**Planning Proposal**

**Local Government Area**: Greater Taree City Council

**Name of Draft LEP:** Draft Amendment No. ## Greater Taree Local Environmental Plan 2010

**Subject Land:** Lot 1 DP 1048443, 90 High Street, Black Head

**Maps:** Maps of the land are attached.

***Part 1 – Objectives or Intended Outcomes***

The purpose of the Planning Proposal is to adjust the E3 zone boundary on the land to allow an expanded seniors housing footprint on the land, while zoning additional areas E3 to maintain scenic protection in the area. The proposal also introduces height of building controls over the land to allow additional development on the land which is in keeping with scenic qualities of the area.

***Part 2 – Explanation of Provisions***

The proposal will amend *Greater Taree Local Environmental Plan 2010* in the following manner:

* Amendment of the Greater Taree Local Environmental Plan 2010 Land Zoning Map in accordance with the proposed zoning map shown at Attachment 1.
* Amendment of the Greater Taree Local environmental Plan 2010 Height of Buildings Map in accordance with the proposed map shown at attachment 2.

In addition, the planning proposal will be undertaken in conjunction with a voluntary planning agreement which will require effective planting of the E3 zone to achieve scenic outcomes for the land.

***Part 3 – Justification for the Provisions***

***Section A – Need for the Planning Proposal***

1. **Is the Planning Proposal a result of any strategic study or report?**

The planning proposal is a refinement of a zone boundary and is not the result of any strategic study report. The E3 zone replaced the 7(d) zone which was created over the land in 1995 under the previous LEP. At the time of creating the zone, it was reported that the zoning boundary would be progressively refined to more accurately reflect site conditions. These zones have not been reviewed or refined by Council to date.

1. **Is there a net community benefit?**

The proposal provides for the maximisation of development outcomes within the approved retirement village and maximises the efficiency of services connected to the site. The proposal will also facilitate greater densities supporting additional community facilities within the village, providing benefits to the residents.

There are not considered to be any significant costs to the community as a result of the zone boundary amendment, and the development outcomes enabled at the site maintain and enhance the scenic quality of the surrounding area. Therefore there is a net community benefit if this planning proposal proceeds.

***Section B – Relationship to Strategic Planning Framework***

1. **Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including exhibited draft strategies)?**

The proposal is consistent with the aims and objectives of the Department of Planning and Infrastructure’s Mid North Coast Regional Strategy 2006-31. The proposal involves a minor adjustment to the zone boundary over the land and the strategic focus of the regional strategy does not provide objectives or actions that influence such a minor proposal.

The strategy does provide ‘sustainability criteria’ which are to be considered when urban growth is proposed outside areas identified in the strategy. While the proposal is not urban growth and only involves a minor zone boundary adjustment, the criteria have been considered to evidence suitability of the proposal.

1. **Infrastructure Provision** – The land contains an existing retirement village which is fully serviced by urban infrastructure suitable for a development of 200 dwellings (with 135 currently constructed or under contract for construction).
2. **Access –** The site has existing access to the public road system which will be utilised for the subject land.
3. **Housing Diversity** – The proposal provides for outcomes to increase the diversity of housing forms in the village and provides alternate forms of aged housing available in the locality.
4. **Employment Lands** – The site does not impact on any employment lands or opportunity for employment lands. The site is opposite an existing shopping centre which provides for the day to day needs of residents.
5. **Avoidance of Risk** – The subject lands are not subject to significant risks. The limited bushfire hazard areas are located to the south and west of the site. Development of the land for a retirement village has been undertaken in accordance with a Bushfire Safety Authority issued by the NSW Rural Fire Service.
6. **Natural Resources** – The site and surrounding areas do not contain any significant natural resources which would be impacted by the proposed zone amendment.
7. **Environmental Protection** – The majority of the undeveloped land is grassland which has been significantly disturbed for previous agricultural use. The zone amendment and development outcomes facilitated would not impact upon the biodiversity of the areas, wildlife corridors, local air quality and local water quality. The amendments to the zone boundary in the south western parts of the site place areas containing existing native vegetation in an environmental management zone, providing for enhanced protection of these areas to maintain scenic values. The montages of the development enabled by the zone amendment show that the built forms would not dominate the landscape, being located below the visually significant landscape features of the area. Planting provided within the retained E3 zone will actually enhance the visual quality through the creation of a green belt which can link the visually significant ridges to which the E3 zone applies.
8. **Quality and Equity in Services –** The proposal contains all necessary services for the retirement village. The expanded footprint allows for the development of open space areas in the southern end of the village, as well as the provision of additional community facilities in this part of the retirement village.
9. **Is the Planning Proposal consistent with the local Council’s Community Strategic Plan, or other local strategic plan?**

