



TWEED
SHIRE COUNCIL

Draft LEP Amendment No. **7**

PLANNING PROPOSAL FOR PALM LAKE RESORT

(Part of Lot 10 DP 1190061)
2 Barneys Road, Banora Point

V1 GATEWAY DETERMINATION

August 2014

TSC File PP13/0002

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Introduction

Purpose

Tweed Shire Council has received a Planning Proposal which seeks to change the zoning of part of Lot 10 DP 1190061, Barneys Road, Banora Point, as shown in Figure 1 and 4. The Proposal was lodged by the owner of the site, Walter Elliott Holding. The majority of Lot 10 DP 1190061 is zoned RE2 Private Recreation under the Tweed Local Environmental Plan (LEP) 2014 and currently under development as the Palm Lake Caravan Park Resort. The remainder of this lot, which is subject to this planning proposal, is vacant and zoned 7(a) Environmental Protection (Wetlands & Littoral Rainforests) under the Tweed LEP 2000, as shown in Figures 2 and 3. This portion of land is a former road reserve, purchased by Walter Elliott Holding in 2013 and subsequently merged with the caravan park site.

Preliminary assessment of the Proposal identified a need to include a portion of the existing road reserve, currently owned by Crown Lands, of approximately 150 m², immediately adjoining the subject site, in order to achieve consistent zoning within the locality.

Tweed Shire Council Planning Committee resolved on 4 September 2014 as follows:

- 1. A Planning Proposal to facilitate rezoning of part of Lot 10 DP 1190061 and a portion of adjoining road reserve be prepared and submitted to the 'Gateway', as administered by the NSW Planning & Environment, for a determination.*
- 2. The Minister for Planning & Environment or his Delegate be advised that Tweed Council is NOT seeking plan making delegations for this planning proposal.*
- 3. Upon receiving an affirmative Determination Notice from the NSW Planning & Environment any additional studies or work required in satisfaction of demonstrating the suitability of the proposed zone, including Aboriginal Cultural Heritage due diligence assessment, are to be completed.*
- 4. 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 for a period not less than 28 days.*
- 5. 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 affects the following land:

- part of Lot 10 DP 1190061, located at 2 Pacific Highway East, Banora Point. The area of this land is approximately 4400 m², and
- part of an existing, unnamed road reserve, adjoining Lot 10 DP 1190061 to the south. This land is zoned 7(a) Environmental Protection (Wetlands & Littoral Rainforests) and has total area of approximately 150m² (refer to Figure 3 for details).

During the preliminary assessment of this Proposal, Council planning officers sought advice from Natural Resources Management Unit (NRM) in relation to the status of vegetation on the subject site. NRM advised:

The land in question is:

- *entirely cleared of native vegetation*
- *adjacent to an Endangered Ecological Community*
- *entirely covered by SEPP 14 Coast Wetland mapping although it is acknowledged that the SEPP 14 mapping is inaccurate and should reflect the boundary of the adjacent bushland.*

Further to this advice, the history of previous land-uses on the subject site was investigated. Review of the historical aerial photos indicated that the site, although zoned 7(a) Environmental Protection, has been cleared of native vegetation since at least 1962.

Site context and setting

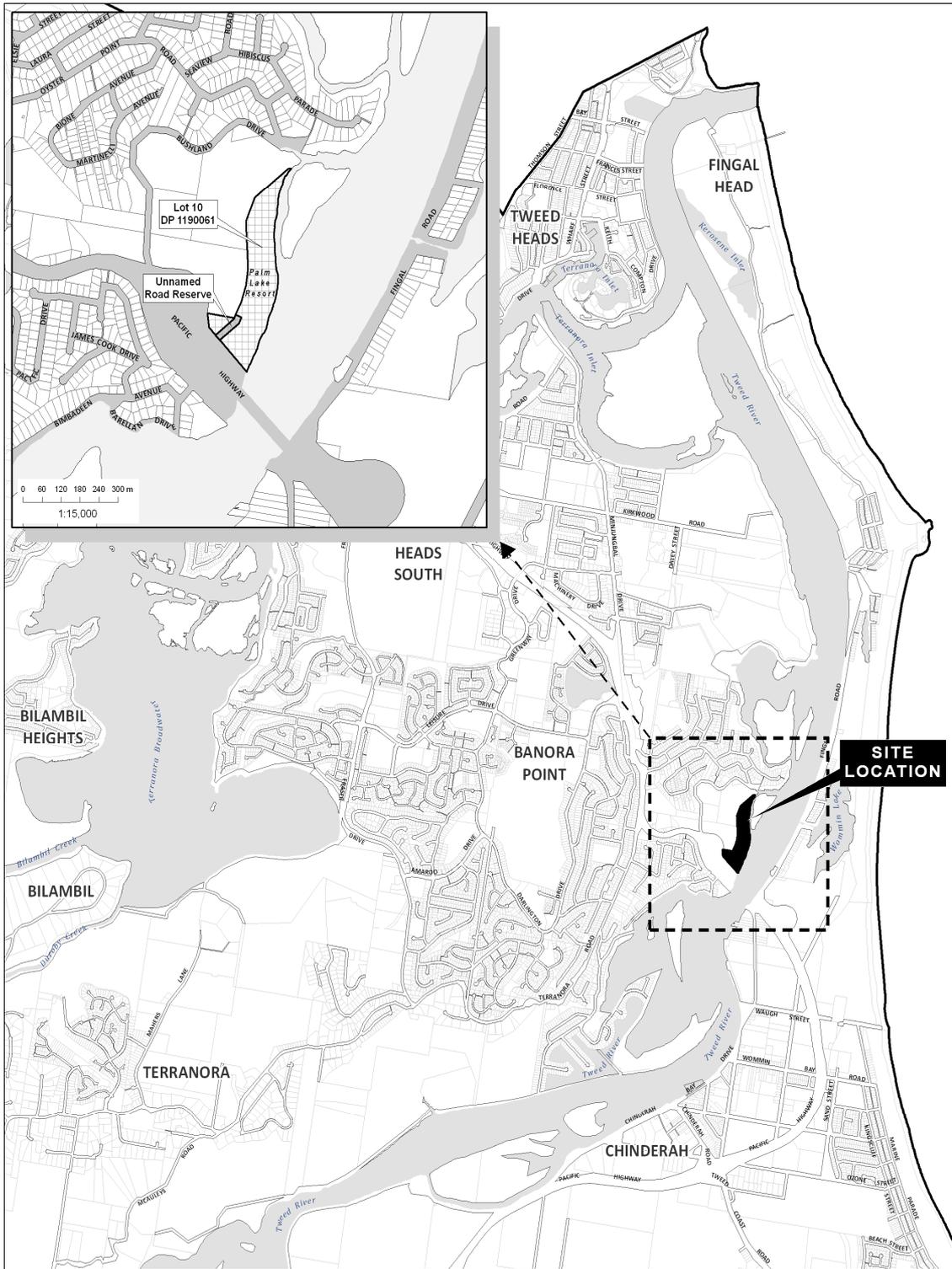
The majority of Lot 10 DP 1190061 is currently under development as the Palm Lake Resort. The remainder of this Lot, which is subject to this planning proposal is cleared of native vegetation at least since 1962 and has been utilised as a driveway to the Palm Lake Resort. Lot 10 DP 1190061 adjoins Tweed River to the east, swamp oak floodplain forest to the west and north, and Barney Road and Pacific Motorway to the south.

