

Planning Team Report

Proposal Title :	Greater Taree LEP 2010 Amen	dment - Tallwood Drive and	Old Soldiers Road Rainbow Flat				
Proposal Summary :	The proposal seeks to:						
	* rezone approximately 107 hectares of land currently zoned RU1 Primary Production to part						
	R5 Large Lot Residential and other parts to E2 Environmental Conservation or E3						
	Environmental Management in a manner consistent with Council's Hallidays Point						
	Development Strategy and protecting ecological corridors and habitat areas. Final zone boundaries are proposed to be determined through further investigation and studies following Gateway Determination; * facilitate the provision of a safe and effective secondary access road for the Hallidays Point Villages; * identify important ecological values of the land and provide protective zoning to areas that are important as corridors and habitat areas;. * amend the associated Land Zoning, Lot Size, Height of Buildings Maps; The planning proposal is also to be progressed in conjunction with two voluntary planning agreements (VPAs) one with the Minister for the Environment and the other with Council to provide for:						
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DoP Planning Officer Contact Details

Contact Name :	Brian Murphy
Contact Number :	0249042712
Contact Email :	brian.murphy@planning.nsw.gov.au

RPA Contact Details

Contact Name :	Richard Pamplin
Contact Number :	0265925266
Contact Email :	richard.pamplin@gtcc.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre :	Other	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Mid North Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	107.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	71
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 No meetings or communications with registered lobbyists? :

If Yes, comment

Supporting notes

Internal Supporting Notes :	The subject land adjoins land to the east zoned R5 Large Lot Residential 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.
	The site is not identified within the Mid North Coast Regional Strategy nor is it within an endorsed Strategy. However it has the potential to facilitate the enhanced protection and management of an ecologically sensitive conservation reserve and improve road safety and access for residents, visitors and emergency services to the Hallidays Point coastal villages.

The proposal is therefore considered to be in accordance with broader Government policy

and appropriate for the General Manager Hunter and Central Coast to exercise his Gateway delegations.

Given the proposal is also tied to the requirement for above mentioned VPAs to be finalised prior to zoning, it is considered that delegation to Council is not appropriate.

External Supporting Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment

The statement of objectives adequately explains the intent of the planning proposal to rezone land to facilitate rural-residential development, environmental protection and the realignment of Old Soldiers Road.

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

Is an explanation of provisions provided? Yes

Comment :

The proposal seeks to amend Greater Taree LEP 2010 through changes to the Land Zoning Map, the Lot Size Map and the Height of Buildings Map.

The proposal does not clearly outline the provisions by which the objectives will be achieved due to the preliminary nature of the proposal. In particular zoning and minimum lot size are considered indicative only. It is considered likely that the preferred environmental zoning will be E2 Environmental Conservation given this zoning of similar lands in the area. The proposed addition to the National Park will need to be zoned E1 National Parks and Nature Reserves.

The explanation of provisions is adequate for a Gateway determination but requires further investigation and consideration by Council and relevant agencies prior to public consultation.

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
 1.5 Rural Lands
 2.1 Environment Protection Zones

- 2.3 Heritage Conservation
- 4.1 Acid Sulfate Soils
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies

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 44—Koala Habitat Protection SEPP No 55—Remediation of Land SEPP (Rural Lands) 2008

e) List any other matters that need to be considered : Additional studies/ investigations and Agency consultations need to be undertaken and necessary amendments made to the planning proposal prior to the public exhibition. This will assist to determine consistency or otherwise with relevant s117 directions and SEPPs. The necessary studies / investigations and Agency consultations include:

- Ecological assessment;
- Cultural Heritage assessment;
- Preliminary contamination assessment SEPP 55;

