

C3 PLANNING PROPOSAL FOR LOT 18 DP 576415, 363 DIAMOND BEACH ROAD, DIAMOND BEACH (S648)

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SUMMARY

This planning proposal seeks to alter the zoning of Lot 18 DP 576415, 363 Diamond Beach Road, Diamond Beach from RU1-Primary Production to SP3-Tourist and E2 Environmental Conservation under Greater Taree Local Environmental Plan (LEP) 2010.

The proposal also seeks to include the subject land in Schedule 1 of LEP 2010 to allow up to 30% of the gross floor area of the tourist facilities to be used as permanent residential accommodation.

The proposed tourist zone is consistent with our strategies for this area and the environmental zones reflect existing constraints and future hazards. The inclusion of the land into Schedule 1 of LEP 2010 to allow for 30% permanent residential accommodation is consistent with all other land zoned SP3 Tourist under LEP 2010.

The assessment of the planning proposal supports the rezoning of this land for tourist purposes and seeks inclusion of the standard minimum lot size and floor space ratio for these proposed zones into the planning proposal. These are missing from the planning proposal and need to be included prior to a Gateway Determination being sought.

It is proposed that the planning proposal, when amended, be referred to the NSW Minister for Planning for a Gateway Determination and subsequent community consultation to occur.

RECOMMENDATION

- (i) That the planning proposal for 363 Diamond Beach Road, Diamond Beach be amended to apply:
 - a Maximum Floor Space Ratio (FSR) Map of 0.6:1; and
 - a Minimum Lot Size Map of 1ha.
- (ii) That the amended planning proposal for 363 Diamond Beach Road, Diamond Beach be forwarded to the Department of Planning and Environment for a Gateway Determination from the NSW Minister for Planning to support the proposal and undertake community consultation.

- (iii) That should a successful Gateway Determination be provided, community consultation for the planning proposal be undertaken in accordance with the requirements determined by the NSW Minister for Planning.
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BACKGROUND

The Proposal

On 30 October 2014 a planning proposal was lodged by PDA Services on behalf of Seashells Ltd which seeks to amend Greater Taree Local Environmental Plan 2010 LEP 2010) by:

- rezoning the land from RU1 Primary Production to SP3 Tourist and E2 Environmental Conservation;
- including the land in Schedule 1 of LEP 2010 to allow up to 30% of the gross floor area of the tourist facilities on the subject land to be used as permanent residential accommodation; and
- allow for the maximum height on the land to be 12 metres.

The Site

The subject site is Lot 18 DP576415, No. 363 Diamond Beach Road, Diamond Beach). Lot 18 has an area of 5.431ha and contains the Seashells Resort. The resort includes 37 holiday units, an administrative centre, recreational facilities and a bistro/restaurant.

Lot 18 also has development consent for the expansion of the existing tourist facility by a further 28 holiday units and contains a dam and vegetated low lying land to the west (see Figure 1 below).



Figure 1: Location of Lot 18 DP57614, 363 Diamond Beach Road, Diamond Beach.

Lot 18 is currently zoned RU1 Primary Production and adjoins the SP3 – Tourist zone of the Ramada (previously Australis) development to the north (see Figure 2 below for current zoning). To the south of the site is land containing Diamond Beachfront Holiday Units, which is also currently zoned RU1 Primary Production

