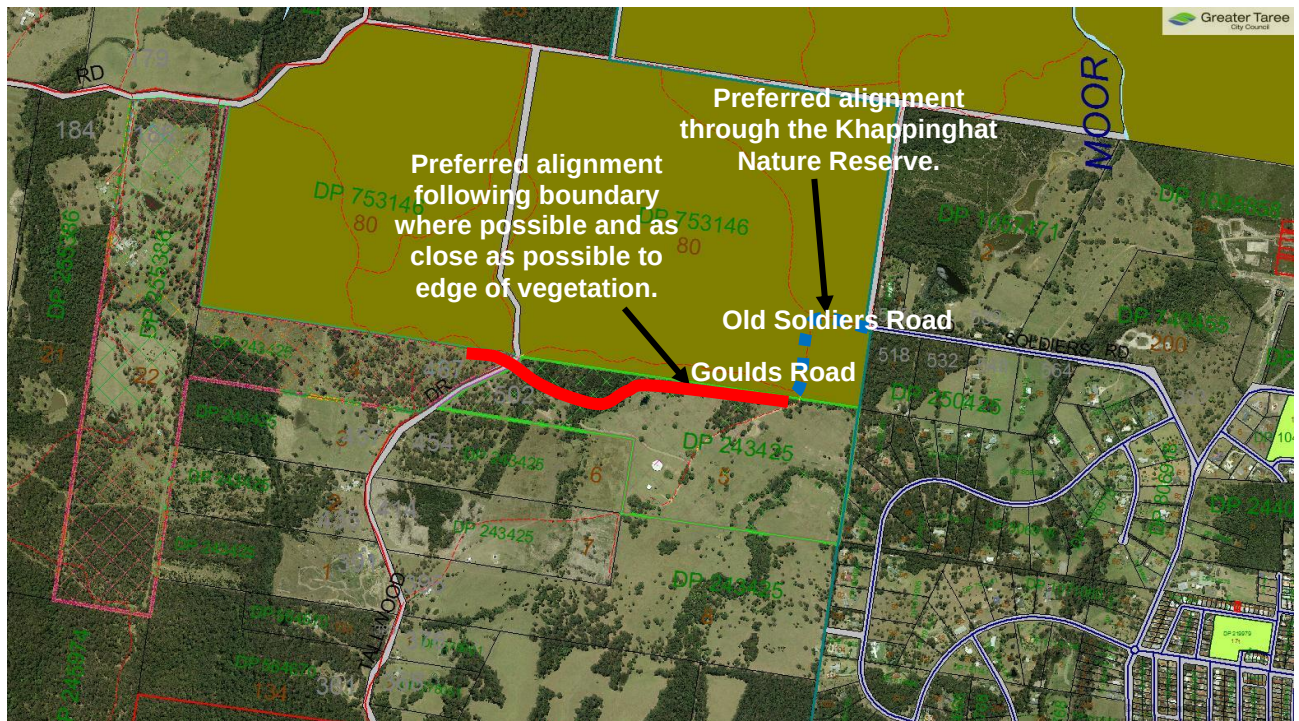


Figure 3: Preferred alignment through Khappinghat Nature Reserve and Lot 5 DP 243425

In identifying the preferred alignment of Old Soldiers Road through private land, NPWS advised that the road should ideally be located along the southern boundary of Khappinghat Nature Reserve, and provide the interface between the Nature Reserve and the future rural residential subdivision. Site investigations of private land adjoining the southern boundary of the Nature Reserve identified the presence of vegetation communities likely to be endangered. Consequently, a new preferred route proposes to generally skirt the southern edge of this vegetation (see Figure 3).

The effect of diverting the preferred road alignment around this potentially endangered vegetation community is the creation of a residue area of private land containing the endangered community on the northern side of the proposed road. It would be undesirable for this residue to remain in private ownership and NPWS has indicated it may accept dedication of this land to form an extension to Khappinghat Nature Reserve (see Attachment (iii)).

It was requested that the landowner affected by the proposed new alignment consider the preferred road alignment and the dedication of land to NPWS. Written agreement was received (Attachment (iv)) subject to:

- The road being aligned to minimise the area of land being located between the proposed road and the northern boundary,

- The land to be dedicated being recognised as a conservation offset to allow development on other areas of the site,
- Dedication of land would only occur when the rural residential subdivision occurs, and
- Council consider a smaller lot size for subdivision if justified by an effluent disposal study.

The first three points are considered reasonable whilst the fourth is considered unreasonable as 1.5ha lots are generally considered a suitable minimum size to enable onsite effluent disposal.

