

## Rezoning Review Briefing Report – PP-2022-1144

*Rezone North Diamond Beach from C2 Environmental Conservation and SP3 Tourist to R1 General Residential and R3 Medium Density Residential*

Element	Description
Date of request	11 July 2022
Department ref. no	RR-2022-15
LGA	MidCoast
LEP to be amended	Greater Taree Local Environmental Plan 2010
Address	<ul style="list-style-type: none"><li>• Lot 17 DP 576415, 391 Diamond Beach Road, Diamond Beach;</li><li>• Lots 1, 2 and 3 DP 271277, 363 Diamond Beach Road, Diamond Beach;</li><li>• Lot 2 DP 856418, 361 Diamond Beach Road, Diamond Beach;</li><li>• Lot 320 DP 1242093, 355 Diamond Beach Road, Diamond Beach;</li><li>• Lots within Community Title Subdivision DP 286523;</li><li>• Lots within Community Title Subdivision DP 286110;</li><li>• Lots within Community Title Subdivision DP 286697; and</li><li>• Lots within Community Title Subdivision DP 270544.</li></ul>
Reason for review	<div><input type="checkbox"/> Council notified the proponent it will not support the proposed amendment</div> <div><input checked="" type="checkbox"/> Council failed to indicate support for the proposal within 90/115 days, or failed to submit the proposal after indicating its support</div>
Has council nominated PPA role	Yes

Element	Description
<b>Brief overview of the timeframe/progress of the planning proposal</b>	<p><b>11 August 2021:</b> Pre-lodgement meeting with proponent and Council staff.</p> <p><b>31 March 2022:</b> Planning proposal was submitted to Council for review.</p> <p><b>May 2022:</b> Council considered proposal and prepared a planning proposal to report to Council. Amendments were made to the proposal (<b>Attachment B</b>).</p> <p><b>29 June 2022:</b> Council resolved to defer the matter for two months pending further consultation with community and councillors (<b>Attachment C</b>).</p> <p><b>11 July 2022:</b> The proponent requested a rezoning review through the portal (<b>Attachment A</b>).</p> <p><b>28 July 2022:</b> Payment was received from proponent.</p> <p><b>23 August 2022:</b> Council held community information session to address community concerns.</p> <p><b>7 September 2022:</b> Council resolved to request to remain the Principal Planning Authority for the Planning Proposal, should it proceed to a Gateway Determination (<b>Attachment D</b>).</p>
<b>Department contact:</b>	Amy Pryor Planning Officer 02 9274 6367

## Planning Proposal

Table 1. Overview of planning proposal

Element	Description
<b>Site Area</b>	Approximately 25ha
<b>Site Description</b>	<p>The site extends across multiple properties within the North Diamond Beach Area. The site is bordered by Diamond Beach Road to the south and Khappinghat National Park to the north. The Diamond Beach coastline runs parallel to the east with rural lands (RU1 zone) to the west.</p> <p>Towards the northern boundary of the site there is an operating cabin/unit style resort. Through the middle of the site there is a private residence as well as a timeshare unit style resort with approximately 700 owners.</p> <p>In addition to these existing developments there are a further five approved subdivisions and two future development proposals across the site.</p>

