

Tweed LEP 2014 – Rezoning of land to enable expansion of highway service centre, Pacific Motorway, Chinderah.

Proposal Title : **Tweed LEP 2014 – Rezoning of land to enable expansion of highway service centre, Pacific Motorway, Chinderah.**

Proposal Summary : **The planning proposal seeks to amend Tweed LEP 2014 by rezoning the subject land, amending the Minimum Lot Size map and the provisions of Schedule 1 to enable the expansion of the existing highway service centre.**

PP Number : **PP_2015_TWEED_001_00** Dop File No : **15/05081**

Proposal Details

Date Planning Proposal Received : **20-Mar-2015** LGA covered : **Tweed**

Region : **Northern** RPA : **Tweed Shire Council**

State Electorate : **TWEED** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Pacific Motorway**

Suburb : **Chinderah** City : Postcode : **2484**

Land Parcel : **Lot 1 DP 1127741 and Lot 2 DP 1010771**

DoP Planning Officer Contact Details

Contact Name : **Paul Garnett**

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : **Jim Clark**

Contact Number : **0266416604**

Contact Email : **jim.clark@planning.nsw.gov.au**

Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**

Regional / Sub Regional Strategy : **Far North Coast Regional Strategy** Consistent with Strategy : **Yes**

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MDP Number :	Date of Release :
Area of Release (Ha) : 2.70	Type of Release (eg Residential / Employment land) : Employment Land
No. of Lots : 0	No. of Dwellings (where relevant) : 0
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 meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes :

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 describes the intention of the planning proposal. The proposal seeks to amend the Tweed LEP 2014 to rezone the land and amend the planning controls to enable expansion of the existing highway service centre.**

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

Is an explanation of provisions provided? **Yes**

Comment : **The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal. The proposal seeks to amend the LEP by;**

- 1. Rezoning Lot 2 DP 1010771 on which the existing highway service centre is located and part of Lot 1 DP 1127741 on which the expansion of the service centre is proposed from RU2 Rural Landscape to IN1 General Industrial;**
- 2. Rezoning that part of Lot 1 DP 1127741 that is not required for the service centre expansion and which contains native vegetation from 1(a) Rural and 7(a) Environmental Protection to E2 Environmental Conservation and amend the Land Application Map for Tweed LEP 2014;**
- 3. Amending Schedule 1 to include a highway service centre as an additional permitted use on the subject land and amending the Additional Permitted Uses map to indicate the area of land on which this provision will apply; and**
- 4. Amending the Lot Size Map to apply an appropriate minimum lot size to that area of land being zoned IN1.**

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

1.1 Business and Industrial Zones

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

1.4 Oyster Aquaculture

1.5 Rural Lands

2.1 Environment Protection Zones

2.2 Coastal Protection

2.3 Heritage Conservation

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

5.4 Commercial and Retail Development along the Pacific Highway, North Coast

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

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 No 64—Advertising and Signage

SEPP No 71—Coastal Protection

SEPP (Infrastructure) 2007

SEPP (Rural Lands) 2008

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **See the assessment section of his report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The planning proposal contains maps which adequately show the site, and the proposed zoning and lot size map changes for the LEP amendment. The proposed change to the additional permitted uses map should also be included.

Maps which comply with the Standard Technical Requirements for LEP Maps will be required prior to the LEP amendment being finalised.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal nominates a community consultation period of 28 days. In accordance with "A Guide to Preparing Local Environmental Plans" (the 'Guide'), it is considered that the planning proposal is not a low impact planning proposal as it is not consistent with surrounding land use zones, and relates to land currently deferred from the Tweed LEP 2014. It is considered that a community consultation period of 28 days is appropriate.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Time Line

The planning proposal includes a project timeline which estimates the completion of the planning proposal in October 2015. To ensure the RPA has adequate time to exhibit and finalise the proposal, and to consider any matters that may arise from the development application which is being assessed concurrently, it is recommended that a time frame of 12 months is appropriate.

Delegation.

Council has advised it is not seeking an Authorisation to exercise delegation for this proposal. Tweed Council has not accepted delegation for finalising LEPs. An Evaluation Criteria For the Delegation of Plan Making Functions has not been provided. It is recommended that an Authorisation for the execution of delegation not be issued to Tweed Council in this instance.

