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Development Applications

Engineering

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- Town and Environmental Planning
 Rezonings
- Local Government Liaison
- Building Code of Australia Advice
- Bushfire Assessments and
- Management Plans

Planning Report

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Lots 4 & 5 DP 243425 and Lot 22 DP 255386 Tallwoods Drive and Old Soldiers Road Rainbow Flat

Prepared for Gould, Varrica and Naomand Development

November 2014

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1. PRELIMINARY

1.1 History

The subject land has been identified for rural residential development by Council since the late 1990's following identification of the need to have Old Soldiers Road realigned to deliver clear public benefits for the Hallidays Point community.

The Hallidays Point Development Strategy 2000 which was adopted by Council and endorsed by the Department of Planning identified the lands as Phase 1 Rural Residential Lands and also identified the upgrade/realignment of Old Soldiers Road as part of that strategy.

Council commenced rezoning of the land in 2003 and a Local Environment Study was prepared for the land. Council resolved to exhibit the Local Environment Study and draft Local Environmental Plan, but were unable to get certification to exhibit the plans until other strategic work was finalised. This never occurred and the proposal was archived.

The proposal is now being reviewed following recent works to again address the need to upgrade Old Soldiers Road. Council on 19 June 2013 resolved to seek upgrading of Old Soldiers Road and that one option to be pursued is the realignment of the road through the subject lands, requiring rezoning of the lands.

1.2 Introduction

Coastplan Group Pty Ltd has been commissioned to prepare this submission and a planning proposal to Greater Taree City Council to seek an alteration of zoning over the subject land to permit rural residential development on the land in line with outcomes envisaged in the Local Hallidays Point Development Strategy 2000.

This report provides:

- an analysis of the site and surrounding area;
- o a description of outcomes sought for the land;
- o a detail of key issues relating to the subject land; and
- justification for the alteration of the land use zones applying to the land on the basis of this analysis.

1.3 Objectives of the Report

This report has been prepared to provide information on the land and the project to decision-makers and the public. The following objectives for the report and associated analysis have been formulated:

- a) To provide a description of the land and surrounding locality that allows the application of relevant planning instruments and environmental criteria.
- b) To provide a description of the future development likely for the land in a manner that allows the application of relevant planning instruments and environmental criteria.
- c) To review relevant planning instruments and policies, and discuss their application to the land and potential future development.
- d) To use available information on the land to discuss key environmental aspects of the land and potential constraints to development.

1.4 Outline of the Report

The report has been structured to provide information as outlined in the objectives.

- Section 1 Introduction detailing the purpose of the report and the history of the site.
- Section 2 Site and Surrounding Area Description provides a description of the subject land and surrounding area.
- Section 3 Description of Development Outcomes Sought provides a description of outcomes for the land.
- Section 4 Planning Context provides a review of relevant planning legislation, planning instruments, policies and strategies that are relevant to the land and future proposals.
- Section 5 Environmental Issues/Constraints provides a discussion of key environmental issues associated with the land and likely future development.
- Section 6 Justification of Rezoning provides discussion on proposed outcomes in terms of the planning context, environmental issues and community outcomes.
- Section 7 Conclusion provides a summary of the findings.

2. SITE & SURROUNDING AREA DESCRIPTION

2.1 Site Details

The subject lands are identified as Lots 4 & 5 DP 243425 and Lot 22 DP 255386, at Tallwoods Drive and Old Soldiers Road, Rainbow Flat. The lots have a combined area of approximately 107 hectares. The land is zoned RU1 – Primary Production under Greater Taree Local Environmental Plan 2010.

The land adjoins areas zoned R5 – Large Lot Residential to the east and land zoned E1 National Parks and Nature reserves to the north. Land to the south and west is zoned RU1, with the Tallwoods Urban area located further south along Tallwood Drive.



A site locality plan is provided in Figures 1 and 2.

Figure 1 – Site Locality Plan (Zoning)

[Source: GTCC Exponare]



Figure 2 – Site Locality Plan (Satellite)

[Source: GTCC Exponare]

2.2 Topography

The topography of the lands is generally described as undulating land with medium slopes draining to ephemeral gullies and larger watercourses with intermittent flows. The slopes over the land vary from approximately 2[°] to approximately 12[°].

There are numerous small ephemeral gullies that drain the land into larger drainage lines. There are three (3) key drainage lines that pass through the subject land. There is a drainage line passing through the western parts of Lot 4 and centrally through Lot 22 which drains large areas of rural residential properties that exist on the western side of Tallwoods Drive. A larger drainage line also passes through the western part of Lot 5 which drains larger rural areas on the eastern side of Tallwood Drive. A second larger drainage line crosses the south eastern corner of Lot 5 that drains areas to the south.

