

## Planning Proposal

Lot 18 DP 576415, 363 Diamond Beach Road  
Diamond Beach, NSW

October 2017

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# Table of Contents

<b>Site Description .....</b>	<b>2</b>
General .....	2
Objectives of Planning Proposal .....	5
Coastal Design Guidelines .....	5
<b>Part 1 Objectives or Intended Outcomes .....</b>	<b>6</b>
Intended Outcomes .....	6
<b>Part 2 Explanation of Provisions .....</b>	<b>7</b>
<b>Part 3 Justification .....</b>	<b>8</b>
Section A – Need for the Planning Proposal .....	8
Section B – Relationship to Strategic Framework .....	12
Section C – Environmental, Social and Economic Impact .....	21
Section D – State and Commonwealth Interests .....	25
<b>Community Consultation and Conclusion .....</b>	<b>26</b>
Community Consultation .....	26
Project Timeline .....	26
Conclusion .....	27
<b>Appendix A - Cultural Heritage Assessment .....</b>	<b>33</b>
<b>Appendix B - Ecological Assessment .....</b>	<b>34</b>
<b>Appendix C - Visual Impact Assessment .....</b>	<b>35</b>

## Tables

Table 4.1 - SEPP 71 Requirements .....	14
Table 4.2 - Ministerial Directions (s.117 directions) .....	17

## Figures

Figure 1 – Locality Plan .....	2
Figure 2 – Locality Plan .....	3
Figure 3 – Lot Details .....	4
Figure 4 – Current GT LEP 2010 Zones .....	4
Figure 5 – Hallidays Point Development Strategy Plan 2004 .....	11
Figure 6 – Mid North Coast Regional Strategy Map .....	13
Figure 7 – GT DCP 2010 Constraints Map .....	24
Figure 8 – Bushfire Prone Land Map .....	24
Figure 9 – Vegetation Communities Map .....	25
Figure 10 – Zonings (LZN) Map .....	28
Figure 11 – Floor Space Ratios (FSR) Map .....	29
Figure 12 – Minimum Lot Size (MLS) Map .....	29
Figure 13 – Maximum Height of Building (HOB) Map .....	31

# Site Description

## General

Lot 18 DP 576415, 363 Diamond Beach Road, Diamond Beach Road is located at the northern extent of the coastal village of Diamond Beach NSW in the MidCoast Local Government Area. Lot 18 (the subject land) has existing tourist facilities located thereon and also has a development consent for additional tourist facilities that will be developed in the future.

The subject land is currently zoned RU1 Primary Production under the provisions of Greater Taree Local Environmental Plan 2010 (GT LEP 2010). Given the current and proposed tourist uses on the site, the owners of the property are of the opinion that a more suitable zone for part of the subject land is the SP3 Tourist Zone with an E2 Environmental Conservation Zone over a sensitive area of the subject land.

In addition, the owners of the land are seeking to have the opportunity to include permanent residential accommodation in the tourist facility in order to ensure the viability, safety and security of the tourist facilities in the off season and aid in the retention of local employment.

A Locality Plan of the subject land is included as **Figure 1** and **Figure 2**. Lot details are shown in **Figure 3**.

The current zoning of the land is shown in **Figure 4**.

**Figure 1 – Locality Plan**



Source: Google Earth 2014

Figure 2 – Locality Plan



Source: Google Earth 2014

This is an aerial map of a portion of the City of San Diego, showing various land parcels and their designations. The map includes labels for parcels such as DP 1098858, DP 740455, DP 576415, DP 244030, and DP 1071080. It also shows streets like Soldiers Rd and various zoning codes like RU1, SP3, RE1, and R1. A red rectangle highlights a specific area within DP 576415.

On 25 May 2010 the former Greater Taree City Council approved an addition to the tourist facility of twenty one (21) two storey, three bedroom holiday units, five (5) two storey, two bedroom holiday units and two (2) single



storey units with suitable disabled access. These twenty eight (28) tourist units are to be located to the west of the existing buildings and to the east of the existing dam located on the site.

The remainder of the site, not the subject of the existing development or approved development, has limited development potential and is restricted by vegetation and low lying land used for drainage purposes.

## **Objectives of Planning Proposal**

This Planning Proposal seeks to rezone land from RU1 Rural to SP3 Tourist and E2 Environmental Conservation Zone. The objectives of the Planning Proposal are:

- to allow for 30% permanent occupancy of current and future tourist facilities on the site;
- to allow a maximum height limit for future development of 11.5 metres;
- to allow a Floor Space Ratio (FSR) of 0.6:1 on the SP3 land which is consistent with the FSR control for other SP3 zoned land in the LGA; and
- to limit minimum lot size to 1 hectare for the SP3 land for any future subdivision which is consistent with other SP3 zoned land in the LGA.

The proposed amendment to the planning controls would enable future development of the land to a maximum height of 11.5 metres with a maximum FSR of 0.6:1.

## **Coastal Design Guidelines**

Section 117 Direction 2.2 - Coastal protection refers to the Coastal Design Guidelines being a relevant consideration when rezoning land.

Section 1.6 of the guidelines is the relevant provision that is applicable to this Planning Proposal. The design controls proposed with this Planning Proposal are consistent with the provisions of Section 1.6 of the guidelines given that:

The proposed zoning of part of the land to E2 Environmental Conservation will result in the protection of the foreshore and significant ecological communities in the western part of the site as:

- there will be adequate separation from future development to the foreshore;
- there will be no removal of foreshore vegetation;
- the proposed floor space ratio will allow for development that provides amenity and integration with surrounding landuses; and
- the proposed height will not result in any future visual prominence or adverse visual impact.

# Part 1 Objectives or Intended Outcomes

## Intended Outcomes

This Planning Proposal seeks to:

1. Rezone part of Lot 18 DP 576415, 363 Diamond Beach Road, Diamond Beach Road, Diamond Beach (the subject land) to SP3 Tourist Zone, and E2 Environmental Conservation Zone under the provisions of Greater Taree Local Environmental Plan 2010 (GT LEP 2010).
2. Allow up to 30% of the gross floor area of the tourist facilities on the subject land to be used for permanent residential accommodation.
3. Allow the maximum height on the subject land to be 11.5 metres.
4. Apply a maximum Floor Space Ratio (FSR) of 0.6:1 to the SP3 Tourist zoned land.
5. Apply a minimum lot size of one (1) hectare to the SP3 Tourist zoned land.

