

Tweed LEP 2014 Amendment No 24 - Amendment to clause 2.8 Temporary Use of Land for filming

Proposal Title : **Tweed LEP 2014 Amendment No 24 - Amendment to clause 2.8 Temporary Use of Land for filming**

Proposal Summary : **This Planning Proposal aims to amend clause 2.8 Temporary use of land of the Tweed LEP 2014 to remove the specific maximum time limits for filming activities on rural land.**

PP Number : **PP_2016_TWEED_004_00** Dop File No : **16/10918**

Proposal Details

Date Planning Proposal Received : **15-Aug-2016** LGA covered : **Tweed**

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

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

LEP Type : **Policy**

Location Details

Street :

Suburb : City : Postcode :

Land Parcel : **This Planning Proposal applies to all rural zoned land in the Tweed LGA**

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 : **Tamara Prentice**

Contact Number : **0266416610**

Contact Email : **tamara.prentice@planning.nsw.gov.au**

Land Release Data

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

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

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MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	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.**

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

If Yes, comment : **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.**

Supporting notes

Internal Supporting Notes : **Under the State Environmental Planning Policy - Exempt and Complying Development Codes 2008, filming can be undertaken for a maximum of 30 days in a calendar year on private land without the need for development consent. Under the Tweed LEP 2014, development consent may be granted for the temporary use of land for a maximum period of 52 days in any 12 month period. This includes filming.**

Council wish to amend the Tweed LEP 2014 to remove the specific maximum timeframe for filming to occur to provide greater certainty for the film and television industry and to better reflect the NSW Government's stated objective to support and foster this industry in NSW.

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 proposal are clearly stated in the proposal.**

The Planning Proposal aims to amend clause 2.8(4) and (5) of the Tweed LEP 2014 to add filming in a rural zone as a temporary landuse that may exceed the 52 day maximum specified in 2.8(2). This will have the effect of removing the specific maximum time limits for filming activities on rural land.

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

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

Comment : **The Planning Proposal provides an explanation of provisions. It includes a plain english**

version of the explanation and a proposed amended clause showing the specific changes.
The final drafting of the provision will be made by Parliamentary Counsel.

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

1.3 Mining, Petroleum Production and Extractive Industries

1.4 Oyster Aquaculture

1.5 Rural Lands

5.1 Implementation of Regional Strategies

5.3 Farmland of State and Regional Significance on the NSW Far North Coast

6.3 Site Specific Provisions

Is the Director General's agreement required? **No**

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

d) Which SEPPs have the RPA identified?

SEPP (Exempt and Complying Development Codes) 2008

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

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

If No, explain :

Adequate information has been provided to allow this proposal to progress through to Gateway determination.

Mapping Provided - s55(2)(e)

Is mapping provided? **No**

If No, comment :

This Planning Proposal does not involve changes to any LEP Maps.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The Planning Proposal does not indicate a community consultation timeframe for this proposal.

A 14 day community consultation period is considered appropriate given the proposal would be defined as low impact in accordance with the Department's guidelines.

It is not considered necessary to consult with any Government Agencies in this instance due to the minor nature of the proposal.

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 generally satisfies the adequacy criteria by:

- 1. Providing appropriate objectives and intended outcomes;**
- 2. Providing an explanation of the provisions;**
- 3. Providing a justification for the proposed amendments;**

5. Outlining that community consultation will be undertaken; and
6. Providing a project timeframe which suggests completion within 4 months.

Timeline

- The Planning Proposal includes a project timeline which estimates that the Plan could be finalised by December 2016 (4 months). It is considered that a 6 month time frame would be appropriate considering the nature of the Planning Proposal. This does not restrict Council from finalising the LEP amendment sooner.

Delegation.

- Council has not accepted plan making functions nor has it requested delegation to finalise the subject proposal. It is recommended that an Authorisation for the execution of delegation not be issued to Council in this instance.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Tweed LEP commenced on the 4th April 2014. This Planning Proposal seeks to make amendments to the Tweed LEP 2014.

Assessment Criteria

Need for planning proposal :

Tweed Shire Council has been approached to host a production of an ongoing television series within the Shire. The production may extend beyond the provisions of the State Environmental Planning Policy - Exempt and Complying Development Codes 2008 (30 days within a 12 month period) and the Tweed LEP 2014 (52 days within a twelve month period). A production such as this has the potential to generate significant economic activity and jobs for local communities.