2.3 Vegetation

Vegetation types and coverage over the land have been significantly influenced by occupation and use of the land for agricultural and rural residential purposes. The vegetation over the land can be divided into four (4) different types:

- <u>Cleared Land</u> These areas are absent of any significant over storey vegetation and are dominated by native and introduced grasses and herbaceous weed species. There is some young regrowth in these areas, however, the areas are regularly maintained through slashing, grazing and burning. Some isolated paddock trees also exist in the area. Clears land exists on all three (3) properties covering large proportions of the land.
- 2. Dry open woodland areas These areas have been created due to disturbance to open forest areas that have resulted in the removal of trees and understorey vegetation to create woodland areas. The remnant native trees in this area include Blackbutt, Ironbark, Tallowood and Small Fruited Grey Gum. The understorey is dominated by native and introduced grasses, as well as herbaceous weed species. It appears that the understorey in these areas is currently managed through regular slashing, grazing and burning. These woodland areas exist in the areas of Lots 4 and 5 near Tallwood Drive and along parts of the western boundary of Lot 22.
- 3. <u>Dry Open Forest areas</u> This vegetation occurs over less disturbed parts of the property with similar overstorey tree species as the woodland, but with an understorey including forest oak, black she-oak, bracken fern and blady grass. There is some evidence of disturbance in this area from grazing and other activities but appears to only be rarely utilised for shelter or winter foraging. There is some evidence of previous logging in these areas with few large over mature trees present. The open forest vegetation is primarily found in a band crossing the southern parts of Lot 22 and there are also two (2) small areas along the northern boundary of Lot 4.
- 4. <u>Moist Riparian Forest</u> This vegetation occurs along the larger drainage lines that occur within the site. The vegetation has established along the edges of these drainage features due to the presence of surface and/or ground water. The vegetation includes Flooded Gum, Turpentine and some Bluegum with some understorey species including Blackwood, Matt Rush, Paperbarks and Cabbage

Palms. The overstorey vegetation in these areas is typically larger and older, although large avermature trees are not prevalent and were probably logged in the past as they provided better quality timber. This vegetation occurs over drainage lines that cross the central parts and south eastern corner of Lot 5 and over a large drainage line that crosses the south western corner of Lot 4 and centrally through Lot 22.

The following photographs show the typical vegetation types over the land.



Cleared land (within Lot 5)



Cleared land (within Lot 22)



Cleared and Woodland areas (within Lot 4)



Typical Open Woodland areas



View to small patch of Open Forest



View across Lot 22 (Riparian Forest at right)



View within narrow riparian forest corridor

Adjoining lands to the west and south are comprised of similar rural lands with similar vegetation types evident. Land to the east is occupied by a rural residential estate with dwellings on large lots that have retained native trees included in the managed yard areas. Land to the north is forested lands that are part of the Kappinghat Nature Reserve.

2.4 Existing Development/Use

The subject lots are used for rural living and extensive agricultural uses. Lot 4 contains a dwelling and rural infrastructure to support low intensity grazing activities and has been used for the grazing of cattle and horses.

Lot 5 is used for low intensity grazing purposes and has rural infrastructure to support other agricultural uses, including a large stock shelter which was constructed for the intensive raising of bobby calves. The farm also includes an old dairy bale which supported previous use of the land for dairy production.

Lot 22 is used as a thoroughbred horse stud and has been significantly improved to support this use. The farm includes large stables and yards which are used in the breeding of horses which are sold as a premium item. The large cleared areas over the site are used for grazing purposes to supplement the hand feeding of the horses.

2.5 Access

Existing vehicular access to the sites is available from Tallwood Drive and Old Soldiers Road. Lots 4 and 5 have frontage to Tallwood Drive and have driveways off this road that connect with access roads that provide access within the lots. Tallwood Drive is a Council maintained gravel road that connects to Tallwoods Village in the south and the Nature Reserve in the north. Lot 22 has frontage to Old Soldiers Road at its northern frontage and an access driveway provides access to the property. Old Soldiers Road is a gravel road that connects with The Lakes Way to the west and with Kappinghat Nature Reserve.

There are also several informal roads that connect with the site from Kappinghat Nature Reserve with 4 wheel drive trails passing though the reserve. Old Soldiers Road also passes through the Nature Reserve, although it is not located within a road reserve or recognised as a road at all. The informal section of Old Soldiers Road connects through to Diamond Beach in the east.

2.6 Services

Reticulated electricity and telecommunications are available to the land. The land does not have access to reticulated water and sewer services. Existing development on the land utilises on-site collection of rainwater and on-site disposal of effluent.

3. DESCRIPTION OF DEVELOPMENT OUTCOMES SOUGHT

The purpose of the planning proposal is to provide for development on the land which will provide a public road linkage between Diamond Beach and The Lakes Way rather than using the substandard and tenuous road through the nature reserve. Actual development layouts and areas have not been determined and will be subject to further study and refinements, however, the principles for the planning proposal are discussed below.

3.1 Rural Residential Development

The planning proposal seeks to identify large areas of the site for rural residential development forms. The areas likely to be identified for these landforms would be the cleared land areas and some of the woodland areas where constraints allowed development to occur.