The Department of Planning and Infrastructure endorsed the Hallidays Point Development Strategy 2000, and since then Council adopted the Hallidays Point Conservation and Development Strategy Review in May 2006. This review did not identify any specific changes to the zoning at the site. The Strategy did recognise the importance of the Seniors Housing development in urban fringe areas and sought to identify area where such development was suitable. The existing retirement village on the land was approved prior to this Strategy but meets the key criteria identified in the Strategy. The site is highly suitable for seniors housing, being located adjacent to retail and community facilities, and being on land which is serviced by urban services, including reticulated water and sewer services.

In relation to Scenic Protection Areas, the Strategy provides for the maintenance of scenic qualities in the area and *retention of vegetation along existing skylines*. As can be seen in the visual assessment diagrams of the retirement village proposals, and the landscape details, the proposal will maintain scenic outcomes for the area and will not impact on any existing vegetation. The major visual features of vegetation on the hilltops to the south west are not affected by the zone boundary amendment. Future development will provide for planting in the E3 zone which will provide trees to enhance vegetation in the zone. The planning proposal introduces height of building controls to ensure future building heights do not extend above key landscape features from critical viewing locations. This planting will be subject to a voluntary planning agreement which will be undertaken concurrently with the planning proposal.

1. **Is the Planning Proposal consistent with applicable State Environmental Planning Policies?**

State Environmental Planning Policy Number 71 – Coastal Protection

The land is located within the Coastal Zone and the provisions of State Environmental Planning Policy Number 71 (SEPP 71) – Coastal Protection are relevant to the land. The Planning Proposal is consistent with the aims of SEPP 71.

Clause 8 of SEPP 71 provides matters that must be considered where Council proposes to prepare a draft local environmental plan. These matters are discussed in the following table:

| Clause 8 matters SEPP 71 | |
| --- | --- |
| (a) the aims of this Policy set out in Clause 2, | The planning proposal is considered to be consistent with the aims of SEPP 71, as referred to in Clause 2. |
| 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 impact on public access arrangements to the existing coastal foreshore. |
| (c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability, | The planning proposal will not interfere with existing opportunities to provide public access to the coastal foreshore. |
| (d) the suitability of development given its type, location and design and its relationship with the surrounding area, | The planning proposal provides for minor changes to allow completion of a retirement village which is of a design and scale consistent with established development in the surrounding locality. |
| (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 involve any shading impacts onto, or affect any views between, public places and the foreshore. |
| (f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities, | The planning proposal involves minor changes to an environmental zone boundary which was established for scenic protection. The development outcomes facilitated do not alter the scenic outcomes on the land in a significant manner and will not detract from the scenic qualities of the coastal area. The outcomes have been subject to visual analysis which shows the landscape is still dominated by the natural forms. The outcomes are consistent with existing development outcomes in the area. |
| (g) measures to conserve animals within the meaning of the ([*Threatened Species Conservation Act 1995*](http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3Dact%20AND%20Year%3D1995%20AND%20no%3D101&nohits=y)) and plants (within the meaning of that Act), and their habitats, | The proposal will not have a significant impact on Threatened species, populations or ecological communities or their habitats within the locality. |
| (h) measures to conserve fish (within the meaning of Part 7A of the [*Fisheries Management Act 1994*](http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3Dact%20AND%20Year%3D1994%20AND%20no%3D38&nohits=y)) and marine vegetation (within the meaning of that Part), and their habitats, | The proposal will not impact on fish or aquatic habitats. |
| (i) existing wildlife corridors and the impact of development on these corridors, | The proposal is unlikely to impact on wildlife corridors. |
| (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards, | The land is located in a consolidated hillside, away from the active beachfront, and is not subject to coastal processes. |
| (k) measures to reduce the potential for conflict between land-based and water-based coastal activities, | There are no land/water based conflict issues associated with the land. |
| (l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals, | The proposed development has limited ability to impact on any known archaeological material. An AHIMS Search of the site and surrounding area has not identified any Aboriginal places or sites. Consultation with OEH is proposed to confirm the adequacy of this search. |
| (m) likely impacts of development on the water quality of coastal waterbodies, | The planning proposal will not have any impacts on Coastal Water Quality. |
| (n) the conservation and preservation of items of heritage, archaeological or historic significance, | The subject site does not contain items of heritage significance and is not located in a heritage conservation area. An AHIMS search has not revealed any Aboriginal places or sites on the land or in the surrounding locality. Consultation with OEH is proposed to confirm adequacy of this search. |
| (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, | The planning proposal encourages compact urban development in the area by maximising the yield from the Seniors Housing development which will reduce demand for further urban edge development. |