Overall Adequacy

The planning proposal satisfies the adequacy criteria by;

1. Providing appropriate objectives and intended outcomes.
2. Providing a suitable explanation of the provisions proposed for the LEP to achieve the outcomes.
3. Providing an adequate justification for the proposal.
4. Outlining a proposed community consultation program.
5. Providing a project time line
6. Advising Council is not seeking delegation of plan making functions.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP :

The Tweed LEP 2014 commenced in April 2014. This planning proposal seeks an amendment to the Tweed LEP 2014.

Assessment Criteria

Need for planning proposal :

Need for a planning proposal

The planning proposal is not the result of a strategic study or report. The proponent has asked Council to consider a planning proposal to amend the LEP provisions to enable expansion of the existing highway service centre. The expansion works will include an extension to the truck refuelling canopy on Lot 2 and an additional 30 truck parking spaces on Lot 1. The works are required to address traffic safety on the Pacific Motorway. The existing refuelling and truck parking facilities are insufficient and can result in traffic congestion at the entry to the service station which at times extends into the lanes of the motorway.

Lot 2 contains the existing service centre and is currently zoned RU2 Rural Landscape. Lot 1 is the adjoining land parcel which is currently zone part RU2 under the Tweed LEP 2014 and Part 1(a) Rural and 7(a) Environmental Protection (Wetlands and Littoral Rainforest) under the Tweed LEP 2000.

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The proposal seeks to rezone the land on which the existing highway service centre and the proposed truck parking is located to IN1 General Industrial. The IN1 zone is proposed so as to reflect the general use of the site and to be consistent with the existing industrial estate to the south. An amendment to Schedule 1 of the planning proposal will permit the highway service centre as an additional permitted use as highway service centres are prohibited in all zones in the Tweed LEP 2014.

The proposal seeks to apply an E2 Environmental Conservation zone to the remainder of Lot 1 which contains established native vegetation. This area of Lot 1 is currently zoned part 1(a) and part 7(a) under the Tweed LEP 2000, and was deferred from Tweed LEP 2014 as Council had proposed an E zone over the land. Land to which an E zone was proposed to be applied was deferred from the LEP until the Review of E Zones in Far North Coast LEPs has been completed.

The vegetated area of Lot 1, which is proposed to be zoned E2, contains 1.32ha of swamp sclerophyll floodplain forest which is an endangered ecological community. The Northern Councils E Zone Review Interim Report (the 'Interim Report') established criteria for when the application of an E2 zone is appropriate. One of these criteria was the presence of vegetation that constitutes an endangered ecological community on the land. However since the Review of E Zones in Far North Coast LEPs has not yet been completed, it is premature to zone this land E2. The land should continue to be deferred from the Tweed LEP 2014.

The proposed LEP amendments are the best means of achieving the objectives of the planning proposal. The listing of a highway service centre on the subject land as an additional permitted use is appropriate. It is not appropriate for highway service centres to be listed as permissible with consent in the IN1 zone as this zone applies to other land in the local government area. This approach may have the effect of making them permissible on land which is inconsistent with other components of the strategic planning framework applying to highway service centres.

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Consistency with strategic planning framework :

Far North Coast Regional Strategy (FNCRS).

The proposal to rezone the subject land IN1 and enable a highway service centre to be permissible with consent is consistent with the FNCRS. The FNCRS provides that "Highway service centres may be located beside the Pacific Highway at Chinderah and Ballina" and therefore the expansion of this existing highway service centre is consistent with the FNCRS. The planning proposal notes that the subject land is not located within the town and village growth boundary, however the proposal is for expansion of an existing highway service centre and not for residential development, and therefore this issue is not significant. The subject land is located immediately outside the town and village growth boundary and adjoins identified employment lands.

Consistency with Council's Local Strategies.

The proposal is consistent with the Council's Community Strategic Plan 2013/2023.

SEPPs

The proposal is not inconsistent with any State environmental planning policies (SEPPs). The proposal indicates that SEPP 44 Koala Habitat Protection, SEPP 55 Remediation of Land, SEPP 64 Advertising and Signage, SEPP 71 Coastal Protection, SEPP (Rural Lands) 2008 and SEPP (Infrastructure) 2007 are relevant to the subject land however the proposed LEP amendments are not inconsistent with these SEPPs.

S117 Directions.

The following S117 directions are applicable to the proposal, 1.1 Business and Industrial Zones, 1.2 Rural Zones, 1.3 Mining, Petroleum and Extractive Industries, 1.5, Rural Lands, 2.1 Environmental Protection Zones, 2.2 Coastal Protection, 2.3 Heritage Conservation, 2.4 Recreational Vehicle Areas, 3.2 Caravan Parks and Manufactured Home Estates, 3.3 Home Occupations, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies, 5.4 Commercial and Retail Development along the Pacific Highway, North Coast, 6.1 Approval and Referral Requirements, 6.2 Reserving Land for Public Purposes, and 6.3 Site Specific Provisions.