The zone used would most likely be the R5-Large Lot Residential Zone. The Planning Proposal would also include the imposition of development standards over the R5 zoned areas, including:

- Minimum Subdivision Lot Size 1.5 hectares
- Height of Buildings 8.5 metres

3.2 Environmental Conservation/Management

There are parts of the site that are constrained for rural residential development due to existing vegetation and ecological values. These areas would be zoned E2 Environmental Conservation or E3 Environmental Management, depending on the level of constraints of areas and possible uses for those areas. Areas that would likely be zoned E2 or E3 would be any areas that have habitat values important to ecology in the area and areas that are required for ecological and riparian corridors. Appropriate lot sizes would be identified for these areas.

A plan of possible zone areas has been included in Appendix A. It should be noted that these areas are subject to further investigation and refinement following a gateway determination.

3.3 Public Road access

A key public benefit delivered by the proposal is the provision of a public road running through the site connecting the two (2) ends of Old Soldiers Road to provide access between The Lakes Way and Diamond Beach instead of relying on the informal and inadequate road through the Nature Reserve. Future development of the land will provide for a public road access through the site which can be connected to Old Soldiers Road. The provision of this public road access through the site would be subject to a Planning Agreement with Council.

4. PLANNING CONTEXT

4.1 State Planning Documents

There are a number of Acts of State Parliament, State Environmental Planning Policies and General Policies which are relevant in consideration of the use of the land.

4.1.1 Section 117 Directions

Section 117 Directions are directions given by the Minister regulating the undertaking of certain functions under the Environmental Planning and Assessment Act 1979. The Directions apply when Council is preparing a planning proposal. The following Directions are relevant to the planning proposal to amend the zone boundary over the land.

- 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.
- <u>Direction 1.5 Rural Lands</u> 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.
- <u>Direction 2.1 Environmental Protection Zones</u> 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.
- <u>Direction Number 2.3 Heritage Conservation</u> 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.

- <u>Direction Number 4.1 Acid Sulfate Soils</u> 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.
- <u>Direction 4.4 Planning for Bushfire Protection</u> 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 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.
- <u>Direction Number 5.1 Implementation of Regional Strategies</u> 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.

4.1.2 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.

4.1.3 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 changes 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.

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

As discussed in relation to Section 117 Direction 1.5, 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 or rural communities. The planning proposal provides for enhanced access for Hallidays Point which enhances the community 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 that contribute to the social and economic welfare of rural communities,	The planning proposal provides for rural residential housing in a manner identified in 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 Mid Coast Water provision. Power and telecommunications are available in the locality and would need to be augmented to supply future development.

Clause 7 Principles	Comment
(h) ensuring consistency with any	The planning proposal is consistent with the Mid
applicable regional strategy of the	North Coast Regional Strategy. The proposal is
Department of Planning or any applicable	consistent with the Hallidays Point Development
local strategy endorsed by the Director-	Strategy which has been adopted by Council
General.	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.

4.1.5 Other Approvals

Under Section 91 of the *Environmental Planning and Assessment Act 1979* concurrent approvals (general terms) can be obtained with development consents. While these provisions do not apply to preparation of a planning proposal, the relevant provisions are discussed here to provide an understanding of other matters which relate to development of this land.

Bushfire Safety Authority under Section 100B of the Rural Fires Act 1997

The land is identified as Bushfire Prone Land by maps held by Greater Taree City Council. Subdivision of the land for rural residential purposes requires a Bushfire Safety Authority. The NSW Rural Fire Service is the authority responsible for the issue of Bushfire Safety Authorities and requires development to comply with the provisions of *Planning for Bushfire Protection 2006*. Following a Gateway determination, a bushfire assessment will be prepared for the land identifying necessary protection measures.

Controlled Activity Approval under the Water Management Act 2000

Future development of the land would require works within and across 'water front land', being land within 40 metres of relevant watercourses. These works would comprise controlled activities and would require approval under the Water Management Act 2000. Zoning may provide protection of certain riparian areas, however, some rod crossings of these areas is inevitable.

4.1.6 Environmental Protection and Biodiversity Conservation Act 1999

Activities that are likely to have a significant impact on a matter of national environmental significance (NES) are subject to a rigorous assessment and approval process under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

The matters of NES identified as triggers for the assessment regime under the EPBC Act are:

- World heritage properties;
- RAMSAR wetlands;
- Nationally threatened species and ecological communities;
- Migratory species;
- Commonwealth marine areas; and
- Nuclear actions (including uranium mining).

The first stage of assessment under the EPBC Act involves determining whether the action is likely to significantly impact on matters of NES. Referral to the Minister is only required where the activity is one which is likely to significantly impact on matters of NES.

A search was undertaken for the land and surrounding area using the EPBC Act Protected Matters search function on the Department of Sustainability, Environment, Water, Population and Communities.

Assessment for this activity includes an analysis of the works in relation to the NES matters. This has been undertaken and documented in Table 1.

