

Tweed LEP 2014 Amendment - Palm Lake Resort, Banora Point

Proposal Title : **Tweed LEP 2014 Amendment - Palm Lake Resort, Banora Point**

Proposal Summary : **The Planning Proposal seeks to amend the Tweed LEP 2014 by:**

- 1. Rezoning part of Lot 10 DP 1190061 and part of Lot 1, DP 1197599, Barneys Road, Banora Point from 7(a) Environmental Protection (Wetlands & Littoral Rainforests) under Tweed LEP 2000 to RE2 Private Recreation under the Tweed Local Environmental Plan 2014;**
- 2. Applying a height of buildings control of 10m to the subject land; and**
- 3. Amending the Land Application, Flood Planning and Acid Sulfate Soils Maps to include the subject land.**

PP Number : **PP_2014_TWEED_006_00**

Dop File No : **15/15750**

Proposal Details

Date Planning Proposal Received : **16-Sep-2014**

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 : **2 Pacific Highway East**

Suburb :

City : **Banora Point**

Postcode : **2486**

Land Parcel : **Part of Lot 10, DP 1190061**

Street : **2 Pacific Highway East**

Suburb :

City : **Banora Point**

Postcode : **2486**

Land Parcel : **Part of Lot 1, DP 1197599**

DoP Planning Officer Contact Details

Contact Name : **Jon Stone**
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RPA Contact Details

Contact Name : **Matthew Zenkteler**
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DoP Project Manager Contact Details

Contact Name :
 Contact Number :
 Contact Email :

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) :	0.46	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of
 Conduct has been
 complied with : **Yes**

If No, comment : **The Department of Planning and Environment's Code of Practice in relation to
 communications and meetings with lobbyists has been complied with to the best of the
 Region's knowledge. The Northern Region has not met with any lobbyists in relation to
 this proposal, nor has the Northern Region been advised of any meeting between other
 Departmental Officers and lobbyists concerning the proposal.**

Have there been
 meetings or
 communications with
 registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting
 Notes : **Palm Lake Caravan Park Resort occupies Lot 10 DP 1190061 and Lot 1, DP 1197599. The
 majority of Lot 10 DP 1190061 is zoned RE2 Private Recreation under the Tweed LEP 2014
 except for 4400m2 that is zoned 7(a) Environmental Protection (Wetlands & Littoral
 Rainforests) under the Tweed LEP 2000. The majority of Lot 1, DP 1197599 is also zoned
 RE2 Private Recreation except for 150m2 that is zoned 7(a) Environmental Protection
 (Wetlands & Littoral Rainforests). Lot 1 is Crown Land. The owner of Lot 10 is currently in
 the process of purchasing the land from the Crown. Crown Lands has provided its consent
 for this Planning Proposal to be lodged.**

External Supporting
Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? **Yes**

Comment : **The objectives and intended outcomes of the Planning Proposal are adequately expressed for the proposed amendment to Tweed LEP 2014.**

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.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.5 Rural Lands

2.1 Environment Protection Zones

2.2 Coastal Protection

3.2 Caravan Parks and Manufactured Home Estates

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

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

Is the Director General's agreement required?

c) Consistent with Standard Instrument (LEPs) Order 2006 :

d) Which SEPPs have the RPA identified?

SEPP No 14—Coastal Wetlands

SEPP No 21—Caravan Parks

SEPP No 55—Remediation of Land

SEPP No 71—Coastal Protection

SEPP (Housing for Seniors or People with a Disability) 2004

SEPP (Rural Lands) 2008

North Coast REP 1988

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

Far North Coast Regional Strategy

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The Planning Proposal includes mapping that identifies the location and proposed zoning of the subject land. Additional mapping prepared in accordance with the Department's standard technical requirements for LEP maps in relation to zoning, building height, flood planning and acid sulfate soils will need to be prepared prior to the legal drafting of the amendment.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The relevant planning authority has identified a 28 day exhibition period for the proposal. This is considered satisfactory.**

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 and accompanying documentation are considered to satisfy the adequacy criteria by:**

- 1. Providing appropriate objectives and intended outcomes;**
- 2. Providing a suitable explanation of the provisions proposed by the LEP to achieve the outcomes;**
- 3. Providing an adequate justification for the proposal;**
- 4. Outlining a proposed community consultation program; and**
- 5. Providing a project time line.**

Council is not seeking an authorisation to exercise plan making delegations as it has not yet accepted these delegations.

