

Planning Proposal

Local Government Area:	Greater Taree City Council
Name of Draft LEP:	Draft Amendment No. ## Greater Taree Local Environmental Plan 2010
Subject Land:	Lots 4 & 5 DP 243425 and Lot 22 DP 255386, Tallwood Drive and Old Soldiers Road, Rainbow Flat
Maps:	Maps of the land are attached - see Planning Report by Coastplan Group, November 2014.

Part 1 – Objectives or Intended Outcomes

The purpose of the Planning Proposal is to rezone land at Rainbow Flat to allow for rural residential development in a manner consistent with the outcomes of the *Hallidays Point Development Strategy 2000*, and to provide for a safe and effective secondary access for the Hallidays Point villages. The realignment of Old Soldiers Road through the land will replace an existing dangerous informal road through the adjoining nature reserve which is currently used by some parts of the community. The proposal provides a significant public benefit in that Council has identified the alignment of Old Soldiers Road through the land (as provided for in the proposal) as a key outcome in the relevant strategies. The realignment of Old Soldiers Road through the site has recently been agreed to by the Office of Environment and Heritage and the creation of the road through the land provides for the provision of the essential second road link for Hallidays Point.

The proposal will also identify important ecological values of the land and provide protective zoning to areas that are important as corridors and habitat areas.

In addition, the planning proposal will be undertaken in conjunction with a voluntary planning agreement which will provide for the dedication of land to National Parks where the Old Soldiers Road alignment will not form an edged between rural residential development and the nature reserve.

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 to zone parts of the site R5 – Large Lot Urban and other areas E2 or E3 – Environmental Management/Conservation. The final zoning areas will be determined following further investigation following a Gateway determination.

- Amendment of the Greater Taree Local Environmental Plan 2010 Subdivision Lot Size Map to provide for smaller lot sizes (1.5 hectares) where land is zoned R5 for Rural residential Purposes.
- Amendment of the Greater Taree Local environmental Plan 2010 Height of Buildings Map to create an 8.5m maximum building height in areas to be zoned R5.

In addition, the planning proposal will be undertaken in conjunction with a voluntary planning agreement which will provide for the construction of the Old Soldiers Road link through the subject lands as part of the future subdivision of the lands.

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 provides for rural residential use of the land consistent with the outcomes of the *Hallidays Point Conservation and Development Strategy 2000*, which was adopted by Council and endorsed by the Department of Urban Affairs and Planning in January 2000.

Council has also undertaken an Options Analysis Report for the realignment of Old Soldiers Road which identified this as the preferred outcome in the event that the Office of Environment and Heritage decline realigning the road through the adjoining nature reserve. The Office of Environment and Heritage has recently advised Council that it did not wish to reconstruct the road through the nature reserve and had agreed realignment of the road through the subject properties and through the south eastern corner of the nature reserve was the preferred option for provision of the second access.

2. Is there a net community benefit?

The proposal provides for the creation of a safe and efficient second access from the Hallidays Point urban areas to The Lakes Way. The second access provides advantages in terms of providing shorter travel distances to Taree, reducing traffic volumes along Blackhead Road and Diamond Beach Road, providing enhanced access for emergency services (such as the Rural Fire Service) and providing an alternate route should Blackhead Road be closed. The existing informal track through the nature reserve is currently used by the community as a short cut from Hallidays Point/Diamond Beach to Taree. In addition the track is used by tourists accessing the resorts at North Diamond Beach and accidents and vehicle damage on the track is common.

The provision of a formal well constructed road will be much safer than the existing informal access road through the Nature Reserve which is frequently used for this purpose. Council has been pressing for action on this road for 14 years, and the formalisation and upgrade of this road are important for the local community. The proposed rezoning facilitates the provision of this second access and provides a net community benefit.

The proposal also provides a corridor for secondary linking of services such as water and electricity supply which currently only have one main in. Both MidCoast Water and Essential Energy have expressed a desire to connect secondary main through this corridor and a net community benefit can be provided through securing ongoing supply of essential services.

Section B – Relationship to Strategic Planning Framework

3. 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 Regional Strategy provides a series of principles for Rural Residential Growth, and the proposed rezoning is consistent with these principles.

In relation to these principles, the subject land:

- Is located in an area adjoining Diamond Beach and among other rural residential developments connected to the Hallidays Point locality.
- The land is in an approved current rural residential land release strategy
- Is not in an area identified for future urban expansion.
- Development can occur on parts of the site previously cleared and disturbed and not require significant clearing.
- Does not have high primary production values.
- Includes some areas that may be valuable from a biodiversity perspective. These will be identified and appropriately zoned.

The Strategy also provides a series of actions in relation to rural residential development as follows:

- *Future rural residential land will only be zoned for release if it is in accordance with a local growth management strategy agreed to between council and the Department of Planning and consistent with the principles of the Settlement Planning Guidelines.*
- *No new rural residential development will be permitted within the Coastal Area, other than development already zoned or in an approved current or future local growth management strategy (or rural residential land release strategy).*
- *Planning for rural residential land must be integrated with the supply of infrastructure and transport.*

In relation to these actions:

- The subject land is identified for Phase 1 rural residential growth in the *Hallidays Point Development Strategy 2000* and the *Greater Taree Rural Residential Strategy and Release Program 2002*. Both these strategies have been adopted by Council and endorsed by the Department of Planning (in its various guises).