NES Matter	Assessment Comment
World heritage properties	The EPBC Protected Matters search did not reveal any World Heritage Properties on the site or surrounding area.
RAMSAR wetlands	The proposed activity will have no impact on any RAMSAR wetland.
Nationally threatened species and ecological communities	The subject site may contain endangered ecological communities, as well as habitat for Threatened Species, including the koala. Following gateway determination, further

Table 1: Analysis of the works in relation to the NES matters

NES Matter	Assessment Comment
	investigation of these matters would occur. Where appropriate environmental protection zonings and controls would be created for protection of important areas. Assessment would also determine if a referral to Environment Australia was necessary.
Migratory species	The protected matters search identified several migratory species that may utilise habitats in the area. Further assessment of this issue would be undertaken following a Gateway determination, and appropriate controls incorporated into the planning proposal.
Commonwealth marine areas	The proposed activity will not have any impact on Commonwealth marine area(s).

4.2 Regional Planning Documents

4.2.1 Mid North Coast Regional Strategy

The Mid North Coast Regional Strategy was prepared in 2009 to guide growth in the Mid North Coast Region. The Strategy does not provide any specific identification of lands for rural residential development as it does for urban growth areas. The Strategy does provide a series of principles and actions in relation to rural residential development in the region.

The principles for Rural Residential growth in the Strategy are summarised below:

- Rural residential development will continue to be possible as one form of housing choice in the region.
- Rural residential settlement should focus on land which is:
 - Close to an existing urban settlement.
 - Away from the coast.
 - Away from areas for future urban expansion.
 - In areas where significant clearing is not required.
- Rural residential development will not impact on primary production or biodiversity values.

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.
- Is located way from the coast and is not in the Coastal Zone.

- 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 subject site is not located in the coastal zone.
- The proposal facilitates an important transport outcome by facilitating the missing second traffic link for Hallidays Point.

Rural residential development over the subject land would be consistent with the Mid North Coast regional Strategy.

4.3 Local Planning Documents

4.3.1 Greater Taree Local Environmental Plan 2010

The subject land is zoned RU1 – Primary Production under the provisions of *Greater Taree Local Environmental Plan 2010* (LEP 2010).

While the RU1 zone has a primary purpose of providing land for productive agriculture, preserving rural landscapes and maintaining flora and fauna outcomes. The subject land is not highly productive agricultural land.

The proposal would involve the creation of R5 – Large Lot Residential zones over parts of the land that are identified as suitable. The R5 zone is a zone primarily for the establishment of residential housing in a rural setting which is more commonly referred to as rural residential development. The land is identified for future rural residential housing within local strategies that affect the land. The R5 areas will generally be limited to parts of the land that have been previously disturbed and have been cleared in the past and which are capable for rural residential use having regard to the range of environmental constraints and hazards that exist over the land.

Other parts of the site which contain forest vegetation, or are important as riparian or ecological corridors will be zoned as either E2 – Environmental Conservation or E3 – Environmental Management under the provisions of LEP 2010.

In addition to zoning over the land, the planning proposal will also create additional development controls over the land under LEP 2010. Final controls will be subject to the final planning proposal, however, it is likely that the areas that are to be zoned R5 will be subject to the following development controls which are typical for R5 areas within surrounding area and local government area generally.

- Minimum Subdivision Lot size 1.5 hectares
- Height of Buildings 8.5 metres.

4.3.2 Greater Taree Development Control Plan 2010

This Development Control Plan (DCP) would only be relevant to development on the land following rezoning. The principles within the DCP, however, have been examined as evidence that the outcomes facilitated by the proposal would be consistent with the Council's objectives and controls for development of land.

In relation to the DCP, the following observations are relevant and show the proposal is consistent with the DCP outcomes:

- Part B of the DCP deals with Character Statements for the different areas of the Greater Taree local government area. The DCP does not provide any character statement for Hallidays Point. Rural residential development on the land would provide a formal public road access from Diamond Beach through to The Lakes Way. The character that would be established in the rural residential subdivision could be consistent with the character established in the rural residential estates located to the east and west of the land.
- Part C of the DCP provides the subdivision requirements and controls. The proposal could be undertaken in a manner consistent with these controls, including the following:
 - The subject land is identified as Bushfire Prone Land. Future development on the land would need to comply with the requirements of *Planning for Bushfire Protection 2006*.
 - New roads would be required for the subdivision which would be designed/constructed to meet Council's standard.
 - The slope of the land is generally considered suitable for rural residential occupation and use.
 - The site is naturally drained to existing drainage gullies on the land.
 - The planning proposal will identify ecological areas that require protection. These areas will be protected and appropriately treated through future subdivision design.
 - Future lot sizes will be consistent with the controls imposed under the LEP.
- Part H of the DCP deals with residential requirements. Future housing could be carried out in a manner consistent with the relevant DCP controls.
- Part J of the DCP deals with requirements for development in the Rural and Environmental Protection Zone requirements. The proposal would provide protective zoning over important ecological areas. Future development would provide outcomes consistent with the zoning and DCP requirements.