	10 Amendment - Tallwood Drive and Old Soldiers Road Rainbow Flat
	- Bushfire hazard assessment; - Utility Services Assessment (water /sewer, electricity and telecommunications); and - Consultations with RFS, OEH and DPI.
	It is anticipated, having regard to the information already provided, that any issues that may arise through this process can be addressed through an appropriate zoning response, the preparation of associated VPAs and /or through a subsequent DA process.
	Providing a Gateway determination ahead of the preparation of the studies and investigations will give Council, the landowner and OEH the confidence to invest further resources, time and energy into the proposal and the preparation of the associated VPAs.
Have inconsistencies	with items a), b) and d) being adequately justified? No
If No, explain :	Following Gateway determination additional studies / investigations and consultations with relevant Government departments and agencies will be undertaken and the planning proposal amended as necessary, prior to it being placed on public exhibition. Following these actions consistency with relevant Strategies, s117 Directions and SEPPs can be determined.
Mapping Provided	- s55(2)(d)
Is mapping provided?	No
Comment :	A preliminary sketch map of indicative future zoning is all that is provided at this stage and is not adequate for public consultation. Following Gateway determination and the undertaking of relevant studies / investigations and agency consultations, exact zone boundaries will be determined. Land Zoning, Lot Size and Height of Buildings Maps will need to be prepared, consistent with the Department's mapping standards and requirements for LEPs, prior to public exhibition.
Community consu	ltation - s55(2)(e)
Has community cons	ultation been proposed? Yes
Comment :	Council proposes a 28 day exhibition period, consistent with Council's own community consultation requirements. Given the size of the site involved and the community and environmental outcomes associated with the proposal, a 28 day exhibition period is supported.
Additional Directo	r General's requirements
Are there any additio	nal Director General's requirements? No
If Yes, reasons :	
Overall adequacy	of the proposal
	eet the adequacy criteria? Yes
If No, comment :	The proposal represents sufficient information to consider issuing a Gateway determination however additional work is required to determine the appropriate zones and their location as well as the development controls for the site. The proposal is adequate subject to the the necessary studies and investigations and Agency consultations being undertaken and the planning proposal being updated prior to public exhibition

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP :

Greater Taree LEP 2010 was made in June 2010.

Assessment Criteria

Need for planning proposal :

The proposal has a long history and will facilitate the realignment and provision of a secondary access road to Hallidays Point coastal villages from Tuncurry Road and the Pacific Highway. The realignment of Old Soldiers Road through the subject land will replace an existing and dangerous informal road through the adjoining Khappinghat Nature Reserve.

There is not a current shortage of rural residential land in the Taree LGA but support for this proposal proceeding will result in identifiable community and environmental benefits.

It is considered that the preparation of a planning proposal and proposed rezoning of the site and the preparation of the associated VPAs is the best means of facilitating the intended outcomes.

Consistency with strategic planning framework :

Mid North Coast Regional Strategy

The Mid North Coast Regional Strategy (MNCRS) states that no new 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). The subject land is contained within the Coastal Area mapped in the (MNCRS).

Council is yet to finalise its local growth management strategy but advises that the land is identified for rural residential purposes in the Hallidays Point Development Strategy 2000 and the Greater Taree Rural Residential and Release Strategy 2000. Portions of the land is also identified as 'environmentally significant within the Hallidays Point Development Strategy 2000. Both these strategies were previously considered by the Department's North Coast Regional Office of the then Department of Urban Affairs and Planning but not formally endorsed by the then Director General. However further work is required to effectively and strategically address conservation matters.

The proposal will facilitate the enhanced protection and management of an ecologically sensitive conservation reserve and improve road safety and access for residents, visitors and emergency services to the Hallidays Point coastal villages.

Although inconsistent with the Regional Strategy it is considered that the proposal has the potential to achieve the overall intent of the Regional Strategy. Further consideration of this matter should occur following investigation and consultation.

Local Strategies

Council is yet to finalise its Local Growth Management Strategy However, the land is identified for potential rural residential purposes in Council's Hallidays Point Development Strategy 2000 and the Greater Taree Rural Residential Strategy 2000.

Council has a number of existing local strategies which are focused on land release but are not integrated in any way and do not effectively address conservation matters. Planning reform funding has been made available to Council to prepare an integrated whole of LGA strategy but this work was put on hold pending the finalisation of the recently released MNCRS 2009 and the finalisation of LEP 2010. Council has been advised of the need to finalise its local growth management strategy as matter of priority.

Ideally this planning proposal would follow the completion of this strategic work. But given the above circumstances, and the site's history, it is considered that this planning proposal should progress now. However, given the amount of land currently zoned, or in the system to be rezoned, it is recommended that the Department not support any further land release amendments in the Taree LGA until the Council finalises its local growth management strategy.