## Part 2 Explanation of Provisions

The intended outcomes of this amendment to the Greater Taree Local Environmental Plan 2010 would be achieved by the following:

### **Amendment to the zone map for the subject land.**

The zoning map is to show the part of the subject land site as being zoned a combination of SP3 Tourist and E2 Environmental Conservation as per **Figure 10**.

### **Amend Floor Space Ratio Map**

The Floor Space Ratio (FSR) Map of Greater Taree Local Environmental Plan 2010 is to be amended to apply a maximum FSR of 0.6:1 to the SP3 zoned land as per **Figure 11**.

### **Amend Lot Size Map**

The Lot Size Map of Greater Taree Local Environmental Plan 2010 is to be amended to apply a minimum lot size of one (1) hectare to the SP3 Tourist zone as per **Figure 12**. This is consistent with the minimum lot size for SP3 Tourist zones in the Greater Taree Local Environmental Plan 2010.

### **Amend Height of Buildings Map**

The Height of Building Map of Greater Taree Local Environmental Plan 2010 is to be amended to apply a maximum building height of 11.5 metres to the SP3 zoned land as per **Figure 13**.

### **Inclusion of the subject land in Schedule 1 of GT LEP 2010.**

Schedule 1 of GT LEP 2010 is to include the following:

#### **7. Use of particular land identified as Area 4 on the Additional Uses Map**

- (1) *This clause applies to land identified as Area 4 on the Additional Uses Map.*
- (2) *Development for the purposes of residential accommodation is permitted with consent if:*
  - (a) *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 in Area 4, and*
  - (b) *there are existing recreational facilities (indoor) or recreational facilities (outdoor) in Area 4, and*
  - (c) *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.*

### **Amend Additional Uses Map**

The Additional Uses Map of Greater Taree Local Environmental Plan 2010 is to be amended to include the subject land identified as Area 4.



## Part 3 Justification

### Section A – Need for the Planning Proposal

#### Is the Planning Proposal a result of any strategic study or report?

##### *Tourist Zone*

In December 2004 the former Greater Taree City Council adopted the Hallidays Point Development Strategy 2004. This Strategy was prepared to recognise and protect the significant coastal character of the Hallidays Point locality whilst setting out the areas suitable for future development and conservation.

The Development Strategy, whilst adopted by Council, has not been endorsed by the NSW Department of Planning.

The Strategy identified the subject land as being potentially suitable for Tourism, Environmental Protection and Mixed Use – subject to MidCoast Water's approval of water and wastewater demand management. A copy of the adopted Development Strategy plan is included as **Figure 5**.

When the Strategy was first considered by Council in 1996 it adopted a number of recommendations in response to submissions made by the community. One of these recommendations was:

*11. That Council further investigate the establishment of a Tourist Facilities zone with opportunities for developments to have an extent of permanent occupancy and for community titles subdivision of individual units as part of an overall managed tourist resort.*

In response to this recommendation, and as part of the work associated with the proposed changes to the former Greater Taree City Council's Local Environmental Plan in 2007, Council engaged Blueprint Planning Consultants to undertake an "Investigation of a Proposed Tourist Zone Greater Taree LEP 2007".

The subject land was included as part of Site 3 in the investigation as having potential for a suitable zoning as SP3 Tourist in the GT LEP 2010. The investigation concluded:

*A total 20 year target increase in tourist accommodation is 2,448 beds. To achieve this target, incentives for investment in tourism infrastructure will be required. Three of the four sites identified in the brief (Site 2 Old Bar, Site 3 North Diamond Beach and Site 4 Diamond Beach) are capable of supplying the tourist land requirements for the Old Bar and Hallidays Point/Diamond Beach areas.*

In regard to Site 3 the report concluded:

*The site is located at the northern limit of the Hallidays Point Conservation Development Strategy (Review 2004), and nominated as a "Tourism, Environmental Protection and Mixed Use" precinct (the 2006 Review provides a similar nomination for the site). The Hallidays Point is also identified for growth in the draft GTCDS (2005). Hallidays Point, incorporating North Diamond Beach, Diamond Beach, Redhead and Tallwoods Village has an estimated current population of about 1000 persons (draft GTCDS 2005, p105) with a projected population in 2020 of between 2011 (low estimate) to 2481 (high estimate). It is expected to grow to be the third largest centre, behind Taree and Old Bar. It is identified as a town which is the second order level of urban centre in the settlement hierarchy under the draft GTCDS 2005.*

*However, facilities are limited. Family, touring and adventure travellers would be attracted because of the beach, picnic grounds, walking trails and other natural setting features. Holiday experiences would be nature and water (beach). Family travellers would desire a patrolled beach. Accommodation types would be 3 or 3-4 star, self contained cabins, cottages, bures, villas, B&Bs and camp sites.*

*Suitable tourist land uses on this site are:*

- *Full range of tourist and visitor accommodation, including conference facility.*
- *Backpackers accommodation.*

- *Bed and breakfast accommodation.*
- *Hotel accommodation.*
- *Caravan park/holiday village.*
- *Café or restaurant.*
- *Amusement centre.*
- *Recreation facility (indoor).*
- *Recreation facility (outdoor).*
- *Function centre.*

*Ramada Resort provides an indication of the direction for future development of the eastern land parcels of this precinct. Other development forms would include 3-4 star motel accommodation and caravan parks. Serviced apartments are considered unlikely in this area.*

The recommendations of the investigation with regard to the proposed zonings on the subject land are shown in Figure 12.3 Site 3 Recommendations on page 60 of the report.

Upon gazettal of GT LEP 2010, the only part of Site 3 that was included in the SP3 Tourist zone was the Ramada site. It is not known why the site was not extended at that time to include the subject land.

It is submitted that the subject land is included as a proposed Tourist Development Area in the Hallidays Point Development Strategy and endorsed as being suitable for zoning as SP3 Tourist zone in the 2007 Blueprint Investigation.

