

Planning and Assessment

EF19/7789

Gateway determination report

LGA	MidCoast Council
PPA	MidCoast Council
NAME	Rezone land adjacent to Hawks Nest Golf Club from RE1 Public Recreation to R3 Medium Density Residential (130 dwellings, 0 jobs)
NUMBER	PP_2019_MIDCO_001_00
LEP TO BE AMENDED	Great Lakes LEP 2014
ADDRESS	Sanderling Avenue, Hawks Nest
DESCRIPTION	Lot 1 DP 1234229
RECEIVED	11 April 2019
FILE NO.	EF19/7789
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to rezone a site adjoining Hawks Nest Golf Club for medium density residential development. The planning proposal (**Attachment A**) seeks to amend *Great Lakes Local Environmental Plan 2014* (LEP) by:

- rezoning the subject site from RE1 Public Recreation to R3 Medium Density Residential;
- apply a maximum of FSR to the site of 1:1;
- amend the maximum height of buildings control from 8.5m to 12m;
- apply a minimum density control of 30 dwellings per hectare;
- apply a minimum lot size of 1,000m²; and
- identify the site as an Urban Release Area.

The proposal seeks to rezone the subject site R3 Medium Density Residential consistent with the adjoining land to the west within the Hawks Nest Golf Club. The site has the potential to contribute 130 dwellings. It is noted that this site is part of the overall redevelopment concept of the Hawks Nest Golf Club which is discussed further in Section 3.

1.2 Site description

The subject site (Lot 1 DP1234229) is located immediately east of the Hawks Nest Golf Club on Sanderling Avenue, Hawks Nest. The site is 1.49 hectares (ha) in size and is approximately 500m from the Hawks Nest town centre.

The site generally flat, consisting of regrowth remnant vegetation. A small part of the site was previously used for sand mining activities until the 1980s. The site is currently used for spill over parking for golf club patrons.

The site forms part of a partially successful Native Title land claim over Crown land by the Karuah Local Aboriginal Land Council. The site has been since sold and is privately owned.

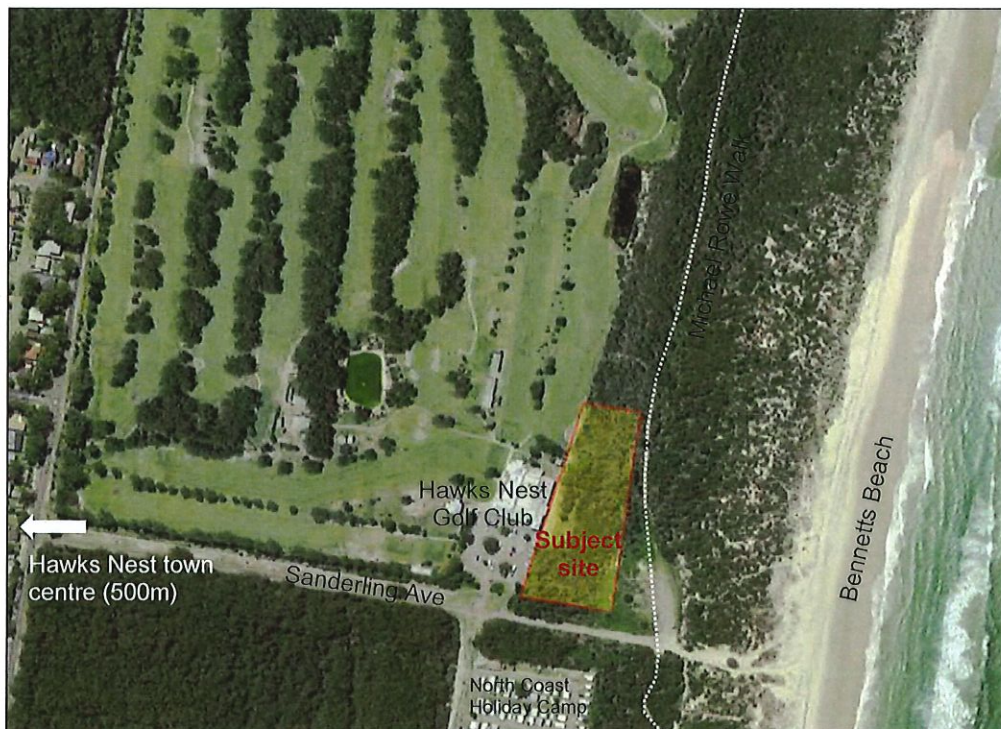


Figure 1: Site location

1.3 Surrounding area

Bennetts Beach is located 60m to the east of the site and the area directly adjacent appears to be currently used for beach parking (Figure 2). The Michael Rowe Walk is located to the east of the site (Figure 1). This track forms part of the Hawks Nest section of the Tops to Myall Heritage Walking Trail and connects to the Tea Gardens Hawks Nest Surf Life Saving Club.

To the south is a vegetated area, with the North Coast Holiday Camp located further to the south and is zoned RE1 Public Recreation.

To the west is Hawks Nest Golf Course and the associated club facilities and parking. Part of the golf club has been zoned R3 Medium Density Development, however has not been developed for residential purposes to date.