Consultation with Council's Regulatory Services Department occurred regarding the requested minimum of 1.0ha and established that lots of a similar size across the Manning Valley struggle to provide adequate area for on-site effluent disposal when less than 1.5ha and that this rezoning is also likely to considering the topography and soils types present.

Reduction below our standard minimum lot size for rural residential development of 1.5ha is not supported. An alternative which can be considered is a reduction of minimum lot size to 4,000m² if MidCoast Water were to agree that they can service the site with reticulated effluent. This will be investigated as part of the agency consultation for the planning proposal following a Gateway determination.

Planning Proposal

The planning proposal submitted by Coastplan Consulting is acceptable for a Gateway determination. Following review of the planning proposal, it has been identified that the following specialists' studies are required following the Gateway determination:

- Ecological assessment;
- Cultural heritage assessment (European and Aboriginal);
- Preliminary contamination assessment - SEPP 55;
- Bushfire hazard assessment;
- Services assessment – water/sewerage supply, electricity and telecommunications; and
- Concept design for the realignment of Old Soldiers Road to demonstrate it is both technically and economically feasible.

The findings of these studies will then be used to revise and finalise the planning proposal, proposed zone boundaries and any other changes to development controls.

Voluntary Planning Agreements

The planning proposal (Attachment (i)) and subsequent letter of agreement from the landowner (Attachment (iv)) addressing the proposed route for the Old Soldiers Road realignment indicates an intention to enter into a voluntary planning agreement (VPA) for dedication of vegetation between the new proposed route and the existing Nature Reserve to NPWS following construction of the road.

A VPA is also required to provide certainty for Council in achieving the intended outcome for construction of the new alignment of Old Soldiers Road through the three properties as part of the subdivision of the land post rezoning.

CONSULTATION

Council staff and the planning consultant have consulted with the landowners' planning consultant, NPWS staff from the Taree and Port Macquarie offices and staff from the Newcastle office of the Department of Planning and Environment.

Community consultation is to occur following a successful Gateway determination. Council officers will request a 28 day period for consultation which is consistent with Council's processes, though the Department of Planning and Environment will set the minimum required period.

Consultation with government agencies is to be undertaken following a successful Gateway determination, including the NSW Office of Environment and Heritage (NPWS), Department of Primary Industries (Agriculture NSW and NSW Office of Water), Roads and Maritime Services, NSW Rural Fire Service, MidCoast Water, Essential Energy and Telstra.

Consultation with Council's Regulatory Services and Asset Planning Departments has occurred in writing this report.

COMMUNITY IMPACTS

The proposed rezoning will progress the re-alignment of Old Soldiers Road which will then be constructed as the development progresses and will then be available as a safe and convenient alternate route to the coastal villages of Hallidays Point. On this basis, the proposed rezoning will help secure a positive community impact.

The provision of additional rural residential zoned land will be consistent with Council's adopted strategies. Consequently, community impacts are considered to have been assessed as acceptable under this planning proposal.

TIMEFRAME

The Gateway determination, if successful, will provide a timeframe for community consultation and completing the planning proposal. It is likely that with the specialist studies required, this rezoning could take 12 - 18 months to complete.

If Council has not determined a planning proposal within 90 days of lodgement of full documentation and payment of fees to Council (which occurred for this application on 1 May 2014) by the applicant, the proponent can lodge a pre-Gateway review with the Department of Planning and Environment at any time after the 90 days has lapsed. Pre-Gateway reviews are undertaken by a regional panel which will then forward a recommendation to the Minister for Planning.

This matter had not been reported to Council within the three month period in order to seek agreement from the Office of Environment and Heritage/NPWS regarding the road realignment and potential for dedication of land. The in-principle support was received from NPWS on 15 September 2014.

BUDGET IMPLICATIONS

All required studies and fees in association with the planning proposal have been, and will continue to be, incurred wholly by the applicant. The application is assessed on a user-pays basis.

Construction costs associated with the new alignment of Old Soldiers Road will be met by the developer who will be required to construct the road to provide access to the rural residential lots, with the additional costs for the section through Khappinghat Nature Reserve and upgrade of the road to the west of the nature reserve to be met through Section 94 developer contributions.

STATUTORY OR LEGISLATIVE REQUIREMENTS

The planning proposal has been prepared in accordance with *A guide to preparing planning proposals* as required under Section 55(3) of the *Environmental Planning and Assessment Act 1979*.

ATTACHMENTS

- (i) [Planning proposal prepared by Coastplan Consulting](#)
- (ii) [Old Soldiers Road Options Analysis Report June 2013](#)
- (iii) [Letter from NPWS - in-principle support for the road alignment](#)
- (iv) [Letter from the landowner - agreement for the road alignment](#)