- The proposal integrates with an important transport outcome by facilitating the missing second traffic link for Hallidays Point.

4. Is the planning proposal consistent with a council's local strategy 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. Both the strategy and the review identified the land as Phase 1 – Rural Residential, being an area which could proceed to rezoning.

The release is also recognised in the *Rural Residential Strategy and Release Program 2002*, again as a Phase 1 area.

The proposal is consistent with both these local strategies,

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

State Environmental Planning Policy Number 44 – Koala Habitat Protection (SEPP 44)

This policy was prepared in 1988 with an aim of conserving and managing koala habitat in NSW. The aim of the policy is *to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.*

In relation to rezoning of land, Clause 15 of SEPP 44 provides that Council should survey lands within its area and determine if land constitutes potential or core koala habitat. Previous investigations of Lots 4 and 22 (ERM 2005) found that vegetation in the open forested parts of those lots did comprise potential koala habitat, but did not comprise core koala habitat although minor koala activity was detected. Areas of Lot 5 contain similar forested areas which are likely to comprise potential koala habitat. After a Gateway determination has been made, additional investigation would be undertaken (at least for lot 5) to determine if core koala habitat exists. Appropriate zoning will be created over such areas to protect, and where necessary, enhance important koala habitat.

State Environmental Planning Policy Number 55 – Remediation of Land

State Environmental Planning Policy Number 55 (SEPP 55) deals with land that is contaminated and the requirements for remediation of that land. Clause 6 of SEPP 55 requires that when Council is considering a zoning change it must consider if the land is contaminated, and if contaminated will it be suitable for the use or will be remediated.

In relation to the subject land, it has been used for generally low intensity agricultural uses. There is no evidence of past uses being significantly contaminating, and the owners advise that they are not aware of any cattle dips or similar on the land. It is possible that there may be low levels of contamination in some areas used for treatment

of stock with veterinary chemicals. A preliminary investigation would be undertaken following a Gateway determination to determine if any contaminated areas are, or are likely to be present on the land. The results of the preliminary investigation could then inform the final planning proposal.

State Environmental Planning Policy (Rural Lands) 2008 [SEPP (Rural Lands)]

The proposal is consistent with the Rural Planning Principles contained within SEPP (Rural Lands). 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 not highly productive agricultural land, but parts of the land do support low intensity agricultural uses including cattle and horse grazing. The change of these lands from agricultural use will not result in significant loss of productive agricultural land or of opportunity for sustainable rural activities.
(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 not highly productive agricultural land and is not important for agricultural production in the locality.
(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 provide for the loss of rural land uses which are important for the social and economic benefits of rural communities. The planning proposal provides for enhanced access for Hallidays Point which enhances the outcomes for that community.
(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,	The planning proposal is balanced and provides social and economic benefits for the community through enhanced secondary access and protection of important environmental features.
(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 provides for protection of natural resources to maintain biodiversity, natural vegetation and water resources with the protection of native vegetation within the lands, and provision of corridors to enhance ecological values in the area.
(f) the provision of opportunities for rural lifestyle, settlement and housing	The planning proposal provides for rural residential housing in a manner identified in

Clause 7 Principles	Comment
that contribute to the social and economic welfare of rural communities,	Council's development strategies for the area which adds to the social and economic welfare of the community. The proposal also delivers a material public benefit to the surrounding community by facilitating a secondary access for the Hallidays Point Community which is legal and safe.
(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,	The planning proposal will include consultation with relevant service providers. The proposal will rely on on-site disposal of effluent, but may have access to reticulated water (subject to MidCoast Water provision). Power and telecommunications are available in the locality and would need to be augmented to supply future development.
(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 consistent with the Mid North Coast Regional Strategy. The proposal is consistent with the Hallidays Point Development Strategy which has been adopted by Council and endorsed by the Department of Planning.

While the proposed site is zoned RU1, it is not highly productive agricultural land and the planning proposal provides for uses which have been identified in development strategies for the area. The proposal facilitates an important access link and represents a suitable use of rural land to support the local community.

6. 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 is zoned rural (RU1) and involves changes to the zone to provide for R5 zones as well as E2 or E3 zones as required. The provisions of the Direction provide that land zoned rural must not be rezoned to a residential, business, industrial, village or tourist zone unless it is supported by a strategy or specific study, which considers the objectives of the Direction, or is a proposal of minor significance. The objective of the Direction is to protect the agricultural production potential of land. The proposal is identified as phase 1 Rural residential in the *Hallidays Point Development Strategy 2000* which was adopted by Council and endorsed by the Department of Urban Affairs and Planning. The land was also identified in the *Greater Taree Rural residential and Release Strategy 2000* which was also adopted by Council and endorsed by the Department. While the lands do

support some low intensity agricultural uses, the land does not have significant agricultural production potential.

