



TWEED
SHIRE COUNCIL

Draft LEP Amendment No. **98**

PLANNING PROPOSAL FOR HIGHWAY SERVICE CENTRE
(Part Lot 11 DP 1134229, Part Lot 1 DP 1165676, Part Lot 1 DP
210674)
Tweed Valley Way and Pacific Motorway, Chinderah)

V1 GATEWAY DETERMINATION

January 2014

TSC File PP13/0003

(Department of Planning Reference PGR_2013_TWEED_014_00)

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Table of Contents

Introduction.....	1
Purpose.....	1
Property details	1
Site context and setting.....	1
Part 1 Objectives and intended outcomes	6
Objective and Intended outcome	6
Part 2 Explanation of provisions	8
Part 3 Justification	8
Section A Need for the planning proposal.....	8
1 Is the planning proposal a result of any strategic study or report?	8
3 Is there a net community benefit?	9
Section B Relationship to strategic planning framework	11
1 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?	11
2 Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?	11
3 Is the planning proposal consistent with the applicable State Environmental Planning Policies (SEPPs)?	12
4 Is the planning proposal consistent with applicable Ministerial Directions (s117 Directions)?	17
Section C Environmental, Social and economic impact	36
1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal?.....	36
2 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?	36
3 How has the planning proposal adequately addressed any social and economic effects?.....	37
Section D State and Commonwealth interests.....	38
1 Is there adequate public infrastructure for the planning proposal?.....	38
2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?.....	40
Part 4 Community consultation	41
Summary and conclusions	41

Introduction

Purpose

The Tweed Shire Council (TSC) received a request for a Planning Proposal from Jim Glazebrook and Associates on behalf of P Guinane P/L in July 2013 to permit a highway service centre on land located adjacent to the Tweed Valley Way /Pacific Motorway interchange at Chinderah.

Tweed Shire Council resolved on 12 December 2013 as follows:

- 1. A Planning Proposal to facilitate a "Highway Service Centre" on Lot 11 DP 1134229, Lot 1 DP 116567 and Lot 1 DP 210674 be prepared and submitted to the 'Gateway', as administered by the NSW Department of Planning and Infrastructure, for a determination.**
- 2. The Minister for Planning and Infrastructure or his Delegate be advised that Tweed Council is NOT seeking plan making delegations for this planning proposal.**
- 3. The Minister for Planning and Infrastructure or his Delegate be advised that the minimum exhibition period for joint exhibition of the Planning Proposal and Corresponding Development Application (DA13/0469) should be for a period not less than 28 days and should be concurrent.**
- 4. Upon receiving an affirmative Determination Notice from the NSW Department of Planning and Infrastructure any additional studies or work required in satisfaction of demonstrating the suitability of the proposed Highway Service Centre is to be completed.**
- 5. On satisfactory completion of the Planning Proposal it is to be publicly exhibited in accordance with the Determination Notice or where there is no such condition or the condition prescribes a period less than 28 days, for a period not less than 28 days.**
- 6. Following public exhibition of the Planning Proposal a report is to be submitted to Council at the earliest time detailing the content of submissions received and how those, if any, issues have been addressed.**

Property details

The proposal in total affects Lot 11 DP1134229, Lot 1 DP 1165676 and Lot 1 DP 210674 Tweed Valley Way, Chinderah (Fig 1). The area directly affected by the highway service centre is approximately 3.9 ha and is mostly on Lot 11 DP 1134229.

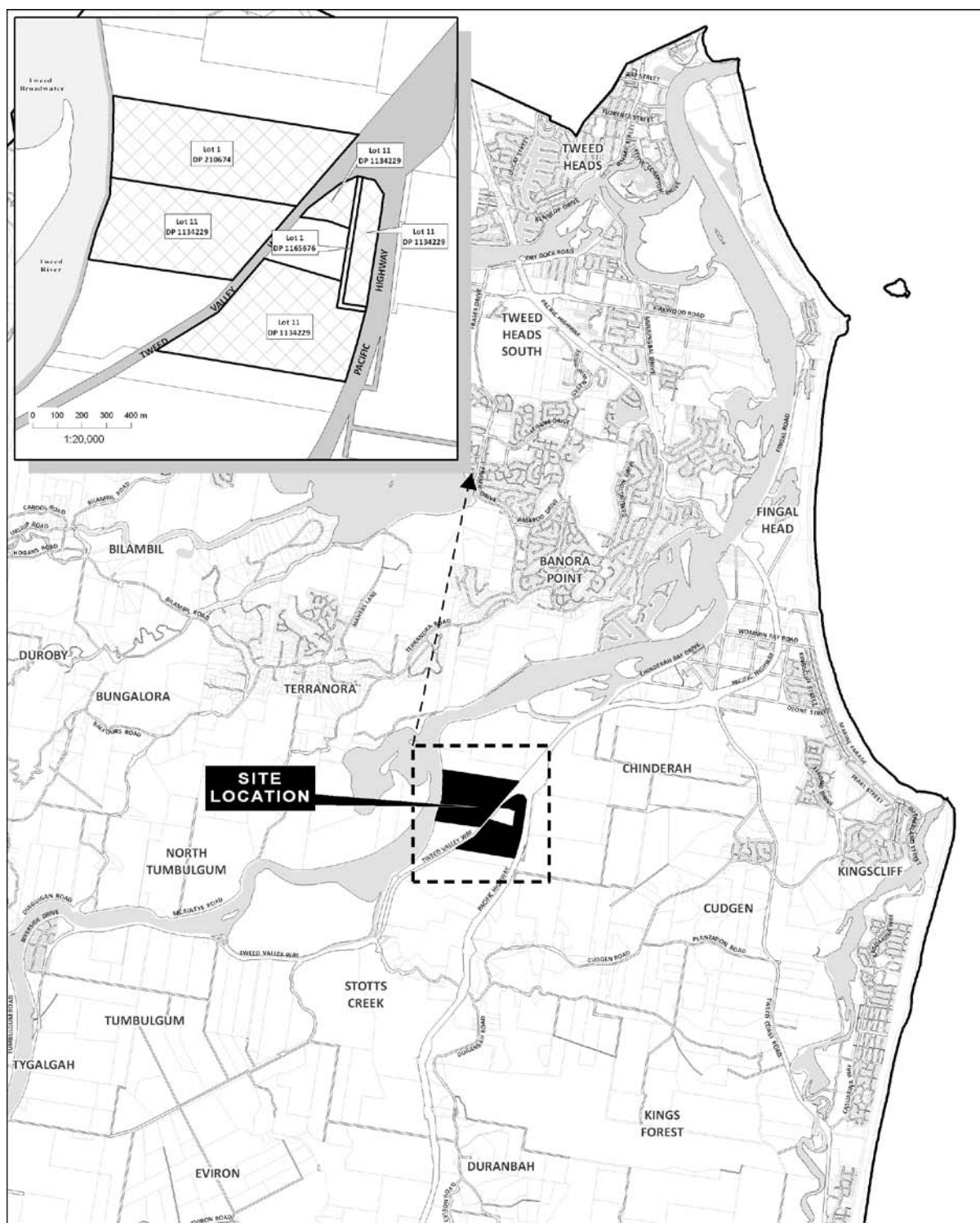
Site context and setting

All of the subject land is currently zoned 1(b2) Agricultural Protection under the Tweed LEP 2000. Adjoining land on all sides is in the same zone (Fig 2).

Under draft Tweed LEP 2014 the subject land is proposed to be zoned RU1 Primary Production. Adjoining land on all sides is in the same zone (Fig 3).

The site is irregular in shape and is bounded by the Pacific Motorway and agricultural land (tea tree) to the east, Tweed Valley Way to the west and the Pacific Motorway off ramp to

the north. Part of its southern boundary adjoins the Melaleuca Station Crematorium and part agricultural land. An air photo showing the subject land is at Fig 4.



Locality Plan

Lot 1 DP 210674; Lot 11 DP 1134229; Lot 1 DP 1165676;
Pacific Highway & Tweed Valley Way, Chinderah