The Department has previously supported the preparation of major release area rezonings, as identified in the MNCRS, for Precinct 2B and 3 Old Bar, Brimbin new town and Figtrees Waterfront Precinct Taree. These rezonings will provide zoned land for more than 10,000 dwellings. This is in addition to the current vacant zoned land which can provide for approximately 3800 lots. Council's draft GMS estimates a population growth of 25% between 2005 and 2025 (from approximately 45,000 to 56,250). This will result in a demand for 4,464 dwellings (223 per year). Based on these figures there will be more than an adequate supply of zoned land to accommodate the projected and potential increased migration driven demand.

Ministerial Section 117 Directions

* 1.2 Rural Zones

Under clause 4 a planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.

Council advises that the land currently supports low intensity agricultural uses, including cattle and horse grazing but is not highly productive. One lot is currently used as a thoroughbred horse stud and another was previously used for dairying.

The land was identified for rural residential purposes in the Hallidays Point Development Strategy 2000 and the Greater Taree Rural Residential and Release Strategy 2000.

Given the size of the parcel of land (107 Ha) involved, the time lapsed since the preparation of these local strategies and them having been superseded by the Mid North Coast Regional Strategy 2009, council should consult with the Department of Primary Industries (DPI). Once a reply is received from the DPI consistency with clause 5 of this direction can be determined.

* 1.5 Rural Lands

Under clause 4 a proposal must be consistent with the Rural Planning Principles and Rural Subdivision Principles listed in SEPP (Rural Lands) 2008. As above consistency with clause 6 of this direction can be determined once a reply is received from DPI.

* 2.1 Environmental Protection Zones

Under clause 4 a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. Review of existing environmental information suggests that parts of the site will warrant environmental zoning. It is considered likely that the preferred environmental zoning will be E2 Environmental Conservation given this zoning of similar lands in the area. The proposed addition to the National Park will need to be zoned E1 National Parks and Nature Reserves. Council proposes that an ecological assessment be undertaken following Gateway determination. Consistency with this s117 direction can be determined when the ecological assessment is completed.

* 2.3 Heritage Conservation

Under clause 4 a planning proposal must contain provisions that facilitate, in summary, the conservation of European heritage identified in a heritage study of the area and Aboriginal heritage protected under the National Parks and Wildlife Act 1974 or identified by an Aboriginal heritage survey.

Council advises that the subject land does not contain any listed heritage items. An Aboriginal Heritage Management search did not identify any Aboriginal sites or places on the land or surrounding land. An Aboriginal heritage survey was previously undertaken for Lots 4 and 22 as part of a previous Local Environmental Study. It is intended to undertake any necessary further investigations to supplement previous reports, following Gateway determination. Consistency with this s117 direction can be determined when supplementary investigations have been undertaken.

* 4.1 Acid Sulphate Soils

Under cl.5 of this s.117 Direction, a planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils (ASS) on the ASS maps unless the planning authority has considered an ASS study assessing appropriateness of the change of use given the presence of ASS.

Council advises that a small area of Lot 5 is identified as Class 5 on the Planning maps which do not have a likelihood of containing Acid Sulphate Soils but are located within 500 metres of lands with a probability of containing Acid Sulphate Soils. These lands can be managed as part of any future development process using provisions within Clause 7.1 Acid Sulphate Soils of Greater Taree LEP 2010. The proposal is therefore considered to be consistent with this direction.

* 4.4 Planning for Bushfire Protection

Under cl.3 of the s.117 Direction, this Direction applies if the planning proposal will affect, or is in proximity to land mapped as bushfire prone land.

Consistent with the cl.7 requirements of this Direction Council intends to have a bushfire assessment of the proposal undertaken and to consult the NSW Rural Fire Service (RFS), following receipt of the Gateway Determination. Once a reply is received from the RFS consistency with this Direction can be determined.

* 5.1 Implementation of Regional Strategies

The proposal is technically inconsistent with s117 direction 5.1 Implementation of Regional Strategies.

The Mid North Coast Regional Strategy (MNCRS) states that no new 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). The subject land is contained within the Coastal Area mapped in the (MNCRS).

Council is yet to finalise its local growth management strategy but advises that the land is identified for rural residential purposes in the Hallidays Point Development Strategy 2000 and the Greater Taree Rural Residential and Release Strategy 2000. Portions of the land is also identified as 'environmentally significant within the Hallidays Point Development Strategy 2000. Both these strategies were previously considered by the Department's North Coast Regional Office of the then Department of Urban Affairs and Planning but not formally endorsed by the then Director General. However further work is required to effectively and strategically address conservation matters.

