

### Rezone land for residential development and expansion of Mooball village (Draft Amendment No 94)

|                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |               |          |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|----------|
| Proposal Title :   | Rezone land for residential development and expansion of Mooball village (Draft Amendment No 94)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |               |          |
| Proposal Summary : | <p>The planning proposal seeks to change the zoning of 5861 and 5867 Tweed Valley Way, Mooball from 1(a) Rural to 2(d) Village, 5(a) Special Uses (Sewerage Treatment), 7(d) Environmental Protection (Scenic/Escarpment) and 7(l) Environmental Protection (Habitat) to enable residential development of the southern end of Mooball township, by extending the village footprint.</p> <p>The Draft Tweed LEP is currently on exhibition. Should the draft Tweed LEP be made before this planning proposal the land will be rezoned part RU5 Village, part E3 Environmental Management and part SP2 Water Recycling Facility.</p> |               |          |
| PP Number :        | PP_2013_TWEED_001_00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Dop File No : | 13/01036 |

#### Proposal Details

|                                   |               |                      |                        |
|-----------------------------------|---------------|----------------------|------------------------|
| Date Planning Proposal Received : | 02-Jan-2013   | 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 :      | Tweed Valley Way                                     |         |                 |
| Suburb :      | City :                                               | Mooball | Postcode : 2483 |
| Land Parcel : | Lot B DP 419641, Lot 2 DP 534493 and Lot 7 DP 593200 |         |                 |

#### DoP Planning Officer Contact Details

|                  |                                   |
|------------------|-----------------------------------|
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#### RPA Contact Details

|                  |                            |
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#### DoP Project Manager Contact Details

|                  |                               |
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### 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         |
| MDP Number :                                                            |                                                                                                                                                                                                         | Date of Release :                                    |             |
| Area of Release (Ha) :                                                  | 78.60                                                                                                                                                                                                   | Type of Release (eg Residential / Employment land) : | Residential |
| No. of Lots :                                                           | 300                                                                                                                                                                                                     | No. of Dwellings (where relevant) :                  | 300         |
| Gross Floor Area :                                                      | 0                                                                                                                                                                                                       | No of Jobs Created :                                 | 0           |
| The NSW Government Lobbyists Code of Conduct has been complied with :   | Yes                                                                                                                                                                                                     |                                                      |             |
| If No, comment :                                                        | The Department of Planning & Infrastructure Code of Practice in relation to communication and meetings with Lobbyists has been complied with to the best of the Region's knowledge.                     |                                                      |             |
| Have there been meetings or communications with registered lobbyists? : | No                                                                                                                                                                                                      |                                                      |             |
| If Yes, comment :                                                       | Northern Region has not met any lobbyists in relation to this proposal, nor has Northern Region been advised of any meeting between other departmental officers and lobbyists concerning this proposal. |                                                      |             |

### Supporting notes

Internal Supporting Notes :

External Supporting Notes : The proposal seeks to rezone the land to 2(d) Village (or RU5 - Village under the SI LEP) which would allow for some employment uses.

### Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The objective and intended outcomes of the Planning Proposal are adequately expressed for the area of the proposed amendment to Tweed Shire Local Environmental Plan 2000 or the draft Tweed LEP 2012.

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

Is an explanation of provisions provided? Yes

Comment : The planning proposal provides a clear explanation of the intended provisions to achieve the objectives and intended outcomes.

The draft amendment proposes to:

- 1) rezone rural land to allow for residential development of up to 300 lots. Development is currently limited to a single dwelling under the rural zoning and a 40ha minimum lot size;
- 2) rezone rural land to allow for a Special Uses zone that would allow the construction of a

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wastewater treatment plant (not yet approved) that has the potential to service the proposed residential development; and  
3) apply environmental protection zones to the sensitive areas within the subject site (steep slopes/vegetated areas).

**Justification - s55 (2)(c)**

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

**1.2 Rural Zones**

\* May need the Director General's agreement

**1.5 Rural Lands**

**4.3 Flood Prone Land**

**4.4 Planning for Bushfire Protection**

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 55—Remediation of Land**

**SEPP (Rural Lands) 2008**

**North Coast REP 1988**

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

The subject site was identified as being a high priority for possible expansion by the Tweed Strategic Plan 2004-2024 (superseded). The Community Strategic Plan 2011-2021 identified the need to balance the need for urban growth against the protection of agriculture and village character. The rezoning of the land as 2(d) Village (or R5 - Village under the SI LEP) allows for residential development while maintaining the opportunity for uses that maintain the village context.