#### *Permanent Residency*

The “Investigation of a Proposed Tourist Zone Greater Taree LEP 2007” also addressed the issue of allowing some permanent residency in tourist facilities to assist in securing their viability during the low season and to assist employment security. In this regard the investigation found that:

*It is considered necessary to offer incentives to achieve investment in tourist development as a means to increase tourism growth and associated benefits to the local economy. These incentives include allowing a proportion of permanent residential accommodation within a zone that otherwise prohibits it. Bonus height provisions may also be feasible.*

*Based on experience elsewhere (Tweed Council), the incentives may be in the form of permanent accommodation within a strata or community title “serviced apartments”, dispersed through community title detached buildings, or even tourist accommodation being provided in a strata title multi unit development and detached housing lots elsewhere on the land parcel. The timing of release of subdivision certificate for the dwelling house lots would be after the construction and commencement of operation of the tourist accommodation.*

*To ensure that tourist and visitor accommodation is not used for permanent residential accommodation, it is recommended that requirements be specified in the SLEP requiring title restrictions and other specific measures to ensure accommodation units continue to be available for tourists and visitors. The appropriate proportion of allowable permanent accommodation that is sufficient to provide the required incentive to generate developer investment in tourist and visitor accommodation is difficult to determine. An absolute maximum of 50% permanent is considered appropriate, with a percentage of between 20-30% permanent being a preferred ratio in most instances.*

In response to this issue GTLEP 2010 included provisions in Schedule 1 to allow 30% residential permanency of the gross floor area of development within the three (3) SP3 zones across the local government area, including the zoning of the Ramada land adjacent, to the north, of Lot 18.

It is submitted that justification exists to allow the 30% residential permanency to be extended over the subject land by way of an addition to Schedule 1 of GT LEP 2010.

### *Height of Buildings*

The former Greater Taree City Council approved a three storey 24 unit development on the nearby Ramada site (330/2009/DA) that has a height of 12 metres. This approval represents an acceptable height for buildings in the SP3 Tourist zone in this locality. Consequently a 11.5 metre maximum building height is sought.

### **Is the Planning Proposal the best way to achieve the objectives or intended outcomes or is there a better way?**

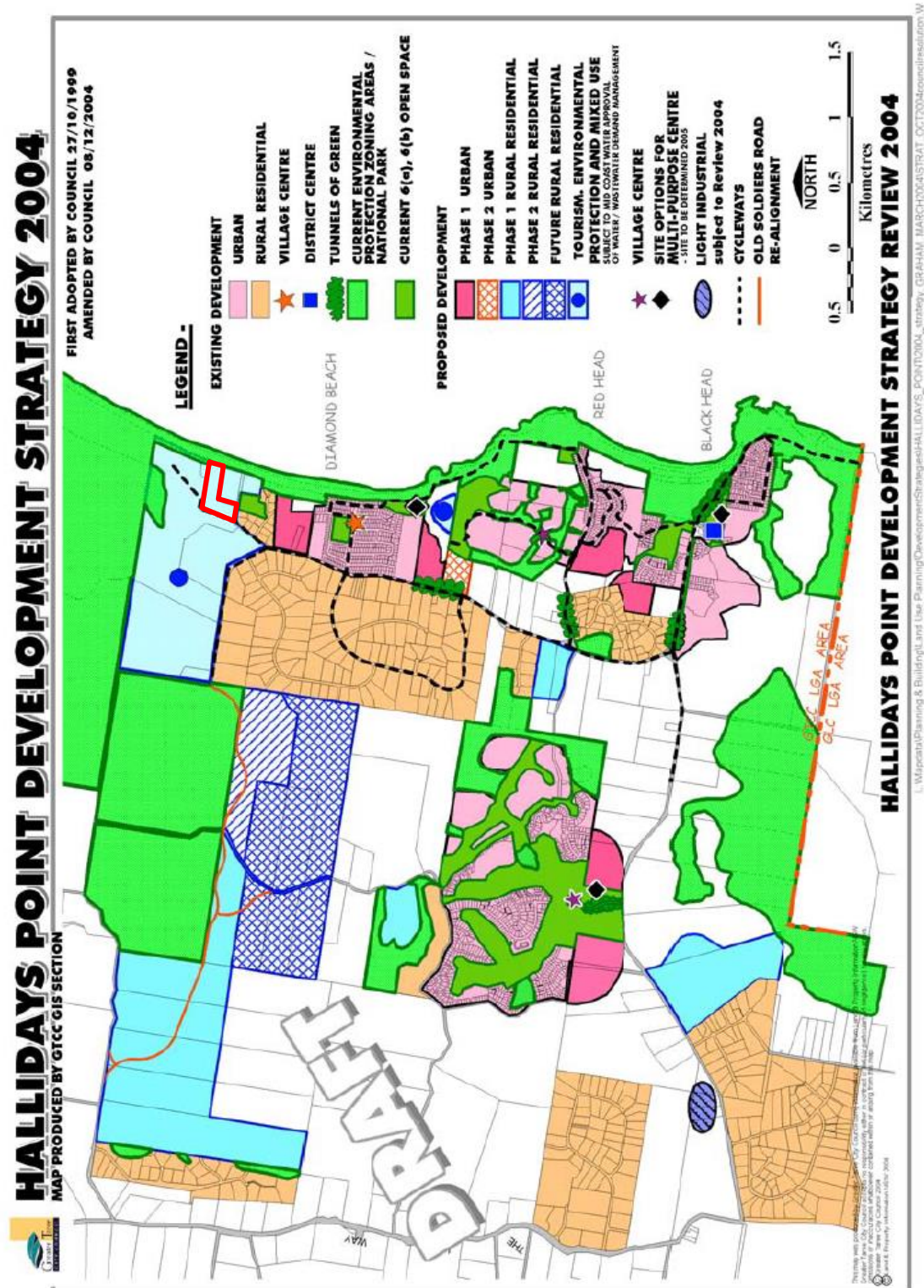
The changing of the zoning and inclusion of the a 30% residential permanency is considered the most appropriate way to achieve the intended outcomes and provide certainty for the existing and approved tourist facilities on the subject land.

### **Is there a net community benefit?**

A Net Community Benefit Test has not been undertaken for this Planning Proposal. The *“Investigation of a Proposed Tourist Zone Greater Taree LEP 2007”* report commissioned by the former Greater Taree City Council provides a comprehensive assessment of the community benefits for rezoning the land to SP3 Tourist.

The changing of the zoning and inclusion of the a 30% residential permanency is considered to provide a net community benefit by providing certainty for the existing and approved tourist facilities on the subject land into the future and assisting in retaining employment during the low seasons when visitor numbers are lower than summer months.

Figure 5 – Hallidays Point Development Strategy Plan 2004



## Section B – Relationship to Strategic Framework

**Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

The subject land was included as a proposed urban area with indicative high levels constraints over part of it in Map 8 of the former Mid North Coast Regional Strategy prepared by the Department of Planning (now the Department of Planning and Environment). Mid North Coast Regional Strategy has the purpose to ensure that the projected housing and employment needs of the Region are catered for until 2031. A copy of Map 8 of the Mid North Coast Regional Strategy is included as **Figure 6** in this report.

The changing of the zoning and inclusion of the 30% residential permanency is consistent with the Mid North Coast Regional Strategy in that some permanent accommodation will enable urban growth within the existing, and approved, developments on the subject land.