To the north is a vegetated area that provides separation between the golf course and beach.



Figure 2: Site context

1.4 Existing planning controls

Under the Great Lakes LEP 2014, the site is currently zoned RE1 Public Recreation (Figure 3). This zone reflects its previous use as Crown land, noting the land is now privately owned. Areas to the north, east and south are also zoned RE1 including the North Coast Holiday Camp.

As previously identified, part of the Hawks Nest Golf Club adjacent to the site is zoned R3 Medium Density Residential and has the following planning controls: a maximum height of 12m, an FSR of 1:1, minimum lot size of 1,000m² and a minimum density control of 30 dwellings/ha.

The area to the south-west of the site is zoned R2 Low Density Residential. This R2 zoned land is undeveloped and heavily vegetated and also includes Myall Park oval complex (Figure 2).

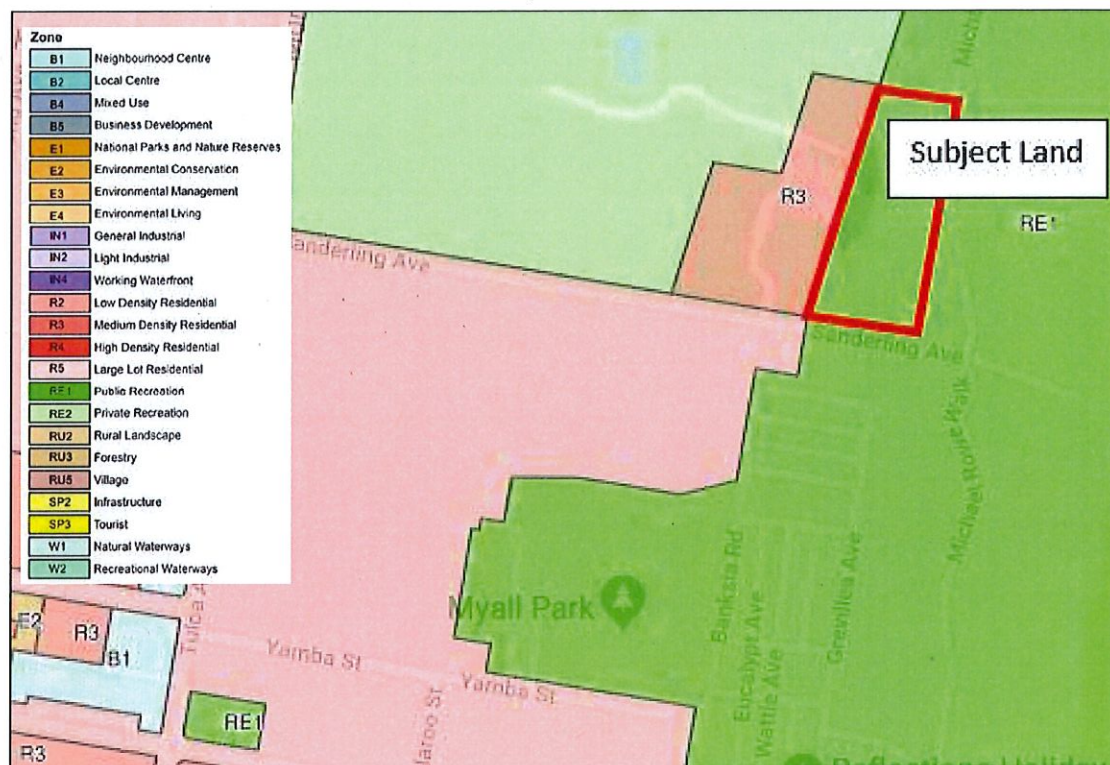


Figure 3: Site zoning

1.5 Summary of recommendation

It is recommended that the proposal proceed, subject to conditions. Consultation with the community is required so that they can consider the potential impacts of the proposed changes. Conditions are proposed to assist with this process.

The proposal is considered consistent with the Hunter Regional Plan (HRP) and local planning strategies and is considered to have strategic merit. Specifically, the HRP includes a housing action for MidCoast Council to investigate renewal and infill housing opportunities that respond to changing demographics in Hawks Nest.

There is however insufficient information to determine whether the proposal is consistent with a number of Section 9.1 directions relating to site specific constraints including acid sulfate soils and bushfire hazard. None of these issues are considered to be crucial to the planning proposal progressing, thus conditions are proposed in the Gateway determination to ensure consistency can be evaluated by Council.

The proposal provides for housing diversity for a location that has the largest percentage per capita of residents over the age of 50 in NSW. It will also provide for the economic growth of Hawks Nest and provides a logical extension to the adjacent R3 Medium Density Residential zone.

2. PROPOSAL

2.1 Objectives or intended outcomes

The objectives of the proposal are to rezone the site to permit medium density development and amend associated planning controls including height, density, lot size to reflect the proposed zoning.

The objectives are clear and no changes are required.