The portion of the adjoining road reserve, proposed for inclusion into the Planning Proposal is utilised as driveway access to the caravan park.

The caravan park site has a long history of development consents, as follows:

- Permit Number PN1074 was granted approval on 14 November 1967 for a “caravan park and holiday units”,
- Development Consent No. T4/2794 was granted approval on 17 March 1986 for the “extensions to an existing caravan park to accommodate thirty six (36) movable dwelling sites),
- Development Consent No. D94/0015 was granted approval on 24 June 1994 for the “additions to the existing caravan park”, and
- Five consecutive S96 applications modifying each of the three separate applications have been determined by Council, with the last one approved on 26 July 2013, reducing the density of the caravan park from 180 sites to 114.

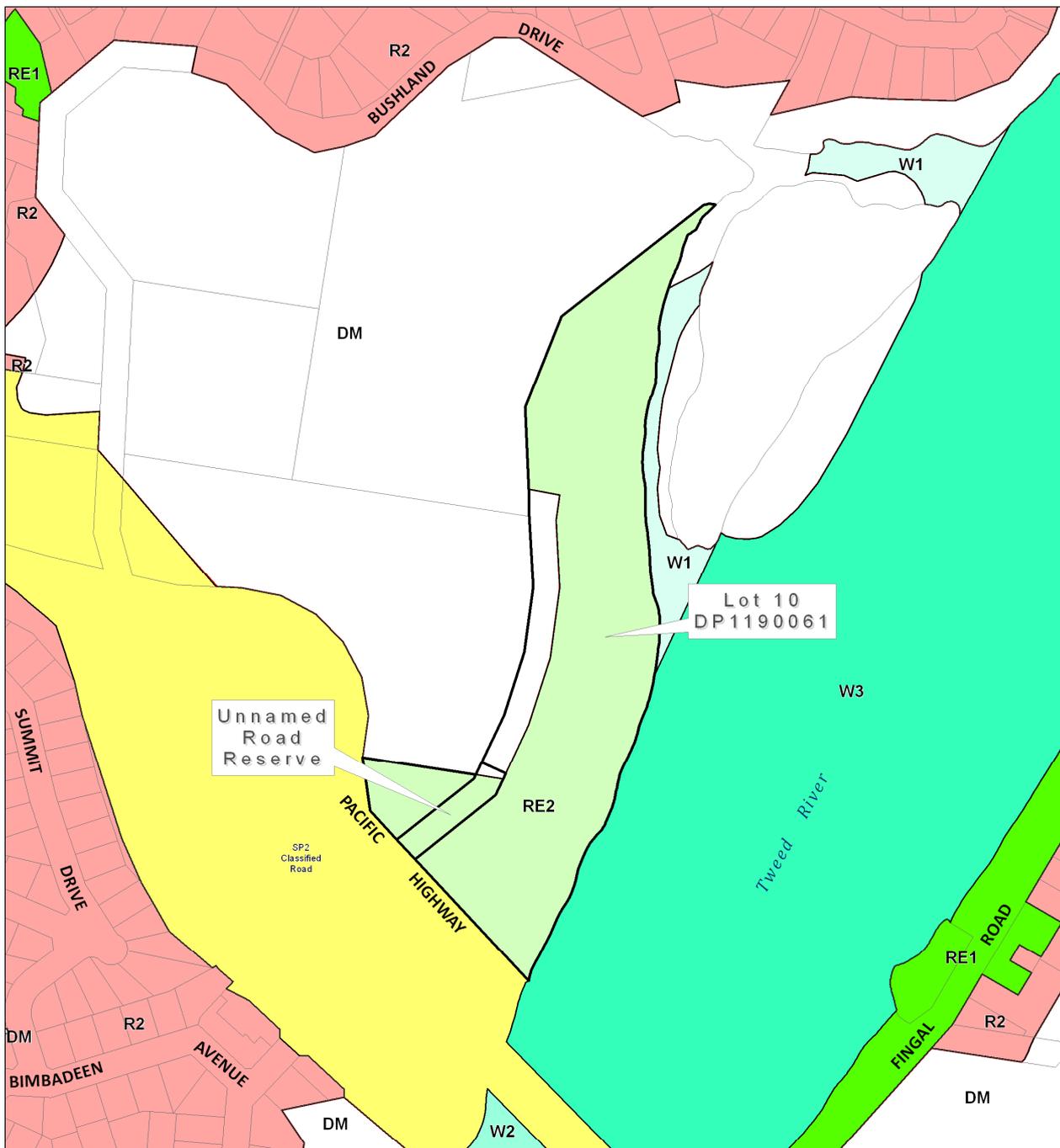
The previous and current owners of the caravan park site have utilised a lease from the Crown to use the former road reserve for recreation and part of the driveway entrance. This lease was never formally part of any development consents for the site.



Locality Plan
 Planning Proposal -- PP13/0002
 Lot 10 DP1190061; No.2 Barneys Point Road, Banora Point and
 Unnamed Road Reserve

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Figure 1 Subject site locality plan



Tweed Local Environmental Plan 2014

Planning Proposal -- PP13/0002
 Lot 10 DP1190061; No.2 Barneys Point Road, Banora Point and
 Unnamed Road Reserve

Tweed Local Environmental Plan 2014

LAND ZONING

- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B5 Business Development
- B7 Business Park
- E1 National Parks & Nature Reserves
- IN1 General Industrial
- IN4 Working Waterfront

- R1 General Residential
- R2 Low Density Residential
- R3 Medium Density Residential
- R5 Large Lot Residential
- RE1 Public Recreation
- RE2 Private Recreation

- RU1 Primary Production
- RU2 Rural Landscape
- RU5 Village
- SP1 Special Activities
- SP2 Infrastructure
- SP3 Tourist

- W1 Natural Waterways
- W2 Recreational Waterways
- W3 Working Waterways
- DM Deferred Matter
- MD SEPP (Major Development) 2005
- TCC Tweed City Centre LEP 2012