The proposal has the potential to facilitate the enhanced protection and management of an ecologically sensitive conservation reserve and improve road safety and access for residents, visitors and emergency services to the Halliday's Point coastal villages.

The planning proposal has the potential to achieve the overall intent of the Regional Strategy and not undermine the achievement of the Strategy's vision, land use strategy, policies, outcomes or actions. Further consideration of this matter should occur following investigation and consultation.

State Environmental Planning Policies (SEPPs)

* SEPP 44 Koala Habitat Protection

The site is situated within the Greater Taree LGA which is listed in Schedule 1 of the SEPP. Council advises that 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.

Following gateway determination it is intended to undertake additional investigation to determine if core koala habitat exists. Appropriate zoning will be created over such areas to protect, and where necessary, enhance important koala habitat. Council should also confirm if a Koala plan of management for the species is required following the completion of these investigations and prior to any development being approved.

* SEPP 55 Remediation of Land

The planning proposal states that the land has been used for low intensity agricultural uses, cattle grazing and that there have been no identified contamination issues at this stage. Nevertheless, given the proposed residential land uses, Council intends to require the preparation of a preliminary site contamination report, consistent with the provisions of SEPP 55 and for the report findings to be consider prior to rezoning.

* SEPP (Rural Lands) 2008

The SEPP aims to facilitate the orderly and economic use and development of rural lands for rural and related purposes. Council has assessed the proposal against the Rural Planning Principles contained within the SEPP. Council concludes that the proposal is consistent with the SEPP because the land is not highly productive agricultural land and

	has been identified in development strategies for the area and facilitates an important access link and environmental conservation outcomes.
	As noted above, given size of the parcel of land (107 Ha) involved, the time lapsed since the preparation of these local strategies and them having been superseded by the Mid
	North Coast Regional Strategy 2009, council should consult with the Department of Primary Industries (DPI). Once a reply is received from the DPI consistency with this SEPP can be determined.
Environmental social economic impacts :	Environmental Impact
	The proposal, together with the VPA's, will bring positive environmental conservation and management benefits with the current informal track through the Khappinghat Nature
	Reserve being closed, the new proposed road being routed around the Nature Reserve and a small portion of environmentally sensitive land being dedicated for addition to the Reserve;
	Social and Economic Impact
	The proposal, together with the VPA's, will potentially result in:
	- the realignment of Old Soldiers Road creating a safe an efficient second access from the Hallidays Point urban areas to Tuncurry Road and the Pacific Highway;
	- a new corridor for secondary linking of services, such as water and electricity to the
	Hallidays Point / Diamond Beach urban areas. Council advises that both Mid Coast Water and Essential Energy have expressed a desire to connect a secondary main through this corridor; and
	- the provision of additional large lot residential opportunities and associated flow on economic benefits from construction and population growth in the immediate locality of Diamond Beach / Hallidays Point.
	On balance it is therefore considered that the Proposal, together with the VPA's, will resul in a net community benefit.

Proposal type : Routine Community Consultation 28 Days Period : Delegation : 18 months Timeframe to make LEP : Public Authority **Essential Energy** Consultation - 56(2) Office of Environment and Heritage (d) : **NSW** Department of Primary Industries - Agriculture Office of Environment and Heritage - NSW National Parks and Wildlife Service **NSW Rural Fire Service** Telstra Other 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. Flora Fauna

Assessment Process

Heritage Bushfire

Other - provide details below If Other, provide reasons :

- Utility services assessment - water/ sewerage, electricity and telecommunications

- Concept design for the realignment of Old Soldiers Road.

Council proposes these additional assessments and concept design work to help confirm the technical and economic feasibility of the overall proposal.

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	ls Public
2015-02-26 Cncl advice confirming Blue Print Planning Consultants acting on its behalf.pdf	Proposal Covering Letter	Yes
Blueprint Planning Request for Gateway Determination - Tallwood Drive and Old Soldiers Road Rainbow Flat .pdf	Proposal Covering Letter	Yes
Planning Proposal Tallwood Old Soldiers Rds Rainbow Flat.pdf	Proposal	Yes
Report to Council 15 October 2014.pdf	Proposal	Yes
Council Minutes 15 October 2014.pdf	Proposal	Yes
Planning Report CoastPlan.pdf	Proposal	Yes
OEH in principle support road realignment.pdf	Proposal	No
Owner agreement to road alignment.pdf	Proposal	No