2.2 Explanation of provisions

The proposal seeks to amend Great Lakes LEP 2014 by amending the following LEP maps:

- the zoning map (LZN_010D) from RE1 Public Recreation to R3 Medium Density Residential;
- maximum height of buildings control (HOB_010D) from 8.5m to 12m;
- maximum of Floor Space Ratio (FSR_010D) to the site of 1:1;
- minimum density control (DWD_010D) of 30 dwellings per hectare;
- applying a minimum lot size (LSZ_010D) of 1,000m²; and
- introduce a new map to identify the site as an Urban Release Area (URA_010D).

The explanation of provisions are clear and no further changes are required.

3. NEED FOR THE PLANNING PROPOSAL

The proposal responds to an opportunity identified by the Hawks Nest Golf Club and land owners to develop the site with the adjoining redevelopment of the Hawks Nest Golf Club site. The proposal seeks to provide development opportunities consistent with the adjoining R3 Medium Density Residential zoned land. Figure 4 illustrates the overall indicative development concept and the relationship to the adjoining Golf Club site.

The proposal is not the result of a strategic study or report. The change of ownership of this site and the opportunities associated with the adjacent site have generated the need for Council to reconsider the zoning of the land. The proposal states that the rezoning and subsequent redevelopment of the site will assist in funding a new golf club facility which is proposed to be relocated to the adjoining RE2 Private Recreation land (noting that this concept does not form part of this planning proposal).

The site is considered to be suitably located as it promotes residential growth in a location adjacent to existing residential land and is located in proximity to existing infrastructure and community facilities. The site is 500m from the Hawks Nest town centre, 200m from existing public recreation areas and 3km from the local public school.

The proposal would result in an opportunity for increased housing diversity and density within the locality. The need for housing diversity is identified in Council's Community Strategic Plan and is important in this local government area (LGA). The former Great Lakes LGA has the highest proportion of people over the age of 50 in NSW and as such Council has recognised the need to appropriately plan for this population group including providing for housing diversity.

Council notes that the continued use of an RE1 Public Recreation zone is no longer appropriate as the land is no longer in public ownership (previously Crown land). Council advised that there is no intention for Council to purchase the land for public recreation purposes, nor have any representations from State government been received.

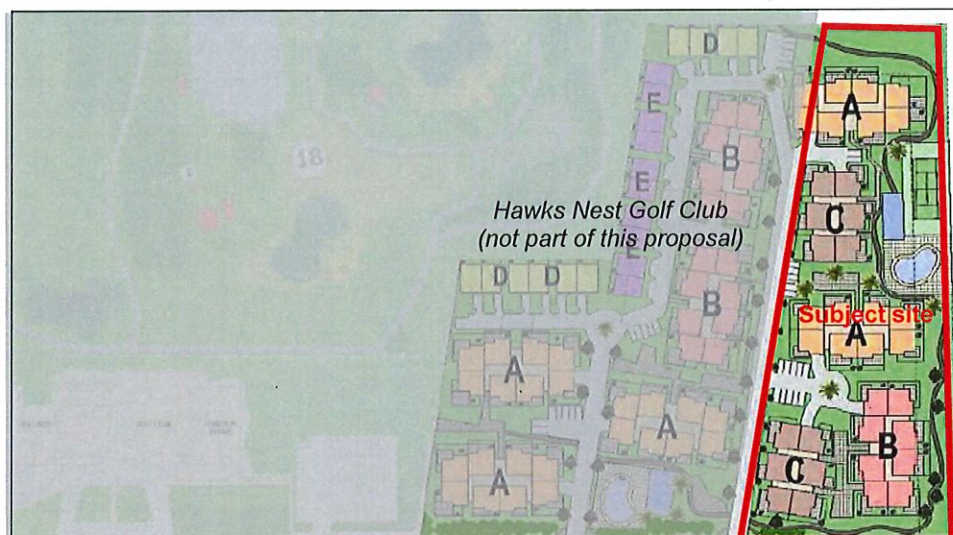


Figure 4: Indicative development concept (Source: Planning proposal)

4. STRATEGIC ASSESSMENT

4.1 State

There are no state policies relevant to this planning proposal.

4.2 Regional

The Hunter Regional Plan 2016 (HRP) applies to the MidCoast LGA, specifically the following directions:

Direction 6 – Grow the economy of MidCoast and Port Stephens is relevant to the proposal.

The proposal will provide housing supply and diversity for the area which will have a positive economic impact on the community and local services and therefore is considered consistent with this direction. The proposal also seeks to enable the continued operation of Hawks Nest Golf Club which is an important local recreation facility and provides services and activities for the community and visitors.

Direction 14 – Protect and connect natural areas is relevant to the proposal.

The proposal will remove regrowth vegetation from the site. The proposal is supported by a Biodiversity Development Assessment Report (BDAR) which identifies no serious or irreversible impacts and identifies appropriate avoidance and mitigation measures. The site does not contain any Endangered Ecological Communities (EEC), noting no consultation with OEH is necessary.

The proposal is consistent with this Direction.

Direction 16 – Increase resilience to hazards and climate change is relevant to the proposal.