Element	Description
<b>Proposal summary</b>	<p>The objective of the planning proposal is to rezone areas of the site from Tourist (SP3) to a mixture of General Residential (R1) and Medium Density Residential (R3).</p> <p>The current SP3 Tourism zone has been in place for some time but has not been effective in delivering tourist accommodation. Council's housing strategy and Urban Release Area (URA) report identify the need for rezoning and propose the site be converted to R3 Medium Density Residential zoning.</p> <p>Council reviewed the activities already occurring on site and decided that split zoning the site R1 General Residential and R3 Medium Density Residential would be more appropriate.</p> <p>The application of the R3 General Residential zone has generated community interest due to concerns about increased density and adverse impacts on local character.</p> <p>Council deferred its decision on whether to submit the planning proposal to the Gateway so further engagement with the community could occur.</p>
<b>Relevant State and Local Planning Policies, Instruments</b>	<ul style="list-style-type: none"> <li>• Hunter Regional Plan 2036</li> <li>• Draft Hunter Regional Plan 2041</li> <li>• Mid North Coast Regional Strategy</li> <li>• MidCoast Council Housing Strategy</li> <li>• MidCoast Urban Release Area Report 2021</li> <li>• Mid-Coast Local Strategic Planning Statement</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• State Environmental Planning Policy (Housing) 2021</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• The following 9.1 Ministerial Directions apply <ul style="list-style-type: none"> <li>○ 1.1 Implementation of Regional Plans</li> <li>○ 3.1 Conservation Zones</li> <li>○ 5.1 Integrating Land Use and Transport</li> <li>○ 6.1 Residential Zones</li> <li>○ 6.2 Caravan Parks and Manufactured Home Estates</li> </ul> </li> <li>• The following apply but are inconsistent <ul style="list-style-type: none"> <li>○ 3.2 Heritage Conservation</li> <li>○ 4.2 Coastal Management</li> <li>○ 4.3 Planning for Bushfire Protection</li> <li>○ 4.5 Acid Sulfate Soils</li> </ul> </li> </ul>





**Figure 1. Subject site** (source: MidCoast Council Planning proposal, March 2022)

The planning proposal seeks to amend the Greater Taree LEP 2010 per the changes below.

**Table 2. Current and proposed controls**

Control	Current	Proposed
Zone	C2 Environmental Conservation SP3 Tourist	C2 Environmental Conservation R1 General Residential R3 Medium Density Residential

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Control	Current	Proposed
Maximum height of the building	8.5m 11.5m	8.5m 12m
Minimum lot size	40ha 10,000m <sup>2</sup>	40ha 450m <sup>2</sup> 1000m <sup>2</sup>
Floor space ratio	0.6:1	Removal of FSR
Additional Permitted Use	Area 2 Area 4 Area 5	Removal of APU from site

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

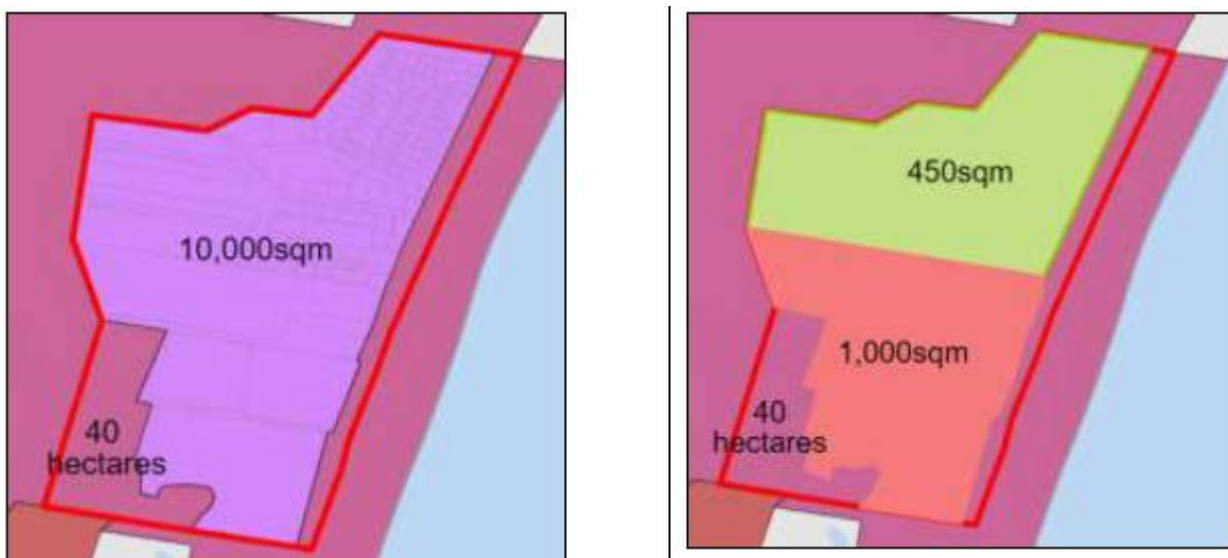


**Figure 2 – Current zoning map – Proposed zoning map** (source: MidCoast Council Planning proposal, May 2022)





**Figure 3 – Current height of buildings map – Proposed height of buildings map** (source: MidCoast Council Planning Proposal, May 2022)



