



REZONING REVIEW

RECORD OF DECISION

STRATEGIC PLANNING PANEL of the
HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DECISION	14 December 2022
PANEL MEMBERS	Alison McCabe (Chair), Yvonne Weldon and Stephen O'Connor
APOLOGIES	None
DECLARATIONS OF INTEREST	<p>Alan Tickle declared a conflict of interest as he participated on debate when this planning proposal was presented to MidCoast Council. Cr Tickle also notes that he has participated in housing strategy consultation for Hallidays Point, an area which includes Diamond Beach.</p> <p>David West declared a conflict of interest as he participated on debate when this planning proposal was presented to MidCoast Council.</p> <p>Kathryn Bell declared a conflict of interest as she voted on the matter when it was reported to MidCoast Council.</p>

REZONING REVIEW

PP-2022-1144 – MidCoast– RR-2022-15 - AT 355, 361, 363 and 391 Diamond Beach Road, Diamond Beach
(AS DESCRIBED IN SCHEDULE 1)

Reason for Review:

- ☐ The Council has notified the proponent that the request to prepare a planning proposal has not been supported
- ☒ The Council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal or took too long to submit the proposal after indicating its support

PANEL CONSIDERATION AND DECISION

The Panel considered: the material listed at item 4 in Schedule 1 and the matters raised and/or observed at meetings and site inspections listed at item 5 in Schedule 1.

Based on this review, the Panel determined that the proposed instrument:

- ☐ **should** be submitted for a Gateway determination because the proposal has demonstrated strategic and site specific merit
- ☒ **should not** be submitted for a Gateway determination because the proposal has
 - ☐ not demonstrated strategic merit
 - ☒ has demonstrated strategic merit but not site specific merit

The decision was unanimous.

REASONS FOR THE DECISION

1. Overview

The Planning Proposal applies to a parcel of land that is currently zoned SP3 Tourist and C2 Environmental Conservation.

The proponent to the Planning Proposal has a specific interest in only one parcel of land within the Planning Proposal area, with the balance comprising multiple land owners.

The key purpose of the Planning Proposal is to change the planning framework to allow a range of residential land uses to support a permanent population.

This Planning Proposal is planning for an extension of the existing Diamond Beach suburb. The current zoning provides for tourist related uses and only allows for 30% of that population to be used for permanent residential accommodation.

The area, the subject of the Planning Proposal, has not been strategically planned for the purpose of tourist type uses. It would appear that the current approvals and uses have arisen from a piecemeal consideration of different proposals over a period of time.

What is clear is that both the existing development and current approvals are essentially self-contained entities with little integration. They are for the majority held as community title subdivisions and were approved as tourist type facilities.

The proposed zoning is for R1 General Residential, R3 Medium Density Residential, and C2 Environmental Conservation zones – the C2 Environmental Conservation zone remains the same – there is no change to this zone. The proposal also seeks to remove existing FSR controls and additional use controls and apply minimum lot controls and height controls.

The Strategic Merit Test and Site Specific Considerations are outlined in Planning Circular PS 22-003 dated 26 January 2022.

2. Strategic Merit

The broader site is on the northern edge of Diamond Beach and is a logical extension of the settlement.

Council has identified the area in the MidCoast Housing Strategy (2020) as an area with potential to be rezoned to R3 Medium Density Residential. The MidCoast Urban Release Areas Report (2021) has also identified the area as Diamond Beach Growth Area – an area to provide medium density housing.

The recently released Hunter Regional Plan 2041 (Regional Plan) identifies the area as “*housing investigation land*” at Figure 10. Objective 5 of the Regional Plan reads as follows – “*Plan for ‘nimble neighbourhood’, diverse housing and sequenced development*”. This objective contains eight (8) strategies that are to be complied with. In the event that the strategies cannot be met there are seven (7) performance outcomes that a Planning Proposal must demonstrate can be achieved.

Council and the applicant have identified the area as not meeting the intent and purpose of the existing zone and have identified it as an area for a new community. However, it appears that the assumption has been made that nothing much will change other than on sites that have no approvals. This appears to be an erroneous assumption.

The proposed change in planning framework will allow a permanent population – a new community or an extension to the Diamond Beach community.