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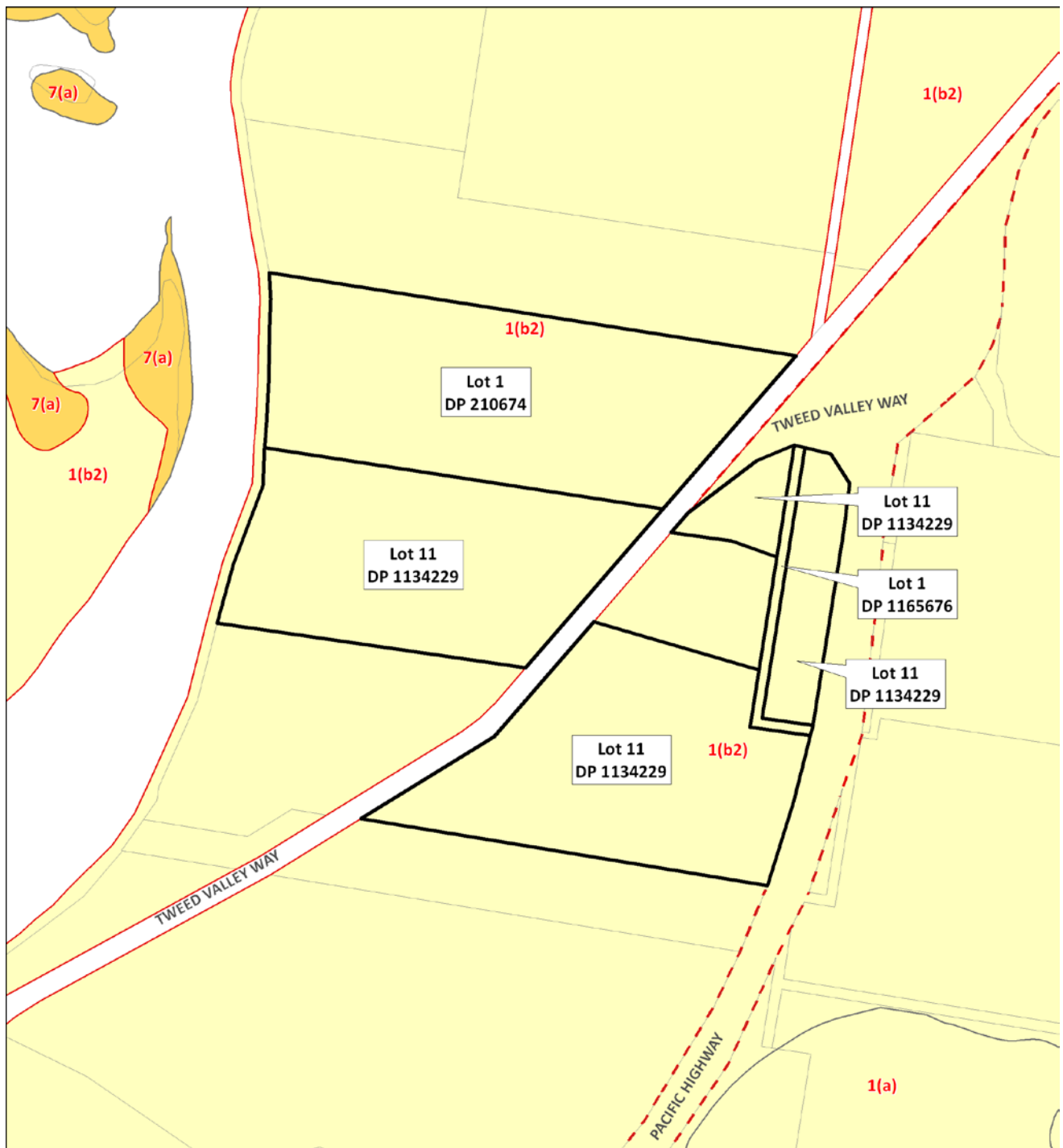
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Civic and Cultural Centre
3 Tumbulgam Road
Murrumbidgee NSW 2484
PO Box 816
Murrumbidgee NSW 2484
T | (02) 6670 3400 | 1300 292 872
F | (02) 6670 3429
W | www.tweed.nsw.gov.au
E | planning@tweed.nsw.gov.au



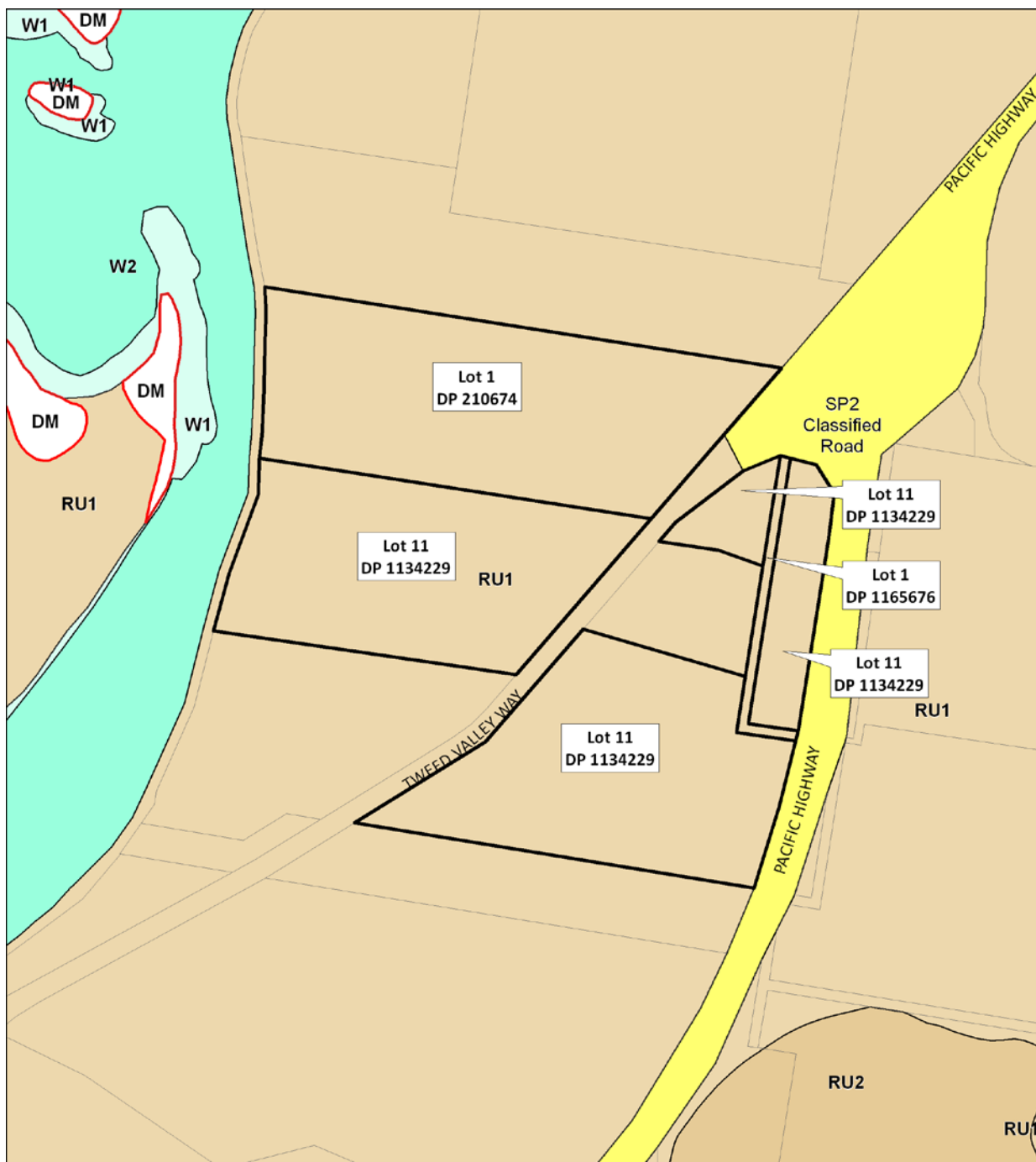
Figure 1 Subject site locality plan



Tweed Local Environmental Plan 2000
 Planning Proposal PP13/0003 -- Lot 1 DP 210674; Lot 11 DP 1134229; Lot 1 DP 1165676;
 Pacific Highway & Tweed Valley Way, Chinderah

ZONING RURAL 1(a) Rural 1(c) Rural Living 1(b) Agricultural Protection 1(b2) Agricultural Protection	RESIDENTIAL 2(a) Low Density Residential 2(b) Medium Density Residential 2(c) Urban Expansion 2(d) Village 2(e) Residential Tourist	BUSINESS 3(a) Sub-Regional Business 3(b) General Business 3(c) Commerce & Trade 3(d) Waterfront Enterprise 3(e) Special Tourist (Jack Evans Boat Harbour)	INDUSTRIAL 4(a) Industrial SPECIAL USES 5(a) Special Uses OPEN SPACE 6(a) Open Space 6(b) Recreation	ENVIRONMENTAL PROTECTION 7(a) Environmental Protection (Wetlands and Littoral Rainforest) 7(d) Environmental Protection (Scenic / Escarpment) 7(f) Environmental Protection (Coastal Lands) 7(j) Environmental Protection (Habitat)	NATIONAL PARKS & NATURE RESERVES 8(a) National Parks and Nature Reserves DEFER defer
ADDITIONAL CONTROLS Clause 37 (Transmission Line Corridor) Clause 38 (Future Roads)	Clause 41 (Heritage Conservation Area) Clause 52 (Existing and Future Dam Areas)	Clause 52 (Minimum Lot Sizes) Clause 52 (Stormwater and Fill)	Clause 53 (Schedule 3 Item) Clause 52 (Pottsville)	Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including, without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavations a 'Call before You Dig' enquiry must be made by calling 1100. The information contained on this document remains valid for 30 days only from the date of supply. Cadastre: 16 January, 2014 © Land and Property Management Authority (LPMA) & Tweed Shire Council. Boundaries shown should be considered approximate only. Map Projection: Universal Transverse Mercator Horizontal Datum: Geodetic Datum of Australia 1984 Grid: Map Grid of Australia, Zone 55 GDA Author: J.Bischoff - Planning Reforms Unit Date Printed: 16 January, 2014	

Figure 2 Subject site locality with TSC LEP 2000 zoning



Draft Tweed Local Environmental Plan 2014
 Planning Proposal PP13/0003 - Lot 1 DP 210674; Lot 11 DP 1134229; Lot 1 DP 1165676;
 Pacific Highway & Tweed Valley Way, Chinderah