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

If No, explain :

The draft LEP is identified as being inconsistent with Direction 4.4 Planning for Bushfire Protection as it does not include provisions relating to asset protection zones as described in the Direction. The Direction provides that a draft LEP may be inconsistent if the Council can satisfy the Director General that Council has obtained written advice from the Commissioner of the NSW Rural Fire Service confirming that there is no objection to the progression of the LEP.

This Direction will need to be addressed by Council prior to or during exhibition. The Direction therefore cannot be justified at this time however will be addressed if the proposal is allowed to proceed to exhibition.

**Mapping Provided - s55(2)(d)**

Is mapping provided? **Yes**

Comment :

The maps provided clearly show the existing and proposed zoning under the Tweed LEP 2000.

The Draft Tweed LEP 2012 is currently on exhibition. Should the draft Tweed LEP be made before this planning proposal the land will be rezoned part RU5 Village, part E3 Environmental Management and part SP2 Water Recycling Facility. Mapping showing these zones has also been included.

If the LEP is made prior to the planning proposal, the map amendments will be in accordance with the Standard technical requirements for LEP maps.

**Community consultation - s55(2)(e)**

Has community consultation been proposed? **Yes**

Comment :

The planning proposal has indicated a 14 day public exhibition period for community consultation. The proposal has not been assessed as a low impact proposal since the proposal will result in a significant change in the zoning of the area and the wastewater treatment plant will require further assessment.

Due to the complexity of the proposal and that it is considered to be a major urban

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release area, an exhibition period of 28 days is recommended. The Gateway will make the final determination of the time frame required for exhibition.

An estimated Project Time Line for the planning proposal has been provided by Council and is as follows:

- 1) Gateway Determination - 31 January 2013
- 2) Technical Studies - 22 March 2013 (preparation of Planning Agreement)
- 3) Agency Consultation - 20 May 2013 (allowed 6 weeks including public exhibition period)
- 4) Community Consultation - 8 April till 6 May 2013 (allowed 28 days)
- 5) Public Hearing - Not anticipated
- 6) Consideration of Submissions - 28 June 2013
- 7) Consideration post-exhibition - 27 September 2013
- 8) Resubmission to Department - 4 October 2013

Additional studies (Odour/Flora & Fauna) have not been anticipated by Council therefore an additional three months have been allocated to the time line to allow for completion of these studies if recommended by the Gateway.

**Note:** The Planning Agreement is a critical component of the success of the planning proposal and Council has indicated that the Planning Agreement be placed on exhibition with the planning proposal. The Council does not anticipate any delays with this Planning Agreement however if the proponent does not complete the agreement within 8 weeks Council may need to adjust the time line to reflect this delay.

**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 :

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
3. Providing an adequate justification for the proposal.
4. Provided a time frame for community consultation.
5. Providing a project time line.
6. Advising that Council do not request delegation to make the plan in this instance.

**Proposal Assessment**

**Principal LEP:**

Due Date : June 2013

Comments in relation to Principal LEP :

The draft comprehensive Tweed LEP 2012 is currently on exhibition. The exhibition period for the draft is from 14 November 2012 till 18 January 2013.

The planning proposal was not considered under the draft comprehensive LEP. It was

considered that the time frame to complete the draft LEP could result in the rezoning being delayed. The amendment to the existing Tweed LEP is necessary to permit potential residential development at Mooball to meet present and future housing demands and not be constrained by the time frame set to complete the new LEP.

### **Assessment Criteria**

Need for planning  
proposal :

The planning proposal is an outcome of the identification of the subject site within the Mooball village as a 'greenfield site' in the 'Tweed Urban Land Release Strategy 2009'(Area 9).

The site is currently zoned rural and does not permit residential development. Rezoning the land to 2(d) Village (or RU5 - Village under the SI LEP) will allow the Mooball village to expand its available residential footprint. With a 2(d) or RU5 Village zoning all forms of residential development are 'permitted with consent'. The rezoning will allow development of a range of diverse residential options that will cater to all levels of the existing and future Mooball community.