4.3.3 Rural Residential Strategy and Release Program 2002

This strategy was prepared to guide rural residential development in the Greater Taree Council area and also to provide criteria for rural residential rezonings. The Strategy adopts growth areas from the previous Rural Lands Study and does not undertake further investigation of other potential areas for rural residential growth. The Strategy provides some important criteria for Council when considering rural residential rezoning proposals.

The strategy recognises that there is a demand for rural residential development in the locality and that the demand was not being met by existing land supply. Importantly, the strategy does identify the land that was identified in the Hallidays Point Development Strategy as Phase 1 as also being Phase 1 land, allowing for release of the land, subject to rezoning procedures (now a planning proposal). The strategy notes that release of land that is identified in the Hallidays Point Development Strategy will be managed and monitored under the provisions of that strategy.

4.3.4 Hallidays Point Development Strategy 2000

The Hallidays Point Conservation and Development Strategy 2000 (the Strategy) is the current strategy for the area. The Strategy was prepared as a guide for informing the community, and to assist with Council's consideration in making future decisions on release of residential and rural residential land within the area up to the year 2010. The Strategy provides that the outcomes will be monitored, and the Strategy will be reviewed, regularly over that period. A review of the Strategy has been adopted by Council in May 2006 for referral to the Department of Planning to seek endorsement.

The Strategy examines the Hallidays Point area in terms of demand for urban and rural residential uses and examines broad environmental constraints to urban and rural residential development.

The Strategy identifies the subject land as Phase 1 Rural Residential Land which will be considered for rezoning and progressively developed from 2000 onwards.

The strategy compares the land to criteria for rural residential development against six (6) criteria as follows:

- 2.7 Physical Capability The report states that the physical capability of the land to support rural residential has not been proven and that further investigation would be necessary.
- 2.8 Proximity to existing settlements The report notes that the land achieves this criteria.
- 2.9 Suitable for effluent disposal The report states that the ability to dispose of effluent on the land has not been proven and that further investigation would be necessary.
- 2.10 Not required for urban expansion The report notes that the land achieves this criteria.
- 2.11 Not Prime Crop or Pasture Land The report notes that the land achieves this criteria.
- 2.12 Not significantly constrained by environmental hazards or significant wildlife conservation values The Strategy states that this criteria has not been proven and that further investigation would be necessary.

The Strategy identifies that the proposal to develop this land and formalise the through traffic link between Diamond Beach and The Lakes Way delivers a substantial public benefit.

4.3.5 Hallidays Point Development Strategy Review 2006

This strategy involved a review of the previous Hallidays Point Strategy from 2000. The Strategy review was adopted by Council in 2006, but was not endorsed by the Department of Planning and the 2000 Strategy remains the effective local strategy for the area. The 2006 review continues to identify the subject land as future rural residential area, and notes that the realignment of Old Soldiers Road is a key issue in relation to the Hallidays Point community, now and into the future as growth occurs. The Strategy review included an environmental conservation review which addressed habitat values and corridor values in the study area. This report is further discussed in the discussion on ecological issues.

4.3.6 Greater Taree Draft Conservation and Development Strategy 2005

This draft strategy has been prepared for the entire local government area of Greater Taree. Like the Hallidays Point Strategy Review, this strategy has not been endorsed by the Department of Planning. The following excerpt has been provided from the draft strategy describing its purpose:

The strategy develops a vision and a set of strategies for the Greater Taree LGA and how it relates to its surrounding areas to ensure that conservation and development are balanced for a sustainable future.

The draft strategy reviews the physical, social and economic features of the area, and discusses development and conservation issues arising from the features. The draft strategy discusses options for growth and then outlines the preferred strategy for growth of the area.

The strategy identifies the subject lands for future rural residential development and does not identify any significant environmental constraints over the land.

4.3.7 Local Environmental Study – Lot 22 DP 255386 and Lot 4 DP 243425, Rainbow Flat

Following the identification of the lands with the Council's strategies, Council commissioned a Local Environmental Study over Lots 4 and 22 which were subject to a rezoning application at the time. The Local Environmental Study was prepared for Council in 2005 by Environmental Resources Management (ERM) and examined the constraints over the land and the suitability of the land for future development. The Local Environment Study and draft Local Environmental Plan amendment were not exhibited as the Department of Planning did not issue an exhibition certificate and required Council to complete its Conservation and Development Strategy before proceeding. As Council never proceeded to complete its Conservation and Development Strategy (due to imposed delays in relation to formulating the Regional Strategy), the exhibition and subsequent rezoning never proceeded.

The Local Environment Study concluded that the land was generally suitable for rural residential development and identified the following key constraints to development:

- Provision of a wildlife corridor across the south western boundary of Lot 4, and centrally along the creek line that passes centrally through Lot 22.
- Provision of Asset Protection Zones around the development edges.
- Provision of a 40 metre setback to the creek line that passes through the sites (within the identified wildlife corridor).