LAND ZONING

B1 Neighbourhood Centre	E1 National Parks & Nature Reserves	R5 Large Lot Residential	SP1 Special Activities	DM Deferred Matter
B2 Local Centre	IN1 General Industrial	RE1 Public Recreation	SP2 Infrastructure	MD SEPP (Major Development) 2005
B3 Commercial Core	IN4 Working Waterfront	RE2 Private Recreation	SP3 Tourist	TCC Tweed City Centre LEP 2012
B4 Mixed Use	R1 General Residential	RU1 Primary Production	W1 Natural Waterways	
B5 Business Development	R2 Low Density Residential	RU2 Rural Landscape	W2 Recreational Waterways	
B7 Business Park	R3 Medium Density Residential	RU5 Village	W3 Working Waterways	

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Civic and Cultural Centre
 3 Tumbulgan Road
 Murwillumbah NSW 2484
 PO Box 616
 Murwillumbah NSW 2484
 T | (02) 6670 2400 | 1300 292 872
 F | (02) 6670 2429
 W | www.tweed.nsw.gov.au
 E | planning@tweed.nsw.gov.au



Date Printed: 16 January, 2014

Figure 3 Subject site locality (shown with heavy black edging) with TSC exhibited draft LEP 2014 zoning



Aerial Photo - taken October 2009

Planning Proposal PP13/0003 -- Lot 1 DP 210674; Lot 11 DP 1134229; Lot 1 DP 1165676;
Pacific Highway & Tweed Valley Way, Chinderah

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Project: Z:\ESR\PROJECTS\PP13-0003\PP13-0003 Highway Service Centre Chinderah\Figure 7 - Aerial 2009 Site Plan.mxd Author: J Batchelor - Planning Returns Unit Date Printed: 16 January, 2014

Figure 4 Subject site overlaid with aerial photography (2009)

Part 1 Objectives and intended outcomes

Objective and Intended outcome

This planning proposal will permit the construction of a highway service centre on the subject land at the intersection of Tweed Valley Way and the Pacific Motorway. The highway service centre will include the following:

- A single story building with a Gross Floor Area (GFA) of approximately 1270m². The building will contain the service centre control centre and five other food outlets and a dining area. Two of the food outlets are proposed will have drive through facilities.
- 97 public car spaces, 20 staff car spaces, 5 caravan / bus spaces and 25 truck parking spaces.
- Outdoor dining area and playground.
- Truckers lounge and public amenities.
- Landscaped area of 12,334m².
- Two lane arterial roundabout at Tweed Valley Way to provide ingress and egress into and out of the service centre.
- Construction of an off ramp from the Pacific Motorway to provide ingress to the proposed service centre for northbound traffic.
- Filling of the site to RL3.5m AHD to enable the building and refuelling areas to be above Council's design flood level.
- Boundary adjustment for the three lots to create a single lot on which to locate the highway service centre and secure sufficient land to construct the roundabout on Tweed Valley Way.
- Other infrastructure servicing the highway service station (water supply system, effluent irrigation scheme).

A proposed site development plan showing the layout of the highway service centre is at Fig 5.

This planning proposal will rely on the Standard Instrument definition of highway service centre as follows:

“highway service centre means a building or place used to provide refreshments and vehicle services to highway users. It may include any one or more of the following:

- (a) a restaurant or cafe,*
- (b) take away food and drink premises,*
- (c) service stations and facilities for emergency vehicle towing and repairs,*
- (d) parking for vehicles,*
- (e) rest areas and public amenities.”*

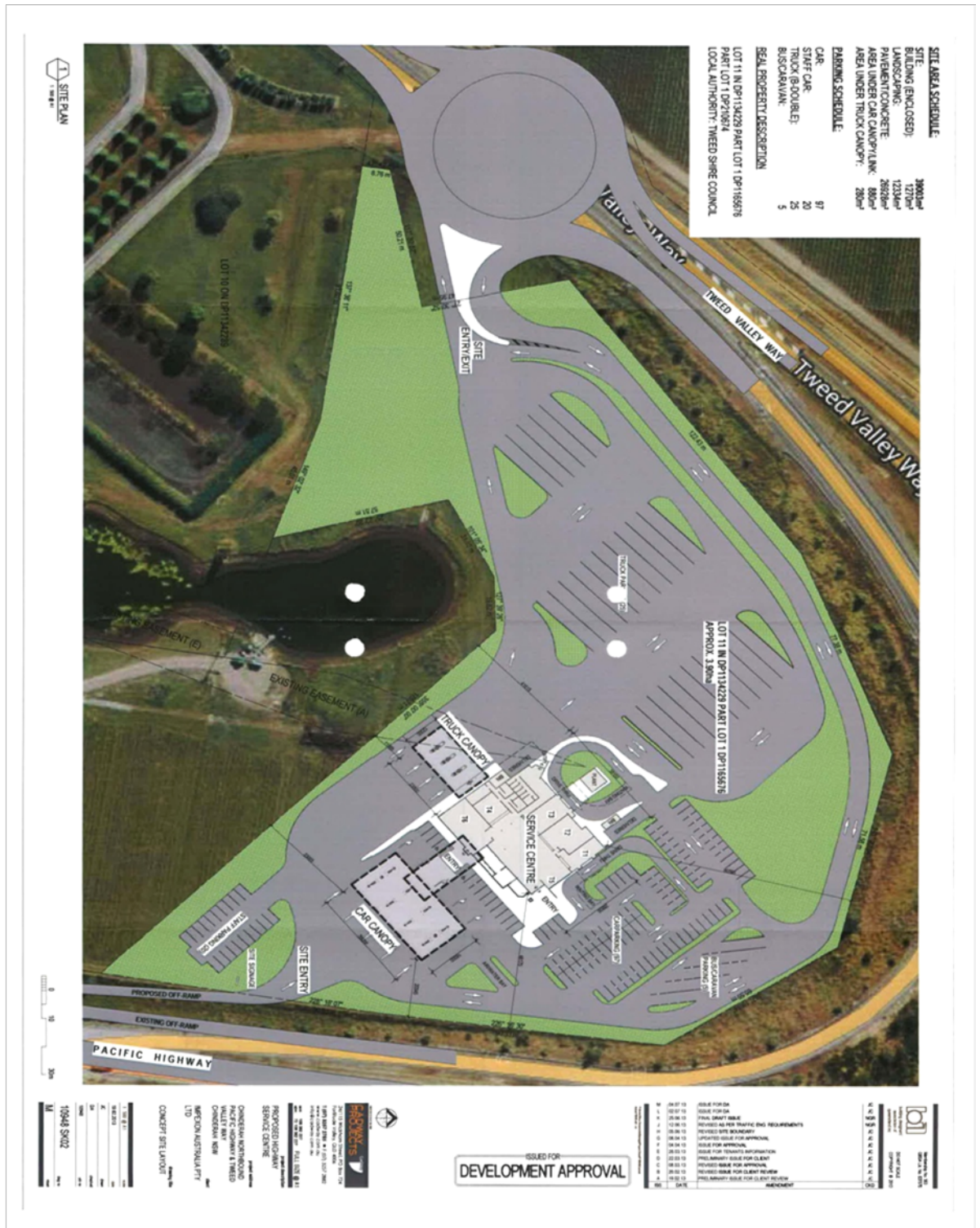


Figure 5 Subject site showing proposed layout of highway service centre and adjacent road works

Part 2 Explanation of provisions

The intended outcome is to be achieved by an amendment to Tweed Shire Council LEP 2000 as the prevailing LEP at the time of Council's decision to proceed. This would require an addition to Schedule 3 (Development of Specific Sites pursuant to Clause 53) to allow an additional permitted use and the proposed boundary adjustment as follows:

Lot 11 DP1134229, Lot 1 DP 1165676 and Lot 1 DP 210674 Tweed Valley Way, Chinderah	Subdivision of the land into three allotments, two of which are less than 40 ha.	One allotment, having an approximate area of 3.9 hectares, is to be situated on the eastern side of Tweed Valley Way and is the allotment on which the highway service centre is to be erected.
	Development for the purposes of a highway service centre on one of the allotments.	

Given that Tweed LEP 2014 will become the prevailing LEP then the amendment to this LEP should be as follows:

Add an item to Schedule 1 (Additional Permitted Uses as per Clause 2.5).

The item to be added would be:

"10 Use of certain land at intersection of Tweed Valley Way and Pacific Motorway at Chinderah

(1) This clause applies to Lot 11 DP1134229, Lot 1 DP 1165676 and Lot 1 DP 210674 Tweed Valley Way, Chinderah, shown as "10" on the Additional Permitted Uses Map.

(2) Development for the purpose of a highway service centre is permitted with consent."

There would also need to be an amendment to the map pursuant to Clause 2.5 to identify the location of the highway service centre as item number 10.

There would also need to be an amendment to the Minimum Lot Size (MLS) map that affects the subject land to ensure that two lots can be created as a result of the boundary adjustments that are more than 10 % less than the prevailing MLS.

Effectively Council has resolved to amend both its LEP's to ensure that the highway service centre is allowed to be assessed as a development application.

Part 3 Justification

Section A Need for the planning proposal

1 Is the planning proposal a result of any strategic study or report?

Yes. The site is included in the Far North Coast Regional Strategy (FNCRS) on page 37 in the chapter on Economic Development and Employment Growth where it states "Highway service centres may be located beside the Pacific Highway at Chinderah and Ballina". Although there is already one highway service centre at Chinderah (north of the subject land), it only services south bound vehicles. The subject land would not undermine this site as it will primarily service north bound vehicles. There is no current proposal to establish a northbound highway service centre closer to the urban area of Chinderah.