The site is not located on Council's Coastal Risk Planning map, however the site contains a number of site specific constraints that are further assessed in this report. To ensure the potential impacts are fully understood and consistent with this direction, Council identified that a number of additional studies including coastal planning and geotechnical are proposed to be undertaken post-Gateway. This has been conditioned in the Gateway determination accordingly as the outcomes of these studies are not considered to significantly impact on the proposal.

Direction 18 – Enhance access to recreational facilities and connect open spaces is relevant the proposal.

The site is no longer in public ownership and therefore considered appropriate to change from the RE1 Public Recreation zone. The proposal will support the redevelopment Hawks Nest Golf Club and has identified pedestrian and cycling linkage improvements to the town centre and recreation areas. The proposal is considered consistent with this direction.

Direction 22 – Promote housing diversity is relevant to the proposal.

The majority of housing in the Hawks Nest and Tea Gardens area are single detached dwellings, so the proposed rezoning and planning controls will promote housing diversity by providing for medium density development. For example, the proposed 30 dwellings/ha minimum dwelling density provisions will force a medium density outcome on the site.

Specifically, the HRP includes a housing action for MidCoast to investigate renewal and infill housing opportunities that respond to changing demographics in Hawks Nest. The proposal implements the outcomes envisaged in this direction.

4.3 Local

Tea Gardens/Hawks Nest Housing Strategy 2006

The Strategy guides residential development growth in Tea Gardens and Hawks Nest. The Strategy notes a limited supply of land for residential purposes in Hawks Nest. The strategy identifies two large sites which are still undeveloped due to significant constraints. Whilst the site is not identified specifically and was prepared 13 years ago, the proposal is considered broadly consistent as it provides for future housing needs.

Great Lakes Active Ageing Strategy 2015-2018

As previously identified, the former Great Lakes LGA has the highest proportion of people over 50 years and Council has responded by adopting the Active Ageing Strategy to assist in managing the aging population. The proposal is consistent with this Strategy as it will provide for the needs of this demographic by providing additional housing supply and diversity.

In addition, the proposal also seeks to improve cycleways/footpaths and connections to Hawks Nest town centre through a proposed Voluntary Planning Agreement (VPA), discussed in Section 5.4 of the Report. The proposal addresses the requirement of providing increased connectivity.

MidCoast Housing Strategy (under preparation)

Council advised that this Strategy is currently under preparation and noted that many areas of the MidCoast are highly constrained and that this site will add to the supply of much needed medium density housing.

Council identified that the proposed zoning for the site is considered consistent with the neighbouring golf course site.

Community Strategic Plan 2018-2030 (CSP)

The proposal identifies a number of actions that are relevant to the proposal relating to creating a connected community and growing the economy. The proposal is consistent with this action of the CSP.

The CSP also has a direction relating to protecting the environment. The proposal will remove regrowth vegetation from the site and consistency with this action of the CSP is unable to be assessed until consultation with OEH has been undertaken.

4.4 Section 9.1 Ministerial Directions

The proposal is consistent with relevant Section 9.1 Directions except the following which require further discussion:

2.1 – Environment Protection Zones

This direction aims to conserve and protect environmentally sensitive areas. The proposal will remove existing regrowth vegetation, noting that there are no EEC's on the site. As outlined in Section 5.2 of this Report, a BDAR has been undertaken for the site and concluded that no serious or irreversible impacts are likely to occur as a result of the proposal. The site also has koala habitat characteristics. A Vegetation Management Plan has been prepared to address biodiversity impacts and koala habitat.

The proposal is consistent with this Direction.

2.2 – Coastal Management

This Direction is applicable to the proposal.