In relation to the criteria within the Strategy that needed to be examined, the Local Environment Study found:

- That the land was physically capable of supporting rural residential development.
- That assessment of the land for suitability for on-site effluent treatment and disposal did not find any features that would result in a major limitation for on-site treatment and disposal of domestic effluent and that rural residential lot sizes proposed would generally be suitable for on-site disposal.
- That rural residential use of the land would be unlikely to result in significant impacts to Threatened Species, population or communities. The assessment recommends certain measures be included in the development outcomes for the site, including:
 - Provision of a corridor within the site as identified.
 - Retention of individual koala feed tree species.
 - Controls on fencing in corridor areas.

5. ENVIRONMENTAL CONSTRAINTS/OPPORTUNITIES

The key issues in relation to the planning proposal relate to the visual issues of the proposal and its context in the scenic landscape. Other issues relevant to E3 zoning are also discussed below.

5.1 Scenic/Visual Assessment

Lots 4 and 22 are not visually significant in the surrounding landscape, due to the topography of the site and the existing vegetation on the site and surrounding lands. The only public view points to these lots are from the road frontages and, even then views into the site are limited. Views to the sites from the adjoining nature reserve are limited, and are only available from the very edges of the reserve. Development on Lots 4 and 22 would have minimal visual impact on the surrounding area.

Lot 5 is less obscured by topography from the south and east. There are still few public view points where Lot 5 can be observed, however, the site is more viewable from private properties to the south and east. Existing housing on the adjoining land to the south does not overlook large areas of Lot 5. Land to the east of Lot 5 is comprised of rural residential development. The development is comprised of 1 hectare allotments with significant remnant vegetation providing a leafy character. The development on the site is generally oriented within the estate and does not have significant views across Lot 5. Development on Lot 5 would not be likely to impact on important views or vistas.

Development on the land will provide large allotments for rural residential development which will include large areas of open space which will maintain a character consistent with the established and establishing character of the area.

5.2 Soils

Soils over the land are generally comprised of sandy clays with topsoils between 100mm and 150mm thick. The soils could generally be described as well drained but not particularly conducive to productive agricultural uses. The soils observed do not appear to provide any constraints to development.

A brief examination of the area did not reveal any areas where past land uses may have resulted in significant contamination. It is possible that some minor contamination would be possible from agricultural uses of the land, including at yards and stock handling areas where chemical treatments may have been applied, as well as in storage/farm sheds where maintenance and fuelling activities may have occurred. It is considered unlikely that such issues would be an absolute constraint to development and could be further investigated at a later stage, such as during development applications for the sites, or following an initial gateway determination.

As discussed, the Local Environment Study for Lots 4 and 22 examined constraints for disposal of effluent on the land and did not identify significant constraints to effluent disposal on the lands. It is considered that as the land within Lot 5 displays similar characteristics, in terms of soil types and slope etc that similar conclusions may be found for that lot.

The site is not likely to contain any actual or potential Acid Sulfate Soils, based on Council's Acid Sulfate Soils Planning Maps which only identify a small sliver of Class 5 in the eastern parts of Lot 5.

5.3 Water

The subject site drains by a series of natural gullies and watercourses to Kappinghat Creek. The majority of the land within the site drains to a watercourse within the Nature Reserve known as Magpie Creek, while an eastern potion of Lot 5 drains via Moor Creek to Kappinghat Creek. The future development would also drain to these natural features by a combination of over land flow, piped drainage and channels.

The developable areas of the land are elevated above the watercourses and development would be provided in areas that are not subject to flooding.

There are drainage corridors through the site which would be subject to controls under the *Water Management Act 2000*. The following map shows the location of these drainage corridors:



Figure 3 – Location of Drainage Corridors

[Source: LPMA: SIX Viewer]

These drainage corridors would be effectively treated in accordance with the guidelines of the NSW Office of Water.

5.4 Ecology

The land is primarily comprised of disturbed land which was previously cleared. Large areas of the site continue to be managed, however, there are some areas where regrowth native vegetation has established and were larger remnant trees have established within managed areas.

As discussed, there was a Local Environmental Study prepared over Lots 4 and 22 in 2005 which examined environmental values of the land, including ecological values. In relation to these lots, the report found:

- All significant stands of vegetation should be retained. This identified the central corridor through the western parts of Lot 4 and centrally through Lot 22, as well as the remnant forest vegetation in the southern parts of Lot 22.
- Areas of vegetation within the lots were *potential koala habitat*, but did not constitute *core koala habitat*.

- All Tallowwood and small fruited grey gums should be retained in the corridor area.
- Cat and dog ownership should be restricted on future lots.
- A 50 metre buffer should be provided between future house sites and the nature reserve.

The *Environmental Conservation Review* for the Hallidays Point Development Strategy Review examined the habitat and corridor values over the land. This report examined the entire strategy area with a focus upon the areas identified for future development, including the subject lands. The report examined key habitat values and corridor requirements on a broad scale basis which resulted in the preparation of a map showing future environmental protection areas to facilitate habitat retention and corridor provision. A copy of this map is provided below:



Figure 4 - Future environmental protection areas [Source: GTCC Hallidays Point Environmental Conservation Review]]

As can be seen, the review provided for the protective zoning of the remnant forest vegetation in the southern parts of Lot 22, and a corridor over the western parts of Lot 4

and central parts of Lot 22 in a manner consistent with the findings of the LES for those lots. The review also recommends a conservation zoning along the eastern boundary of Lot 5 to maintain a north south corridor linkage.