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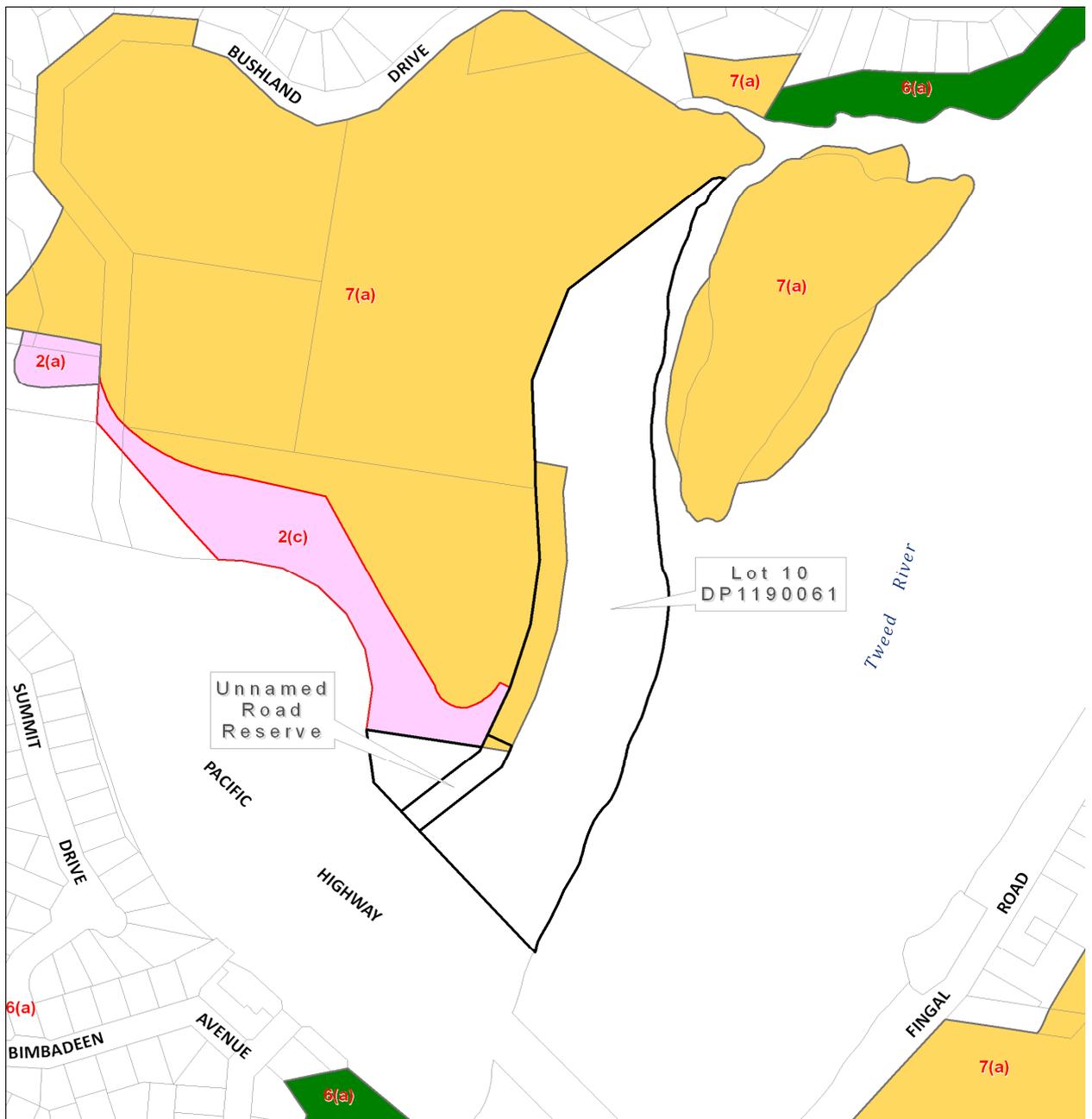
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Figure 2 Subject site (shown with heavy black edging) with TSC LEP 2014 zoning



Tweed Local Environmental Plan 2000

Planning Proposal -- PP13/0002

Lot 10 DP1190061; No.2 Barneys Point Road, Banora Point and Unnamed Road Reserve

Tweed Local Environmental Plan 2000

LAND ZONING

- 1(a). RURAL
- 1(b1). AGRICULTURAL PROTECTION
- 1(b2). AGRICULTURAL PROTECTION
- 1(c). RURAL LIVING
- 2(a). LOW DENSITY RESIDENTIAL
- 2(b). MEDIUM DENSITY RESIDENTIAL
- 2(c). URBAN EXPANSION
- 2(d). VILLAGE
- 2(e). RESIDENTIAL TOURIST
- 2(f). TOURISM
- 4(a). INDUSTRIAL
- 5(a). SPECIAL USES
- 6(a). OPEN SPACE
- 6(b). RECREATION
- 7(a). ENVIRONMENTAL PROTECTION (Wetlands & Littoral Rainforests)
- 7(d). ENVIRONMENTAL PROTECTION (Scenic / Escarpment)

- 7(f). ENVIRONMENTAL PROTECTION (Coastal Lands)
- 7(i). ENVIRONMENTAL PROTECTION (Habitat)
- 8(a). NATIONAL PARKS & NATURE RESERVES
- UNZ. UNZONED LAND
- defer. DEFERRED

Tweed Local Environmental Plan 2000

ADDITIONAL CONTROLS

- Clause 37 (Transmission Line Corridor)
- Clause 38 (Future Roads)
- 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)

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Filepath: Z:\RESRIP\POLICIES & STRATEGIES\PLANNING\PROPOSAL\PP13-0002 Palm Lake Resort\MXD\Figure 2 - LEP 2000.mxd

Author: JBatchevalor - Planning Reforms Unit

Date Printed: 07 July, 2014

Figure 3 Subject site (shown with heavy black edging) with TSC LEP 2000 zoning



SOURCE:
Aerial imagery was captured on
6th to 9th May 2012 © AAM Pty Ltd

Aerial Photo - taken May 2012
 Planning Proposal - - PP13/0002
 Lot 10 DP1190061; No.2 Barneys Point Road, Banora Point and
 Unnamed Road Reserve

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Filepath: Z:\ESR\PRUPOLICIES & STRATEGIES\PLANNING PROPOSALS\PP13-0002 Palm Lake Resort\MXD\Figure 4 - Aerial 2012.mxd

Author: J Batchelor - Planning Reforms Unit

Date Printed: 07 July, 2014

Figure 4 Subject site overlaid with aerial photography (2012)

Part 1 Objectives and intended outcomes

Objective and Intended outcome

This Planning Proposal seeks changes to the Tweed Local Environmental Plan 2014 to rezone the subject site RE2 Private Recreation. The intended outcome sought by the landowner is to:

- achieve consistent zoning of the Palm Lake Resort, and
- enable the development of additional long term sites forming extension of the Palm Lake Resort.

This Planning Proposal provides assessment and justification of both intended outcomes in order to identify appropriate zoning and future use of the subject site.

Part 2 Explanation of provisions

The intended outcome is to be achieved by the following amendments to the Tweed LEP 2014:

- Tweed LEP 2014 Land Application Map to be amended to map the subject site as included in the LEP 2014. At this stage the site is deferred from the Tweed LEP 2014 and subject to the Tweed LEP 2000,
- Tweed LEP 2014 Land Zoning Map to be amended to zone the subject site as RE2 Private Recreation,
- Tweed LEP 2014 Height of Building Map to be amended to apply height control of K - 10 metres, which is the Tweed standard for the RE2 zone,
- The overlay maps: Flood Planning and Acid Sulfate Soils Maps, to be amended to include the subject site.

These amendments will result in excluding the site from the Tweed LEP 2000.

Part 3 Justification

Section A Need for the planning proposal

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

The site is included in the Far North Coast Regional Strategy 2006 (FNCRS), and mapped as lying within the Town and Village Growth boundary and within the existing urban footprint. The FNCRS provides the following recommendations of relevance to the subject site:

- 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.
- 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.

The proposal is generally consistent with the above recommendations.