2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

A planning proposal is considered to be the most appropriate means of allowing a highway service centre development on the land.

The current rural zoning of the site under Tweed LEP 2000 prohibits the use and it is also prohibited by the draft LEP 2014.

3 Is there a net community benefit?

The Net Community Benefit Criteria is identified in the NSW Government's publication *The Right Place for Business and Services*. Assessment with the Net Community Benefit Assessment Criteria is addressed in Table 1, following:

Table 1: Assessment of Net Community Benefit

Criteria	Compliance with Criteria
The degree to which the policy and its objectives can be satisfied.	This planning proposal seeks to amend the LEP to allow appropriate development of the land. The policy document <i>The Right Place for Business and Services</i> has a focus on ensuring growth within existing centres and minimising dispersed trip generating development. A highway service centre can be located in an existing urban area that has good access to the highway or in an "out of town" location that is accessible and can be supplied with services. The service centre itself is not intended to generate vehicle trips, rather it is intended to service the travelling public. The site chosen is located approximately 18 km north-east of Murwillumbah and approximately 2.5 km south of the urban area of Chinderah. Given that both these locations have service stations and takeaway food outlets it is unlikely that trips will be generated specifically to the subject site. It may reduce "side trips" as some vehicles may have left the highway elsewhere to look for fuel in the absence of a northbound service centre in the Tweed. Locating a highway service centre "in town" connects it better to its community but brings noise, light and activity around the clock to what may be a residential neighbourhood. This will itself generate conflict.
The proposed level of accessibility to the catchment of the development by public transport, walking and cycling.	The locality is well placed to service the Pacific Motorway traffic as well as those travelling the Tweed Valley Way. This will include long distance buses, heavy transport and the general travelling public. As a 24 hour facility it will service the needs of the general public for minor purchases, food and fuel after hours.
The likely effect on trip patterns, travel demand and car use.	It is highly unlikely the site will increase travel demand, but it will provide an opportunity to break long distance journeys in the Tweed for north bound travellers and heavy transport. The popularity of the southbound Chinderah service centre demonstrates the need for this type of facility.

Criteria	Compliance with Criteria
The likely impact on the economic performance and viability of existing centres (including the confidence of future investment in centres and the likely effects of any oversupply in commercial or office space on centres).	There may be some impact on takeaway food outlets and service stations in Murwillumbah, however the relatively long distance makes this unlikely. Impact on the existing Chinderah southbound service centre is unlikely due to the separated dual carriage way and exit locations for south bound traffic. Impact on the village of Chinderah is unlikely as the services in this village are not easily accessed by travellers coming off the Pacific Motorway. The nearest highway service centre available for northbound traffic is South Grafton in the Clarence valley (south) and Coomera in Queensland (north). The Ballina interchange service centre has yet to be built.
The amount of use of public infrastructure and facilities in centres, and the direct and indirect cost of the proposal to the public sector.	It is not anticipated that the proposal will generate any significant State infrastructure requirements as the site is well serviced by roads and the anticipated intersection changes (roundabout on Tweed Valley Way) would be at the cost of the proponent. The upgrade of local infrastructure, such as extension of water and sewer provision and local road connections would be at the cost of the proponent and this will be confirmed further post Gateway determination.
The practicality of alternative locations, which may better achieve the outcomes, the policy is seeking.	The site is one of three considered by past studies of Council. They were located at Chinderah, Melaleuca Station (subject site), and at the Cudgera Creek interchange. The site in the urban area of Chinderah has been abandoned by RMS due to representations against it by local residents (as advised in letter from Minister for Roads to Mr Geoff Provest dated 30/7/13). Another site at the Cudgera Creek Road intersection was evaluated by Council but the subject land was found to be a preferred option. The subject land is isolated from surrounding agriculture by the adjacent land use (Melaleuca Station crematorium) making it more attractive for a non-agricultural use. It represents a logical, appropriate and relatively unconstrained location for a Pacific Motorway service centre.
The ability of the proposal to adapt its format or design to more likely secure a site within or adjoining a centre or in a better location.	The site responds to the need for a north bound highway service centre and the best site available. A site located closer to or in an existing urban area is not available. A site within an urban area is unlikely to be acceptable to the residents.

Section B Relationship to strategic planning framework

- 1 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Far North Coast Regional Strategy (FNCRS) is the overarching framework for the management of growth for the Tweed local government area.

Amending Council's prevailing LEP for the site to permit boundary adjustments of the subject land and a highway service centre would assist in achieving the aims of the FNCRS (Page 11). The aim of the FNCRS that is of particular relevance is to:

“Ensure the provision of adequate land for new business and industry that is well linked to transport and services, takes advantage of the opportunities arising from the upgrading of the Pacific Highway and which will support the creation of the projected additional 32 500 jobs needed in the Region.

The site of this planning proposal is well linked to transport and services can be made available to it. The service centre will provide 95 EFT jobs during construction and 212 EFT jobs when operational based on an investment of \$15M in the Tweed economy. The multiplier effect in the wider community is in the order of \$150M.

This planning proposal is also consistent with the following actions and outcomes of the FNCRS:

- Regional Transport - Acknowledging the Pacific Highway as the primary inter/intra-regional road corridor and protect the efficiency and safety of this corridor (Page 42) This can be done by limiting service centres to select locations that have safe access points and are well spaced along the corridor for both directions of traffic.
- Economic Development and Growth – Locate new highway service centres beside the Pacific Highway at Chinderah (Page 37).
- Environment and Natural Resources – the subject land that will be lost from agricultural production is only 3.9 ha and although its classified as regionally significant farmland its actually class 4 agricultural land that is already separated from other land by the Melaleuca Station development. It has low production value. It also has no significant environmental value due to past clearing and continuous slashing.
- Cultural Heritage – The site has been through a cultural heritage due diligence assessment and no heritage items or areas were identified on or near the subject land.
- Natural Hazards – The site is flood prone and substantial parts of it will need to be filled above the design flood level. A flood impact assessment suggested that the filling required will have negligible impacts on flood levels on surrounding land.
- Settlement and Housing – Restricting the site to the single use of a highway service centre will not undermine the Tweed Urban and Employment land Release Strategy (2009) and will not lead to increased urbanisation at this location.

- 2 Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

The northbound highway service centre is a small, but important piece of infrastructure that will generate employment and capture income that currently travels through the LGA, potentially without stopping.

Council has recently adopted a 10 year *Community Strategic Plan 2013/2023*. The plan is based on 4 key themes being Civic Leadership, Supporting Community Life, Strengthening the Economy, and Caring for the Environment. The planning proposal is generally consistent with the following relevant Objectives:

Objective 2.4 An integrated transport system that services local and regional needs.	The service centre will improve road safety for north bound traffic by providing a safe place to stop and rest for both light and heavy vehicles.
Objective 3.1 Expand employment, tourism and education opportunities	The service centre will provide 95 EFT jobs during construction and 212 EFT jobs when operational based on an investment of \$15M in the Tweed economy. The multiplier effect in the wider community is in the order of \$150M.
Objective 3.2 Retain prime agricultural land, farm viability, manage rural subdivision and associated landscape impacts.	The 3.9 ha of land that will be lost from agricultural production is assessed as Class 4 agricultural land, with the residue of the subdivision remaining in agricultural production. Landscape impacts will be minimal and the boundary adjustments are required to create a single lot for the service centre. No new dwelling entitlements will be created and the service centre will not precede further urbanisation.
Objective 3.4 Provide land and infrastructure to underpin economic development and employment.	The service centre is a specialised land use that can only be located in a small number of places. Council has consistently supported a northbound service centre in the Tweed. To enable it to occur some land must be allocated to this use in close proximity to the Pacific Motorway. This land appears to be the best location available.
Objective 4.1 Protect the environment and natural beauty of the Tweed.	The service centre will not result in the loss of any significant habitat or impact on any ecological areas. It will not impact excessively on the beauty of the area in the context of the existing interchange and adjacent Melaleuca Station crematorium.
Objective 4.3 Maintain and enhance Tweed's waterways and its catchments.	It will address stormwater and wastewater issues on site to protect the Tweed River.

The use of a highway service centre will not undermine the Tweed Urban and Employment land Release Strategy (2009) and will not lead to increased urbanisation at this location.

On this basis the planning proposal is generally consistent with Council's strategic plans.

3 Is the planning proposal consistent with the applicable State Environmental Planning Policies (SEPPs)?

The State Environmental Planning Policies relevant to the planning proposal are identified in Table 2 and discussed in the following section.