State Environmental Planning Policy (Rural Lands) 2008

This SEPP applies as the proposal involves an amendment to a rural zone (RU1). The following compares the proposal to the Rural Planning Principles within the SEPP.

| **Clause 7 Principles** | **Comment** |
| --- | --- |
| **(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,** | The subject land is utilised for seniors living purposes and is located at an urban fringe. The planning proposal will not impact on opportunities for sustainable economic activities in rural areas. |
| **(b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,** | The subject land is used for seniors living at an urban edge and is not suitable for agriculture and the planning proposal does not impact rural land availability or on agriculture. |
| **(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,** | The planning proposal does not impact on rural land uses and maintains existing uses of the land. |
| **(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,** | The proposal is only of minor significance and makes no change to the social, economic or environmental interests of the community. |
| **(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,** | The planning proposal does not facilitate impacts to natural resources, biodiversity, native vegetation or water resources. |
| **(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,** | The planning proposal provides for the effective completion of the approved retirement village on the land which contributes to the social and economic welfare of the local community. |
| **(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,** | All services and infrastructure are provided for the retirement village on the land. |
| **(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.** | The planning proposal is generally consistent with the Mid North Coast Regional Strategy and the Hallidays Point Development Strategy 2000. |

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The retirement village on the land was approved in 2001 under the provisions of *State Environmental Planning Policy Number 5* (SEPP 5). Under the provisions of both   
SEPP 5 and the current SEPP it could not be established on the land zoned E3 (previously zoned 7(d)). The proposed minor amendment to the zone boundary between the E3 and the RU1 zone would allow expansion of the retirement village in the manner proposed under the provisions of this SEPP, as well as the original instrument (SEPP 5). The expanded footprint would allow the completion of the retirement village to include additional facilities, in the form of community facilities (second clubhouse etc), active recreational facilities (second pool and other activities), and additional passive space (parks and walking trails). Such outcomes would be consistent with the aims of the SEPP.

1. **Is the Planning Proposal consistent with applicable Ministerial Directions (Section 117 directions)?**

The following Ministerial Directions are applicable to the Planning Proposal:

* Direction 1.2 – Rural Zones – This subject land includes land zoned rural (RU1) and involves amendments to the zone boundary between this zone and the E3 zone. The provisions of the Direction provide that land zoned rural must not be rezoned to a residential, business, industrial, village or tourist zone. The proposal does not involve any change of the rural zone to any of these zones, and the planning proposal is consistent with the provisions of this Direction.
* Direction 1.5 – Rural Lands – This applies as the proposal involves amendment to a rural zoned boundary with an environmental protection zone. The Direction provides that a rezoning must be consistent with the Rural Planning Principles contained in *State Environmental Planning Policy (Rural Lands) 2008*. The Rural Planning Principles are discussed within this report, and the proposed rezoning is consistent with the principles. As the proposal is of minor significance, the Direction would allow the proposal even it were inconsistent with the Direction.
* Direction 2.1 – Environmental Protection Zones – This Direction applies when a planning proposal is prepared. The Direction provides that a planning proposal must facilitate protection of environmentally sensitive areas and must not reduce environmental protection standards which apply to the land. The land does not contain any ‘environmentally sensitive areas’ (as defined in *State Environmentally Planning Policy (Exempt and Complying Development Codes) 2008* or identified environmental assets. The proposal does involve an amendment of the E3 zone boundary and will result in a slight reduction in the width of the land zoned E3 along the southern boundary and addition of an area of vegetation from RU1 to E3. The Direction provides that a planning proposal may be inconsistent with this objective where the change is justified by a study or strategy, or the change is of minor significance. Given the minimal amendment to the zone boundary and the maintenance of visual outcomes for the site, it is considered that the change is *of minor significance*.
* Direction 2.2 – Coastal Protection – This Direction applies to any planning proposal prepared for land in the costal zone. The land is located in the coastal zone and the Direction provides that the planning proposal must be consistent with and give effect to the provisions of the *Coastal Policy, Coastal Design Guidelines* and the *Coastline Management Manual*. These documents are discussed below in relation to the proposal. As the proposal is of minor significance, the Direction would allow the proposal even it were inconsistent with the Direction.
* Direction Number 4.1 – Acid Sulfate Soils – This Direction applies where land to which the planning proposal applies has a probability of containing acid sulphate soils. The land is identified as Class 5 on the Planning maps which do not have a likelihood of containing Acid Sulfate Soils but are located within 500 metres of lands with a probability of containing Acid Sulfate Soils. As the proposal is of minor significance, the Direction would allow the proposal even it were inconsistent with the Direction.
* Direction 4.4 – Planning for Bushfire Protection - This Direction applies as the planning proposal involves land which is mapped as bushfire prone land. The Direction requires Council to consult with the NSW Rural Fire Service prior to preparing the planning proposal for exhibition. The existing retirement village is subject to a bushfire safety authority which includes management of the E3 zones within the site as Asset Protection Zones. Consultation with the NSW RFS is proposed following a Gateway Determination.

***Section C – Environmental Social and Economic Impact***

1. **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 subject land which is affected by the change to the zone boundary is comprised of grasslands which have been the result of significant disturbance for agriculture and development. As such, the proposal is unlikely to adversely affect threatened species, populations or ecological communities or their habitats. It is noted that the small areas of the E3 zone in the western parts of the site that contain existing trees will not be altered and these areas will be rezoned to the E3 zone to enable increased protection.

1. **Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?**

The land subject to the change of zoning boundary does not contain any significant environment constraints. The E3 zone over the land was created primarily in relation to scenic issues. The refinement of the zone was envisaged by Council when a Scenic Protection Zone was first proposed over the land. In relation to the proposed adjustment to the zone boundary, the scenic qualities of the area are maintained and improved by:

* 1. Retention of the zone over areas that contain existing native trees.
  2. Adjustment of the zone in such a manner so that future development is still located below the scenically significant landscape features.
  3. Maintenance of a 10m wide landscape zone zoned E3 to enhance visual outcomes in the locality. A planning agreement will be entered into requiring the effective landscaping of this area.
  4. Inclusion of a height of buildings control over the land to maintain building heights below key scenic landscape features.
  5. Expansion of the E3 zone over other parts of the land that contain existing native trees and that helps to maintain scenic quality in the area.

1. **How has the Planning Proposal adequately addressed any social and economic effects?**

The Planning Proposal will not have any negative social or economic effects in the locality. The proposed zone changes will facilitate further development of the retirement village which will have a positive impact on the economy via construction jobs and on the social welfare of residents via additional recreational facilities.

***Section D – State and Commonwealth Interests***

1. **Is there adequate public infrastructure for the Planning Proposal?**

The outcomes for the Planning Proposal will utilise existing infrastructure available to the land and does not require any additional infrastructure or significant augmentation of existing infrastructure.

1. **What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

Further consultation will occur with public authorities as required by the gateway determination.

Consultation will be necessary with the NSW Rural Fire Service in accordance with the Section 117 direction 4.4 and with OEH in accordance with the statements made in respect to SEPP 71 clause (l) and (n).

***Part 4 – Community Consultation***

No community consultation has been undertaken at this stage. The gateway determination will specify the community consultation that must be undertaken for the planning proposal. It is considered appropriate that the planning proposal be placed on exhibition for 28 days following the gateway determination this being Councils standard minimum rezoning exhibition period. The planning agreement will be exhibited concurrently with the planning proposal in accordance with the Regulations.