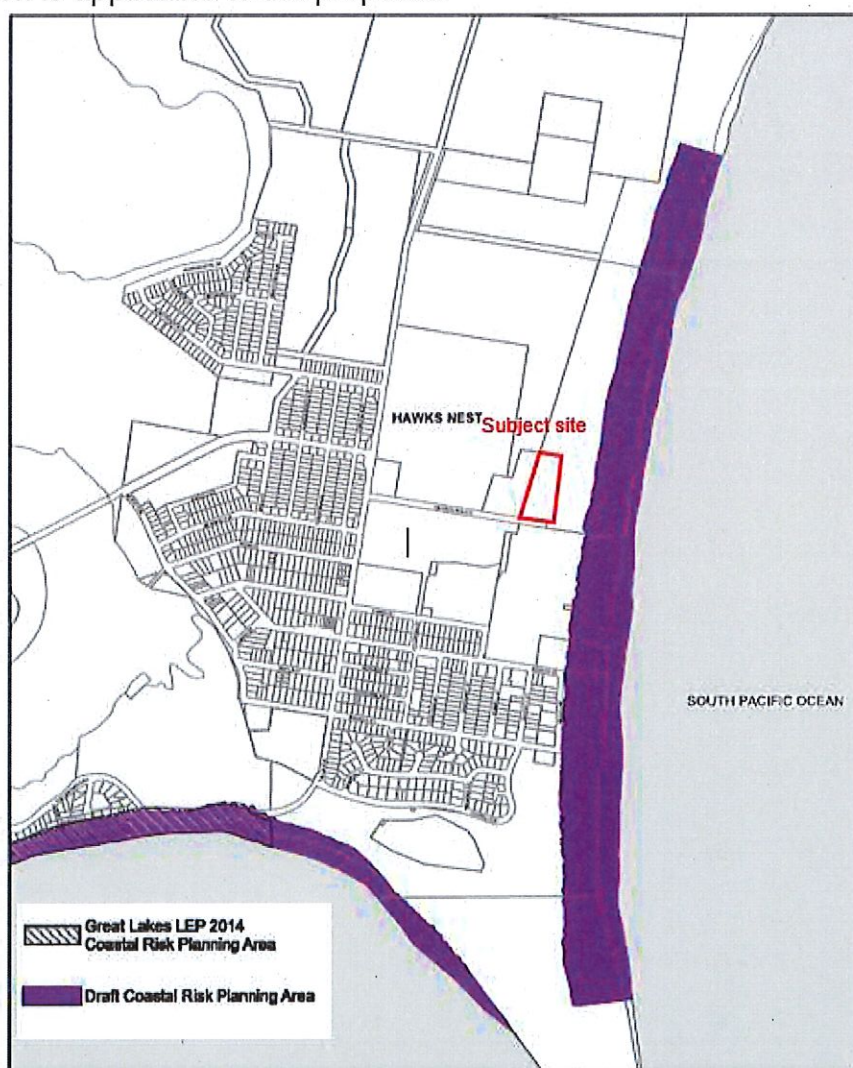


Figure 5: Existing and proposed draft Coastal Risk Planning Area LEP map boundaries

Council advises that the proposal is consistent with the objectives of the *Coastal Management Act 1996* and Coastal Design Guidelines 2003, thus is consistent with this Direction. The proposal states that the site is located outside of the modelled 2100 erosion and inundation areas according to Council's Coastal Zone Management Plan (CZMP).

The site is not identified on the current LEP Coastal Risk Planning Area map. In addition, it is noted that the site is outside the draft Coastal Risk Planning Area map as proposed by another planning proposal (PP_2014_GLAKE_001_00) which has been publicly exhibited. Figure 5 above shows the existing and proposed draft LEP boundaries for the Coastal Risk Planning Area map.

While the proposal is considered consistent with this Direction, a condition is recommended that it requires the proposal be updated prior to exhibition to clearly outline the proposals compliance with Coastal Management legislation and to include the relevant maps through the preparation of a Coastal Management Plan.

4.1 – Acid Sulphate Soils

Section 6 of the Direction states that a planning authority must not prepare a planning proposal that proposes an intensification of land uses unless an acid sulfate soils study assessing the appropriateness of the change of land use has been prepared. The preparation of Acid Sulfate Soil Study as required in the Gateway determination is required before consistency with this Direction can be determined.

4.4 – Planning for Bushfire Protection

The site is mapped as bushfire-prone land and therefore this direction applies. Consultation with the NSW Rural Fire Service is required before consistency with this Direction can be determined.

5.10 - Implementation of Regional Plans

The Hunter Regional Plan 2036 applies to the site and its application is discussed in Section 4.2 of this report. The proposal is consistent with this Direction.

6.2 – Reserving Land for Public Purposes

The site is zoned RE1 Public Recreation zone reflecting its former use as Crown land. The site is now privately owned and the proposal confirms that Council or State government to do not propose to acquire the land for public recreation.

The site is 1.55 hectares in area and as required by Clause (4), the Secretary's approval is required for the reduction in area of the reservation. As identified in Figures 3 and 6, there are many recreation sites (shown in green) available to residents and visitors, including beaches and a substantial open space complex.

While the proposal is inconsistent with the Direction as it reduces land zoned for public recreation, it is currently in private ownership and no longer required for public recreation, therefore the inconsistency is considered minor and can be justified. It is considered that the reduction in zoned Public Recreation land is of minor significance.