Following the issue of a gateway determination, further ecological investigations would be undertaken over the lands, with broad investigation for Lot 5, and only updated assessment to supplement the previous investigations for Lots 4 and 22.

5.5 Bushfire

The subject site is identified as bushfire prone land on Greater Taree City Council Bushfire Prone Lands Map as seen in Figure 5 below.



Figure 5 – Extract of GTCC Bushfire Prone Lands Map

The key issues in relation to bushfire constraints are related to future rural residential use of the land and the provisions of suitable measures to address bushfire risks. In this regard future development on the land will be required to comply with the provisions of *Planning for Bushfire Protection 2006.* A formal bushfire assessment can be prepared for the proposal should it proceed through the Gateway determination. In general, however, the following is observed:

- There are large areas of grassland vegetation which can be managed to provide suitable rural residential areas with required Asset Protection Zones.
- Required APZ's would be required from forested areas which could vary from between 10 metres and 42 metres depending on slope and vegetation type.

- Access in the area for fire fighting operations would generally be improved with the new Soldiers Road link and access to lots could comply with RFS guidelines.
- Water would need to be provided, either by reticulated services, or on-site water supplies.

5.6 Traffic

Access to the subject sites is currently provided via the public roads known as Old Soldiers Road, and Tallwoods Drive. There are also several informal access roads that connect to the site over the boundary of the lands with Kappinghat Nature Reserve.

Future development will provide for a realignment of Old Solders Road, providing for a formal link between Diamond Beach and The Lakes Way to replace the existing access road through the Nature Reserve. The existing access through the nature reserve is not located within any formal road reserve and is not constructed to a high standard worthy of such a link. 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. Council has recently resolved to seek a final determination from the Office of Environment and Heritage in relation to upgrading of the existing road however, all previous attempts have resulted in negative replies. As such Council also resolved if this is unsuccessful, the Council note the preferred option as presented in the planning proposal. The option involves the three (3) lots subject to this report being rezoned to allow rural residential development, and that the owners of the three (3) lots provide for the provision and construction of the road corridor through the site. The outcome therefore provides substantial public benefit through the provision of the desired road access link between Diamond Beach and The Lakes Way.

The proposed new access will provide a second access to the Hallidays Point Urban Areas, in addition to the existing access on Blackhead Road. 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 provision of a formal well constructed road will be much safer than the existing informal access road through the

Nature Reserve which is sometimes used for this purpose. The proposal would also reduce traffic within the Nature Reserve, limiting impacts to native species from car strike etc.

Tallwood Drive will also connect with the new road and access will also be possible from Tallwoods village to the new Old Soldiers Road alignment. There is currently an informal connection between Tallwood Drive and the informal Old Soldiers Road through the Nature Reserve which is generally only accessible with four wheel drive vehicles. Measures would be in place to discourage vehicles using Tallwood Drive or Tallwood Drive would need to be upgraded.

Access within future rural residential subdivisions could be provided to comply with the requirements of Council's DCP and design codes.

5.7 Heritage

There are no items of European heritage identified on the land and no items have been identified on inspection which would be worthy of further examination. Adjoining land does not contain any items of European heritage significance.

A search of AHIMS has been undertaken for the land and no Aboriginal Sites or Places have been identified on or near the land. Much of the land is disturbed by past activities and does not include landscape features which indicate the possible presence of Aboriginal objects. Consideration of the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* would suggest that investigation would not be required in relation to those areas which are 'disturbed land' or do not contain relevant landscape features.

The provisions of Section 117 Direction 2.3 are noted, and additional Aboriginal Heritage investigations would be undertaken where necessary to supplement previous investigations following a Gateway determination.

5.8 Social and Economic Effects

The subject land does not comprise prime crop or pasture land and has limited value for sustainable agricultural production. The proposed rezoning would not limit economic opportunities for agricultural production or other primary industry in the area.

Lot 22 does contain a horse stud which produced 'boutique' stock, with economic benefits for the area. This use is facilities based agriculture, rather than land based agriculture, and the use does not rely on special features of the site for production, but is instead reliant on the rural infrastructure that has been constructed on the land. This facility can be relocated to another location and does not require this site to function effectively. As such, the proposal would not limit the opportunities for this use to be established in the area.

The planning proposal is considered to deliver significant social benefits by providing the second access for the Hallidays Point area. Council has identified that the second access is highly desired by the community and would provide social benefits.

Future rural residential use on the land will make a small increase in demand for the public services and facilities, however, the second access will also improve efficiency and access to public services. Future development of the land will contribute to public facilities through Section 94.