In response to the bushfire hazard affecting the subject site, the proponent has completed a Bushfire Threat Assessment Report. The Report will be consulted with the Commissioner of the Rural Fire Services following Gateway Determination, and prior to community consultation. Preliminary assessment of the Report undertaken internally by Council indicated however that the site may not be suitable for the development of additional caravan park sites, due to limited ability to accommodate required asset protection zones. At the same time, the assessment indicates that the site could sustain a range of non-habitable uses. These may include recreation, food and drink premises or entertainment facilities.

While assessing this Proposal, Council considered the interim report prepared for the public exhibition of the E-Zone Review project, undertaken by NSW Planning & Environment for the Far North Coast region.

The review of environmental zones in the Far North Coast region has been initiated to inform planning decisions on applying environmental zones and environmental overlays. In May 2014, an interim report, prepared by consultants engaged by the NSW Planning & Environment, was released for public exhibition. The report makes recommendations for the future application of environmental zones and overlays in the Tweed. It is anticipated that the recommendations, once endorsed by the NSW Government, will inform the Ministerial direction to councils about the criteria which must be used when applying an E2 or E3 zone.

The exhibited interim report contained certain recommendations of relevance to the zoning of the site subject to this planning proposal:

- environmental zones should only be applied to those areas which have important environmental values, based on validated ecological evidence,
- E2 and E3 zoning should only be applied where there is proven evidence of significant environmental values that meet the specific criteria,
- land that does not meet the criteria should be zoned according to its primary use. Where land does not have the required environmental significance to be given an E zone, it will be zoned according to its primary use.

In the media release issued on 14 May 2014, the NSW Government has given in-principle support to some of the report's interim recommendations, including those outlined above. Implementation of these criteria will most likely result in rezoning the site subject to this planning proposal from environmental protection to a more suitable zone.

The landowner has been advised that Council will undertake a Shire-wide planning proposal to apply the environmental zones consistently with the outcomes of the finalised E-Zone Review. At this stage however, the timeframe for finalisation is uncertain, therefore the landowner decided to pursue this planning proposal with regards to, the recommendations of the exhibited Interim Report.

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 applying an appropriate zone to the subject site. The current zone 7(a) Environmental Protection (Wetlands & Littoral Rainforest) is considered inappropriate as the land subject to this

planning proposal is entirely cleared of native vegetation. The intended outcome cannot be achieved without the LEP amendments rezoning the site to more suitable zone. The appropriate use of this land under the RE2 Private Recreation zone will be determined during the development assessment process.

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:

Table 1: Assessment of Net Community Benefit

Criteria	Compliance with Criteria
Will the LEP be compatible with the agreed State and regional strategic direction for development in the area?	Yes. The subject site is located within the growth boundaries of the Far North Coast Regional Strategy. The site represents an infill opportunity adjoining the established caravan park. The appropriate form of this infill development will be determined at the development assessment stage.
Is the LEP located in a global/regional city strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub regional strategy.	Yes. The subject site is located in close proximity to Tweed Heads, nominated as a major regional centre under the Far North Coast Regional Strategy 2006-2031.
Is the LEP likely to create a precedent or create or change the expectation of the landowner or other landowners?	The LEP amendment process is initiated by the landowner in order to achieve consistent zoning of the existing caravan park site that would allow for potential development consistent with the adjoining caravan park and constraints of land. Appropriate development will be determined at the development assessment stage.
Have the cumulative effects of other spot rezoning proposals in the locality been considered/ What was the outcome of these considerations?	<p>There have been two similar spot rezoning proposals in proximity to the subject site; both of them were lodged to facilitate extensions of the existing caravan parks in Tweed Heads South. These rezoning proposals aim to facilitate infill development consistent with prevalent use of adjoining land. The cumulative effect of these proposals is generally considered a positive to the locality.</p> <p>At the same time, the spot rezoning proposals in this locality (Tweed Heads/Banora Point) are influenced by constraints related to flooding, bushfire risk or aircraft noise, which significantly limit the potential for infill development.</p>
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	The planning proposal does not seek to include significant employment generating uses. The RE2 Private Recreation zone enables land to be used for private open space or recreational purposes, including tourist accommodation and caravan park sites.

<p>Will the LEP impact upon the supply of residential land and therefore the housing supply and affordability?</p>	<p>The LEP will not have a negative impact upon the housing supply and affordability.</p>
<p>The degree to which the policy and its objectives can be satisfied.</p>	<p>This planning proposal seeks to amend the LEP to allow appropriate zoning over 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 (the aim of this policy is to encourage a network of vibrant, accessible mixed use centres which are closely aligned with and accessible by public transport, walking and cycling). The proposed zoning, RE2 Private Recreation, complies with this policy as the proposed zone will offer additional land uses to support the existing caravan park site and strengthen its role in providing accommodation for seniors.</p>
<p>The proposed level of accessibility to the catchment of the development by public transport, walking and cycling.</p>	<p>Not inconsistent. The subject site is already within the Palm Lake Resort Caravan Park. Access to this Caravan Park is limited to the residents and their guests. This planning proposal will not affect the level of accessibility by public transport, walking and cycling.</p>
<p>The likely effect on trip patterns, travel demand and car use.</p>	<p>The potential increase in travel demand depends on the future use of land subject to this planning proposal. The landowner indicated his intention to develop additional long term sites, forming an extension of the existing Palm Lake Resort Caravan Park. This use of land would result in increased number of long term sites, thus would have (small) impact on the travel demand in the area.</p> <p>Appropriate form of development of the subject site will be determined during the development assessment stage.</p>
<p>The amount of use of public infrastructure and facilities in centres, and the direct and indirect cost of the proposal to the public sector.</p>	<p>It is not anticipated that the proposal will generate any State infrastructure requirements as the site is well serviced by roads and medical services/hospitals.</p>
<p>The practicality of alternative locations, which may better achieve the outcomes, the policy is seeking.</p>	<p>No alternatives location can be identified for this planning proposal. The proposal is initiated by the landowner in order to achieve consistent zoning of the existing caravan park site that would allow for potential development consistent with the adjoining caravan park and constraints of land. Appropriate development will be determined at the development assessment stage.</p>

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 principal regional strategy for the Tweed Shire Council is the Far North Coast Regional Strategy 2006-2031 (FNCRS). It is the overarching strategic framework for the management of growth for local government areas of Lismore, Tweed, Byron, Ballina and Kyogle. The FNCRS has been prepared to complement and inform other relevant State and local planning instruments, including LEP amendments.

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

- Environmental and Natural Resources - *Local environmental plans will protect and zone land with State or regional environmental, agricultural, vegetation, habitat, waterway, wetland or coastline values.*

Comment: The site subject to this planning proposal is currently zoned 7(a) Environmental Protection (Wetlands & Littoral Rainforests), however it has been cleared of the native vegetation since at least 1962. Site inspection carried out in July 2014 confirmed no evidence of native vegetation on the site. It is considered that the environmental zone is not justified.