- Direction 1.5 – Rural Lands – This applies as the land involves changes to rural zoned land. 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.
- Direction 2.1 – Environmental Protection Zones – This Direction applies when a planning proposal is prepared. Relevant to the subject land, the Direction provides that a planning proposal must facilitate protection of environmentally sensitive areas. Review of existing environmental information suggests that there are some areas of the land which may warrant an Environmental Zoning. These areas will be finally determined and refined in the preparation of the final planning proposal.
- Direction Number 2.3 – Heritage Conservation – This Direction applies whenever a planning proposal is prepared and provides for the conservation and protection of items of environment heritage and items of indigenous heritage significance. The subject land does not contain any listed heritage items. In relation to indigenous heritage, the Direction provides that items of Aboriginal Heritage should be identified by an Aboriginal Heritage Survey. An AHIMS search has been done over the land which did not identify any Aboriginal sites or places on the land or surrounding area. Aboriginal heritage survey was previously undertaken for Lots 4 and 22 as part of the Local Environmental Study. Necessary investigations to supplement previous reports would be undertaken following a Gateway determination.
- 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. A small area of Lot 5 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 such, this Direction would not be applicable to this proposal.
- 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. Following a Gateway determination, a bushfire assessment for the proposal would be undertaken which would identify bushfire controls for the land and allow for appropriate consultation with the Rural Fire Service.
- Direction Number 5.1 – Implementation of Regional Strategies – This Direction provides that a planning proposal must be consistent with the Mid North Coast Regional Strategy. This document is discussed within this report, and the proposal is consistent with the Strategy.

Section C – Environmental Social and Economic Impact

7. 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 planning proposal contains varied vegetation communities that have resulted from previous disturbance of the land. The site includes large areas of cleared land that have been used for grazing and rural living purposes. These are the areas which would predominately be utilised for rural residential purposes. These are some woodland areas which have resulted from past clearing and ongoing disturbance which may also be suitable for rural residential occupation. Parts of the site contain forest vegetation which may provide habitat for threatened species. Previous investigations for parts of the land have identified some corridors to be protected/enhanced and there are some corridors identified over the land by local environmental strategies which can be incorporated into the planning proposal. Following a Gateway determination, further ecological investigation would be undertaken to determine final boundaries for rural residential and environmental protection/management zones. It is likely that protection of habitat areas and provision of ecological corridors will have positive effects for local ecology, including threatened species.

The planning agreement will also provide for the dedication of land to add to the adjoining nature reserve providing an improvement in habitat areas of publicly protected land and offsetting impacts in other parts of the site.

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

To prevent impacts to local water quality, a minimum allotment size of 1.5 hectares will be imposed to provide for on-site disposal of effluent.

The subject land is bushfire prone and a bushfire assessment will be prepared to inform the planning proposal.

There are a number of small watercourses which pass through the lands and these will be protected to provide effective riparian corridors through appropriate development controls existing within the Greater Taree LEP 2010 and DCP 2010.

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

The Planning Proposal will provide for planned growth in the Hallidays Point area which will support economic activities in the area and provide for additional population in support community facilities such as schools, churches, community organisations etc.

The proposal will facilitate the provision of a second access link between the Hallidays Point urban area and The Lakes Way which provides significant community benefits.

The proposal provides for improved access to tourist resorts at North Diamond Beach which are a key economic activity in the area. Improved access from the north has been identified as a key issue for these facilities.

The proposal also provides for secondary service mains for water and electricity for the Hallidays Point/Diamond Beach area and provides for ongoing security of supply for these essential services.

Section D – State and Commonwealth Interests

10. Is there adequate public infrastructure for the Planning Proposal?

The proposal will require extension and augmentation of electricity and telecommunications services that are available in the area. Reticulated sewerage services are not available at the land and development will rely on on-site disposal of effluent.

Water main services may be provided to future development on the land and the proposal may facilitate additional main connection between water reservoirs and the Hallidays Point trunk main system providing benefits in terms of supply security to the existing and future development in the area.

The road corridor also provides opportunity for a second electricity connection to the Hallidays Point/Diamond Beach network and which will assist in security of supply to existing and future development in the area.

The proposal facilitates a second access between the Hallidays Point urban areas and The Lakes Way, which provides improved access and more efficient delivery of public services, including emergency services.

The proposal will utilise public services and amenities provided within the Hallidays Point and Taree areas and will contribute to the provision of these facilities through Section 94 contributions.

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

Council is undertaking a separate process in consultation with NPWS to arrange dedication of the section of Old Soldiers Road through Khappinghat Nature Reserve. In principle support has been received from the OEH (NPWS) for the realignment of Old Soldiers Road adjacent the southern boundary of Khappinghat Nature Reserve (see attached letter).

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 the Office of Water in relation to future integrated

development issues. Consultation with OEH will also be undertaken as an adjoining land owner.

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, being Councils standard minimum rezoning exhibition period. The planning agreement will be exhibited concurrently with the planning proposal in accordance with the Regulations.