The Mid North Coast Regional Strategy has now been superseded by the Hunter Regional Plan 2036.

The Hunter Regional Plan 2036 sets out four goals for the Hunter Region as follows:

- The leading regional economy in NSW
- A biodiversity - rich natural environment
- Thriving communities
- Greater housing choice and jobs

The site is located at Diamond Beach which is within the Hunter Region.

Goal 1 Direction 6 of the Plan outlines actions to grow the economy of MidCoast and Port Stephens. Action 6.3 specifically states:

*"Enable economic diversity and new tourism opportunities that focus on reducing the impacts of the seasonal nature of tourism and its effect on local economics."*

This Planning Proposal is consistent with Action 6.3 in that it allows for tourist use of the land that will enhance the local economy and also proposes some permanent occupancy opportunity to reduce the impacts of the seasonal nature of tourism in the locality.

Goal 1 Direction 9 of the plan outlines actions to grow tourism in the region. Action 9.2 specifically states:

*"Encourage tourism development in natural areas that support conservation outcomes."*

The Planning Proposal is consistent with Action 9.2 in that it will encourage development in a natural area and will lead to the zoning of land to E2 Environmental Conservation.

The Plan identifies that the new MidCoast Council will *"have to capitalise on the opportunities provided by urban centres, rural areas and the natural environment to form a thriving economy based on food production, tourism, manufacturing and services....."*

A regional priority is identified as "support the visitor economy by leveraging the natural beauty of the area.

This Planning Proposal is consistent with this regional priority.

**Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?**

The former Greater Taree City Council prepared a Community Plan for the Manning Valley that outlined the key objectives that the community wishes to achieve between the years 2010 and 2030.

The Manning Valley Community Plan covers a wide range of issues including: social needs, environmental management, land use, community infrastructure and opportunities for economic development.



Strategy 17 of the Plan is to ensure adequate provision of appropriately zoned land that is suitable for the needs of all economic sectors of the local community. The proposed rezoning will help achieve the appropriate zoning over the subject land.

Strategy 18 of the Plan is to expand job opportunities through the growth of existing businesses, and encourage new businesses to establish or relocate. The proposed 30% residential permanency will provide more certainty for income to the existing tourist facilities and assist in enabling the expansion of the development to build the approved developments on the subject land.

**Figure 6 – Mid North Coast Regional Strategy Map**



Strategy 19 of the Plan is to provide a broad and skilled local workforce. The certainty for the developments on the site will assist in providing tourist opportunities for the region and in turn provide tourist related job opportunities. Such job skills will assist in the achievement of Strategy 19.

Strategy 21 of the Plan is to ensure a wide choice of housing styles and locations, with consideration of accessibility, adaptability and affordability. The proposed 30% residential permanency will assist in achieving this in the Hallidays Point locality.



### Is the planning proposal consistent with applicable state environmental planning policies?

This Planning Proposal is considered to be consistent with applicable state environmental planning policies.

The NSW Coastal Policy (NSW Government, 1997) sets the direction for coastal zone management, planning and conservation in NSW. This policy is also supported by the introduction of *State Environmental Planning Policy No 71 – Coastal Protection (SEPP 71)*. The site is located within the coastal zone and accordingly SEPP 71 is applicable to the proposed development.

The objective of State Environmental Planning Policy No. 71 - Coastal Protection (SEPP 71) is to further the implementation the NSW Coastal Policy (1997).

State Environmental Planning Policy Number 71 (SEPP 71) applies to the land. Clause 7 of the SEPP 71 states that the matters for consideration set out in Clause 8 should be taken into account by a council, when it prepares a draft local environmental plan that applies to land to which this Policy applies. These matters are considered in **Table 4.1**.

Table 4.1 - SEPP 71 Requirements		
Clause	Matter for Consideration	Comments
Clause 2 - 1(a)	to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast.	The Planning Proposal effectively manages the natural, cultural, recreational and economic attributes of the subject land.
Clause 2-1(b)	to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore.	The Planning Proposal will provide for access to the coastal foreshore through current private land. It is not intended to create any further public access opportunities and no further need has been established in this regard.
Clause 2-1(c)	to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore.	The planning proposal will provide for access to the coastal foreshore by committing to a Planning Agreement in which a 5m strip of land adjacent to the eastern boundary of the land for the entire frontage will be dedicated to Council. Other commitments include a monetary contribution for the construction of a 3m wide concrete pathway within this 5m strip that will provide future public access, and fencing to control access to the coastal area.
Clause 2 -1(d)	to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge.	The Planning Proposal will not adversely affect any Aboriginal places, values, customs, beliefs and traditional knowledge.
Clause 2- 1(e)	to ensure that the visual amenity of the coast is	A Visual Impact Assessment of the potential future development of Lot 18 concludes that the visual

Table 4.1 - SEPP 71 Requirements		
Clause	Matter for Consideration	Comments
	protected.	amenity of the coast is protected.
Clause 2 -1(f)	to protect and preserve beach environments and beach amenity.	The Planning Proposal will not adversely affect beach environments. A Visual Impact Assessment of the potential future development of Lot 18 concludes that the beach amenity is protected.
Clause 2-1(g)	to protect and preserve native coastal vegetation.	The Planning Proposal will protect and preserve coastal vegetation.
Clause 2-1(h)	to protect and preserve the marine environment of New South Wales.	The Planning Proposal will not adversely affect the marine environment.
Clause 2-1(i)	to protect and preserve rock platforms, and  to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the <i>Protection of the Environment Administration Act 1991</i> .	The Planning Proposal will not adversely affect any rock platforms.
Clause 2-1(j)	to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area.	A Visual Impact Assessment of the potential future development of Lot 18 concludes that type, bulk, scale and size of any future development will protect and potentially improve the natural scenic quality of the surrounding area.
Clause 2-1(k)	to encourage a strategic approach to coastal management.	The Planning Proposal is consistent with the future strategic approach for the locality.
Clause 8 (b)	existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.	The Planning Proposal will not adversely affect and public access to and along the coastal foreshore for pedestrians or persons with a disability.
Clause 8 (c)	opportunities to provide new public access to and along the	The Planning Proposal will provide for access to the coastal foreshore through current private land. It is