Table 2: Consistency with SEPP's

State Environmental Planning Policy	Consistency
SEPP No 1 – Development Standards	N/A
SEPP No 4 – Development Without Consent and Miscellaneous Exempt and Complying Development	N/A
SEPP No 6 – Number of Storeys in a Building	N/A
SEPP No 10 – Retention of Low Cost Rental Accommodation	N/A
SEPP No 14 – Coastal Wetlands	N/A
SEPP No 15 – Rural Landsharing Communities	N/A
SEPP No 19 – Bushland in Urban Areas	N/A
SEPP No 21 – Caravan Parks	N/A
SEPP No 22 – Shops and Commercial Premises	N/A
SEPP No 26 – Littoral Rainforests	N/A
SEPP No 29 – Western Sydney Recreation Area	N/A
SEPP No 30 – Intensive Agriculture	N/A
SEPP No 32 – Urban Consolidation (Redevelopment of Urban Land)	N/A
SEPP No 33 – Hazardous and Offensive Development	N/A
SEPP No 36 – Manufactured Home Estates	N/A
SEPP No 39 – Spit Island Bird Habitat	N/A
SEPP No 41 – Casino Entertainment Complex	N/A
SEPP No 44 – Koala Habitat Protection	N/A
SEPP No 47 – Moore Park Showground	N/A
SEPP No 50 – Canal Estate Development	N/A
SEPP No 52 – Farm Dams and Other Works in Land and Water Management Plan Areas	N/A
SEPP No 53 – Metropolitan Residential Development	N/A
SEPP No 55 – Remediation of Land	Consistent. See additional comment below
SEPP No 59 – Central Western Sydney Regional Open Space and Residential	N/A
SEPP No 60 – Exempt and Complying Development	N/A
SEPP No 62 – Sustainable Aquaculture	N/A
SEPP No 64 – Advertising and Signage	N/A
SEPP No 65 – Design Quality of Residential Flat Development	N/A
SEPP No 70 – Affordable Housing (Revised Schemes)	N/A
SEPP No 71 – Coastal Protection	Consistent. See additional

State Environmental Planning Policy	Consistency
	comments below
SEPP (Affordable Rental Housing) 2009	N/A
SEPP (Building Sustainability Index: BASIX) 2004	N/A
SEPP (Exempt and Complying Development Codes) 2008	N/A
SEPP (Housing for Seniors or People with a Disability) 2004	N/A
SEPP (Infrastructure) 2007	Consistent. See additional comment below
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	N/A
SEPP (Major Development) 2005	N/A
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Consistent. See additional comments below
SEPP (Rural Lands) 2008	Consistent. See additional comments below
SEPP (Sydney Region Growth Centres) 2006	N/A
SEPP (Temporary Structures) 2007	N/A
SEPP (Western Sydney Employment Area) 2009	N/A
SEPP (Western Sydney Parklands) 2009	N/A
SEPP (North Coast REP), 1988	Consistent. See additional comments below

SEPP No 55 – Remediation of Land

The subject land has been cleared and used for agriculture in the past including sugar cane production. Sugar cane production is a potentially contaminating activity. There is no other history of known contaminating uses on the site.

SEPP 55 (Remediation of Land) recognises that land which is known to be contaminated by past land uses can still be zoned for development as long as:

- “(a) the planning authority has considered whether the land is contaminated, and*
- (b) if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and*
- (c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose.”*

In this case a preliminary site contamination investigation was undertaken including soil sampling and testing (Appendix 1). No significant contaminants of concern (such as heavy metals or pesticides) were found. The consultant concluded that there is a very low risk that the site is contaminated and it is suitable for use as a highway service centre. It should be noted that it is not proposed that any dwellings will be located on the site and a large part of the site will be filled to raise it above flood levels and then covered in hard stand and buildings.

Land contamination from past uses is not a significant concern and the planning proposal is consistent with the SEPP.

SEPP No 71 – Coastal Protection

The subject land is less than 1km from the tidal part of the Tweed River and is within the coastal zone identified in this SEPP. One of the three lots of land involved in the boundary adjustment has direct frontage to the Tweed River. The service centre itself will be located about 800 m east of the Tweed River.

In preparing the planning proposal Council must consider a range of matters identified in clause 8 of the SEPP. A brief response to those is as follows:

The planning proposal will not affect public access to the Tweed River foreshore or generate the need to provide new access; the site is suited to its locality given surrounding land use and proximity to the Pacific Motorway; the proposal will not affect the scenic amenity of the Tweed River foreshore or cause overshadowing or major view impacts; the proposal will not affect threatened species or wildlife corridors; the site will not be affected by coastal processes (it is to be filled above the design flood level as necessary); the proposal will not cause conflict with water or land based activities and is compatible with its neighbouring land uses (crematorium and agriculture); the proposal will not cause impacts on waterbodies such as the Tweed River as long as appropriate on site wastewater disposal is implemented and storm water controls are implemented through the DA process; and will not impact on cultural heritage of significance as the cultural heritage due diligence assessment found that there is no heritage constraint on the site of the service centre.

The planning proposal is consistent with the SEPP.

SEPP (Infrastructure) 2007

Under Clause 104 (Traffic Generating Development) in Division 17, a future development application (should the planning proposal be agreed) would have to be referred to RMS prior to the determination of the application because it would meet the definition of a service station with frontage to a classified road. However, at the planning proposal stage it is important that RMS agree with the location of the service centre so that the DA can be considered on merit.

The proposed roundabout on Tweed Valley Way requires a boundary adjustment to Lot 1 DP 210674. When this sort of minor boundary adjustment is being undertaken by a public authority for road works it can be done under the Exempt provisions of the infrastructure SEPP. However, in this case it will likely be a private landowner undertaking the road works in association with a proposed development. So the SEPP in this case does not apply. This is the reason that the Minimum Lot Size (MLS) map in Tweed LEP 2014 will need to be amended to allow multiple lots less than the MLS.

The planning proposal is consistent with the SEPP.

SEPP (Rural Lands) 2008

The subject land is not of State agricultural significance but it is of regional agricultural significance according to the Northern Rivers Farmland Project. Site specific work undertaken by the applicant concludes that the land is class 4 land and is not of regional significance. If the planning proposal is implemented then approximately 3.9 ha will be lost from future agricultural production.

Despite this, the planning proposal is consistent with the Rural Planning Principles in clause 7 of the Rural Lands SEPP because the proposed use is of wide benefit to the Tweed LGA and the travelling public, does not reduce significantly the current and potential productive and sustainable economic activities in rural areas, and balances the social, economic and environmental interests of the community.

The planning proposal is consistent with the SEPP.

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

Nothing in this planning proposal will alter the permissibility of mining or extractive industries on the subject land. The Rural zone will remain in place under Tweed LEP 2000 and draft Tweed LEP 2014.

The planning proposal is consistent with the SEPP.

SEPP (North Coast REP) 1988

The following is an assessment against the relevant plan preparation clauses only.

SEPP	Consistency Assessment
State Environmental Planning Policy (North Coast Regional Environmental Plan) 1988	
Clause 7 and 8 Prime Crop or Pasture Land and Minimum Lot Sizes	Although identified as regionally significant land this site is more appropriately class 4 land that is physically separated from other agricultural land by Pacific Motorway and the Melaleuca Station development. It is justifiable to vary the MLS for this site to allow the service centre to be on its own lot and separate the remaining agricultural land from it. The planning proposal is justifiably inconsistent.
Clause 32A Coastal Lands	The site is subject to the NSW Coastal Policy 1997; however the site is not located on a dune, beach or headland. The planning proposal is consistent.
Clause 45A – Flood Liable Land	The subject site is flood affected in a 100 year ARI event based on Tweed Council Flood Study. A study completed by the proponent concluded that minor impacts to flooding will occur due to the development. It is considered the risk of flooding can be adequately assessed during the Development Application stage with the use of fill to achieve design flood levels as required on the site. The planning proposal is justifiably inconsistent.
Clause 53 and 54 Primary and Secondary Arterial Roads	The site has been selected because of its proximity to these roads and the access to each road is able to be achieved in a safe and reasonable manner from specially constructed access points. The planning proposal is consistent.

- 4 Is the planning proposal consistent with applicable Ministerial Directions (s 117 Directions)?

Consistency with the s117 Directions is assessed in the following Table 3.

Table 3 Consistency with s117(2) Directions

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
1. Employment and Resources			
1.1 Business and Industrial Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	Does not affect business or industrial zones.	N/A
1.2 Rural Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). Under this direction a planning proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).	This proposal will amend Schedule 1 to LEP 2014 and /or Schedule 3 to LEP 2000 to permit a highway service centre as an additional use. It will also alter the Minimum Lot Size map in LEP 2014 to permit minor boundary adjustments on the subject land. Although it won't change the zone it will allow a commercial use on the land and 3.9 ha will be lost from agricultural production. An agricultural land assessment is at Appendix 2.	Justifiably inconsistent. The provisions of the planning proposal that are inconsistent with the Direction are in accordance with the Far North Coast Regional Strategy, which justifies the inconsistency as provided under clause 5(c) of this Direction. In the wider context of Rural zoned land in the Tweed, it is also a minor matter as provided under

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
			clause 5(d) of this Direction.
1.3 Mining, Petroleum Production and Extractive Industries	Applies when a relevant planning authority prepares a planning proposal that would have the effect of: (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.	Nothing in this planning proposal will prohibit or restrict exploration or mining. The site is a small area adjacent to major public infrastructure (Pacific Motorway) and a crematorium and is not likely to be suitable for mining or extractive industries.	Yes
1.4 Oyster Aquaculture	Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in: (a) adverse impacts on a Priority Oyster Aquaculture Area or a "current oyster aquaculture lease in the national parks estate"; or (b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a "current oyster aquaculture lease in the national parks estate" and other land uses.	This planning proposal does not impact on a Priority Oyster Aquaculture Area.	N/A
1.5 Rural Lands	Applies when: (a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or	This proposal will amend Schedule 1 to LEP 2014 and /or Schedule 3 to LEP 2000 to permit a highway service centre as an additional use. It will also alter the Minimum Lot Size map in LEP 2014 to permit minor boundary adjustments on the subject land. Even though a highway service centre is not a rural	Justifiably inconsistent. The provisions of the planning proposal that are inconsistent are in