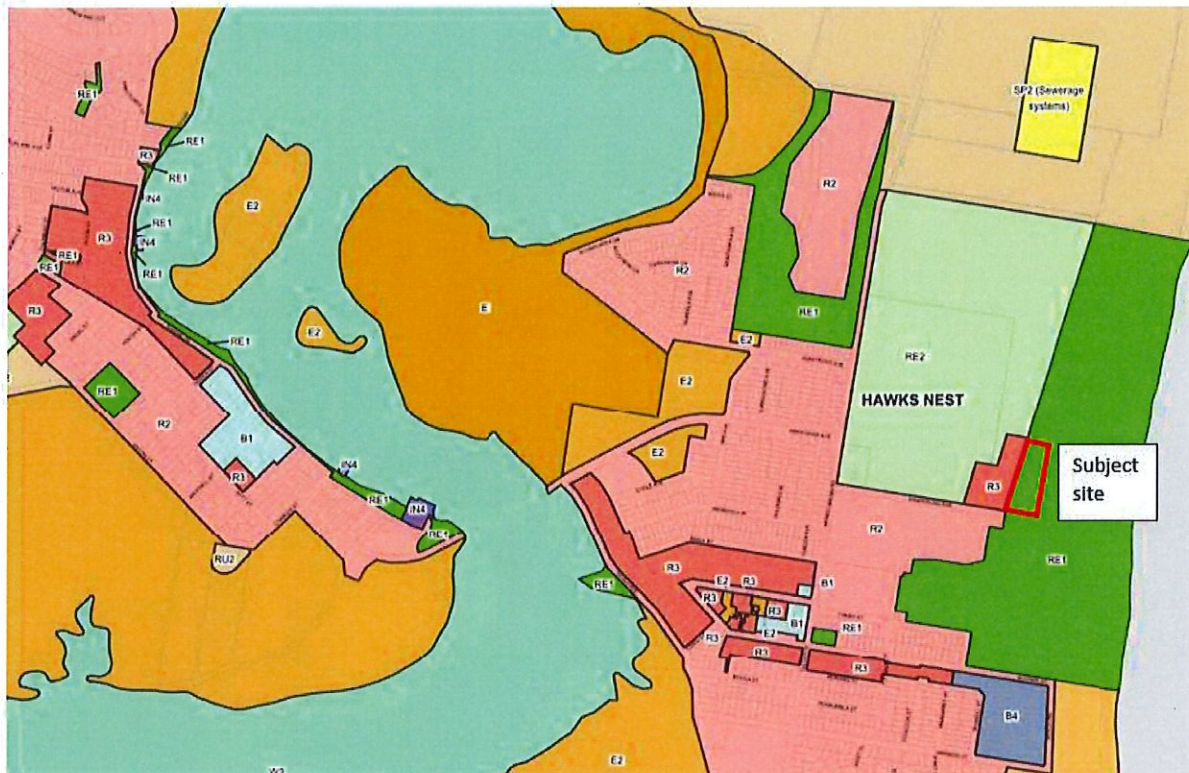


Figure 6: Proximity to recreation areas

6.3 – Site Specific Provisions

The proposal is inconsistent with clause 4c of this Direction as it imposes additional development standards to those in the LEP, being the minimum density requirement of 30 dwellings/ha for the site. This additional development standard is considered to have merit and is consistent with the approach for the adjacent R3 zoned land at the golf club. The minimum density requirement ensures that a medium density outcome is achieved on the site which is consistent with the intent for land at Hawks Nest as identified in many strategic documents. Whilst the proposal is inconsistent with this Direction, it is considered minor and can be justified.

4.5 State environmental planning policies (SEPPs)

The proposal is considered to be consistent with all relevant SEPP's, included those listed under:

SEPP 44 - Koala Habitat Protection

SEPP 44 applies to the site and the BDAR prepared for the proposal identifies the absence of Schedule 2 'Feed trees'. Given the absence of any signs of koalas and feed trees on the site, it is concluded that the site does not constitute Core Koala Habitat, and therefore no further provisions apply to the site.

The proposal notes that the landowner has offered to enter into a VPA with Council which is likely to include the establishment of offset plantings to support the local Hawks Nest and Tea Gardens koala populations.

SEPP 55 – Remediation of Land

The proposal makes reference to part of the site being used for previous sand mining, however no further details are provided. The proposal indicated that Council has no record of a development application for this purpose.

Council has provided a Phase 1 Contamination Investigation to which has determined that the site is suitable to be rezoned and has confirmed that they are satisfied that the land is suitable for the residential zone.

SEPP (Vegetation in Non-Rural Areas) 2017

As a Biodiversity Development Assessment Report (BDAR) has been undertaken for the site, any future clearing of native vegetation will be considered under the *Biodiversity Conservation Act 2016*, hence this SEPP does not apply.

SEPP (Coastal Management) 2018

The subject site is located in the coastal use area. The proposal does not change public foreshore access and does not impact negatively on the foreshore or the environmental values of the coast and is therefore consistent with this SEPP.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

Built form and character

The site is located on the eastern fringe of Hawks Nest. The existing Hawks Nest Golf Club establishes the local built form character for the area. However, it is important to note that the golf club facilities are proposed to be relocated and redevelopment in the future.

Despite the site being within proximity to land zoned for low and medium density residential development, there is no existing residential development within proximity to the site. The nearest urban development is the North Coast Holiday Camp located to the south of the site. As such, the proposal has adopted the development controls of the adjacent R3 area to ensure consistency with future built form in the area.

The need for housing diversity, especially medium density housing is a clear theme in all the relevant planning strategies that apply to the Hawks Nest area in both local and state levels. Thus, it is considered that there is sufficient justification for the proposed zone and likely built form outcomes have regard to the site location and proximity to the town centre.

Visual impact

A Visual Impact Assessment was undertaken as part of the planning proposal to assess the proposed planning controls and impact on surrounding areas. As identified, the nearest urban development to the site is the North Coast Holiday Camp, 50m south of the site. The visual assessment concludes that the development of the site (assuming the proposed development controls) will not be visible from the holiday park or Bennetts Beach due to existing vegetation screening. The site will not be visible from the urban areas further to the west of the site.

The development will be visible from future residential development on land south of the Golf Course, assuming the environmental constraints of this site enable

development. The proposed development will be consistent/complementary to the existing bulk and scale of the existing club house within a broader open space (golf course) setting. The planning controls for the bulk and scale and hence visual impacts are considered appropriate for the setting.