Table 4.1 - SEPP 71 Requirements		
Clause	Matter for Consideration	Comments
	coastal foreshore for pedestrians or persons with a disability.	not intended to create any further public access opportunities and no further need has been established in this regard.
Clause 8 (d)	the suitability of development given its type, location and design and its relationship with the surrounding area	A Visual Impact Assessment of the potential future development of Lot 18 concludes that it is suitable with development in the surrounding area.
Clause 8 (e)	any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	The Planning Proposal will not adversely affect the amenity of the coastal foreshore or lead to overshadowing or loss of views from a public place.
Clause 8 (f)	the scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	A Visual Impact Assessment of the potential future development of Lot 18 concludes that the scenic qualities of the New South Wales coast will be protected.
Clause 8 (g)	measures to conserve animals (within the meaning of the <i>Threatened Species Conservation Act 1995</i> ) and plants (within the meaning of that Act), and their habitats.	Any habitat areas on the subject land are proposed to be zoned E2 Environmental Conservation and will be protected.
Clause 8 (h)	measures to conserve fish (within the meaning of Part 7A of the <i>Fisheries Management Act 1994</i> ) and marine vegetation (within the meaning of that Part), and their habitats.	Not Applicable.
Clause 8 (i)	existing wildlife corridors and the impact of development on these corridors.	There are no known wildlife corridors on the subject land.
Clause 8 (j)	the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal	The Planning Proposal has considered the impact of coastal erosion and proposed zonings of those areas are proposed.

Table 4.1 - SEPP 71 Requirements		
Clause	Matter for Consideration	Comments
	hazards.	
Clause 8 (k)	measures to reduce the potential for conflict between land-based and water-based coastal activities.	Not Applicable.
Clause 8 (l)	measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	The Planning Proposal will not adversely affect any Aboriginal places, values, customs, beliefs and traditional knowledge.
Clause 8 (m)	likely impacts of development on the water quality of coastal waterbodies.	The Planning Proposal will not adversely affect the water quality of coastal waterbodies.
Clause 8 (n)	the conservation and preservation of items of heritage, archaeological or historic significance.	The Planning Proposal will not adversely affect any Aboriginal places, values, customs, beliefs and traditional knowledge.
Clause 8 (o)	only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities	Not Applicable.

**Is the proposal consistent with applicable Ministerial Directions (s.117 directions)?**

The assessment of the Planning Proposal against the Ministerial Direction (s.117 directions) is provided **Table 4.2** below.

Table 4.2 - Ministerial Directions (s.117 directions)		
Ministerial Direction	Relevance	Comments
<b>1.1 Business and Industrial Zones</b>	No.	The Planning Proposal does not affect land within an existing or proposed business or industrial zone.

Table 4.2 - Ministerial Directions (s.117 directions)		
Ministerial Direction	Relevance	Comments
<b>1.2 Rural Zones</b>	Yes	<p>The Planning Proposal seeks to rezone the land to a tourist zone. The objective of this direction is to protect the agricultural production value of rural land. In this regard it is submitted that the Planning Proposal is inconsistent with this direction however can be justified on the basis that:</p> <ul style="list-style-type: none"> <li>• The land is currently not being used for agricultural purposes nor will it in the future and is therefore of minor significance; and</li> <li>• The Mid North Coast Strategy identifies the land as future urban.</li> </ul>
<b>1.3 Mining, Petroleum Production and Extractive Industries</b>	No	The Planning Proposal would not have the effect of prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials.
<b>1.4 Oyster Aquaculture</b>	No	The Planning Proposal does not seek a change in land use which could result in adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”.
<b>1.5 Rural Lands</b>	Yes	<p>The Planning Proposal seeks to rezone the land to a tourist zone. The objective of this direction is to protect the agricultural production value of rural land. In this regard it is submitted that the Planning Proposal is inconsistent with this direction however can be justified on the basis that:</p> <ul style="list-style-type: none"> <li>• The land is currently not being used for agricultural purposes nor will it in the future and is therefore of minor significance; and</li> <li>• The Mid North Coast Strategy identifies the land as future urban.</li> </ul>
<b>2.1 Environment Protection Zones</b>	Yes	The Planning Proposal includes requirements which facilitate the protection and conservation of environmentally sensitive areas. This is achieved through the proposed E2 Environmental Conservation.
<b>2.2 Coastal Protection</b>	Yes	<p>The Planning Proposal is consistent with provisions of:</p> <ul style="list-style-type: none"> <li>• the <i>NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997</i>, and</li> </ul>

Table 4.2 - Ministerial Directions (s.117 directions)

Ministerial Direction	Relevance	Comments
		<ul style="list-style-type: none"> <li>the <i>Coastal Design Guidelines 2003</i>, and</li> <li>the manual relating to the management of the coastline for the purposes of section 733 of the <i>Local Government Act 1993</i> (the <i>NSW Coastline Management Manual 1990</i>).</li> </ul> <p>These provisions were considered by Council during the assessment process of the proposed future developments on the subject land.</p>
<b>2.3 Heritage Conservation</b>	No	The Planning Proposal is considered to be consistent with this direction.
<b>2.4 Recreation Vehicle Areas</b>	No	The Planning Proposal does not seek to enable land to be developed for the purpose of a recreation vehicle area within the meaning of the <i>Recreation Vehicles Act 1983</i> .
<b>3.1 Residential Zones</b>	No	The Planning Proposal does not affect land within an existing or proposed residential zone.
<b>3.2 Caravan Parks and Manufactured Home Estates</b>	No	The Planning Proposal does not affect a caravan park or manufactured home estate.
<b>3.3 Home Occupations</b>	No	The Planning Proposal is considered to be consistent with this direction.
<b>3.4 Integrating Land Use and Transport.</b>	No	The Planning Proposal does not seek to create, alter or remove a zone or a provision relating to urban land.
<b>3.5 Development Near Licensed Aerodrome</b>	No	The Planning Proposal does not seek to create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.
<b>3.6 Shooting Ranges</b>	No	The Planning Proposal does not seek to create, alter or remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range.
<b>4.1 Acid Sulfate Soils</b>	No	This Planning Proposal does not apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Maps held by the NSW Department of Planning and Infrastructure.
<b>4.2 Mine Subsidence and Unstable Land</b>	No	The Planning Proposal is not within a designated mine subsidence district and is not identified as being unstable.



