

PP to amend Greater Taree LEP 2010 to rezone land at 391 Diamond Beach Road, Diamond Beach from RU1 Primary Production to part SP3 Tourism and part E2 Environmental Conservation (max 30% of total building area to be permanent residential)

Proposal Title :	PP to amend Greater Taree LEP 2010 to rezone land at 391 Diamond Beach Road, Diamond Beach from RU1 Primary Production to part SP3 Tourism and part E2 Environmental Conservation (max 30% of total building area to be permanent residential)		
Proposal Summary :	The Proposal seeks to rezone 4.35 ha of land at 391 Diamond Beach Road, Diamond Beach from RU1 Primary Production to part SP3 Tourism and part E2 Environmental Conservation with associated development intensity controls and amended Land Use maps. The Proposal seeks to enable the future development and operation of a tourist facility that allows 30% of the gross floor area of buildings to be used for permanent residential accommodation.		
PP Number :	PP_2017_MCOAS_007_00	Dop File No :	17/05945

Proposal Details

Date Planning Proposal Received :	26-Jun-2017	LGA covered :	Mid-Coast
Region :	Hunter	RPA :	Mid-Coast Council
State Electorate :	MYALL LAKES	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	391 Diamond Beach Road		
Suburb :	Diamond Beach	City :	Diamond Beach
Land Parcel :	Lot 17 DP 576415	Postcode :	

DoP Planning Officer Contact Details

Contact Name :	Jocelyn McGarity
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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name :	
Contact Number :	
Contact Email :	

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Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :		Consistent with Strategy :	
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**
If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**
If Yes, comment :

Supporting notes

Internal Supporting Notes : **The site is predominantly cleared and currently used as a tourist facility. A two storey dwelling is located on the site and inhabited by the owner of the land. The existing holiday villas include 6 rental properties used for holiday rentals.**

Further information regarding the delineation of coastal hazard lines was provided up until 26 June 2017.

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The Planning Proposal seeks to rezone land from RU1 Primary Production to SP3 Tourist and E2 Environmental Conservation to enable the future economic and tourist development of Diamond Beach.**
The objectives of the Planning Proposal are:
- to allow for 30% permanent occupancy of current and future tourist facilities on the SP3 land;
- to allow a maximum height limit for future development on the SP3 land 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 the 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.

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Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The explanation of provisions indicates that the Planning Proposal is intended to be delivered through an amendment to the Greater Taree LEP 2010 (GT LEP 2010). The Land Use Zoning and associated Lot Size and Height of Building maps, will be amended to rezone suitable areas of Lot 17 DP 576415 from RU1 - Primary Production to SP3 Tourist and E2 Environmental Conservation.**

It is proposed that the subject land will be included in Schedule 1 of the GT LEP 2010, which, for listed sites, permits 30% permanent occupancy of tourist facilities on the SP3 land. Whilst the proposed clause is ambiguous, there are similar existing clauses in the GT LEP 2010 and these can be reviewed as part of the consolidation of the LEP into a future MidCoast Council LEP. The Planning Proposal can proceed without amending the existing and proposed clauses.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

**1.2 Rural Zones
1.3 Mining, Petroleum Production and Extractive Industries
1.5 Rural Lands
2.1 Environment Protection Zones
2.2 Coastal Protection
3.2 Caravan Parks and Manufactured Home Estates
4.1 Acid Sulfate Soils
4.4 Planning for Bushfire Protection
6.1 Approval and Referral Requirements**

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified? **SEPP No 71—Coastal Protection**

e) List any other matters that need to be considered :

S117 DIRECTIONS

The Planning Proposal is consistent with most s117 Directions or they are not applicable. Further consideration of relevant Directions is provided below:

1.2 Rural Zones and 1.5 Rural Lands

The Planning Proposal seeks to rezone rural land to a tourist zone. The objectives of these directions are to protect the agricultural production value of rural land. In this regard the Planning Proposal is inconsistent with these directions. This inconsistency however can be justified on the basis that:

- the land is currently not being used for agricultural purposes nor is it suitable for such purposes, given its close proximity to the coast, poor quality soils and limited freshwater access,**
- the former Mid North Coast Strategy and the Hunter Regional Plan 2036 identified the land as future urban.**

1.3 Mining, Petroleum Production and Extractive Industries

Mining and extractive industries do not appear to be impacted by the Proposal. Council has indicated it will consult with Primary Industries to confirm this, based on a history of sand mining in the locality.