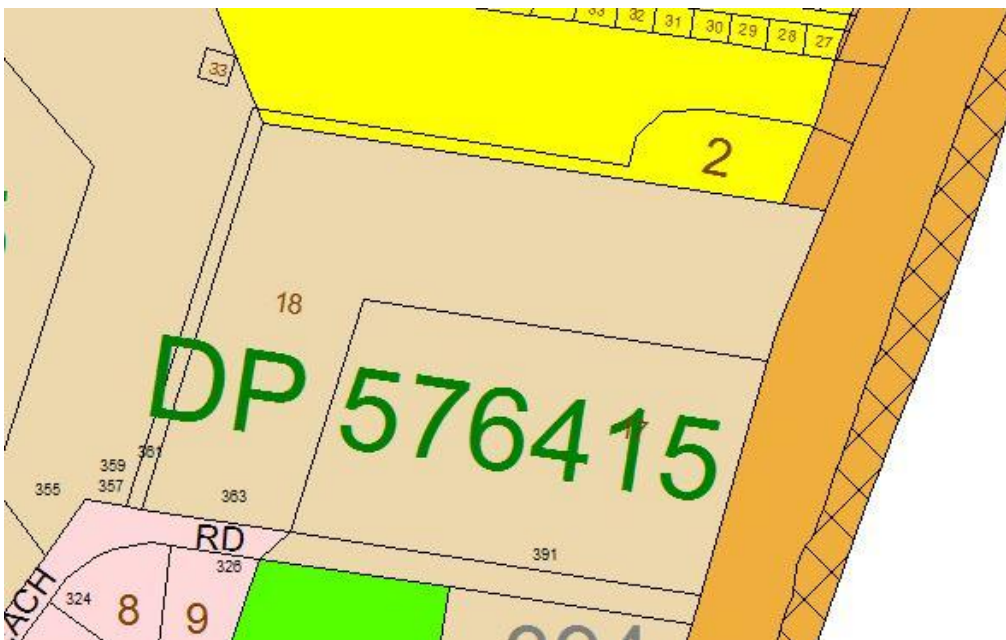


Figure 2: Current zoning of site.

DISCUSSION

The key issues for the planning proposal are:

- Coastal erosion hazard setbacks;
- Recommended amendments to the planning proposal;
- Permanent residential accommodation and height; and
- Vegetation management and protection.

Coastal erosion hazard setbacks

The Coastline Hazard Definition Study was prepared to determine the area that is potentially affected by coastal erosion in the year 2050 and 2100. This process of identifying coastal recession rates has its limitations in that it is unlikely that the front of the dune (scarp) will correspond to these hazard lines in the year 2050 and 2100 due to changing climatic conditions. However they are useful for determining areas that are likely to be affected by coastal recession in the future.

Standard practice by the now Department of Planning and Environment for rezonings affected by coastal hazards has been to include such land within a conservation zone. This limits the construction of additional assets in an area where they may have to be removed in the future. Land to the west of this hazard area can be zoned for increased development opportunities.

The planning proposal recommends zoning this area E2 – Environmental Conservation, though the area proposed does not align precisely with the 2100 line. The proposed separation line between the E2 and SP3 zones on this eastern part of the subject land has been positioned based on the existing building alignment. Using this alignment will not increase the assets in the hazard area and is hence deemed an acceptable solution for this site.

Recommended amendments to the planning proposal prior to a Gateway Determination

To ensure consistency with other land zoned SP3 Tourist it is recommended that the planning proposal be amended to incorporate the following maps which are missing from the document:

- A Floor Space Ratio Map of 0.6:1; and
- A Minimum Lot Size Map of 1ha.

Permanent residential accommodation and height

Permanent residential accommodation is not permissible within the SP3 Tourist zone under the standard LEP template for NSW. However we were able to convince the State government when LEP 2010 was introduced that tourist developments in regional areas require an off-season income stream to support the development that can best be achieved by allowing permanent residential accommodation. This also has benefits for safety in ensuring greater surveillance during these periods. This was well supported by the tourist/development industry.

Clause 2.5 and Schedule 1 of LEP 2010 contain provisions that make permanent residential accommodation permissible with consent provided that:

- the total gross floor area of the development does not exceed 30% of the total gross floor area of all buildings used for the purposes of tourist and visitor accommodation;
- there are existing recreational facilities (indoor) or recreational facilities (outdoor) within the identified area; and
- the consent authority is satisfied that there is a need for residential accommodation to ensure:
 - (i) the safety, security and viability of tourist and visitor accommodation through the off-season; and
 - (ii) the retention of local employment through the off-season.