Table 4.2 - Ministerial Directions (s.117 directions)		
Ministerial Direction	Relevance	Comments
<b>4.3 Flood Prone Land</b>	No	The site is not within a designated floodplain. During significant storm events, water may overflow the banks of the intermittent natural watercourses (drainage gullies) dissecting the site. The site, however, is not considered to be flood prone land as defined by the <i>Floodplain Development Manual 2005</i> .
<b>4.4 Planning for Bushfire Protection</b>	Yes	<p>The Planning Proposal is considered to be consistent with this direction.</p> <p>The land subject of this planning proposal is mapped as being bushfire prone land on Council's bushfire prone land mapping. This Planning Proposal seeks to consult with the NSW Rural Fire Service subsequent to gateway determination being issued and prior to undertaking community consultation.</p>
<b>5.1 Implementation of Regional Strategies</b>	Yes	The Planning Proposal is consistent with the Mid North Coast Regional Strategy and subsequently the Hunter Regional Plan 2036.
<b>5.2 Sydney Drinking Water Catchments</b>	No	The Planning Proposal is not within the Sydney Drinking Water Catchment.
<b>5.3 Farmland of State and Regional Significance on the NSW Far North Coast</b>	No	This direction does not apply to the Planning Proposal.
<b>5.4 Commercial and Retail Development along the Pacific Highway, North Coast</b>	No	This direction does not apply to the Planning Proposal.
<b>5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)</b>  No	No	This direction has been revoked.
<b>5.6 Sydney to Canberra Corridor</b>  No	No	This direction has been revoked.
<b>5.7 Central Coast</b>	No	This direction has been revoked.

Table 4.2 - Ministerial Directions (s.117 directions)		
Ministerial Direction	Relevance	Comments
<b>5.8 Second Sydney Airport: Badgerys Creek</b>  No	No	The Planning Proposal is not within the boundaries of the proposed second Sydney airport site or within the 20 ANEF contour as shown on the map entitled "Badgerys Creek–Australian Noise Exposure Forecast–Proposed Alignment–Worst Case Assumptions".
<b>6.1 Approval and Referral Requirements</b>	Yes	The Planning Proposal is considered to be consistent with this direction.  The Planning Proposal does not include provisions that require the concurrence, consultation or referral of development applications to a minister or public authority and does not identify development as designated development.
<b>6.2 Reserving Land for Public Purposes</b>	No	The Planning Proposal is considered to be consistent with this direction.  It does not seek to create, alter or reduce existing zonings or reservations of land for public purposes.
<b>6.3 Site Specific Provisions</b>	No	The Planning Proposal is considered to be consistent with this direction.  The proposal does not intend to amend another environmental planning instrument in order to allow a particular development proposal to be carried out. The planning proposal does not refer to drawings for any such development.
<b>7.1 Implementation of the Metropolitan Plan for Sydney 2036</b>	No	This direction does not apply to the Greater Taree Local Government Area.

## Section C – Environmental, Social and Economic Impact

**Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The Planning Proposal will not adversely affect any critical habitat or threatened species, populations or ecological communities, or their habitats. This is concluded in the Ecological Assessment undertaken for the Planning Proposal (**Appendix B**).

**Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

The mapping associated with Greater Taree Development Control Plan 2010 provides an overview of the general environmental constraints associated with the subject land. A plan of these constraints is included as **Figure 7**. The primary constraints are coastal erosion and associated setbacks. Specific environmental matters are discussed further below.

### *Coastal Erosion*

The NSW Government requires all coastal councils to prepare a Coastal Zone Management Plan for the coastline within each Local Government Area (LGA). The Greater Taree Coastal Zone Management Plan 2015 (CZMP 2015) identifies estimated coastal recession due to storm events and sea level rise, and possible management options that can be undertaken to address areas affected by coastal processes.

The CZMP 2015 was adopted by Council in September 2015. The proposal complies with the Council's 2100 coastal hazard line given that the SP3 zoned land is landward of the 2100 line. This plan has since been superseded by the Manning Valley CZMP adopted by Council in July 2017 for which the SP3 zoned land remains landward of the 2100 coastal hazard line.

### *Bushfire Protection*

The Bushfire Prone Land mapping associated with the subject land is included as **Figure 8**. The eastern sections of the subject land are identified as being bushfire prone. During the assessment of the new development applications on the subject land the NSW Rural Fire Service issued Bushfire Safety Authority's for both developments (reference D09/2049 DA09110364644JH and D08/1983, DA08101755285JH). Consequently no additional bushfire requirements will be necessary for the Planning Proposal.

### *Indigenous Heritage*

An Aboriginal Heritage Assessment for Lot 18 was undertaken by McCardle Cultural Heritage Pty Ltd. A copy of this report is included at **Appendix A**. The report concluded:

*In view of the survey results, the predictive model of site location can be reassessed for the investigation area. The potential for artefacts to occur within the investigation remains assessed as low or negligible. No sites or PADs were identified within the investigation area. There remains a low to no potential for evidence to occur in the areas currently obscured by vegetation. Environmental contexts in which sites and potentially deposits of research significance may occur, in association with more focused and/or repeated Aboriginal occupation, are absent from the investigation area.*

### *European Heritage*

There are no items of European heritage significance on the subject land.

### *Flooding and Drainage*

The land is not subject to flooding however some drainage across the lot occurs via existing constructed drainage channels. The channel will be unaffected by the Planning Proposal.

### *Access and Transport*

The subject land is accessed by existing internal roads from Diamond Beach Road. The extent of impact of the future developments of the site was considered by Council during assessment of the two approved Development Applications. The Planning Proposal will in no way increase the vehicular traffic to and from the site and no further assessment in this regard is necessary.

### *Vegetation*

The western part of Lot 18 contains a coastal heath community that has potential significance for threatened species as shown in **Figure 9**. It is proposed to have this area zoned E2 Environmental Conservation.

An Ecological Assessment of the potential future development of Lot 18 was undertaken by Naturecall Environmental. A copy of this report is provided at **Appendix B**.

This report concludes that there will be no impact on threatened species or endangered ecological communities. With regard to the potential impact on groundwater dependant ecosystems it concludes:

*The outcome from application of the GDE risk assessment framework to the two GDEs present in the survey site of Lot 18 are:*

- *Both GDEs are determined to be highly dependent on groundwater in the obligate to proportional dependence range for the species comprising their respective communities and therefore the ecosystems as a whole;*

- The overall ecological value of the GDEs on Lot 18 is high (HEV);
- Impact from the proposed development is considered likely if potential threats are not adequately mitigated by appropriate measures;
- The overall risk to ecological value of the GDEs is high due to their sensitivity;
- As a result of the above, management measures are required eg protection of aquifer and GDE catchment/subcatchments and monitoring to ensure no change to risk.