Of the above s117 Directions the proposal is considered to be inconsistent with Directions 1.2, 2.1, 4.1, 4.3 and 4.4.

Direction 1.2 Rural Zones is relevant to the proposal. The direction provides that a planning proposal must not rezone land from a rural to an industrial zone. The proposal seeks to rezone the land from RU2 Rural Landscape to IN1 General Industrial.

The direction provides that the proposal may be inconsistent with the direction if it is justified by a strategy or is of minor significance. The proposed rezoning will enable the expansion of an existing highway service centre. The FNCRS identifies the need for a service centre at Chinderah. Additionally the area of land to be rezoned is only 2.7ha and will be used for additional truck parking to alleviate congestion at the service centre which at time impacts on the Pacific Motorway. It is therefore considered that the land to be rezoned is of minor significance and consistent with the FNCRS. Consequently the inconsistency of the proposal with the direction has been justified in accordance with the terms of the direction.

Direction 2.1 Environmental Protection Zones is relevant to the proposal. The direction requires that a planning proposal must include provisions which facilitate the protection and conservation of environmentally sensitive areas and must not reduce the environmental protection standards that apply to the land.

The proposal is inconsistent with this direction as it applies to land, part of which contains high value native vegetation for which Council had proposed an E zone in its draft LEP. The land was deferred from the Tweed LEP 2014 pending the Review of E Zones in Far North Coast LEPs (the Review). The Review has not yet been completed and consistent with the approach to other LEPs, E zones will not be applied until the review is complete. Once the review is complete Council will be able to commence a planning proposal which

implements the outcome of the review across the local government area in a consistent manner. It is therefore considered that the inconsistency of the proposal with the direction is of minor significance and is justified in accordance with the terms of the direction.

Direction 4.1 Acid Sulfate Soils is relevant to the proposal. The direction provides that a planning proposal must not propose an intensification of land uses on land containing acid sulfate soils. The subject land contains Class 3 acid sulfate soils. The proposed development of the land for a truck parking area associated with the highway service centre will require filling of the land and is not likely to require extensive excavation below the natural ground level. Provisions exist within Tweed LEP 2014 to address the potential impact on acid sulfate soils at development application stage. It is therefore considered that the inconsistency of the proposal with the direction is of minor significance and has been justified in accordance with the terms of the direction.

Direction 4.3 is relevant to the proposal. The direction provides that a planning proposal must not permit a significant increase in the development potential of land within the flood planning area. The subject land is located within the flood planning area and is proposed to be rezoned from RU2 to IN1.

The Direction provides that the proposal may be inconsistent with the direction if the proposal is in accordance with a floodplain risk management plan or is of minor significance.

Hydraulic investigations for the site have determined that the filling of the site for the truck parking area is feasible to mitigate the impacts of flooding and will not have an adverse impact on the flood affectation of neighbouring land. The area of land to be filled for the truck parking area amounts to only 2.7ha. It is therefore considered that the inconsistency is of minor significance and is justified by a study consistent with the principles and guidelines of the Floodplain Development Manual. The inconsistency has therefore been justified in accordance with the terms of the direction.

Direction 4.4 Planning for Bushfire Protection is relevant to the proposal. Part of the subject land is bush fire prone. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a gateway determination has been issued and prior to public exhibition. Until this consultation has occurred the consistency of the proposal with the direction remains unresolved.

The proposal is otherwise consistent with S117 Directions.

Environmental social
economic impacts :

Biodiversity Impacts.

The proposal is not considered to have an adverse impact on any critical habitat or threatened species, populations or endangered ecological communities. The vegetation over the area of land to be developed for truck parking is not considered to be of important ecological significance. Council propose to require a vegetation rehabilitation plan for the vegetation on the remainder of Lot 1. Offsetting of the small area of Coastal Brush Box Open Forest to be removed for access to the proposed truck parking area will be required.

As previously discussed, an E2 Environmental Conservation zone will not be applied to this vegetated part of Lot 1 at this stage. However this does not prevent Council from requiring the rehabilitation and offsetting proposed. By continuing to defer this area of land out of the 2014 Tweed LEP the provisions of the zones in the Tweed LEP 2000 will continue to apply.

Aboriginal Cultural Heritage.