The proposed changes to the LEP is the most appropriate means of achieving the desired outcomes for the proposal. The rezoning will allow the Mooball village to expand its residential footprint allowing the land to be developed for residential and commercial/employment purposes. The rezoning represents an appropriate expansion of the village footprint.

Additional housing that could occur from the rezoning proposal will contribute to Council's housing targets as set by the Far North Coast Regional Strategy.

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Consistency with strategic planning framework :

The subject area is consistent with the area identified in the Tweed Urban Land Release Strategy (Area 9) which was identified as a greenfield site and suitable for rural residential development. This was revised to urban expansion if the township was sewerred.

The Council's waste water treatment plant currently under construction does not have the capacity to accommodate the proposed residential development. The proponent as part of the proposed development is committed to providing a stand alone private wastewater disposal facility and is willing to enter into a Planning Agreement with Council to ensure this infrastructure is included for construction at DA stage. This infrastructure facilitates the opportunity for urban expansion with a 5(a) Special Uses or SP2 - Infrastructure zoning.

The planning proposal is not located within the Town and Village Growth Boundary of the Tweed region or identified for urban expansion in the Far North Coast Regional Strategy (FNCRS). In these circumstances the Sustainability Criteria in Appendix 1 of the FNCRS can be considered. The planning proposal was assessed by the applicant against the criteria being infrastructure, access, housing, employment land, risks, natural resources, environmental protection and quality of services. The planning proposal addressed each of the criteria and set out where further assessment could be required. The planning proposal has adequately addressed the Sustainability Criteria and therefore is generally consistent with the FNCRS.

The planning proposal is considered inconsistent with the following S117 Directions:

### 1.2 Rural Zones

The planning proposal is considered inconsistent with this direction as it proposes to rezone land from a rural zone to a residential zone. The inconsistency is justified as the rezoning is in accordance with a strategy that identifies the land which is the subject of the planning proposal - Tweed Urban Land Release Strategy (TULRS) and gives consideration to the objectives of this direction. The rezoning will allow these areas to be developed for residential development which is consistent with the objectives of the TULRS. In addition the Sustainability Criteria in the FNCRS have been considered.

### 1.5 Rural Lands

The planning proposal is considered inconsistent with this direction as it affects land within an existing or proposed rural zone. The subject land is not considered productive agricultural land, is not classed as State or Regionally Significant Farmland, is directly adjacent to the identified existing urban area and will be a appropriate expansion of the village footprint. The site is currently used for grazing purposes. The inconsistency is justified as the subject site is located within a 'Potential Urban Release Area' within the TULRS and is in accordance with the strategy that identifies the land which is the subject of the planning proposal. In addition the Sustainability Criteria in the FNCRS have been considered.

### 4.3 Flood Prone Land

The planning proposal is considered inconsistent with this direction as the northern part of Lot 2 DP 534493 is identified within Council's mapping as being subject to flooding under the Probable Maximum Flood. The inconsistency is justified as Council has in place a Flood Risk Management policy developed in accordance with the NSW Floodplain Development Manual. Any development of flood affected land for residential development will require earthworks to raise affected areas above relevant flood levels. This will be addressed as DA stage.

### 4.4 Planning for Bushfire Protection.

A portion of the site is identified as bushfire prone. These areas are proposed to be zoned 7 (d) and (l)- Environmental Protection (or E3 - Environmental Management under the SI LEP) due to the steep slopes and vegetation present. The direction requires Council to consult with the Commissioner of the NSW Rural Fire Service (RFS) following receipt of the Gateway Determination. Council will be instructed to consult with the RFS either before or during exhibition. It is not considered that the planning proposal will raise significant issues regarding bushfire protection.

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The proposal is otherwise consistent with the S117 Directions.

Environmental social  
economic impacts :

The subject site is mostly devoid of vegetation excluding the south western corner which has been identified as being of ecological value. This area is proposed to be zoned 7(d) Environmental Protection (or E3 - Environmental Management under the SI LEP) to minimise development in this sensitive area. Additional flora and fauna studies have been recommended in the Sustainability Criteria assessment in the FNCRS and will be a recommendation to the Gateway.

