**Introduction**

**Summary of Planning Proposal**

The planning proposal relates to all land within the Forbes Shire Council government area and SP3 Tourist zones under the *Forbes Local Environmental Plan 2013 (FLEP).*

The proposal seeks to allow development for the purposes of “Service Station” and “Highway Service Centre” as permissible with consent within the SP3 Tourist zone.

The amendment to SP3 will support the LEP to meet the demand of service stat ions and highway service centres in tourist areas, taking advantage of Forbes position on the Newell Highway and the vast majority of tourists arriving to Forbes by car.

As with any development permissible with consent, a development application is required to demonstrate consistency with the zone objectives, and address any environmental impacts in accordance with the *Environmental Planning and Assessment Act 1979.*

**Part 1 – Objectives and Intended Outcomes**

The objectives of this planning proposal are to:

* Enable development for the purposes of Service Station and Highway Service Centre as permissible land use in the SP3 Tourist Zone.
* Facilitate growth of tourism in Forbes by accommodating the main form of travel for tourists.
* Facilitate diverse but compatible land use outcomes in the SP3 zone that are consistent with the zone objectives.

The intended outcome of this planning proposal is to add “Service Station” and “Highway Service Centre” as land uses permissible with consent in SP3 Tourist Zone.

Council seeks to gain delegation to make the Local Environmental Plan via a Gateway Determination.

**Part 2 – Explanation of the Proposal**

The proposed outcome will be achieved by amending the land use table in the *Forbes Local Environmental Plan 2013* as it applies to the SP3 Tourist zone.

The relevant section of the zoning table is provided below. It is proposed to amend the list of land uses permitted with consent (section 3) by adding “Service Station” and “Highway Service Centre” as shows in red.

***Zone SP3 Tourist***

***1 Objectives of zone***

*• To provide for a variety of tourist-oriented development and related uses.*

*• To facilitate Forbes as a tourist destination.*

***2 Permitted without consent***

*Environmental protection works; Roads; Water reticulation systems*

***3 Permitted with consent***

*Amusement centres; Animal boarding or training establishments; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cellar door premises; Charter and tourism boating facilities; Community facilities; Eco-tourist facilities; Entertainment facilities; Environmental facilities; Food and drink premises; Flood mitigation works; Function centres; Helipads; Highway Service Centre; Information and education facilities; Jetties; Kiosks; Marinas; Passenger transport facilities; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Roadside stalls; Service Station; Shop top housing; Signage; Tourist and visitor accommodation; Viticulture; Water recreation structures; Water recycling facilities; Water storage facilities*

***4 Prohibited***

*Any other development not specified in item 2 or 3*

**Part 3 – Justification**

**Section A – Need for the Planning Proposal**

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

The planning proposal is not the direct result of a strategic study or report. The proposal seeks to increase the options for development permissible with consent in the SP3 Tourist zone consistent with the zone objectives. The proposal to add Service Station and Highway Service Centre as development permissible with consent in SP3 is in response to an internal review of Councils LEP and predicted growth in the future.

Informing the view of Council is The Newell Highway Corridor Strategy prepared by RMS which shows that light vehicle movements on the Newell at Forbes is predicted to increase by 0.4% per annum for the next 20 years. Furthermore, heavy vehicle movements between West Wyalong and Forbes and Parkes and Forbes is predicted to increase by 79% and 77% respectively between 2011 and 2031.

Section 6 of the Newell Highway Corridor Strategy lists “Appropriate Infrastructure and Services to help manage driver fatigue” as a key challenge for the future of the Newell Highway.

This shows a clear need for an increase in Highway Service Centres and Service Stations.

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

Adding Service Station and Highway Service Centre as a land use permissible with consent in the SP3 zone is the considered the best way to achieve the objectives and intended outcomes of the proposal. The only other option available to Council to facilitate this use would be a **Schedule 1 Additional permitted use** planning proposal on an adhoc basis as the need and means arise for any future developments. By changing the land use table, Council is future proofing the tourism zone for changing economic needs in Councils along the Newell Highway.

The permissibility of Service Stations as a land use in SP3 Tourist zone is consistent with other gazette LEPs in the Central West of NSW. A review of the Central West LGAs reveal that Bathurst, Orange, Cowra and Dubbo all allow Highway Service Centres and Service Stations in their SP3 Tourism Zone. Parkes, Lachlan, Upper Lachlan and Yass do not have a SP3 zone. This leaves only Mid-Western and Forbes Councils as not permitting the subject uses.

Department of Planning and Environments Practice Note 09-006 *Providing Tourism in Standard Instrument local environmental plans* outlines uses associated with tourism, of which Highway Service Centre is one of them. Council also believes that Service Stations are associated with tourism and are in line with the objectives of the zone.

**Section B – Relationship to the 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 Central West and Orana Regional Plan 2017 state various Directions and Actions that support this planning proposal. Of relevance to this proposal is GOAL 1: A growing and diverse regional economy

The intent of Goal 1 is to enhance and strengthen the region’s economic diversity. This proposal, by allowing Highway Service Centres and Service Stations as a land use permissible with consent in the SP3 zone will support tourism development. As Practice Note 09-006 states that Highway Service Centres are development associated with tourism, Council is of the view that this addition will help support tourism development in the shire. This is further supported knowing that the vast majority of tourist transport in the shire is achieved by car or bus.