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	(b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone. A planning proposal to which clauses (a) and (b) apply must be consistent with the Rural Planning Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>. A planning proposal to which clause (b) applies must be consistent with the Rural Subdivision Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>.	land use it is in this case still consistent with the Planning Principles in clause 7 of the Rural Lands SEPP because it does not reduce significantly the current and potential productive and sustainable economic activities in rural areas in the locality generally, and balances the social, economic and environmental interests of the community by providing an important service to the travelling public. The reduced MLS is required because the highway service centre needs to be on a single lot and a part of the lot across Tweed Valley Way requires a subdivision for the proposed roundabout. However, the two substantive areas of rural land will remain after the boundary adjustments. No extra dwelling entitlements will result from the boundary adjustments and the planning proposal is consistent with the Subdivision Principles in clause 8.	accordance with the Far North Coast Regional Strategy, which justifies the inconsistency as provided under clause 6(a) of this Direction. In the wider context of Rural zoned land in the Tweed, it is also a minor matter as provided under clause 6(b) of this Direction.
2 Environment and Heritage			
2.1 Environment Protection Zones	(4) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. (5) A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a	The planning proposal does not alter or remove any environmental protection zone and no ecologically significant vegetation is present on the site. An ecological assessment is at Appendix 3.	Yes

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 <i>"Rural Lands"</i> .		
2.2 Coastal Protection	Direction applies when a relevant planning authority prepares a planning proposal that applies to land in the coastal zone.	This proposal is located within the coastal zone. However it will not affect public access to the Tweed River foreshore or generate the need to provide new access; the site is suited to its locality given surrounding land use and proximity to the Pacific Motorway; the proposal will not affect the scenic amenity of the Tweed River foreshore or cause overshadowing or major view impacts; the proposal will not affect threatened species or wildlife corridors; the site will not be affected by coastal processes (it is to be filled above the design flood level as necessary); the proposal will not cause conflict with water or land based activities and is compatible with its neighbouring land uses (crematorium and agriculture); the proposal will not cause impacts on waterbodies such as the Tweed River as long as appropriate on site wastewater disposal is implemented and storm water controls are implemented through the DA process; and will not impact on cultural heritage of significance as the cultural heritage due diligence assessment found that there is no heritage constraint on the site of the service centre. The planning proposal is consistent with the SEPP.	Yes
2.3 Heritage Conservation	A planning proposal must contain provisions that facilitate the conservation of: (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage	The site contains no identified heritage items under the current or draft LEP. The proposal is supported by an Aboriginal Cultural Heritage Due Diligence report which indicates that no	Yes

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.	relics or artefacts were found at the site inspection and no heritage constraint is anticipated. The heritage assessment is at Appendix 4.	
2.4 Recreation Vehicle Areas	A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>): (a) where the land is within an environmental protection zone, (b) where the land comprises a beach or a dune adjacent to or adjoining a beach, (c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration: (i) the provisions of the guidelines entitled <i>Guidelines for Selection, Establishment and</i>	The proposal does not enable land to be developed for the purpose of a recreation vehicle area.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<i>Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985, and</i> (ii) the provisions of the guidelines entitled <i>Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985.</i>		
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	(3) This direction applies when a relevant planning authority prepares a planning proposal that will affect land within: (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted. (4) A planning proposal must include provisions that encourage the provision of housing that will: (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and	The planning proposal does not affect residential zoned land and will not facilitate residential development.	Yes

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	(d) be of good design. (5) A planning proposal must, in relation to land to which this direction applies: (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land.		
3.2 Caravan Parks and Manufactured Home Estates	Applies when a relevant planning authority prepares a planning proposal. (1) In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must: (a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and (b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park. (2) In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must: (a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs	This proposal does not seek development for the purposes of a caravan park or manufacture homes estate nor does it impact upon any land that does permit development for the purposes of a caravan park or manufacture homes estate.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	should not be located, (b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and (c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the <i>Community Land Development Act 1989</i> be permissible with consent.		
3.3 Home Occupations	Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.	This proposal does not affect home occupation provisions in any LEP.	N/A
3.4 Integrating Land Use and Transport	Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. (3) A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of: (a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and (b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).	The planning proposal is not in itself a major traffic generator and will not result in increased resident population. Rather it will tap into existing passing traffic requiring fuel, food or a rest stop. It may become a stopover point for bus services that are northbound, but that is not certain. Adequate transport services exist within the locality. In particular, Murwillumbah and Tweed Heads provide a wide range of public transport services.	Yes
3.5 Development Near Licensed Aerodrome	Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a	This proposal does not create, alter or remove a zone or provision relating to an airport.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	licensed aerodrome.		
4. Hazard and Risk			
4.1 Acid Sulfate Soils	Applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.	The site has been identified on the draft Tweed LEP 2014 Acid Sulfate Soils map as containing class 2 acid sulfate soils. Earthworks are proposed that may affect ASS and it is addressed in an ASS management plan that has been prepared (Appendix 5) and will be implemented prior to earthworks commencing. Most of the underground structures required will be located in fill and this will minimise ASS disturbance.	Yes
4.2 Mine Subsidence and Unstable Land	Applies when a relevant planning authority prepares a planning proposal that permits development on land that: (a) is within a mine subsidence district, or (b) has been identified as unstable in a study, strategy or other assessment undertaken: (i) by or on behalf of the relevant planning authority, or (ii) by or on behalf of a public authority and provided to the relevant planning authority.	This proposal does not impact on any mine subsidence area.	N/A
4.3 Flood Prone Land	Applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land. (4) A planning proposal must include provisions that give effect to and are consistent with the NSW	All of the planning proposal site is flood affected. A flood impact assessment has been undertaken and is attached at Appendix 6. The planning proposal will permit development on flood prone land and that is not inconsistent with this	Yes

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>). (5) A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone. (6) A planning proposal must not contain provisions that apply to the flood planning areas which: (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the development of that land, (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development. (7) A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those	Direction because : • The proposed filling will be consistent with Council's draft floodplain risk policy prepared in accordance with the <i>Floodplain Development Manual 2005</i>. • The zone of the land is not proposed to be changed. • The location is not a floodway. • It is predicted there will be no significant impact on other properties. • The development of this land is not significant in the wider context of the Tweed floodplain. • No additional spending on flood mitigation measures, infrastructure or services is anticipated. • No additional development is proposed without consent. • No residential development is proposed • A flood planning level has been agreed for the site. The overall area to be affected is less than 3.9 ha and the flood study shows that it can be filled to above design flood levels without impact on flood levels or velocity on other land. When this site is isolated by flood, the whole Tweed Valley will be flood affected and there is unlikely to be a net increase in demand for flood rescue services, given the warning times in such events.	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General). (8) For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).		
4.4 Planning for Bushfire Protection	Applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land. (9) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made, (10) A planning proposal must: (a) have regard to <i>Planning for Bushfire Protection 2006</i>, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and	The proposal contains no areas of land identified as being Bushfire Prone.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	(c) ensure that bushfire hazard reduction is not prohibited within the APZ. (11) A planning proposal must, where development is proposed, comply with the following provisions, as appropriate: (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the <i>Rural Fires Act 1997</i>), the APZ provisions must be complied with, (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks, (d) contain provisions for adequate water supply for firefighting purposes,		

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	(e) minimise the perimeter of the area of land interfacing the hazard which may be developed, (f) introduce controls on the placement of combustible materials in the Inner Protection Area.		
5. Regional Planning			
5.1 Implementation of Regional Strategies	Planning proposals must be consistent with a regional strategy released by the Minister for Planning.	The site is consistent with the Far North Coast Regional Strategy (page 37) as it states that a highway service centre may be located beside the Pacific Highway at Chinderah and Ballina. There is currently no northbound service centre at Chinderah.	Yes
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.	The proposal is not within this catchment.	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Applies (to Tweed) when a relevant planning authority prepares a planning proposal for land mapped as: (a) State significant farmland, or (b) regionally significant farmland, or (c) significant non-contiguous farmland, on the set of four maps held in the Department of Planning and marked "Northern Rivers Farmland Protection Project, Final Map 2005 (Section 117(2) Direction)". A planning proposal must not:	The site is regionally significant farmland. However, a site based study at Appendix 2 suggests that it's actually class 4 agricultural land and is not that good. It is proposed that it be used as a highway service centre which is more an urban use than a rural one even though they are often located outside of urban areas. No residential or rural residential development is proposed. The inconsistency is justified because the need for a highway service centre at Chinderah is supported by the FNCRS. It can also be justified against Section 4 of the report titled <i>Northern Rivers Farmland Protection Project – Final Recommendations</i> ,	Justifiably inconsistent because it is consistent with the FNCRS (5)(a) and the report on regional farmland (5)(b).