5.2 Environmental

Cultural Heritage

A Cultural Heritage Assessment was undertaken as part of the proposal. Given the disturbance of the site through previous sand mining activities, the assessment states that *'in all probability it is unlikely that any archaeological evidence exists within the study area and development is unlikely to impact potential archaeological evidence'*. The assessment concludes that no further archaeological assessment is required.

Biodiversity

A BDAR was prepared as part of the proposal (**Attachment B**). This assessment utilises methods detailed within the Biodiversity Assessment Method (BAM) Order 2017 to identify biodiversity values for the site, including known and potentially occurring threatened species and ecological communities. It also quantifies the proposals impacts on these values.

This report confirms there are disturbed areas associated with the adjacent golf course on the western side of the site and a soil storage area in the eastern side of the site (Figure 7). Given previously sand mining activities on the eastern portion of the site, the assessment confirms that the vegetation on site is considered as regrowth vegetation.

The site contains three types of plant communities as shown in in Figure 7:

- Coast Tea Tree/Old Man Banksia coastal shrubland (0.25ha); and
- Smooth-barked Apple/Blackbutt/Old Man Banksia coast sands woodland (0.99ha).

Regional vegetation mapping identifies the site as containing a mix of Coastal Forest and Shrubland communities, none of which are listed as Endangered Ecological Communities (EEC) within the *Threatened Species Conservation Act 1995* and/or *Environmental Protection and Biodiversity Conservation Act 1999*. The assessment concluded that no serious and irreversible impacts are likely to occur as a result of the proposal.

Avoid and minimise principles are proposed via the implementation of a Vegetation and Wildlife Management Plan (VWMP) over lands immediately surrounding the site and the existing golf course to offset residual impacts. As the site does not contain any EEC's, no OEH consultation is necessary or required. Council can assess impacts and mitigation measures at DA stage.

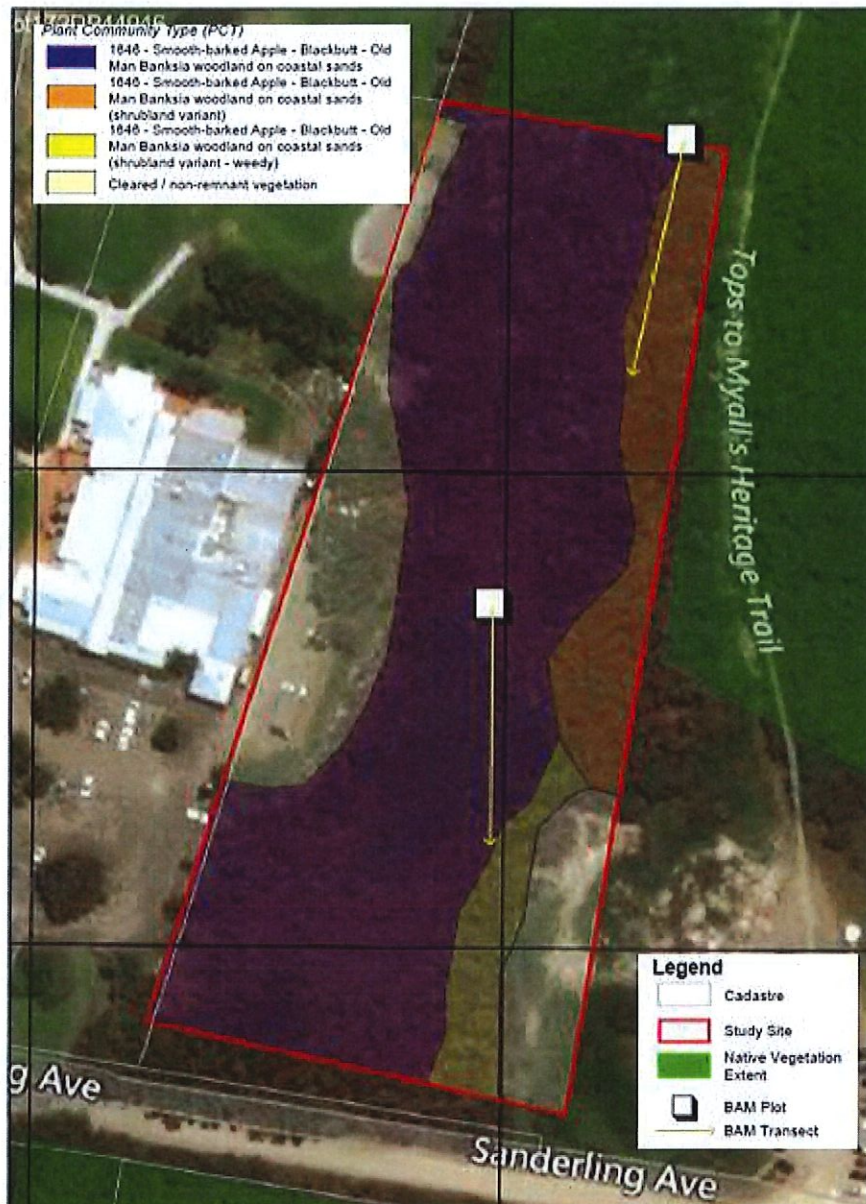


Figure 7: Existing vegetation communities

Acid Sulfate Soils

The site is mapped as containing Class 4 acid sulfate soils. A detailed geotechnical assessment has not been provided as part of the proposal. To determine consistency with 9.1 Directions, specifically direction 4.1, a study is required to determine if acid sulfate soils are present on the site and if any mitigation measures are required. A Gateway condition has been recommended requiring a study to be prepared prior to exhibition.