Planning Team Recommendation

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

S.117 directions:	 1.2 Rural Zones 1.5 Rural Lands 2.1 Environment Protection Zones 2.3 Heritage Conservation 4.1 Acid Sulfate Soils 4.4 Planning for Bushfire Protection 5.1 Implementation of Regional Strategies
Additional Information :	 The Planning Proposal should proceed subject to the following conditions: 1. The following studies /investigations are to be undertaken prior to exhibition: Ecological assessment, including an assessment of potential Koala habitat and the need for a Koala plan of management to be prepared, prior to any development being approved; Cultural Heritage assessment; Preliminary contamination assessment; Bushfire hazard assessment; Utility Services Assessment (water /sewer, electricity and telecommunications) and Concept design for the realignment of Old Soldiers Road. (Note: Council proposes to undertake the utility services assessment and concept design work to help confirm the technical and economic feasibility of the overall proposal). 2. The Planning Proposal should be amended prior to exhibition to incorporate:
	* the recommendations of the required additional studies / investigations

* the recommendations of relevant government agencies and to update consideration of relevant s117 directions - 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environmental Protection Lands, 2.3 Heritage Conservation, 4.4 Planning for Bushfire Protection and SEPP 44 Koala Habitat Protection and SEPP 55 Remediation of Land; and

* draft LEP Land Zoning, Lot Size and Height of Buildings maps consistent with the Department's mapping requirements for LEPs.

3. Copies of the amended Planning Proposal should be provided to the Department and OEH for information and comment prior to exhibition.

4. Community consultation is required under section 56(2)(c) and 57 of the Environmental Planning & Assessment Act 1979 ('EP&A' Act) as follows:

(a) the Planning Proposal be made publicly available for a minimum 28 days, as requested by Council. A 28 day exhibition is supported because the local significance of the proposal.

(b) the relevant authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be publicly available along with planning proposals as identified in section 5.5.2 of A guide to preparing LEPs (Department of Planning & Infrastructure 2013).

5. 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:

* Office of Environment and Heritage regarding the zone boundaries for environmental protection lands and the associated VPA.

* Office of Environment and Heritage regarding the assessment of Aboriginal Heritage.

* Rural Fire Service of NSW regarding s117 direction 4.4 Planning for Bushfire Protection.

* DPI regarding s117 directions 1.2 Rural Zones, 1.5 Rural Lands and SEPP (Rural Lands) 2008.

* Mid Coast Water, Essential Energy and Telstra regarding Utility Services Assessment.

Each public authority is to be provided with a copy of the Planning Proposal and any relevant supporting material, and given at least 21 days to comment on the proposal. Once the consultation is undertaken with the public authorities, and information is provided, Council is to update its consideration of relevant s117 Directions and SEPPs.

6. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A 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).

7. The Planning Proposal is not to be finalised until the voluntary planning agreement regarding the dedication of land to National Park is resolved to the satisfaction of Office of Environment and Heritage.

8. The time-frame for completing the LEP is to be 18 months following Gateway Determination. A 18 month time-frame is recommended because of the need to undertake the identified studies / investigations and resolve and exhibit planning agreements between:

* Council, the proponents and the Office of Environment and Heritage (OEH), for the dedication of ecological conservation lands.

* Council and the proponents for the delivery of required local road infrastructure.

Plan making delegation:

The Minister delegated his plan making powers to councils in October 2012. Council has accepted this delegation. However, Council should not be issued with plan making delegation in this instance due to the need for additional studies / investigations to be undertaken and for the proposal to be amended and LEP maps prepared, prior to exhibition.

Supporting Reasons	Supporting the proposal, to enable large lot residential subdivision, will facilitate the provision of a safe and effective secondary access road for the Hallidays Point Villages and will protect and enhance the management of environmentally sensitive land.			
	Providing a Gateway determination ahead of the preparation of the identified studies and investigations will give Council, the landowner and OEH the confidence to invest further resources, time and energy into the proposal and the preparation of the associated VPAs.			
	Overall it is considered that there is a clear net community benefit in the planning proposal proceeding at this time, irrespective of there being a more than sufficien of zoned residential land in the Greater Taree LGA.			
Signature:	Karlos			
Printed Name:	KOFlahatty. Date: 17/3/15.	-		
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