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	(a) rezone land identified as “State Significant Farmland” for urban or rural residential purposes. (b) rezone land identified as “Regionally Significant Farmland” for urban or rural residential purposes. (c) rezone land identified as “significant non-contiguous farmland” for urban or rural residential purposes.	<i>February 2005 as follows:</i> The final recommendations state that urban development could be considered on regionally significant farmland if all seven of the following criteria apply. 1. The proposal is for a single key land use and not a new urban area or a disjointed suburb. Council has reviewed other possible service centre locations and this one is considered the most suitable. There is no viable alternative within the Chinderah urban area and the highway passes through a lot of regionally significant farm land. 2. The subject land is located in close proximity to the Pacific Motorway and is ideally placed to service the travelling public. It is not intended to service local communities that have their own fuel and food outlets. 3. It will not be a wedge into regionally significant farmland because the nearest land use to the south is the Melaleuca Station crematorium and it has main roads on all other sides. The 3.9 ha of land to be lost from production is already isolated. Allowing an urban type development on this site will not disrupt the use of other farmland. 4. The subject 3.9 ha is currently not used for sugar cane production which dominates local agriculture. This land is not critical to the viability of any of the sugar industry. No agricultural infrastructure or transport routes will be affected by this site being used for a highway service centre. The key road transport links of Tweed Valley Way	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		and the Pacific Motorway will remain as fully functional road transport links. 5. No impacts arising from the highway service centre will compromise the sugar cane production, tea tree growing or grazing being carried out on other significant farmland in the general area. At its southern edge, the existing crematorium will be the neighbouring use. 6. The land surrounding the subject land is not subject to existing land use conflicts relating to agriculture. The location of the highway service centre will not exacerbate any known agricultural conflicts. 7. Approximately 3.9 ha of land is identified for a highway service centre. It is located in a 1 in 100 year flood affected area. The filling of this area is permitted under the Tweed flood planning controls subject to certain conditions. A flood impact study has indicated that filling will not cause issues on other land in the flood plain In this case, all seven of the criteria can be met by the planning proposal.	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Applies when a relevant planning authority prepares a planning proposal for land in the vicinity of the existing and/or proposed alignment of the Pacific Highway. (5) A planning proposal that applies to land located on “out-of-town” segments of the Pacific Highway must provide that: (a) new commercial or retail development must not	This proposal will amend Schedule 1 to LEP 2014 and /or Schedule 3 to LEP 2000 to permit a highway service centre as an additional use. It will also alter the Minimum Lot Size map in LEP 2014 to permit minor boundary adjustments on the subject land. The inconsistency with this Direction relates to Table 1 that lists the location for the northbound service centre as being in Chinderah on the “Western side of	Justifiably inconsistent because it is a minor matter that the subject land is at Chinderah, but not within the existing urban

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	be established near the Pacific Highway if this proximity would be inconsistent with the objectives of this Direction. (b) development with frontage to the Pacific Highway must consider impact the development has on the safety and efficiency of the highway. (c) For the purposes of this paragraph, “out-of-town” means areas which, prior to the draft local environmental plan, do not have an urban zone (eg: “village”, “residential”, “tourist”, “commercial”, “industrial”, etc) or are in areas where the Pacific Highway speed limit is 80km/hour or greater. (6) Notwithstanding the requirements of paragraphs (4) and (5), the establishment of highway service centres may be permitted at the localities listed in Table 1, provided that the Roads and Traffic Authority is satisfied that the highway service centre(s) can be safely and efficiently integrated into the Highway interchange(s) at those localities. Table 1 Chinderah Chinderah Bay Road interchange (southbound) Western side of highway in urban zone (northbound)	highway in urban zone (northbound)”. Although the subject land is at Chinderah it is 2.5 km south of the urban zone at a different interchange to the southbound service centre. Apparently RMS has agreed that its original preferred site in the Chinderah urban zone is no longer favoured (as advised in letter from Minister for Roads to Mr Geoff Provest dated 30/7/13 – Appendix 7). The original Chinderah bypass opened in 1996 and the Chinderah to Yelgun freeway upgrade opened in 2002 (creating the Tweed Valley Way and Pacific Motorway intersection). The southbound service centre at Chinderah has been operational since 2006 and yet no northbound site has been able to be established on any site. The FNCRS states that a service centre at Chinderah is warranted and it can only be assumed this means for both north and south bound traffic. If the northbound site cannot be located in the urban area of Chinderah (it is likely it would be opposed by neighbours on noise impacts in any case) then the selection of a new site is warranted. The need for a north bound service centre between Grafton and the Queensland border is evident and if the merits of this site are valid then it should not be delayed by a Direction issued in 2009 that is no longer be current. Any inconsistency with the Direction is justified.	area (7).
6. Local Plan Making			
6.1 Approval and	A planning proposal must:	The planning proposal will not include provisions that	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
Referral Requirements	(d) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (e) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and (f) not identify development as designated development unless the relevant planning authority: (i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and (ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.	require the concurrence, consultation or referral of development applications to a Minister or public authority.	
6.2 Reserving Land for Public Purposes	(4) A planning proposal must not create, alter or reduce existing zonings or reservations of land	The planning proposal does not create, alter or reduce land reserved for a public purpose.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).		
6.3 Site Specific Provisions	Applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out. (4) A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either: (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. (5) A planning proposal must not contain or refer to drawings that show details of the development proposal.	The planning proposal seeks to include one additional use beyond what is permitted with the land use table in the zones to the current and proposed LEP's. A highway service centre is the only additional use proposed and will be confined to a 3.9 ha parcel of land. It will not impose any conditions on the land use. The planning proposal does not contain schematic drawings.	Yes

Section C Environmental, Social and economic impact

- 1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal?

No. The site is currently substantially cleared of native vegetation as it has been used for agriculture of various types for over 50 years. The only native vegetation on the site is a small number of landscape trees planted on the edges of the site. The Flora and Fauna Assessment at Appendix 3 outlines the lack of habitat at the site. It is highly unlikely that the planning proposal will impact on critical habitat or threatened species.

- 2 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Flooding

Most of the site is mapped as "low flow", however some areas around the extremities are affected by "high flow" classification.

Modelling was performed by BMT WBM using Council's Tweed Valley Flood Model as the basis (Appendix 6). As this base model has a coarse 40m grid resolution, the consultants refined the model to provide a 10m grid in the locality. The development was then tested against the 100 year ARI flood event. Results predict peak flood level increases of 0.01m, which is considered negligible.

These results are not unexpected, given the site is surrounded by filled development, particularly the Pacific Motorway formation. While the area may provide some flood storage at present, this volume is not significant in the scheme of the wider floodplain. Council's Engineering Services have advised that for completeness the DA assessment should also confirm impacts for smaller floods (the 20% and 5% AEP events), and verify whether there are any significant impacts on the duration of inundation for the 20%, 5% and 1% AEP floods, as this is most critical to crop losses, particularly sugar cane.

There is no apparent impediment to flood engineering the site and managing other related engineering and on-site waste management regimes. Minimum floor levels for the building have been designed to ensure that the building is above the design flood level. No further assessment is required from a strategic planning perspective.

Contaminated Land

The proponent's documentation includes a Preliminary Site Contamination Investigation (HMC2011.066CL) prepared by HMC Environmental Consulting Pty Ltd dated July 2013, which concluded the site is suitable for the proposed land use (Appendix 1).

Council's Environmental Health Services has advised that the planning proposal is suitable to proceed on the information provided with regards to its contaminated land assessment.

Bushfire

The majority of the land subject to the proposal is not mapped as bushfire prone, with the exception of a small area on the eastern and northern boundary of the site that falls within the 100 metre buffer to vegetation patches located to the north (an isolated planting of eucalypts, presumably for screening purposes) and east (a linear patch of Casuarina forest) adjacent to the Pacific Motorway.

A Bushfire Risk Management Plan (BushfireSafe, 2013) has been submitted which demonstrates that all proposed buildings are located greater than 100m from the above vegetation, and thus the proposal complies with the requirements of Planning for Bushfire Protection (NSW Rural Fire Service 2006).(Appendix 8).

Agricultural Land

The site is mapped as Regionally Significant Farmland. An Agricultural Assessment prepared by Allen & Associates, dated June 2013 (Appendix 2), was submitted with the proponent's documentation and a planning assessment.

In summary, the agricultural assessment concludes that the area of land required for the highway service station has a low agricultural value or rating and that this is due to inherent physical site characteristics. It is noted in particular that the site (the area designated for the service centre and associated parking) is of an inconvenient shape, size and location to allow for purposeful and practical agricultural land use/s to occur, and that the removal of this area of land from agricultural use is not believed that this will have a significant effect on the long-term agricultural production potential of the wider region. Only 3.9 ha of agricultural land will be lost from production with the residue lots remaining in large useable parcels of 50 ha and 29 ha respectively. On balance the loss of agricultural land is justifiable given the lack of other suitable sites for a northbound highway service centre.

3 How has the planning proposal adequately addressed any social and economic effects?

Cultural Heritage

A Cultural Heritage Due Diligence Assessment has been prepared by Everick Heritage Consultants Pty Ltd and submitted in support of the proposal (Appendix 4).No relics or artefacts were found on the site and no AHIMS records are current for the site.

The report details the methodology of site investigation and consultation undertaken. In summary it states that no further cultural assessment is recommended and provides four precautionary recommendations. These relate to actions that should be observed in the event that cultural heritage is found through site disturbance during construction activities.

Noise

An environmental noise assessment was undertaken by TTM in June 2013 (Appendix 9) to assess potential impacts on the nearest receptors. The closest dwellings are 1km north of the site, 900 m north west and the crematorium to the south. Testing in relation to these sites indicated compliance with NSW Industrial Noise Policy was likely so no acoustic treatment will be required. Noise was assessed at Chinderah village to the north and it was concluded the service centre would not be heard from the village. Management strategies to reduce noise for implementation at the DA stage were suggested.

Employment and Social Impacts

A socio-economic assessment was undertaken by RPS in June 2013 (Appendix 10). The report suggests that 95 EFT jobs would be created during construction and 212 when the site is operational. This would have a multiplier effect in the community of \$150M. The impact on other businesses will be negligible and there will be a positive effect on driver behaviour in providing an additional rest stop. There would be no loss of housing or facilities.