2.1 Environment Protection Zones

The Proposal is consistent with this Direction as it is protective of the area of Swamp Sclerophyll Forest on Coastal Floodplains in the western section of the site and

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proposes that this area of vegetation be zoned E2 Environmental Conservation. This area should be managed in accordance with the recommendations in the Ecological Assessment Report.

The proposed E2 Environmental Conservation area in the east of the site will protect coastal vegetation and dunal systems along the coast. It is noted that land dedication to Council and a public access path is proposed for this area. Future management of this area and any potential impacts from the proposed installation of a footpath and containment fencing can be assessed as part of a future development application.

2.2 Coastal Protection

The proposal has provided evidence that its controls will be consistent with the sustainability and design guidelines cited in this policy.

2.3 Heritage Conservation

This Direction requires the conservation of items, areas, objects and places of environmental and heritage significance and Indigenous heritage significance. The Planning Proposal is consistent with this Direction however Council needs to consider the Aboriginal Heritage Assessment undertaken by McCardle Cultural Heritage Pty Ltd, which identified a Potential Archaeological Deposit (PAD) on the site, once the eastern E2 zone is dedicated to Council. Management of the PAD as part of the proposed E2 zone should be undertaken in consultation with OEH.

4.1 Acid Sulfate Soils

The site is mapped as containing Class 3 and 5 acid sulfate soils. The Planning Proposal is inconsistent with this Direction because it does not consider an acid sulfate soil study. Given that the soils are classified as Class 3 and 5 and Council has indicated that it will consider the impact of development at the DA stage, inconsistency with this Direction is of minor significance.

4.4 Planning for Bushfire Protection

It is not yet possible to determine if the Proposal is consistent with this Direction. Consultation with the NSW Rural Fire Service should therefore occur.

5.10 Implementation of Regional Plans

The Planning Proposal is consistent with the Hunter Regional Plan 2036 as it supports diversification of the MidCoast economy by facilitating new tourism opportunities and the site is identified as a site for future urban development.

SEPPS

Consideration of relevant SEPPS is provided below:

SEPP (Rural Lands) 2008

This SEPP has not been addressed by the Planning Proposal but should be, given the site's current RU1 Primary production zone. Given the site is not currently used for agricultural production, nor are surrounding sites, and the area has been identified in a land strategy for future tourism purposes, consultation with the NSW Department of Primary Industries is not required.

SEPP No 71 – Coastal Protection

The Proposal adequately addresses most matters within the SEPP. For the coastline, it proposes to improve public access, protect and manage visual amenity and preserve native coastal vegetation.

Further detail regarding Clause 8(j) and additional clarification of the evidence base being relied upon to assess future coastal hazards is required. This is because Council has adopted coastal hazard lines that differ from the current Greater Taree Coastal Zone

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Management Plan 2015 (CZMP). Council should identify how the new approach to delineating coastal hazard lines align's with Council's proposed coastal hazard planning framework in its Draft Manning Valley CZMP and Draft Greater Taree DCP 2010 amendments.