The main risk to GDEs is considered to be the risk of changes in seasonal drawdown (essential to communities which need a dry period) and hydro-chemical changes due to nutrient inflows from stormwater and on-site effluent treatment. A future re-development proposal may pose these risks as the expanded footprint will create a substantial area of new hard surfaces which will shed larger amounts of water and increasing surface runoff rates during heavy rainfall events which exceed the currently high infiltration capacity of the local catchment. This will see a reduction in the local catchment's in situ infiltration capacity, and with less capacity in the dam (which will be reduced in size and hence buffering capacity in terms of storage), there is a risk of more regular overflows into the wet heath. While both GDEs are tolerant of waterlogged soils, this is only on a seasonal basis which would tend to occur during the higher rainfall summer season in this area. These GDEs require some periods of drier soil conditions to survive. Heath communities in particular can be regarded as fragile communities such that any small changes in the water-balance, soil nutrients or fungi, can alter the vegetation within short time frames. Hence directing more water to this area via stormwater above the natural regime could see gradual shifts in the current character of vegetation assemblage eg to another GDE type.

Heath ecosystems are also highly adapted to infertile, low nutrient soils. A large number of their constituent species (up to 80%) have some form of adaption or mechanism for nutrient uptake in these low nutrient circumstances. Adaptions like proteoid roots, mycorrhizal associations and nitrogen fixing symbioses allow efficient uptake of small quantities of nutrient present in sandy soils. An intensification of habitation on Lot 18 has the potential to increase nutrient levels substantially via on-site effluent systems, piped stormwater point sources, fertiliser runoff, importation of fill soil, dog/cat faeces, car wash detergents etc. They may flow across the land surface or via stormwater infrastructure in solution and enter the dam which is likely to be currently functioning with its macrophytes as a constructed wetland, absorbing some of the nutrients, before they flow through into groundwater into the adjacent vegetation communities. Elevated nutrient levels in the adjacent heath can be toxic, hamper growth and support weed establishment. Elevated nutrients in the dam can also lead to algal blooms with associated impacts on water quality and nutrient cycles. Any future development proposal must demonstrate effective controls to maintain the current nutrient loads and cycles, and that stormwater is effectively managed before it enters the GDEs. The above clearly illustrates that for the development to proceed, it must demonstrate effective stormwater and nutrient management, and water-sensitive urban design (WSUD) solutions. This may also include some form of monitoring to detect and act on adverse changes as part of an adaptable management regime. For any future development proposal for the site, appropriate stormwater modelling will be required to demonstrate a significant change to stormwater runoff is not likely to eventuate. Such assessment would be required to be carried out at the development application stage.

The assessment has determined that the two native vegetation communities on the western end of the site are GDEs, but not EECs, and do not appear to support any threatened flora. A few threatened fauna species may at least have some periodic use of this habitat as part of their local range, but historical disturbance, fragmentation and edge effects discounts the likelihood of small home range species being present and being highly dependent on the site habitat. The survey area vegetation is also Potential Koala Habitat, but not Core Koala Habitat. Nonetheless, it has potential value as a stepping stone for Koalas moving across the wider area. The site is also within a Regional Corridor, but has limited local corridor and habitat link value due to the extent of agricultural and residential development. The GDEs on site have High Ecological Value and are also considered particularly vulnerable to impacts on nutrients and watertable changes. Any future development proposal thus must demonstrate appropriate design and engineering mechanisms to mitigate these impacts and maintain the current hydrological regime.

### Visual Amenities

A Visual Impact Assessment of potential future development of Lot 18 to a height of 12 metres was undertaken by Terras Landscape Architects. This report is included at **Appendix C**. This report concludes:

*This report has found that the impact of the proposed development is low. Having attempted to see the subject site from a number of locations in the area views from public areas are minimal and generally*

screened by the landform and the existing remnant vegetation. Based on the available viewpoints of the site the visual catchment of the site is limited to a small area in close proximity to the site.

The views from neighbouring properties are limited and are generally afforded to areas where there is some vegetative screening. Where these views do occur the usual impact is low and not inconsistent with the character of the area. The low scale of the potential development permissible under the rezoning generally imposes a similar visual impact as the existing adjacent tourist and residential developments in the area.

Currently the Seashells Beachside Resort is not visible from the beach, using the section (Figure 11), it can be proved that based on existing levels of the site this would not change therefore having no impact on the visual amenity of the beach.

The potential development would sit comfortably in the landscape and blend in with the local character. Additional vegetative screening located along the boundaries would further soften the appearance.