Bushfire

A Bushfire Hazard Assessment was prepared as part of the proposal and identifies that the site is within a designated bushfire prone area. The assessment recommends Asset Protection Zones (APZs) of between 15 and 20 metres from site boundary which are to be incorporated at the development application stage (Figure 8).



Figure 8: Bushfire constraints

5.3 Economic

The planning proposal will facilitate development of residential accommodation on the site resulting in an additional 130 dwellings. The proposal will enable the development of the subject site and the adjoining golf club site for medium density development which may lead to a more efficient development of the land in this location.

The proposal states that it will provide for development activity and housing supply which will support the economic growth of the region, particularly Hawks Nest. The development of additional dwellings will contribute to making Hawks Nest less reliant on seasonal tourism. It also provides housing diversity for a range of potential future residents including the older residents and reflects changing dwelling preferences as well as supporting local services.

An Economic Assessment was prepared that details the economic impacts of the proposal as well as the development of the adjoining site. The Department is unable

to derive the economic benefit for the subject site, however it is noted that the local economy will benefit from the total development proposal.

5.4 Infrastructure

Servicing

The proposal included a Servicing Strategy and concluded that there are no impediments to servicing the site. The Strategy indicated that all required services are able to either be upgraded or augmented to accommodate the proposal.

Traffic

The proposal included a Traffic Assessment and concluded that the existing road network could accommodate the proposal and it would have a minimal and acceptable impact on the surrounding road network. The assessment also noted that there were no capacity implications for the Myall Way/Pacific Highway intersection (State road), the closest major intersection to the site.

State infrastructure

As the proposal proposes to map the site as an Urban Release Area, this will ensure that Clause 6.1 (Arrangements for designated State public infrastructure) will apply to the site and satisfactory arrangements are made for the provision of state infrastructure.

VPA

The proposal notes that proponent intends on entering into a VPA with Council to contribute towards local infrastructure and mitigate potential impacts. Whilst this VPA does not form part of this assessment, it is noted the VPA proposes to contribute towards:

- establishment of 'John David Memorial Walk' along Sanderling Avenue including landscaping, walkways, seating and interpretative signage;
- contribution towards improvements to the Hawks Nest Surf Club building and/or lifesaving equipment;
- contribution to the 'Michael Rowe Walk' that forms the Hawks Nest section of the Tops to Myall Heritage Walking trail; and
- establishment of offset plantings to support the local Hawks Nest and Tea Gardens koala populations.

6. CONSULTATION

6.1 Community

The proposal indicated that Council intends to exhibit the planning proposal for 28 days. A minimum period of 28 days is recommended.

6.2 Agencies

The NSW Rural Fire Service is required to be consulted to address consistency with Section 9.1 Direction 4.4 Planning for Bushfire Protection.

7. TIMEFRAME

Council nominates 12 months to complete the planning proposal. Given the scope of the amendment and the need to consult with state agencies and complete additional studies, the timeframe is considered appropriate.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan-making authority, and this is considered appropriate as the proposal is generally consistent with state and local planning policies.

9. CONCLUSION

The progression of the planning proposal is supported because it is generally consistent with the Hunter Regional Plan (HRP) and local planning strategies. Specifically, the proposal is consistent with the action in HRP for MidCoast Council to investigate renewal and infill housing opportunities that respond to changing demographics in Hawks Nest. The proposal will provide for housing supply and diversity and to support economic growth.

The site is suitability located for residential development and the proposed development controls reflect the adjoining R3 Medium Density Residential site, ensuring that the proposal is consistent with any future development in the area. The proposal provides a logical extension of the existing R3 zoned area. The site is able to be serviced and is within proximity to existing services and infrastructure.

Notwithstanding this, further analysis is required to evaluate the proposal's consistency with the relevant Section 9.1 directions relating to acid sulfate soils and bushfire hazard prior to exhibition.

10. RECOMMENDATION


It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with Section 9.1 Directions; 6.2 Reserving Land for Public Purposes and 6.3 Site Specific Provisions are minor and justified; and
2. note that the consistency with the following section 9.1 Directions are unresolved and will require justification:
 - 4.1 Acid Sulfate Soils; and
 - 4.4 Planning for Bushfire Protection.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be updated prior to public exhibition to:
 - (a) include a Coastal Planning and Hazards Assessment and relevant mapping;
 - (b) include an Acid Sulfate Soil Assessment; and
2. The planning proposal should be made available for community consultation for a minimum of 28 days.

3. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should be the local plan-making authority to make this plan.



26/09/2019

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