SEPP 44 - Koala Habitat Protection

The Proposal does not consider SEPP 44. The Proposal should adequately address whether the land is potential koala habitat, given that a koala feed tree, Swamp Mahogany, has been identified on the site.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Council has prepared Land Zoning, Lot Size and FSR maps.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council intends to exhibit the proposal for a period of 28 days, in accordance with Council's guidelines.**

A 28 day exhibition is supported because of the local significance of the Planning Proposal.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Greater Taree Local Environmental Plan was notified in 2010.**

Assessment Criteria

Need for planning proposal :

Currently, the Diamond Beach Holiday Villas operate from the site, which includes a two storey dwelling inhabited by the owner of the land as well as 6 holiday rental properties. Council indicates that a DA is proposed for the site for a three-staged caravan park which will provide 90 short term sites and 15 campsites with recreational facilities and amenities.

The proposal seeks to intensify the commercial use and viability of the site by rezoning and by introducing a 30% permanent residential element into the site's accommodation

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units. Council supports the proposal on the basis that it extends the economic life of the site, provides a mixture of tourist facilities and protects environmentally sensitive areas.

The Ramada (previously Australis) Resort to the north has an SP3 Tourist zoning and provision for permanent residential development which Council considers to support the rezoning of this resort to SP3 also.

Consistency with strategic planning framework :

-Hunter Regional Plan 2036 (HRP 2036)-

Goal 1, Direction 6 outlines actions to grow the economy of Midcoast and enable “economic diversity and new tourism opportunities that focus on reducing the impacts of the seasonal nature of tourism”. The Proposal 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 outlines actions to grow tourism in the region in natural areas that support conservation outcomes. The 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 Proposal also supports the MidCoast area’s regional priority in the HRP 2036 to “support the visitor economy by leveraging the natural beauty of the area”.

The former Mid North Coast Regional Strategy identified the subject site for urban development. The HRP 2036 supports this designation.

- Hallidays Point Conservation and Development Strategy 2006 -

Council's Hallidays Point Development Strategy of 2000, which has not been endorsed by the Department of Planning and Environment, was reviewed and renamed in 2006 (adopted by Council 17 May 2006) and identifies the land for residential development (Hallidays Point Conservation and Development Strategy Review 2006. The proposal contains an earlier version of the Hallidays Point strategy i.e. the 2000 version rather than the 2006 review. In response to the Strategy and community consultation, Council engaged Blueprint Planning Consultants to undertake an “Investigation of a Proposed Tourist Zone Greater Taree LEP 2007”. This recommended that the subject land be identified as a proposed Tourist Development Area in the Hallidays Point Development Strategy and zoned SP3 Tourist zone. It also recommended incentives, such as allowing a percentage of permanent residential accommodation in tourist zones, to achieve greater investment and growth in tourist development and associated benefits to the local economy.

Environmental social economic impacts :

-Environmental Impacts-

Environmental impacts relate to the proposed SP3 footprint, the increased intensity of use (e.g. higher floor space ratio) and the proportion of buildings proposed for permanent residential occupation.

The proposed zone makes permissible a much wider range of urban uses in association with greater development density. If some of these uses were proposed and approved they have the potential to alter the natural scenic character of this section of coastline (e.g. function centres, neighbourhoods shops, respite daycare centres).

- Coastal Hazard Lines -

The Proposal does not adopt the coastal hazard lines from the Greater Taree Coastal Zone Management Plan 2015 (CZMP), which uses the high-range 2100 year hazard line (based on a 90cm sea level rise from 1990 to 2100). Instead it adopts less conservative coastal hazard lines, which translate the 2015 CZMP lines 17 m seaward, for the 2050 line, and 26m seaward, for the 2100 line. The translated 2100 line defines the western edge of the proposed E2 Environmental Conservation zone.

Extensive consultation was undertaken between the Department of Planning and Environment, Council and OEH.

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Council has clarified in additional correspondence that the translated lines have also been proposed in the Draft Manning Valley CZMP (exhibited 24 May - 23 June 2017). Council further advised that the Draft CZMP uses the mid-range 2100 year hazard line (based on a 60cm sea level rise from 1990 to 2100) instead of the high-range 2100 year hazard line. It is Council's intention to adopt the CZMP at the 26 July 2017 Ordinary Meeting of Council showing a mid-range 2100 year hazard line to be used for zoning purposes and a high-range 2100 year hazard line used for development controls (within Greater Taree DCP 2010). The Planning Proposal should be updated to identify how it aligns with Council's proposed coastal hazard management framework.