An Aboriginal cultural heritage assessment was prepared in 2010. While no areas or objects of Aboriginal cultural heritage significance were identified within the subject land Council has indicated it intends to require an updated cultural heritage investigation to reflect current legislation. This study is to be prepared prior to community consultation. This approach is considered to be appropriate.

Other Environmental Impacts.

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The expansion of the highway service centre has the potential to increase noise impacts on surrounding residential land. Council required the preparation of a noise impact assessment. This assessment concluded that the proposed expansion of the highway service centre is not considered to have a significant negative impact on noise levels in nearby residential areas. This noise assessment will be publicly exhibited with the planning proposal.

Social Impacts

The proposal is considered to have positive social benefits. The proposal will enable expansion of the existing highway service centre in a manner which will reduce congestion and therefore improve safety on the Pacific Motorway. In enabling expansion of the existing facility the proposal avoid the need for the relocation of the facility to a potentially less suitable site.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 months	Delegation :	DDG
Public Authority Consultation - 56(2) (d) :	Office of Environment and Heritage NSW Rural Fire Service Transport for NSW - Roads and Maritime Services		

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. :

Heritage

Flooding

If Other, provide reasons :

The Heritage and flooding investigations need to be updated to reflect the most current legislation and flood planning maps.

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	Is Public
Council cover letter Chinderah highway service centre expansion planning proposal.pdf	Proposal Covering Letter	Yes
Planning Proposal Chinderah Highway Service Centre Expansion.pdf	Proposal	Yes
Appendix 1 Ecological Assessment Dec 2013.pdf	Study	Yes

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Appendix 2 Cultural Heritage Assessment 2010.pdf	Study	Yes
Appendix 3 Bushfire Risk Management Plan June 2010.pdf	Study	Yes
Appendix 4 Ecological Status Review and Options Analysis 2014.pdf	Study	Yes
Appendix 5 Traffic Impact Assessment 2010.pdf	Study	Yes
Appendix 6 Hydraulic Investigation Part 1.pdf	Study	Yes
Appendix 6 Hydraulic Investigation Part 2.pdf	Study	Yes
Appendix 8 Approved site layout.pdf	Drawing	Yes
Appendix 7 Report for Combined Planning Proposal PP15_0001.pdf	Study	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 1.4 Oyster Aquaculture
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 5.4 Commercial and Retail Development along the Pacific Highway, North Coast
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Additional Information :

- It is recommended that;
1. The planning proposal should proceed as a 'routine' planning proposal.
 2. An E2 Environmental Conservation zone is not to be applied to any parts of the subject land until the Review of E Zones in Far North Coast LEPs has been completed. This is to ensure that the application of the E2 zone in the Tweed LEP 2014 is consistent with the final recommendations of the Review. Therefore, prior to community consultation the planning proposal is to be amended to remove references to an E2 zone over that part of Lot 1 DP 1127741 not proposed to be zoned IN1. This land is to either continue to be deferred from the Tweed LEP 2014 or is to retain its RU2 zoning.
 3. Prior to community consultation;
 - a. The planning proposal is to be amended to include current and proposed Additional Permitted Uses maps for the subject land.
 - b. An updated Aboriginal cultural heritage assessment is to be prepared.
 - c. An updated hydraulic investigation is to be prepared to enable assessment against the most recent flood planning maps.
 4. A community consultation period of 28 days is necessary.
 5. The planning proposal is to be completed within 12 months.
 6. A written authorisation to exercise delegation not be issued to Tweed Shire Council for this planning proposal.
 7. A delegate of the Secretary agree that the inconsistency of the proposal with S117 Directions 1.2, 2.1, 4.1 and 4.3 are justified in accordance with the terms of the direction.
 8. Council consult with NSW Office of Environment and Heritage, NSW Roads and Maritime Services, and the Local Aboriginal Land Council.
 9. Council consult with the Commissioner of the NSW Rural Fire Services in accordance with S117 Direction 4.4 Planning for Bush Fire Protection.

Supporting Reasons :

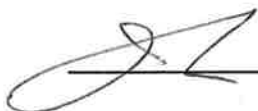
- The reasons for the recommendation are as follows;
1. The proposal will enable expansion of the existing highway service centre, alleviating

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traffic congestion and improving the safety of highway users.

2. The proposal is consistent with the Far North Coast Regional Strategy, Council's strategies, and the inconsistencies with the S117 directions are justified in accordance with the terms of the directions.

Signature:



Printed Name:

JIM CLARK

Date:

26 March 2015

Team Leader Local Planning