There has been no analysis of the potential yield or change in the nature of residency, or infrastructure requirements – particularly parks, vehicular, pedestrian and cycle access, health services, library services, community facilities, education facilities and recreation facilities. Basic infrastructure considerations such as road linkages, permeability, pedestrian and cycle linkages, have not been adequately considered. Similarly, little thought appears to have been given to the provision of essential services and access by emergency vehicles for a permanent population.

The land is identified as an investigation area and there is strategic merit in investigating the area for a new community. However, there needs to be a more detailed analysis of what a new permanent population will require for it to function effectively and efficiently and the future character desired for the new or extended suburb.

3. Site Specific Merit

There is a need for basic strategic planning to be undertaken to determine what is needed to support a permanent resident population, how and when will this be provided/ funded and what is the anticipated built form outcome – the look and feel of the new area.

The change in zoning means that existing approvals could be amended, and new applications approved for development that would provide for permanent residential use. This does not appear to have been properly considered and accounted for.

Given the proliferation of community titles schemes, it is not clear how any of the separate precincts could be lawfully accessed via a public road. If this is to be a new community of permanent residents a strategy of what is required needs to be put in place so that great outcomes can be achieved.




The removal of the existing FSR controls seems at odds with comments that the intensity, and scale of development will be the same as that under the SP3 zone. What is the framework providing for in the absence of a density control?

The built form outcomes being sought, and the associated controls require further consideration. Access, linkages, parks, general permeability, etc have not been fully considered. Potential yields are not understood. These are all essential elements when planning for a permanent resident population.

There is merit in providing for a permanent resident population and broader housing needs.

However, the basic infrastructure and framework needs to be planned for and put in place. This proposal does not do that.

For these reasons, the Panel considers that the site does not demonstrate site specific merit and should not proceed to Gateway.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Yvonne Weldon
 Stephen O'Connor	

SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	PP-2022-1144 – MidCoast– RR-2022-15 - AT 355, 361, 363 and 391 Diamond Beach Road, Diamond Beach (Lots 1 and 2 DP 271277 and SP 104390)
2	LEP TO BE AMENDED	Greater Taree Local Environmental Plan 2010
3	PROPOSED INSTRUMENT	The proposal seeks to rezone North Diamond Beach from C2 Environmental Conservation and SP3 Tourist to R1 General Residential, R3 Medium Density Residential and C2 Environmental Conservation
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Rezoning review request documentation Briefing report from Department of Planning and Environment Memo from Council received: 8th December 2022 North Diamond Beach Public Access Strategy Hunter Regional Environmental Plan 2041
5	BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspections: <ul style="list-style-type: none"> Alison McCabe (Chair): 31 October 2022 Briefing with Department of Planning and Environment (DPE): 9:45am, 23 November 2022 <ul style="list-style-type: none"> Panel members in attendance: Alison McCabe (Chair), Stephen O'Connor and Yvonne Weldon DPE staff in attendance: Ben Holmes, Amy Pryor, Leanne Harris, Lisa Kennedy, Mary Francis and Lisa Foley Key issues discussed: <ul style="list-style-type: none"> Site context and background Background, history and proposed provisions of the Planning Proposal Strategic planning framework Overview of issues and matters raised by Community, Applicant and Council Briefing with Council: 9am, 9 December 2022 <ul style="list-style-type: none"> Panel members in attendance: Alison McCabe (Chair), Stephen O'Connor and Yvonne Weldon DPE staff in attendance: Ben Holmes, Kate McKinnon, Lisa Foley and Mary Francis Council representatives in attendance: Louise Morris, Richard Pamplin and Paul De Szell Key issues discussed: <ul style="list-style-type: none"> Site background and history (Strategic and Statutory) Future intent and implications of Planning Proposal Infrastructure and servicing including linkages Existing approvals across the Planning Proposal area and applications under consideration Briefing with Proponent: 10:30am, 9 December 2022 <ul style="list-style-type: none"> Panel members in attendance: Alison McCabe (Chair), Stephen O'Connor and Yvonne Weldon

		<ul style="list-style-type: none">○ DPE staff in attendance: Kate McKinnon and Lisa Foley○ Proponent representatives in attendance: Joe Coco, Sam Coco, Simon Carroll and Phillip Lidbury○ Key issues discussed:<ul style="list-style-type: none">▪ History and process of Planning Proposal to date▪ Strategic alignment of Planning Proposal▪ Community and environmental considerations▪ Future development options and infrastructure/servicing requirements
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