- Natural Hazards - *implementation of existing natural resource policies, plans and guidelines. Substantial work has been undertaken in the Far North Coast Region by agencies, councils and the community in developing natural resource management policies, plans and guidelines. Councils should ensure that their local growth management strategies, local environmental plans and development control plans maximise achievement of the principles and implementation of the recommendations in these policies and plans, including Planning for Bushfire Protection*
- Natural Hazards - *Local environmental plans will zone areas subject to high hazard to reflect the capabilities of the land.*

Comment: The proponent provided the Bushfire Risk Assessment Report, prepared in accordance with the NSW Planning for Bushfire Protection Guidelines 2006. The assessment of the Report, undertaken by Council, concluded that the site is not suitable for dense development of caravan park cabins, proposed by the applicant as an extension of the existing caravan park. This will be further consulted with the Commissioner of the Rural Fire Services following the Gateway Determination and prior to community consultations, as required by the Ministerial Direction 4.4. At the same time, Council supports rezoning the site to RE2 Private Recreation to enable incorporation of the site into the Palm Lake Resort.

Flooding hazard assessed by Council Infrastructure Engineer resulted in the following advice:

The subject land is largely above the 1% / 100 year ARI flood, and adjoins a high level evacuation route to land above PMF (Sextons Hill). Minor engineering works would ensure that flood free evacuation could occur (e.g. minor filling, road and drainage structures). A similar approach was successfully applied to the adjacent caravan park in its recent redevelopment.

Accordingly, the land would be classed as Land Type 2a or 2b under Table 1 of the Flood Risk Management Policy, and is therefore "Acceptable for Further Consideration".

There is no apparent flood impediment and the site may be suitably engineered for future development. No further assessment of flooding risk is required from a strategic planning perspective.

- Settlement and Housing – *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.*
- Settlement and Housing - *New caravan parks and manufactured home estates, where there is any potential for permanent accommodation to occur, should be located generally in urban areas.*

Comment: The site is located in an urban area. The desired outcome of the planning proposal is consistent with these two recommendations as it provides accommodation for the ageing population. If the consultation with the Commissioner of the Rural Fire Services demonstrates that the site is unsuitable for the proposed land use (caravan park sites), rezoning to RE2 will enable land uses supplementing the caravan park. In that case, appropriate land uses will be determined at the development assessment stage.

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

Council has recently adopted a 10 year *Community Strategic Plan 2013/2023*. The plan is based on four 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 2.2.1 Support provision of a wide range of housing types in new and existing urban areas.	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.
Objective 2.3.1 Advocate for the provision of affordable and accessible health care, aged care, mental health, youth and family services and other community services.	

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

State Environmental Planning Policy	Consistency
SEPP No 14 – Coastal Wetlands	See additional comment below
SEPP No 15 – Rural Landsharing Communities	N/A
SEPP No 19 – Bushland in Urban Areas	N/A
SEPP No 21 – Caravan Parks	Consistent. See additional comment below.
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	N/A
SEPP No 59 – Central Western Sydney Regional Open Space and Residential	N/A
SEPP No 60 – Exempt and Complying Development	Repealed
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 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	Consistent. See additional

State Environmental Planning Policy	Consistency
	comments below
SEPP (Infrastructure) 2007	N/A
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	N/A
SEPP (Major Development) 2005	N/A
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	N/A
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 comment below.

SEPP (North Coast Regional Environmental Plan) 1988

This SEPP is progressively being repealed through the adoption and making of standard instrument LEPs across the North Coast and including Tweed.

Clause 14 – Wetlands or Fisheries Habitat: The site is mapped as SEPP 14 Coastal Wetland although it is acknowledged that the SEPP 14 Mapping is inaccurate and should reflect the boundary of the adjacent bushland.

Part 3 Division 1 Conservation of the environment: The site is entirely cleared of vegetation, as can be seen in the aerial image in Figure 4.

Part 3 Division 2 Coastal Development: In this SEPP, the site is mapped within a coastal lands zone due to its proximity to the Tweed River. Consideration of the possibility of higher sea levels caused by climatic change will be required at DA stage.

Part 3 Division 3 Heritage: An archeological assessment will be required following the Gateway Determination and prior to community consultation.

Clause 38 Plan preparation – urban land release strategy: The site has been identified within the Far North Coast Regional Strategy, 2006 – 2031 as lying within the Town and Village Growth Boundary. Compliance with requirements of the Far North Coast Regional Strategy is addressed in Section B above.

Clause 40 Plan preparation - principles for urban zones: The Planning Proposal will adopt the RE2 Private Recreation zone within the Tweed LEP 2014.

Clause 45 Plan preparation – hazards: All relevant hazards are addressed under Section 4 part B of this Planning Proposal. The bushfire hazard has potential to impact the development of the site.

Part 6 Tourism and Recreation, Division 1 Tourism The proposed development meets the objectives of this part outlined in clause 67 Part 6. Potential environmental hazards have been identified and are addressed in Section 4 part B of this Planning Proposal for further investigation at the DA stage.

Clause 58 Plan preparation – servicing urban area: The site can be connected to Council's reticulated waste water disposal system.

SEPP No 14 Coastal Wetlands

The subject site is entirely covered by SEPP 14 Coast Wetland mapping. During the preliminary assessment stage, Council planning officers sought advice from Natural Resources Management Unit (NRM) in relation to the status of vegetation on the subject site. NRM advised:

The land in question is:

- *entirely cleared of native vegetation*
- *adjacent to an Endangered Ecological Community*
- *entirely covered by SEPP 14 Coast Wetland mapping although it is acknowledged that the SEPP 14 mapping is inaccurate and should reflect the boundary of the adjacent bushland.*

Whilst the planning proposal is not consistent with this SEPP, the SEPP 14 Coastal Wetlands are not evident on the site and therefore the proposal is suitable.

SEPP No 21 – Caravan Parks

This SEPP provides additional controls managing the use of a caravan park by providing a requirement to determine ratio of long term and short term caravan sites within a caravan park.

The planning proposal is consistent with the SEPP and specific matters may be addressed as part of the development assessment.

SEPP 55 – Remediation of Land

This SEPP introduces planning controls for the remediation of contaminated land. The policy states that land must not be developed if contamination renders it unsuitable for a proposed use. If the land is unsuitable, remediation must take place before the land is developed.

A site contamination assessment was undertaken in relation to the development of the Palm Lake Resort. While assessing the S96's development application, Council Environmental Health Officers ensured that the previously placed fill was free from contaminants (including acid sulfate soils).

SEPP No 71 – Coastal Protection

The subject land is less than 100m from the tidal part of the Tweed River and is within the coastal zone identified in this SEPP.

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 use of the site for the purposes of the caravan park 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 land will not be affected by coastal processes as it is filled above the design flood level; the proposal will not cause conflict with water or land based activities and is compatible with its neighbouring land uses; the proposal will not cause impacts on

waterbodies such as the Tweed River as long as appropriate storm water controls are implemented through the DA process; and will not impact on cultural heritage of significance.

The planning proposal is consistent with the SEPP.

SEPP (Rural Lands) 2008

This SEPP applies to this planning proposal as the site is currently zoned with an environmental zone. This SEPP provides matters for consideration while subdividing or developing dwelling houses on rural lands. These matters are spelt under clauses 7 Rural Planning Principles and 8 Rural Subdivision Principles. It is noted that the Proposal is outside of the scope of these clauses as it aim to rezone the land to RE2 Private Recreation zone, consistently with the remainder of the property.

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

This SEPP aims to increase the supply and diversity of residences that meet the needs of seniors or people with a disability, make efficient use of existing infrastructure and services, and ensure that the provision of such housing is of good design.