Visual Impacts

A visual impact assessment concludes (Appendix 11) that the visual impact will be reasonable given the disturbed nature of the site, the adjacent development, the likely bulk and scale of buildings (single storey), and the responsible use of signage and night lighting. Melaleuca Station can be screened with vegetation (planted already) and there are no outstanding views that will be lost due to the location of the development on a busy road intersection.

Section D State and Commonwealth interests

1 Is there adequate public infrastructure for the planning proposal?

On balance the issues relating to infrastructure all require additional work to resolve to the level of detail required for a successful DA, but are plausible in terms of this strategic planning proposal stage.

Stormwater Drainage

The site is relatively flat and flood prone, with ground levels varying between -0.6m AHD to 1.1m AHD. The site drains via sheet flow and minor surface drains and then to an open drain to the west, which then discharges through a series of culverts and drainage channels and into the Tweed River via a flood-gated outlet (Appendix 6).

Stormwater Quality

Standard erosion and sediment control measures are proposed for the construction phase, and this is considered acceptable given the existing flat grades. Operational phase water quality requirements will need to be addressed through the provision of proprietary treatment devices (Humeceptors), and roof water may need to be separated from the treatable hardstand catchment. An oil separator facility located within the runoff area of the fuel pumps will need to be assessed for its adequacy, as it proposes to discharge to the site's effluent management system rather than the stormwater drainage system. This will occur as part of the DA assessment process.

Stormwater Quantity

Potential impacts on peak stormwater runoff have been taken into account owing to the increase in the site's impervious fraction from 1% to 45%, and associated reduction in time of concentration. Council's Engineering Services have identified the potential underestimation of peak runoff based on the scale of development proposed and assumptions made, and have identified the potential need for additional drainage facilities in the vicinity of the proposed roundabout. This will be required to address road drainage and runoff from Melaleuca Station. There is no apparent impediment to engineering an appropriate stormwater drainage regime for the site from a strategic planning perspective. Council's Engineering Services have identified that further assessment is required and that there will likely be a requirement for Proponent to acquire or create easements for drainage as part of their subdivision DA and works. This will be assessed as part of the DA requirement and requires no further consideration with the planning proposal.

Water Supply

The supporting engineering information (Appendix 6) states that reticulated water supply would be via an existing connection on Lot 11 DP 1134229. Lot 11 DP 1134229 is currently connected to water supply off an existing 500mm trunk main in Tweed Valley Way, which was installed in 2003. The applicant states that subject to approval by Tweed Shire Council, upgrading of the existing connection is proposed to provide a higher level of supply security. Council policy, implemented since the connection in 2003, is that no new connections to Trunk water mains shall be allowed, which includes the upgrading of the existing service connections. Therefore, upgrading of the existing connection will not be approved.

Water supply to the development is only available via an existing 20mm water meter 350 metres south of the proposed service centre site and an extension of the existing service connection is supported. Approval from the relevant roads authority will be required (i.e: Roads and Maritime Services and/ or Council) to run the service along the road easement from the water meter to the development site. The existing water meter cannot be moved from Lot 11 DP 1134229, however it must be transferred in ownership to the new subdivided lot. Connection of Lot 11 DP 1134229 to this meter cannot be supported as it is contrary to Council's policy, which permits only one meter per property. In the event of a trunk main failure or programmed maintenance requiring a main shut down, Council cannot guarantee the time period that service would be restored. Council's Engineering Services advises that a detailed hydraulic report and detail on an alternate power supply for booster pumps will be required, along with the relevant approvals. It is important to note that the development cannot rely on water supply from Council and supply cannot be guaranteed at all times. Thus sufficient water storage must be available onsite to overcome times when water cannot be supplied to this location. This will need to include water for fire fighting.

From an engineering perspective the details of water supply remain to be fully addressed and assessed. From a strategic planning perspective the advice received is that there is no fatal impediment to the planning proposal, and the detailed design is to be managed as part of the DA assessment and construction application stages.

Wastewater

Council's Engineering Services have advised that there is no nearby Council wastewater system for the development (subdivision) to connect to and an onsite sewerage system is required. The proponents documentation includes an On-site Sewage Management Report (2013.034) prepared by HMC Environmental Consulting Pty Ltd, dated June 2013 (Appendix 12).

Council's Environmental Health Services has advised that the information provided is not sufficient and a further more detailed report is required. The terms of reference for a further study have been provided. At this stage there is no evidence to suggest that an on-site sewage management system cannot be designed for the proposed use of the site. From a strategic planning perspective this indicates that the planning proposal can proceed, but conditional on the further study and investigation occurring post Gateway Determination and prior to public exhibition. This report would be required by the Department of Planning and infrastructure (DP&I) as part of its Gateway Determination. The Proponent will be required to either provide or fund the additional studies and the terms of reference for it will be included within a memorandum of understanding. This will ensure that the information specifically required is provided.

Traffic Management

The proposal includes a comprehensive traffic study and engineered road design prepared in June 2013 by TTM, which includes a proposal for a new roundabout installation on Tweed Valley Way (Appendix 13). Council's Engineering and Operations Division have identified several issues of concern; these relate to the location and size of the roundabout and the impact on current traffic flows. Maintaining the efficiency of Tweed Valley Way is essential and requires that access to it from traffic exiting the highway service station can do so without the need to unreasonably reduce the current traffic speed. This is of particular concern given the close proximity to the Pacific Motorway intersection and the need for vehicles, including heavy goods vehicles, to accelerate to safe speeds prior to entering the 110 Kph zone.

The ultimate design of the traffic management must be determined as part of the DA assessment, but from a strategic planning perspective there is no impediment to proceeding with the planning proposal. It is not a question of whether traffic management can be achieved but instead how it should best be achieved.

2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

State and Commonwealth public authorities have not been formally involved in this particular planning proposal as it is yet to receive Gateway Approval.

At this stage there do not appear to be any issues of interest to Commonwealth authorities. No nationally threatened species are known or suspected to occur on the site.

Consent for the development (if the planning proposal is approved) will require referral to NSW Roads and Maritime Services. It has had reservations about this site in the past and their support of the planning proposal is critical to a future DA approval.

Part 4 Community consultation

The Gateway determination will specify the community consultation that must be undertaken on the planning proposal. The consultation will be tailored to specific proposals generally on the basis of a 14 day exhibition period for low impact Planning Proposals and a 28 day exhibition period for all other Planning Proposals

Council considers this planning proposal should be exhibited for 28 days. Whilst the proposal is relatively small, it will generate a high public profile if approved and the public needs to be aware at the planning proposal stage. It is not a principal LEP, and does not reclassify public land.

Summary and conclusions

The Proponent has lodged a combined planning proposal request and development application for a highway service centre to service north bound traffic on the Pacific Motorway at the intersection of Pacific Motorway and Tweed Valley Way at Chinderah. The development is currently prohibited and requires an amendment to the Tweed LEP 2000. Tweed LEP 2014 will become the prevailing instrument so it will require amendment as well. It also requires a boundary adjustment for three lots to provide enough land for a roundabout on Tweed Valley Way and create a single lot of 3.9 ha on which the service centre will be located.

The preferred method to achieve this will be an amendment to Schedule 3 of LEP 2000 to allow a highway service centre on the subject land and an amendment to Schedule 1 of LEP 2014 to allow a highway service centre on the subject land. The LEP 2014 amendment will also need to include an amendment to the Minimum Lot Size map to permit the boundary adjustments that will create lots less than the MLS.

The use of a site at Chinderah for a highway service centre is consistent with the Far North Coast Regional Strategy. However it is justifiably inconsistent with “Section 117 Direction 5.3 Farmland of State and Regional Significance on the NSW Far North Coast” because it will remove approximately 3.9 ha of regionally significant land from agricultural production. It is justifiably inconsistent with “Section 117 Direction 5.4 Commercial and Retail Development along the Pacific Highway, North Coast” because it will not locate the service centre within the urban area of Chinderah. Neither of these inconsistencies are sufficient to stop the planning proposal proceeding as the demand for a northbound service centre has been justified and other more suitable sites are not available. The nearest centre for northbound travellers is Grafton to the south and Coomera to the north.

The planning proposal still has issues relating to infrastructure such as reticulated water and onsite wastewater disposal, but these are matters that can be overcome as part of the development assessment process. On balance, the planning proposal has merit and should proceed through the Gateway Determination to public exhibition.

A timetable for the processing of the planning proposal is enclosed at Appendix 14.

Appendices

- 1- Preliminary site contamination investigation
- 2- Agricultural assessment
- 3- Flora and fauna assessment
- 4- Cultural heritage due diligence assessment
- 5- Acid sulfate soil management plan
- 6- Engineering Impact Assessment Report
- 7- Letter from Minister For Roads to Geoff Provest MP dated 30/7/13
- 8- Bushfire risk management plan
- 9- Environmental noise assessment
- 10- Socio economic impact assessment
- 11- Visual impact assessment
- 12- Onsite sewage management report
- 13- Traffic impact assessment
- 14- Planning proposal timetable



Customer Service | 1300 292 872 | (02) 6670 2400

tsc@tweed.nsw.gov.au
www.tweed.nsw.gov.au

Fax (02) 6670 2429
PO Box 816
Murwillumbah NSW 2484