**Figure 4 – Current lot size map – Proposed lot size map** (source: MidCoast Council Planning Proposal, May 2022)



**Figure 5 – Current floor space ratio map – Proposed floor space ratio map** (source: *MidCoast Council Planning Proposal, May 2022*)



**Figure 6 – Current APU sites – Proposed APU map with removal of existing areas** (source: *MidCoast Council Planning Proposal, May 2022*)

## Key Issues

### Proposed land use zone

The site is identified in the MidCoast Council Housing Strategy and the Urban Release Area Report (**Attachment F**). Both documents propose the site is suitable for R3 Medium Density Residential development.

### Council view

- Additional investigations by Council have resulted in a recommendation of a R1 General Residential and R3 Medium Density Residential split zoning.
- R1 General Residential zone is proposed to be applied to areas where development has already been constructed or where subdivision has occurred or commenced.
- The R3 Medium Density Residential zone is proposed in areas where subdivision is not yet approved or finalised, providing an opportunity to achieve higher densities, consistent with the current built form (tourist accommodation). The R3 zone would prohibit dwellings (unless integrated) and dual occupancies.

### Proponent view

- The proponent has worked with Council for over four years to develop the land.
- The proponent lodged a planning proposal which proposed only R3 Medium Residential zoning aligning with the Housing Strategy.
- The planning proposal was amended by Council to propose rezoning from SP3 Tourist to a combination of R1 General Residential and R3 Medium Density zones.
- Following lodgement of the rezoning review application, the proponent submitted a letter to the Department requesting the R1 General Residential zone be applied (**Attachment G**). This change was a response to community objection about increased density and adverse impacts on the local character of the town.

### Other issues:

- The Department of Primary Industries – Fisheries has provided advice on the planning proposal after receiving complaints from the community (**Attachment I**). The main issues raised by DPI Fisheries is concern that a large portion of the property is mapped as 'Key Fish Habitat'. DPI Fisheries have requested they be consulted on the planning proposal and that a detailed aquatic ecology assessment accompany the rezoning application if it is to proceed to Gateway.
- Correspondence has also been received from the community raised concerns about medium density residential and adverse impacts on local character. A member of the local Indigenous community raised concerns about the validity of past archaeological studies on the site and requested new surveys be undertaken as part of the rezoning process (**Attachment J**).
- The planning proposal is bound by the *State Environmental Planning Policy (Resilience and Hazards) 2021*. Most of the site is mapped as a Coastal Use Area, with the eastern portion also mapped as a Coastal Environment Area. The northern extent of the site is mapped as Proximity Area for Coastal Wetlands.
- Council notified the Department that the planning proposal sent out with the acknowledgment letters was not the version presented to Council (**Attachment H**). This is due to the wrong file being uploaded to the portal. This has now been corrected and the



planning proposal that was presented to Council is now the version being reviewed by the panel.

## Attachments:

**Attachment A** – Rezoning Review Application

**Attachment B** – Planning Proposal

**Attachment C** – 29 June 2022 – Council Meeting Minutes

**Attachment D** – 7 September 2022 – Council Meeting Minutes

**Attachment E** – Proponents planning proposal

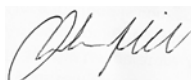
**Attachment F** – Council Strategic planning documents

**Attachment G** – Letter from proponent

**Attachment H** – Correspondence from Council

**Attachment I** – Correspondence from Department of Primary Industries (Fisheries)

**Attachment J** – Correspondence from local Indigenous community member



(Signature)

14/11/2022

Andrew Hill

A/Manager, Central Coast and Hunter Region



(Signature)

15/11/2022

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## Assessment officer

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