At the strategic level, this Proposal is consistent with this SEPP as it aims to provide supply of residential housing for seniors. Matters provided under Schedule 3 of this SEPP (Standards concerning accessibility and useability for hostels and self-contained dwellings) will be addressed at the development assessment stage.

4 Is the planning proposal consistent with applicable Ministerial Directions (s117 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).	This proposal 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 does not affect a rural zone.	N/A
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.	Does not change the permissibility of mining, petroleum or extractive industries. All these uses are prohibited both in the RE2 Private Recreation and 7(a) Environmental Protection (Wetlands and Littoral Rainforest).	Yes

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
<p>1.4 Oyster Aquaculture</p>	<p>Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in:</p> <ul style="list-style-type: none"> (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. 	<p>This planning proposal does not impact on a Priority Oyster Aquaculture Area.</p>	<p>N/A</p>
<p>1.5 Rural Lands</p>	<p>Applies when:</p> <ul style="list-style-type: none"> (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 (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. <p>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>.</p> <p>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>.</p>	<p>The site is zoned with an environmental zone, however objectives of this Direction are not relevant to this proposal:</p> <ul style="list-style-type: none"> (1) The objectives of this direction are to: <ul style="list-style-type: none"> (a) protect the agricultural production value of rural land, (b) facilitate the orderly and economic development of rural lands for rural and related purposes. 	<p>N/A</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
2 Environment and Heritage			
2.1 Environment Protection Zones	<p>(4) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>(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 change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 "Rural Lands".</p>	<p>The planning proposal intends to remove the 7(a) Environmental Protection zone and rezone the site RE2 Private Recreation, therefore this Direction is relevant to this proposal.</p> <p>During the preliminary assessment of the proposal, the following advice was received from the NRM Unit:</p> <p><i>The land in question is:</i></p> <ul style="list-style-type: none"> • <i>entirely cleared of native vegetation</i> • <i>adjacent to an Endangered Ecological Community</i> • <i>entirely covered by SEPP 14 Coast Wetland mapping although it is acknowledged that the SEPP 14 mapping is inaccurate and should reflect the boundary of the adjacent bushland.</i> <p>Lack of native vegetation was further confirmed during a site inspection carried out in July 2014.</p> <div data-bbox="1182 979 1767 1375" data-label="Image"> </div> <p><i>Photo taken during site inspection in July 2014.</i></p>	<p>Justifiably inconsistent. The site has been cleared of native vegetation and used as a driveway since at least 1962, therefore this inconsistency is considered to be of a minor significance.</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		<p>Analysis of aerial photos in Council's database indicates that the site has been cleared of native vegetation, and used as a driveway, at least since 1962. In addition, this site is of a relatively small size, approximately 4550 m². This proposal can be considered to be justifiably inconsistent as it is of a minor significance.</p>	
<p>2.2 Coastal Protection</p>	<p>Direction applies when a relevant planning authority prepares a planning proposal that applies to land in the coastal zone.</p>	<p>This site is located within the coastal zone. It will not affect public access to the Tweed River foreshore or generate the need to provide new access; the use is suited to its locality given surrounding land uses 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 is not considered to affect threatened species or wildlife corridors; the site will not be affected by coastal processes (it is 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 (caravan park); 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; impact on cultural heritage of significance will be verified prior to the public exhibition.</p>	<p>Yes</p>
<p>2.3 Heritage Conservation</p>	<p>A planning proposal must contain provisions that facilitate the conservation of: (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage</p>	<p>The site contains no identified heritage items under the current LEP. The proposal is will be subject to an Aboriginal Cultural Heritage Due Diligence report. This will be</p>	<p>Yes</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>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,</p> <p>(b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and</p> <p>(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.</p>	<p>required following the Gateway Determination and prior to the public consultations stage.</p> <p>At this stage the proposal is not inconsistent with this Direction and can proceed to the Gateway Determination.</p>	
<p>2.4 Recreation Vehicle Areas</p>	<p>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>):</p> <p>(a) where the land is within an environmental protection zone,</p> <p>(b) where the land comprises a beach or a dune adjacent to or adjoining a beach,</p> <p>(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:</p> <p>(i) the provisions of the guidelines entitled <i>Guidelines for Selection, Establishment and</i></p>	<p>The proposal does not enable land to be developed for the purpose of a recreation vehicle area.</p>	<p>N/A</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p><i>Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985, and</i></p> <p>(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></p>		
<p>3. Housing, Infrastructure and Urban Development</p>			
<p>3.1 Residential Zones</p>	<p>(3) This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</p> <ul style="list-style-type: none"> (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. <p>(4) A planning proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> (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 	<p>The planning proposal does not affect residential zoned land and will not facilitate residential development.</p>	<p>Yes</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>(d) be of good design.</p> <p>(5) A planning proposal must, in relation to land to which this direction applies:</p> <p>(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</p> <p>(b) not contain provisions which will reduce the permissible residential density of land.</p>		
<p>3.2 Caravan Parks and Manufactured Home Estates</p>	<p>Applies when a relevant planning authority prepares a planning proposal.</p> <p>(1) In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</p> <p>(a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and</p> <p>(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.</p> <p>(2) In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:</p> <p>(a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs</p>	<p>The purpose of this planning proposal is to facilitate the extension of the existing Palm Lake Resort Caravan Park. It retains the zoning of the existing development with a view to facilitate expansion on land currently zoned 7(a).</p>	<p>Consistent</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>should not be located,</p> <p>(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</p> <p>(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.</p>		
<p>3.3 Home Occupations</p>	<p>Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.</p>	<p>This proposal does not affect home occupation provisions in any LEP.</p>	<p>N/A</p>
<p>3.4 Integrating Land Use and Transport</p>	<p>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.</p> <p>(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:</p> <p>(a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and</p> <p>(b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).</p>	<p>The planning proposal is not in itself a major traffic generator and will not result in increased resident population.</p> <p>Adequate transport services exist within the locality. In particular, Banora Point and Tweed Heads provide a wide range of public transport services.</p>	<p>Yes</p>
<p>3.5 Development Near Licensed Aerodrome</p>	<p>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</p>	<p>This proposal does not create, alter or remove a zone or provision relating to an airport.</p>	<p>N/A</p>

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.	<p>The desired outcome of this planning proposal is to rezone the site RE2 Private Recreation under the Tweed LEP 2014. At this stage, the site is subject to the Tweed LEP 2000.</p> <p>The Tweed LEP 2014 contains the acid sulfate soils clause which aims to ensure that development does not disturb, expose or drain acid sulfate soils.</p> <p>The subject site is mapped as a Class 2 Acid Sulfate Soils area. The S96 Applications lodged for development of Stage 1 on the Palm Lake Resort site (under construction) did not seek approval for any works that would interfere with acid sulfate material. In assessing the S96's, Council Environmental Health Officers ensured that the previously placed fill was free from contaminants (including acid sulfate soils).</p>	Consistent.
4.2 Mine Subsidence and Unstable Land	<p>Applies when a relevant planning authority prepares a planning proposal that permits development on land that:</p> <ul style="list-style-type: none"> (a) is within a mine subsidence district, or (b) has been identified as unstable in a study, strategy or other assessment undertaken: <ul style="list-style-type: none"> (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