The Department of Planning and Environment's Principal Environment Policy Officer has advised that, based on the additional information received from Council and subsequent discussions with OEH, further consultation with OEH regarding coastal hazard lines is not required.

- Visual Impacts -

The proposed zoning will allow buildings up to 11.5m high. A Visual Impact Assessment of potential future development on the site was undertaken by Terra Landscape Architects. It concluded that generally, the visual impact on adjoining properties and from surrounding roads is low and that the future development would sit comfortably in the landscape and blend in with the local character. Council has indicated that any future development application would be required to present a Visual Impact Assessment.

-Economic Impacts-

The proposal will enable current and future tourist facilities to remain on the land with certainty for future income. By introducing a 30% permanent residential element into the site's accommodation buildings the impact that seasonal tourism has on the local economy will decrease. No significant adverse economic impacts have been identified as likely to result due to the proposal.

Assessment Process

Proposal type : Community Consultation **28 Days**
Period :

Timeframe to make **12 months** Delegation : **RPA**
LEP :

Public Authority **NSW Department of Primary Industries - Minerals and Petroleum**
Consultation - 56(2)(d) **Fire and Rescue NSW**
:

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

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Identify any internal consultations, if required :

Coastal Zone

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Email from Council.pdf	Proposal Covering Letter	Yes
ITEM 1 - ATTACHMENT A - PLANNING PROPOSAL - 391 DI.pdf	Proposal	Yes
ITEM 1 - ATTACHMENT B - PLANNING PROPOSAL - 391 DI.pdf	Proposal	Yes
ITEM 1 - ATTACHMENT C - PLANNING PROPOSAL - 391 DI.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

- S.117 directions:
- 1.2 Rural Zones
 - 1.3 Mining, Petroleum Production and Extractive Industries
 - 1.5 Rural Lands
 - 2.1 Environment Protection Zones
 - 2.2 Coastal Protection
 - 3.2 Caravan Parks and Manufactured Home Estates
 - 4.1 Acid Sulfate Soils
 - 4.4 Planning for Bushfire Protection
 - 6.1 Approval and Referral Requirements

Additional Information : **The planning proposal should proceed subject to the following conditions:**

1. Prior to undertaking community consultation, amend the Planning proposal as follows
 - (a) Update consideration of SEPP No 71 – Coastal Protection, to identify how the Proposal relates to Council’s overall coastal hazards planning framework and the Draft Manning Valley Coastal Zone Management Plan (CZMP) and the Draft Greater Taree DCP 2010 amendments, including a discussion of the coastal hazard lines proposed to be adopted in the Diamond Beach area;
 - (b) Provide an assessment of the applicability of State Environment Planning Policy No 44 – Koala Habitat Protection;

2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the Planning Proposal must be made publicly available for a minimum of 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of Planning Proposals and the specifications for material that must be made publicly available along with Planning Proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Planning & Infrastructure 2013).

3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
 - NSW Rural Fire Service regarding S117 Direction 4.4 Planning for Bushfire Protection.
 - NSW Department of Primary Industries regarding S117 Direction 1.3 Mining, petroleum Production and Extractive Industries.

4. A public hearing is not required to be held into the matter by any person or body under

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section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

5. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Supporting Reasons :

The Proposal is consistent with the strategic framework and will facilitate the provision of additional tourist opportunities and economic benefits in the Diamond Beach community.

The proposed 30% total gross floor area of permanent residential accommodation component of the Planning Proposal provides an opportunity to reduce the impacts of the seasonal nature of tourism in the locality.

The Proposal also supports the objectives of the Hunter Regional Plan 2036, as it proposes to support the visitor economy by leveraging the natural beauty of the area.

Signature: 

Printed Name: Robert Hodgkins Date: 28/06/17.