Figure 7 – GT DCP 2010 Constraints Map

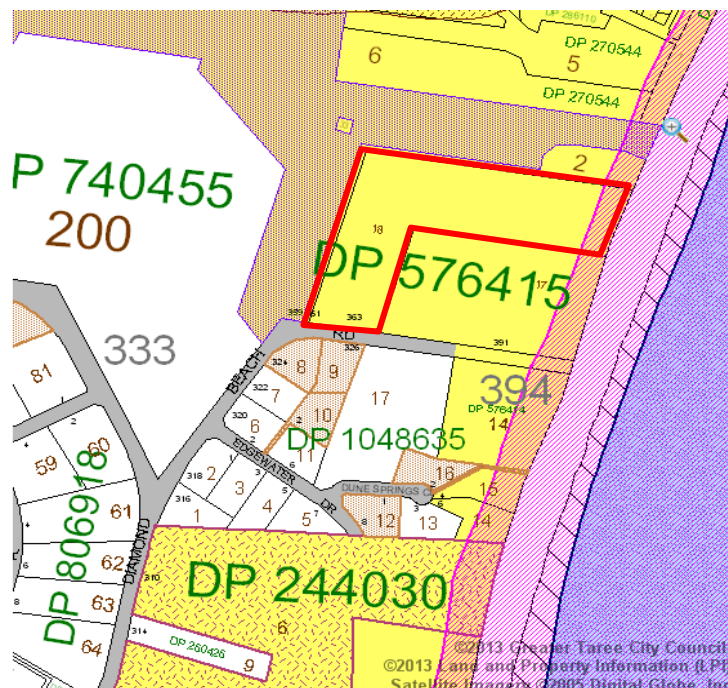


Figure 8 – Bushfire Prone Land Map

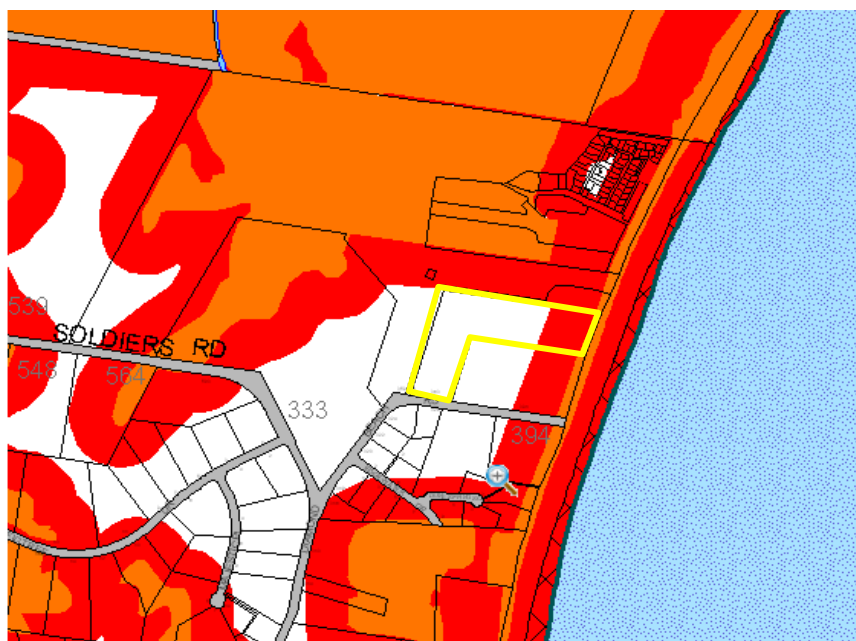




Figure 9 – Vegetation Communities Map



 Coastal Heath Paperbark

#### How has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal is not expected to generate any significant adverse social or economic impacts. The proposal will enable current and future tourist facilities to remain on the land with certainty for future income. No significant adverse economic impacts have been identified as likely to result due to the proposal.

### Section D – State and Commonwealth Interests

Two public authorities were consulted about the Planning Proposal. Details of this consultation is as follows:

#### NSW Office of Environment and Heritage

The NSW Office of Environment and Heritage (OEH) provided a written response the Planning Proposal on 20 May 2016. This response included a recommendation that the dam on the site be zoned E2 Environmental Conservation. Following further information provided to OEH they advised on 22 September that this recommendation was withdrawn and they had no objection to the Planning Proposal.

#### NSW Rural Fire Service

The NSW Rural Fire Service (RFS) provided a written response the Planning Proposal on 6 June 2016 stating that they had no objection to the Planning Proposal.



# Community Consultation and Conclusion

## Community Consultation

Community consultation was undertaken over a 28 day period from 16 November to 14 December 2016. During the public exhibition of this proposal a drop-in session was conducted on 7 December 2016 at the site with 13 people attending. During this consultation it became clear that the community had a strong desire to ensure that a future public pedestrian link along the seaward side of private land at North Diamond Beach is provided.

In response to the feedback provided through eighteen (18) submissions following this consultation process, a letter of offer to enter into a planning agreement was provided by the applicant to:

- Dedicate to Council a 5m strip of land adjacent to the eastern boundary
- Provide a monetary contribution for the construction of a 3m wide concrete pathway within the dedicated land
- The above being conditional that a strategy aiming to provide a public link along the coast line of North Diamond Beach be prepared by Council and adopted within 3 years of the planning agreement being signed.

A planning agreement and explanatory note were prepared and placed on public exhibition for 28 days between 28 June and 25 July 2017. No objections were received during this period. As a result of this the Planning Agreement was signed by all parties and the agreement was finalised and registered on the title of the land.

## Project Timeline

The following timeline reflects the progress of the planning proposal:

Task	Responsibility	Date
Draft planning proposal reported to Council for consideration	Greater Taree City Council	10 December 2014
Gateway determination	Department of Planning and Environment	28 April 2015
Additional investigations and assessments prepared	Proponent/MidCoast Council	March 2015 – April 2016
Consult with Agencies and refine Planning Proposal	Proponent/MidCoast Council	April 2016 – November 2016
Exhibition of planning proposal	MidCoast Council	16 November 2016– 14 December 2016
Responding to community consultation	MidCoast Council	January 2017 – February 2017
Planning proposal reported to Council	MidCoast Council	22 March 2017
Preparation of draft Planning Agreement	MidCoast Council/	April 2017 – June 2017

Task	Responsibility	Date
	Proponent/Consultant	
Exhibition of Draft Planning Agreement	MidCoast Council	28 June – 25 July 2017
Making of Local Environmental Plan	Department of Planning and Environment and Minister for Planning and Environment	November 2017

## Conclusion

This Planning Proposal is justified as outlined in this document. The proposed zones will have the effect of bringing certainty to the ongoing viability of the existing and future tourist facilities on the subject land and also result in providing employment opportunities in the local area. The existing environmentally constrained land will also be appropriately zoned.

The proposed zonings of the subject land being sought under this Planning Proposal are shown in **Figure 10**.

The proposed Floor Space Ratio (FSR) is shown in **Figure 11**.

The proposed minimum lot size is shown in **Figure 12**.

The proposed maximum Height of Building (HOB) is shown in **Figure 13**.

Figure 10 – Zonings (LZN) Map

LEGEND

- Site Boundary
- E2 - Environmental Protection
- Sp3 - Tourist

Source: Greater Taree City Council  
Online Mapping, March 2014

North ^



Figure 11 – Floor Space Ratios (FSR) Map

LEGEND

— Site Boundary

■ 0.6:1 FSR

Source: Greater Taree City Council  
Online Mapping, March 2014

North ^





Figure 12 – Minimum Lot Size Map

- LEGEND
- Site Boundary
  - 1 Hectare
  - 40 Hectares

Source: Greater Taree City Council  
Online Mapping, March 2014

North ^



Figure 13 – Maximum Height of Building (HOB) Map

LEGEND

— Site Boundary

■ 11.5 metres

Source: Greater Taree City Council  
Online Mapping, March 2014

North ^





# References

Blueprint Planning Consultants (2007) *"Investigation of a Proposed Tourist Zone Greater Taree LEP 2007"*.

Department of Planning (2006) *Mid North Coast Regional Strategy*

Greater Taree City Council (2004) *Hallidays Point Development Strategy*

Greater Taree City Council (2010) *Greater Taree Local Environmental Plan 2010*

Greater Taree City Council (2010) *Greater Taree Development Control Plan 2010*

Orogen Pty Ltd (2009) *Coastal Hazard Risk Assessment, Diamond Beach Road, Diamond Beach*

Journal of Coastal Research (2011). *Is there evidence yet of Acceleration in Mean Sea Level Rise around Mainland Australia?*, PJ Watson Journal 27 Pages 368-377

## Appendix A - Cultural Heritage Assessment

## Appendix B - Ecological Assessment

Appendix C - Visual Impact Assessment