The Tweed LEP 2014 currently prohibits filming in the RU1 Primary Production and RU2 Rural Landscape zones by virtue of those zones being 'closed', prohibiting any land use not listed as being permitted without consent or permitted with consent. This prohibition means that consent cannot be granted for filming in the rural zones longer than the 52 days within a 12 month period permitted under the provisions of clause 2.8 Temporary Use of Land of the Tweed LEP 2014.

This proposed amendment to the LEP will enable filming to be approved under clause 2.8 Temporary Use of Land on rural land for a period longer than 52 days within a 12 month period. It will also enable the structures or facilities associated with the filming activity to be retained on the site at the secession of the project so they can be reused at a later date.

It is noted that this Planning Proposal will only affect rural zoned land and not environmental zoned land. The Tweed LEP 2014 does not currently have a suite of Environmental zones other than the E1 National Parks and Nature Reserves zone. It is anticipated that other Environmental zones will be included in the future. It was discussed with Council Staff whether they had considered either including a reference in the Planning Proposal to environmental zones or removing the reference to rural zones as a way to 'future proof' the LEP and enable this amendment to apply in environmental zones once they are included in the Tweed LEP 2014. Council Staff considered the issue but advised they would address the matter as part of a shire wide Planning Proposal for the environmental zones.

The final wording of the clause will be drafted by Parliamentary Counsel and approved by Council.

Consistency with strategic planning framework :

The Planning Proposal is not inconsistent with the objectives of the Far North Coast Regional Strategy or the related actions of the Strategy. The Planning Proposal will facilitate economic development within the film industry and provide flow on effects of other ancillary industries. The Proposal will not impact on other themes of the Strategy including environmental and natural resources, cultural heritage, natural hazards, settlement and housing and settle character and design.

The Planning Proposal is not considered to be inconsistent with any State Environmental Planning Policy. Under State Environmental Planning Policy - Exempt and Complying Development Codes 2008, filming can be undertaken for a maximum of 30 days in a 12 month period on private land without the need for development consent. This Planing Proposal extends those provisions by requiring development consent for filming beyond the 52 days per 12 month period of the Tweed LEP 2014. It is not considered that this is inconsistent with the SEPP as development consent will need to be granted and a merit based assessment will be undertaken. The function of the SEPP will not be affected.

As filming is already permissible and the Planning Proposal only extends the maximum timeframe, the proposal will have limited potential relevance to many of the s117 directions. The proposal is considered to be currently inconsistent with s117 direction 4.4 Planning for Bushfire Protection and will require written comments from the Commissioner of the NSW Rural Fire Service before the inconsistency with this direction can be resolved. The proposal is consistent with all other s117 directions.

Environmental social economic impacts :

It is considered that this Planning Proposal will have a negligible environmental and social impact on the Shire given that filming can already occur on a temporary basis under current planning controls. The new provisions will require development consent to be granted for filming over a longer period and a merit based assessment process will consider any potential impacts. The economic benefits of this amendment to the LEP are considered to be potentially significant given the nature of the film industry and the flow on benefits to support industries such as the service and construction industries.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **6 months** Delegation : **DDG**

Public Authority Consultation - 56(2)(d) :

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, provide reasons :

Identify any additional studies, if required :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

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Is the provision and funding of state infrastructure relevant to this plan? No If Yes, reasons :

Planning Team Recommendation

Preparation of the planning proposal supported at this stage :	Recommended with Conditions
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S.117 directions :

- 1.3 Mining, Petroleum Production and Extractive Industries**
- 1.4 Oyster Aquaculture**
- 1.5 Rural Lands**
- 5.1 Implementation of Regional Strategies**
- 5.3 Farmland of State and Regional Significance on the NSW Far North Coast**
- 6.3 Site Specific Provisions**

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

1. The Planning Proposal be supported;
2. The Planning Proposal be exhibited for 14 days;
3. The Planning Proposal be completed within 6 months; and
4. That a written authorisation for Council to exercise its plan making delegations not be granted for this matter.

Supporting Reasons :	This Planning Proposal will facilitate the development of the film industry within the Tweed Shire.
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Panel Recommendation	
Panel A	Panel B

Recommendation Date :	Gateway Recommendation :	Passed with Conditions
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Panel	This proposal is considered to be of local significance and can be appropriately considered
Recommendation :	by the Acting Director Regions, Northern and referral to the panel is not required.