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
<p>4.3 Flood Prone Land</p>	<p>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.</p> <p>(4) A planning proposal must include provisions that give effect to and are consistent with the NSW 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>).</p> <p>(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.</p> <p>(6) A planning proposal must not contain provisions that apply to the flood planning areas which:</p> <p>(a) permit development in floodway areas,</p> <p>(b) permit development that will result in significant flood impacts to other properties,</p> <p>(c) permit a significant increase in the development of that land,</p> <p>(d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or</p> <p>(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</p>	<p>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. The following advice was received from Council Infrastructure Engineer in relation to this Proposal:</p> <p><i>The subject land is largely above the 1% / 100 year ARI flood, and adjoins a high level evacuation route to land above PMF (Sextons Hill). Minor engineering works would ensure that flood free evacuation could occur (e.g. minor filling, road and drainage structures). A similar approach was successfully applied to the adjacent caravan park in its recent redevelopment.</i></p> <p><i>Accordingly, the land would be classed as Land Type 2a or 2b under Table 1 of the Flood Risk Management Policy, and is therefore "Acceptable for Further Consideration".</i></p> <p>There is no apparent flood impediment and the site may be suitably engineered for future development. No further assessment is required from a strategic planning perspective.</p>	<p>Yes</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>areas), roads or exempt development.</p> <p>(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 controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p> <p>(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).</p>		
<p>4.4 Planning for Bushfire Protection</p>	<p>Applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.</p> <p>(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,</p>	<p>The Bushfire Threat Assessment Report provided by the proponent in relation with this planning proposal makes a recommendation to impose a 3 metre wide easement on properties adjoining the subject land, being the EEC site. This outcome is inconsistent with the general principles of the Planning for Bushfire Protection 2006 (PBP). One of these principles states that the bushfire protection measures must be contained within the 'overall' development and not on adjoining lands (other than in exceptional circumstances).</p> <p>This recommendation will be further consulted with</p>	<p>Justifiably inconsistent.</p> <p>The extent of this inconsistency will be further determined through consultations with the Commissioner of the Rural Fire Services.</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>(10) A planning proposal must:</p> <ul style="list-style-type: none"> (a) have regard to <i>Planning for Bushfire Protection 2006</i>, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. <p>(11) A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</p> <ul style="list-style-type: none"> (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: <ul style="list-style-type: none"> (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 	<p>the Commissioner of the Rural Fire Services, following the Gateway Determination, and prior to undertaking community consultations, as mandated under S117 Ministerial Direction 4.4.</p> <p>Should the consultation confirm that the site is unsuitable for the development proposed by the proponent, being caravan park sites, the planning proposal will introduce controls that avoid allowing this development. Appropriate use of the site will then be further determined at the development assessment stage.</p>	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>must be complied with,</p> <ul style="list-style-type: none"> (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, (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	<p>Planning proposals must be consistent with a regional strategy released by the Minister for Planning.</p>	<p>This planning proposal is consistent with the following actions and outcomes of the FNCRS:</p> <ul style="list-style-type: none"> • Environmental and Natural Resources - <i>Local environmental plans will protect and zone land with State or regional environmental, agricultural, vegetation, habitat, waterway, wetland or coastline values.</i> <p>Comment: The site subject to this planning proposal is currently zoned with an environmental zone, however it has been cleared of the native vegetation since at least 1962. The environmental zone is not warranted for the site.</p> <ul style="list-style-type: none"> • Natural Hazards - <i>implementation of existing natural resource policies, plans and guidelines. Substantial work has been undertaken in the</i> 	Yes

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		<p><i>Far North Coast Region by agencies, councils and the community in developing natural resource management policies, plans and guidelines. Councils should ensure that their local growth management strategies, local environmental plans and development control plans maximise achievement of the principles and implementation of the recommendations in these policies and plans, including Planning for Bushfire Protection</i></p> <p>Comment: The proponent provided the Bushfire Risk Assessment Report, prepared in accordance with the NSW Planning for Bushfire Protection Guidelines 2006. The assessment of the Report, undertaken by Council, concluded that the site is not suitable for dense development of caravan park cabins, proposed by the applicant as an extension of the existing caravan park. At the same time, Council supports rezoning the site to RE2 Private Recreation to allow the landowner consider other land uses compatible, or ancillary to, the existing caravan park.</p> <ul style="list-style-type: none"> • Settlement and Housing – <i>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.</i> • Settlement and Housing - <i>New caravan parks and manufactured home estates, where there is any potential for permanent accommodation to occur, should be located generally in urban</i> 	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		<p><i>areas.</i></p> <p>Comment: The site is located within an urban area. The desired outcome of the planning proposal is consistent with these two recommendations as it provides accommodation for the ageing population. If the consultations with the Commissioner of the Rural Fire Services demonstrate that the site is unsuitable for the proposed land use (caravan park sites), rezoning to RE2 will enable land uses supplementing the caravan park. In that case, appropriate land uses will be determined at the development assessment stage.</p>	
<p>5.2 Sydney Drinking Water Catchments</p>	<p>Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.</p>	<p>The proposal is not within this catchment.</p>	<p>N/A</p>
<p>5.3 Farmland of State and Regional Significance on the NSW Far North Coast</p>	<p>Applies (to Tweed) when a relevant planning authority prepares a planning proposal for land mapped as:</p> <ul style="list-style-type: none"> (a) State significant farmland, or (b) regionally significant farmland, or (c) significant non-contiguous farmland, <p>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)”.</p> <p>A planning proposal must not:</p> <ul style="list-style-type: none"> (a) rezone land identified as “State Significant Farmland” for urban or rural residential 	<p>This proposal is not affected by state significant farmland, regionally significant farmland or significant non-contiguous farmland.</p>	<p>N/A</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>purposes.</p> <p>(b) rezone land identified as “Regionally Significant Farmland” for urban or rural residential purposes.</p> <p>(c) rezone land identified as “significant non-contiguous farmland” for urban or rural residential purposes.</p>		
<p>5.4 Commercial and Retail Development along the Pacific Highway, North Coast</p>	<p>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.</p> <p>(5) A planning proposal that applies to land located on “out-of-town” segments of the Pacific Highway must provide that:</p> <p>(a) new commercial or retail development must not be established near the Pacific Highway if this proximity would be inconsistent with the objectives of this Direction.</p> <p>(b) development with frontage to the Pacific Highway must consider impact the development has on the safety and efficiency of the highway.</p> <p>(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.</p> <p>(6) Notwithstanding the requirements of paragraphs (4) and (5), the establishment of highway service</p>	<p>This direction is relevant as the Palm Lake Resort is located in the vicinity of the Pacific Motorway. The site has limited exposure to the Pacific Motorway because of significant (more than 10 metres) elevation of the Motorway. Any development resulting from this planning proposal is unlikely to have any significant impact on safety and efficiency of the highway as it will be a continuation of, or ancillary to the Palm Lake Resort currently under construction on Lot 10 DP 1190061.</p>	<p>Consistent</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>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.</p> <p>Table 1 Chinderah Chinderah Bay Road interchange (southbound) Western side of highway in urban zone (northbound)</p>		
6. Local Plan Making			
6.1 Approval and Referral Requirements	<p>A planning proposal must:</p> <ul style="list-style-type: none"> (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: <ul style="list-style-type: none"> (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 	<p>The planning proposal will not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.</p>	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>authority:</p> <ul style="list-style-type: none"> (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. 		
<p>6.2 Reserving Land for Public Purposes</p>	<p>(4) A planning proposal must not create, alter or reduce existing zonings or reservations of land 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).</p>	<p>The planning proposal does not create, alter or reduce land reserved for a public purpose.</p>	<p>N/A</p>
<p>6.3 Site Specific Provisions</p>	<p>Applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.</p> <p>(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:</p> <ul style="list-style-type: none"> (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 	<p>The planning proposal does not seek to allow any site-specific, particular development.</p>	<p>N/A</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>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</p> <p>(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.</p> <p>(5)A planning proposal must not contain or refer to drawings that show details of the development.</p>		

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 entirely cleared of native vegetation as it has been used for a road reserve or a driveway for over 50 years. It is highly unlikely that the planning proposal will impact on critical habitat or threatened species.