Council has provided a project time line which estimates that the LEP will be ready for submission to the Department for finalisation in May 2015. A 9 month time frame is considered adequate and appropriate to complete the proposal.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Tweed LEP 2014 was made in April 2014.**

Assessment Criteria

Need for planning proposal : **Palm Lake Caravan Park Resort occupies Lot 10 DP 1190061 and Lot 1, DP 1197599. The majority of Lot 10 DP 1190061 is zoned RE2 Private Recreation under the Tweed LEP 2014 except for 4400m² that is zoned 7(a) Environmental Protection (Wetlands & Littoral Rainforests) under the Tweed LEP 2000. The majority of Lot 1, DP 1197599 is also zoned RE2 Private Recreation except for 150m² that is zoned 7(a) Environmental Protection (Wetlands & Littoral Rainforests).**

The two sections of land zoned 7(a) have been utilised historically by the caravan park as a driveway entrance. The rezoning of the land is required to provide a more appropriate zoning to reflect the existing nature of the land and to facilitate the further development of the resort and to create consistency and accuracy in the land zoning of the site.

The 7(a) Environmental Protection (Wetlands & Littoral Rainforests) zoning of the subject land was intended to reflect the mapping of SEPP 14 Coastal Wetlands. Council's investigations have confirmed that the subject land has been cleared of native vegetation since at least 1962 and the mapping of the land as SEPP 14 and therefore Zone 7(a) is inaccurate and inappropriate.

Consistency with strategic planning framework :

The Planning Proposal is not the result of any specific study or report.

The proposal is considered to be consistent with the Far North Coast Regional Strategy (FNCRS). The land is within the Town and Village Growth Boundary identified in the FNCRS and is consistent with the recommendations of the strategy including:

- New caravan parks and manufactured home estates, where there is any potential for permanent accommodation to occur, should be located generally in urban areas;
- Councils will plan for a range of housing types of appropriate densities, location and suitability that are capable of adapting and responding to the ageing of the population;
- Local environmental plans will zone areas subject to high hazard to reflect the capabilities of the land; and
- New development adjoining or adjacent to farmland, extractive resources, waterways, wetlands, and areas of high biodiversity value will incorporate buffers to avoid land-use conflict.

Rezoning the subject site from 7(a) to RE2 Private Recreation will enable the landowner to accommodate land uses supplementing the adjoining caravan park retirement village.

The Planning Proposal is considered to be consistent with all applicable SEPPs and section 117 Directions except the following;

1.5 Rural Lands

This Direction is relevant as the Planning Proposal will affect land within an existing environment protection zone. The objectives of this Direction are not relevant to this proposal as they aim to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands. The inconsistency with this Direction is considered to be of minor significance due to its urban nature, the size of the land parcel involved, and its previous use as a driveway servicing the caravan park.

2.1 Environmental Protection Zones

This Direction is relevant as the Planning Proposal will affect land within an existing environment protection zone. The Planning Proposal intends to remove the 7(a) Environmental Protection zone and replace it with Zone RE2 Private Recreation. It is considered the inconsistency with this Direction is of minor significance because of the size of the land, its previous use as a driveway, and as it has been cleared of native vegetation since at least 1962.

4.1 Acid Sulfate Soils

This Direction is relevant as the Planning Proposal will affect land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps. The inconsistency with this Direction is considered to be of minor significance due to the size of the land parcel involved, the minor nature of any potential excavation of the site and as this issue can be adequately addressed at the development application stage.

4.3 Flood Prone Land

This Direction is relevant as the Planning Proposal will affect land that is flood prone. Council's Flood Risk Management Policy requires that each site subject to an LEP amendment be assessed on the basis of topographical characteristics and the related risk management approach to flood response. Council has advised that the subject land is largely above the 100 year ARI flood, and adjoins a high level evacuation route to land above the PMF (Sextons Hill). Minor engineering works would ensure that flood free evacuation could occur (e.g. minor filling, road and drainage structures). The inconsistency with this Direction is therefore considered to be of minor significance.

4.4 Planning for Bushfire Protection

This Direction is relevant as the Planning Proposal will affect land that is identified as bushfire prone land. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued. Until this consultation has occurred the consistency of the proposal with the Direction remains unresolved. The bushfire hazard of the subject land is significant.