Decision Date :	23-Aug-2016	Gateway Determination :	Passed with Conditions
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Decision made by : **Regional Director, Northern Region**

Gateway Determination : I, the Acting Director Regions, Northern at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the Environmental Planning and Assessment Act 1979 (the Act) that an amendment to the Tweed Local Environmental Plan (LEP) 2014 to amend clause 2.8 Temporary use of land to remove the specific maximum time limits for filming activities on rural land should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal is classified as low impact as described in A Guide to Preparing LEPs (Department of Planning and Infrastructure 2013) and must be made publicly available for a minimum of 14 days;
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Infrastructure 2013).
2. Consultation is required with the NSW Rural Fire Service under section 56(2)(d) of the Act. NSW Rural Fire Service is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if

reclassifying land).

4. The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.

Exhibition period :	14 Days	Gateway Timeframe :	6 months
		Extension Timeframe :	0 months
		Total Timeframe :	6 months
		Proposal Due Date for Finalisation:	02-Mar-2017
		Status:	On-time

Revised Determination (e.g. Extensions & Alterations):

Implementation

Gateway effective date :	30-Aug-2016		
Exhibition start date :	30-Aug-2016	Exhibition end date :	16-Sep-2016
		Exhibition duration :	18
Public hearing :		Date :	
Date advice received from RPA :	29-Nov-2016	Days with RPA :	92

LEP Assessment

Days with DoP :	3	Number of submissions :	0
Additional studies conducted :	No		
Agency consultation consistent with recommendation :	Yes		
If No, comment :	The Gateway determination required consultation with NSW Rural Fire Service The Rural Fire Service (RFS) raised no objection to the proposal, and advised that future development application for filming would need to comply with the relevant provisions of Planning for Bushfire Protection 2006. No changes to the planning proposal are required as a result of the submission from the RFS.		
Agency Objections :	No		
If Yes, comment :	Community consultation in accordance with the Gateway Determination dated 23 August 2016 was undertaken between 30 August and 16 September 2016. No public submissions were received during this period.		
Documentation consistent with Gateway :	Yes		

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If No, comment :	A Gateway determination was issued for the planning proposal on 23 August 2016. Condition 1 required community consultation for a period of 14 days which Council conducted from the 30 August to 16 September 2016. Condition 2 required consultation with the NSW Rural Fire Service (RFS) which Council undertook as evident by the response from the RFS dated 28 September 2016. Condition 3 related to the requirement for a public hearing which was not required since no submissions were received and the proposal was not reclassifying land. Condition 4 required finalisation of the LEP by 2 March 2017 which Council is on track to achieve. Council has complied with the conditions of the Gateway determination in progressing this planning proposal. Council was consulted on the draft LEP pursuant to s.59(1) of the Act. On 19 December 2016 Council advised that the draft instrument was satisfactory. A PC opinion was issued on 21 December 2016. It is considered that the draft plan is suitable for publication. Strategic Planning Framework The proposal is not inconsistent with the Far North Coast Regional Strategy, the draft North Coast Regional Plan, and relevant State Environmental Planning Policies. As Council has consulted with the NSW Rural Fire Service (RFS) and the RFS has not objected to the proposal, the Secretary's delegate can now agree that the proposal's inconsistency with S117 Direction 4.4 is justified in accordance with the terms of the direction. The proposal is otherwise consistent with S117 Directions.
Proceed to Draft LEP :	Yes
If No, comment :	It is recommended that the Minister's delegate make the LEP under section 59(2) (a) of the Act as submitted by Council as the relevant planning authority.
Have all necessary changes requested by Council / Department / Agency / Other been made?	Yes
If No, comment :	No changes to the LEP are considered to be necessary.

LEP Determination

Date sent to legal : 01-Dec-2016	Total Days at PC : 6	Total Days at Legal/DoP : 15
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PC Dates Details

Date sent to PC : 16-Dec-2016	Date returned from PC : 21-Dec-2016	Days at PC : 6
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Other referrals :	Date Sent :	Date Received :
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Elapsed Days : **24**

Date PC provided an opinion that draft LEP could be made :

Have changes been made to the draft LEP after obtaining final PC opinion?

Determination Date :

Determination Decision :

Notification Date :

Decision made by :

Link to Legislation Website :

Internal Supporting notes :

Documents

Document File Name	DocumentType Name	Is Public
2016-08-15 Cover Letter(email).pdf	Proposal Covering Letter	Yes
2016-08-16 Planning proposal.pdf	Proposal	Yes
Planning Team Report.pdf	Determination Document	Yes
Gateway Determination Report.pdf	Determination Document	Yes
Gateway Determination.pdf	Determination Document	Yes