During the preliminary assessment of the proposal, the following advice was received from the NRM Unit:

The land in question is:

- *entirely cleared of native vegetation*
- *adjacent to an Endangered Ecological Community*
- *entirely covered by SEPP 14 Coast Wetland mapping although it is acknowledged that the SEPP 14 mapping is inaccurate and should reflect the boundary of the adjacent bushland.*

Lack of native vegetation was further confirmed during a site inspection carried out in July 2014.



Land subject to this Planning Proposal - July 2014

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

Flooding

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. The following advice was received from Council Infrastructure Engineer in relation to this Proposal:

The subject land is largely above the 1% / 100 year ARI flood, and adjoins a high level evacuation route to land above PMF (Sextons Hill). Minor engineering works would ensure that flood free evacuation could occur (e.g. minor filling, road and drainage structures). A similar approach was successfully applied to the adjacent caravan park in its recent redevelopment.

Accordingly, the land would be classed as Land Type 2a or 2b under Table 1 of the Flood Risk Management Policy, and is therefore "Acceptable for Further Consideration".

There is no apparent flood impediment and the site may be suitably engineered for future development. No further assessment of flooding risk is required from a strategic planning perspective.

Bushfire

The land subject to this Proposal is mapped as bushfire prone (vegetation buffer). The proponent submitted a Bushfire Threat Assessment Report (Bushfire Certifies, dated 17 June 2014) prepared to assess the proponent's desired outcome, being the development of caravan park sites on the subject land. The majority of the recommendations provided in the report have been supported and assessed as consistent with the strategic planning framework, including Ministerial Direction 4.4 Planning for Bushfire Protection under Section 117 of the EP&A Act 1979.

The Bushfire Threat Assessment Report makes a recommendation to impose a 3 metre wide easement on properties adjoining the subject land, being the EEC site. This outcome is inconsistent with the general principles of the Planning for Bushfire Protection 2006 (PBP). One of these principles states that the bushfire protection measures must be contained within the 'overall' development and not on adjoining lands (other than in exceptional circumstances). Consistency with the PBP is required under S117 Ministerial Direction 4.4.

The recommendation provided under the Bushfire Threat Assessment Report to accommodate the easement on the adjoining land indicates that the subject site may have insufficient space to accommodate an appropriate asset protection zone (APZ) and as such may be unsuitable for the proposed development of caravan park sites. This will be further consulted with the Commissioner of the Rural Fire Services, following the Gateway Determination, and prior to undertaking community consultations, as mandated under S117 Ministerial Direction 4.4.

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

Cultural Heritage

A *Cultural Heritage Due Diligence Assessment* has not been requested at this stage. From a strategic planning perspective this indicates that the planning proposal can proceed to Gateway Determination, conditional on the further study and investigation occurring post Gateway Determination and prior to public exhibition. The Proponent will be required to either provide or fund the study. History of development in this locality (the Sexton Hill roadwork) suggests that the site may contain Aboriginal cultural heritage.

Social and economic effects

The planning proposal 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 outcome for the ageing population within the region.

Section D State and Commonwealth interests

1 Is there adequate public infrastructure for the planning proposal?

Roads

The site is to be linked to the existing caravan park to the east. The Palm Lake Resort currently has its main access from the Barneys Road, located in proximity to the Pacific Motorway interchange. This planning proposal will not result in any amendments to the traffic network in the area.

Waste water

Connection to Council's reticulated waste water treatment system should be possible and is not considered a constraint to development of the site. Section 64 headwork's charges will apply to any future development.

Water

Water Infrastructure is available in the locality and is adequate for the development of this site.

Electricity and Telecommunications

Electricity and Telecommunications services are available to the site, and are adequate for this Planning Proposal.

Stormwater

The site will be incorporated into the Palm Lake Resort. Appropriate stormwater infrastructure is available on the site and is not considered a constraint to development of the site.

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.

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 intends to remove environmental zoning and the public needs to be aware of this process and have an ability to provide comments.

It is not a principal LEP, and does not reclassify public land.

Part 5 Project timeline

The table below outlines the indicative timeframe for this planning proposal:

Task	Estimated timeframe
Gateway Determination	October 2014
Finalisation of additional information as requested by Council and Gateway Determination	October - November 2014
Review and update of the planning proposal	November 2014
Public exhibition of PP for not less than 28 days	January - February 2015
Agency consultation	October 2014 (RFS), January - February 2015
Review submissions	March 2015
Report to Council	March 2015
Preparation of a final Planning Proposal for submission to the Planning & Infrastructure requesting the LEP amendment to be made	April 2015
Submission to Planning Minister	April 2015
Responses to Ministerial comments	May 2015

Summary and conclusions

The Proponent has lodged a Planning Proposal request for rezoning of part of Lot 10 DP 1190061 at Barneys Road, Banora Point. The site is currently zoned 7(a) Environmental Protection (Wetlands & Littoral Rainforests) under the Tweed LEP 2000 and the Proposal seeks to rezone the site RE2 Private Recreation under the Tweed LEP 2014. The intended outcome of the Proposal is development of the caravan park sites over the subject land.

The preliminary assessment may be summarised as follows:

- The current zoning of the site as 7(a) is not warranted as the site has been entirely cleared of native vegetation at least since 1962;
- It is anticipated that the forthcoming finalisation of the review of environmental zones in the Far North Coast will result in zoning the subject site according to its primary use, being a caravan park. The date of finalisation of the review is unknown at this stage;
- The outcome sought by the proponent, being the development of the additional caravan park sites does not comply with the NSW Planning for Bushfire Protection Guidelines 2006. This will be further consulted with the Commissioner of the Rural Fire Services NSW following the Gateway Determination, and prior to the community consultations stage.
- Rezoning the site RE2 Private Recreation is considered appropriate as this zone is capable of accommodating suitable, non-habitable land uses related with caravan park land use.

In summary, this planning proposal seeks rezoning of the site to provide the landowner with an opportunity to seek appropriate use of their land, consistent with State and local planning policies and strategies. This will be facilitated by the rezoning of the site to the RE2 Private Recreation zone.

Preliminary assessment has indicated that whilst bushfire is a significant constraint for development of habitable caravan park dwellings, the site appears capable of accommodating other, non-habitable, caravan park uses.

In concluding, the preliminary assessment has not identified any matters that might otherwise present as a barrier to proceeding with a planning proposal.



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