Environmental social
economic impacts :

Environmental Impacts

Ecological Values

The land has been cleared of vegetation since 1962 and it is unlikely there are any critical habitats or threatened species on the site. The site adjoins significant vegetation along the western property boundary which forms an Endangered Ecological Community. No adverse impact has been identified subject to Council consulting with the Office of Environment and Heritage as part of the rezoning.

Flooding

The majority of the subject land is not subject to flooding in a 1%AEP event, however small portions of the land may be inundated by such a flood event. Council has indicated that through minor engineering works (filling and road drainage structures) a flood free evacuation of the site could occur. It is considered that there is no significant flood impediment and the site may be suitably engineered for future development.

Bushfire

A Bushfire Risk Assessment Report supports this Planning Proposal. It has been prepared in accordance with the NSW Planning for Bushfire Protection Guidelines 2006. Council's assessment of the Report concluded that the site is not suitable for an increase in the number of caravan park cabins. The Bushfire Threat Assessment Report recommends a 3 metre wide easement on properties adjoining the subject land for bushfire management and control. This recommendation is inconsistent with the general principles of the NSW Planning for Bushfire Protection Guidelines 2006.

Further consultation with the Commissioner of the Rural Fire Services will be necessary to comply with the Direction 4.4 Planning for Bushfire Protection. Council has indicated that should the consultation confirm that the site is unsuitable for the development proposed by the proponent, being additional caravan park sites, the Planning Proposal will be amended to introduce controls to prevent development that is inconsistent with the bushfire hazard of the site. Appropriate use of the land will then be further determined at the development assessment stage. Despite the potential bushfire risk constraining the future development of the subject land it is still considered appropriate to support the planning proposal to ensure consistency and accuracy in the land use zone and planning controls of the site.

Social Impacts

A Net Community Benefit Assessment is included in the Planning Proposal. It is considered that the Planning Proposal will have a negligible social impact. It is also noted that Council proposes to undertake an Aboriginal Cultural Heritage Due Diligence Report for the subject land as part of the rezoning to confirm the suitability of the site for further development.

Economic Impact

The economic impacts of this proposal are also considered to be negligible. It will allow for potential development of further long term sites within the existing caravan park, or other, non-habitable uses supplementing the Palm Lake Resort. This will improve the community within this caravan park, stimulate increased temporary labour and spending in the local area and provide better outcomes for the ageing population within the region.

Assessment Process

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

Timeframe to make LEP : **9 months** Delegation : **DDG**

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 :

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

If Yes, reasons :

Identify any additional studies, if required. :

Other - provide details below

If Other, provide reasons :

Council has identified in the Planning Proposal that they require an Aboriginal Cultural Heritage Due Diligence report to be prepared prior to the exhibition of the Planning Proposal

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
2014-09-10 Cover Letter.pdf	Proposal Covering Letter	Yes
2014-09-10 Planning Proposal.pdf	Proposal	Yes
2014-09-10 Owners consent.pdf	Proposal Covering Letter	Yes
2014-09-10 Bushfire Hazard Report 17July2014.pdf	Study	Yes
2014-09-10 Locality Plan.pdf	Map	Yes
2014-09-10 Aerial Photograph.pdf	Photograph	Yes
2014-09-10 Current Land Zoning.pdf	Map	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 3.2 Caravan Parks and Manufactured Home Estates**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**

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

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

- 1. The Planning Proposal be supported;**
- 2. Council shall undertake an Aboriginal Cultural Heritage Due Diligence Report for the subject land. Council shall include the outcomes of this report in the Planning Proposal prior to public exhibition;**
- 3. Council shall prepare the proposed Land Application, Land Zoning, Height of Building, Flood Planning and Acid Sulfate Soils Maps for the land and include the maps in the public exhibition material;**
- 4. That consultation with the NSW Rural Fire Service and the Office of Environment and Heritage be undertaken;**
- 5. The Planning Proposal be exhibited for 28 days;**
- 6. The Planning Proposal be completed within 9 months; and**
- 7. That the Secretary's delegate determine that the inconsistencies with s117 Direction 1.5 Rural Lands, 2.1 Environment Protection Zones, 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land are justified as the matters are of minor significance.**

Supporting Reasons : **This Planning Proposal will rectify an existing mapping error that identifies the land as 7(a) Environmental Protection (Wetlands and Littoral Rainforest) and provide a zoning that is more appropriate and reflective of the land use and which will help facilitate any future redevelopment of the overall site.**

Signature: _____



Printed Name: _____

Craig Diss

Date: _____

24 / 9 / 14