These provisions only relate to three identified areas within Greater Taree, all of which are zoned SP3 Tourist under LEP2010. One of the areas identified in Schedule 1 is the Ramada development which is located to the north of the subject site. The proposed planning proposal is therefore consistent with other land within the SP3 Tourist Zone.

The planning proposal seeks a maximum height limit of 12 metres for the developable part of the site. This is higher than the 8.5m we have applied to our other areas zoned SP3 Tourist, though existing developments and current approvals for these areas exceed their maximum height limitation as this can be varied through the development assessment process.

It is considered reasonable that a tourist zone include a greater height than that imposed on residential development as it is expected that this form of development is generally more intensive and should seek to maximise its potential in coastal locations such as Diamond Beach. The 12 metres maximum height for development sought is deemed acceptable in this location.

Vegetation Management and Protection

The western part of the subject land contains environmentally sensitive land (Lowland coastal heath). This part of the subject land is proposed to be protected by being rezoned E2 Environmental Conservation (see Figure 3 below), which the review by our planning consultant has supported.



Figure 3: Proposed zones

Other Issues

The planning proposal has also considered other issues in relation to the proposed LEP amendment including:

- Bushfire protection;
- Aboriginal cultural heritage;
- European heritage;
- Flooding and drainage;

- Access and transport;
- Socio-economic impacts;
- Planning need; and
- Consistency with the local and state strategic planning framework.

Review of the planning proposal by our planning consultant indicates that the aforementioned issues have been adequately addressed by the applicant's consultant.

Summary

Much of the unconstrained land within the site has either been developed or is subject to a development consent that allows the land to be further developed. The planning proposal is therefore seeking to rezone the land to reflect this existing and approved development.

The planning proposal is consistent with the identification of this land for tourist purposes in local settlement strategies and also seeks to protect existing significant vegetation (Lowland coastal heath) and land potentially subject to coastal erosion hazards by zoning these for environmental conservation.

CONSULTATION

Consultation has occurred with Council's Regulatory Services Department which has informed the recommendations of this report.

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 practice. However, it is ultimately the Department of Planning and Environment's decision on the required minimum consultation period.

Consultation with government agencies will also be undertaken following a successful Gateway Determination. It is likely that the following authorities will be consulted:

- NSW Rural Fire Service (RFS)
- NSW Office of Environment and Heritage (OEH)

COMMUNITY IMPACTS

The planning proposal is not expected to have any significant community impact as the site already has existing and approved tourist facilities. However, if any potential community impacts are identified during the community consultation period, they will be reported to Council.

TIMEFRAME

The process and current status for this planning proposal is shown below. This application is currently in the initial stages of the process.

Application lodged (October 2014) 	Council report (December 2014) 	Gateway Determination	Exhibit planning proposal and consult with government agencies	Consider submissions and report to Council	LEP amendment processed by Council using its delegations or the Department of Planning and Environment process the LEP amendment and then Parliamentary Counsel Opinion is sought	Minister to approve LEP amendment
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If the Gateway Determination is successful, the Department of Planning and Environment will provide a timeframe for community consultation and completing the planning proposal.

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 by a planning consultant engaged directly by Council.

As the site and infrastructure is managed by private ownership, there are no future cost implications to Council in regard to incurring ownership and management responsibility for the infrastructure (for example, internal roads) following development approval and construction.

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*.

We have previously accepted the NSW Minister for Planning's Section 59 delegation to make Local Environmental Plans in order to speed up the rezoning process. It is a

requirement for each planning proposal forwarded for a Gateway Determination that we indicate whether we wish to exercise this delegation.

Advice from the NSW Department of Planning and Environment is that it is appropriate to seek to use this delegation for rezonings of local significance but not for ones of regional or state significance or where Council has a vested interest in the outcome. We will be seeking to exercise our delegation for this rezoning.

ATTACHMENTS

[Planning proposal](#)

(Due to the size of this document it is only available electronically)