A number of smaller areas within the subject site are proposed to be zoned 7(d) Scenic Escarpment and 7(l) Habitat (or E3 - Environmental Management under the SI LEP), which covers the areas where vegetation still exists.

Major services and facilities are provided in the nearby higher population centres of Brunswick Heads, Murwillumbah and Tweed Heads.

Council is currently constructing a waste water treatment plant which will service the existing community of Mooball and surrounds. It has been determined that this system would be unable to service any future residential development in the Mooball area.

The proposal includes the provision of supplying suitable infrastructure to service any application for residential development (stand alone wastewater facility) and enforcement of this requirement by a Planning Agreement with Council. It is considered that no further strain will be placed on council facilities if the residential development was to proceed.

The potential lot yield expected from the development is reduced to between 250 - 300 lots due to some areas being steeply sloped and unsuitable for development. The proposed size of the lots (proposed minimum lot size) appear to be dictated by the slope of the land. The greater the slope, the greater the lot size required. Although the lot yield is reduced, the economic benefit from the proposal can be achieved through lots that are suitable for for both residential and commercial uses, consistent with the village zoning. Job opportunities could arise during construction of the residential development and there is potential for a economic flow on effect within the community with an increase in revenue to the local businesses and area.

### Assessment Process

Proposal type : **Consistent** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 Month** Delegation : **DG**

Public Authority Consultation - 56(2)(d) **Office of Environment and Heritage  
NSW Rural Fire Service**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **The rezoning of 5861 and 5867 Tweed Valley Way, Mooball for urban purposes to enable development south of the Mooball township is a strategically planned release area which will contribute to Council's housing targets as set by the Far North Coast Regional Strategy.**

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

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Identify any additional studies, if required. :

**Flora**

**Fauna**

**Other - provide details below**

If Other, provide reasons :

An odour assessment should be undertaken to determine the potential effect that odour from the proposed Sewerage Treatment Plant (STP) may have on the proposed residential development. The proposed minimum lot size for the subject site has the potential to yield residential lots within close proximity to the STP. The publication 'Living and Working in Rural Areas' recommends a minimum buffer of 300 to 400 metres for waste facilities and/or sewerage works from residential areas and urban development. This may influence the location or extent of residential development around the 5(a) Special Uses (or SP2 - Infrastructure under the SI LEP)zoned area.

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 |
|------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-----------|
| Tweed Shire Council_02-01-2013 00_00_00_Amendment<br>94 Lot B DP 419641 Lot 2 DP 534493 Lot 7 DP 593200<br>Tweed Valley Way Mooball - s56_.pdf | Proposal Covering Letter | Yes       |
| Mooball Residential Development Planning<br>Proposal.pdf                                                                                       | Proposal                 | Yes       |

### Planning Team Recommendation

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

S.117 directions:      **1.2 Rural Zones**  
                                 **1.5 Rural Lands**  
                                 **4.3 Flood Prone Land**  
                                 **4.4 Planning for Bushfire Protection**

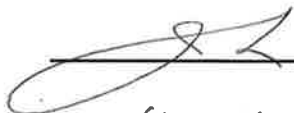
Additional Information :      **It is recommended that:**

- 1) The planning proposal be supported;
- 2) The planning proposal be exhibited for a period of 28 days;
- 3) The planning proposal should be completed within 12 months;
- 4) The Director General (or an officer nominated by the Director General) agree that the inconsistencies with s117 Directions 1.2, 1.5 and 4.3 are justified and accept that 4.4 will be resolved through consultation with the NSW Rural Fire Service before or during exhibition.
- 5) Consultation with Office of Environment & Heritage on vegetation, flooding and heritage issues be undertaken prior to or during exhibition.
- 6) An odour assessment should be prepared addressing potential air quality issues from the proposed wastewater facility.
- 7) Flora and fauna studies were suggested by the Sustainability Criteria assessment and should be undertaken to address the vegetation issue that relate to the placement of 7(d) and 7(l)(or E3 - Environmental Management under the SI LEP) zones.

Supporting Reasons :      **The rezoning of 5861 and 5867 Tweed Valley Way, Mooball for urban purposes to enable development south of the Mooball township is a strategically planned release area which will contribute to Council's housing targets as set by the Far North Coast Regional Strategy.**

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Signature:



Printed Name:

JIM CLARK

Date:

11 Jan 2013