5.9 Servicing

The subject sites are currently only provided with rural services in the form of electrical and telecommunication services. The services would need to be upgraded and augmented to service development on the land.

Mains sewerage is not available to the site and future development would rely on on-site treatment and disposal of sewage.

Reticulated water supply is not currently provided to the land. Preliminary discussions with MidCoast Water are that reticulated supply may be made available for the land, which would enable another link to the Hallidays Point water supply network which would assist in providing security of supply for the Hallidays urban area.

6. JUSTIFICATION FOR REZONING

6.1 Consistency with State, Regional and Local Planning

The proposed development is considered to be consistent with the planning policies that affect the land and the region. In particular, the following is noted:

- The proposal is generally consistent with the Section 117 Directions applying to a planning proposal of this sort. The lands are identified in the local development strategies prepared for the area, as well as consistent with the regional strategy applying to the area. The Section 117 directions would require certain investigation to inform the final planning proposal, including investigations to determine environmental clauses for conservation zonings, Aboriginal heritage investigations, and bushfire assessments.
- Previous investigations have identified that vegetation over parts of Lots 4 and 22 comprise 'potential koala habitat' but not 'core koala habitat'. Further investigations of koala habitat area may be appropriate to inform the planning proposal, especially in relation to Lot 5.
- The previous use of the site does not identify any significant areas of potential contamination. A preliminary investigation under SEPP 55 should be undertaken to inform the planning proposal.
- Rural residential development in this area is consistent with the Rural Residential Principles and Actions contained within the Mid North Coast Regional Strategy.
- The land is identified as Category 1 rural residential area within the Hallidays Point Development Strategy 2000 and the Rural Residential Release Strategy and Release Program 2002 which were both adopted by Council and endorsed by the planning department.
- The 2006 Strategy review by Council maintains the Category 1 status of the land. The strategy review also identifies habitat retention areas and corridors which should be conserved. These areas can be conserved within development of the land.
- The Local Environmental Study for Lots 4 and 22 found that the land could support rural residential development and that environmental constraints could be managed in development of the land.

6.2 Environmental Opportunities and Constraints

An analysis of available information available for the land has found the following:

- The proposal will provide for a safe effective secondary access to The Lakes
 Way for the Hallidays Point area with material public benefits for the community.
- The subject lands are highly disturbed and do not contain national, state or regionally significant environmental features, such as wetlands rainforests or reserves.
- Environmental constraints over the land can be effectively managed in development of the land, including bushfire, ecological values, wildlife corridors etc.
- Following the issue of a gateway determination, further investigation would be undertaken to determine environmental values over the land which need to be conserves/managed.
- Future development of the land will require approvals from the NSW Rural Fire Service and NSW Office of Water. This agency will need to be consulted through the draft LEP process along with other relevant agencies.

6.3 Environmental Suitability (ESD)

Only those parts of the land that do not contain any significant environmental constraints would be utilised for future development. Parts of the site which contain important ecological values would be conserved through an appropriate zoning. The following points are noted in regard to ESD principles:

- The proposal does not involve any threats of serious or irreversible environmental damage.
- The proposal provides for intergeneration equity through providing future development areas on suitable land, limiting resource use to provide housing, while maintaining the health, diversity and productivity of the environment.
- The proposal will include conservation and management of ecological corridors to provide for biological diversity and ecological integrity.
- The proposal provides for improved transport links within the area improving transport efficiency for future and existing development in the Hallidays Point area.

6.4 Need for Additional Investigation

The need for an additional specialist investigation is an issue which will be considered by Council and the LEP Panel. This report has identified that the following additional investigations would be necessary to inform a planning proposal on the land:

- 6.4.1 Bushfire assessment to determine the implications for development to meet the guidelines within *Planning for Bushfire Protection 2006*.
- 6.4.2 Aboriginal heritage investigations to supplement the previous investigations to meet the requirements of the Section 117 Direction.
- 6.4.3 Preliminary contamination investigations as required by SEPP 55.
- 6.4.4 Ecological investigations to identify areas that should be conserved in Environmental Conservation/Management Zones. (This would only involve updating of previous investigations for Lots 4 and 22).

7. CONCLUSION

The land has been identified in the Hallidays Point Development Strategy as Category 1 Rural residential land, and this report has been prepared to support a rezoning application to seek Council's resolution to prepare a planning proposal to rezone the land for rural residential purposes.

The proposal will assist in delivering a safe functional second access to The Lakes Way for the Hallidays Point village areas. This outcome delivers material public benefits for the area and improves transport efficiency in the area.

The site is primarily disturbed from previous activities on the land and has large cleared areas suitable for rural residential occupation.

The use of the land for rural residential purposes is consistent with the outcomes envisaged by the regional and local planning strategies that apply to the area.

A draft Planning Proposal has been submitted to Greater Taree City Council and seeks a Gateway determination.

Following a Gateway determination, further investigations will be undertaken to refine the Planning proposal and determine which areas are suitable for rural residential use and areas which should be environmental conserved/managed.

Appendix A – Preliminary Sketch of Future Zonings