Direction 4 under Goal 1 is to *Promote and diversify regional tourism markets.* Which recognises the importance of tourism for the Central West and Orana regions. Action 4.2 states “*work with Councils to improve tourism-related transport services”.* As road transport is the main form of tourism related transport in Forbes and the broader Central West, this planning proposal is in line with the Regional Plan. Further, Action 4.4 states “*Enable opportunities appropriate for tourism development and associated land uses in local environmental plans”.* As already stated, Highway Service Centres and Service Stations are considered associated land uses to Tourism.

Central West Regional Transport Plan again outlines several actions that support this proposal including improve tourism related transport services and improve road safety.

1. **Is the planning proposal consistent with the local Council’s Community Strategic Plan, or other local strategic plans?**

At the time of writing this report, Council had released a draft Community Strategic Plan onto Public Exhibition. Several strategies outlined in the draft Community Strategic Plan support this proposal including:

* *“LE2: Support economic growth and expansion across the Shire through improvement of local public and private infrastructure and the allocation of land for commercial and industrial uses.”*
* *“LE9: Identify and promote local tourism opportunities and related services.”*
1. **Is the planning proposal consistent with applicable State Environmental Planning Policies**

The proposal is generally consistent with applicable State Environmental Planning Policies (SEPPs). Further information is provided in Appendix B.

1. **Is the planning proposal consistent with the applicable Ministerial Directions (s177 directions)?**

The proposal is generally consistent with the applicable Ministerial Directions issued under Section 9.7 of the *Environmental Planning and Assessment Act 1979.* Further information is provided in Appendix C.

**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 direct impacts on critical habitats or threatened species, populations or ecological communities, or their habitats are expected as a result of this proposal. The proposal will enable Service Stations and Highway Service Centres as permissible development in the SP3 Zone with consent. Any specific development proposals that arise as a result of the proposal will be required to be assessed on their merits having regard for the constraints of the site in accordance with standard development assessment practice and the requirements of the *Environmental Planning and Assessment Act 1979.*

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

**4.3 Flood Prone Land**

The Planning Proposal recommends a change in minimum lot size to 2ha in land that is flood liable. The southern portion of the block is zoned High Hazard Floodway, while the northern portion of the block is zoned Low Hazard Flood Storage. As the objectives of the proposal is to allow for subdivision for the purpose of dwelling houses Chapter 3 of the Forbes Development Control Plan 2013 applies.

The Schedule 3 of Chapter 4 of the Forbes DCP prohibits the building of new homes in High Hazard Flood Storage or High Hazard Floodway flood zones. In practice, this means that if a subdivision were to occur on the subject land, a dwelling would only be able to be built in the Low Hazard Flood Storage portion of the land.

The controls for dwellings in Low Hazard Flood Storage are enshrined in Chapter 4 of the Forbes DCP which states:

* “Habitable floor levels to be equal to or greater than the Adopted Flood Level plus 0.5m freeboard.”
* “All structures to have flood compatible building and components below the Adopted Flood Level.”
* “Applicant to demonstrate that any structure can withstand the forces of floodwater, debris and buoyancy up to and including the Adopted flood.”
* “The development is to be consistent with any relevant flood evacuation strategy.”
* “Development shall not block the conveyance of floodwaters across the floodplain.”
* “Filling of a maximum of a 1/3 of allotment up to 0.5m above the adopted flood level permitted provided this does not result in any significant effect on the conveyance of flood waters or flood levels.”
* “No external storage of materials below the design floor level which may cause pollution or be potentially hazardous during any flood.”

Following consultation with State Emergency Service regarding Highway Service Centres and Service Stations in flood prone land, it is recommended that the following be inserted into Chapter 4 of the Forbes DCP:

*“For developments involving bulk storage of fuel, and where storage is below flood height, a certification that tanks are able to withstand impacts from flood waters, buoyancy forces and that the tank maintains the integrity of the stored material is required”.*

1. **Has the planning proposal adequately addressed any social and economic effects?**

The proposal will enable development for the purposes of service stations and highway service centres as permissible development in the SP3 Tourist zone. Any future proposals for these developments will be subject to the development assessment process and requirements of the *Environmental Planning and Assessment Act 1979.* Generally, it is considered that the enabling of Service Station and Highway Service Centre would have a net positive social and economic benefit to the community due to the expected growth in tourism and economy as a result.

**Section D – State and Commonwealth Interests**

1. **Is there adequate public infrastructure for the planning proposal?**

The planning proposal will allow Service Stations and Highway Service Centres as permissible development in the SP3 Tourist zone. Any future proposals for these developments will be subject to the development assessment process and requirements of the *Environmental Planning and Assessment Act 1979* including infrastructure.

All existing lots zoned as SP3 are adjacent to the Newell Highway and have access to town water, sewer and grid electricity.

1. **What are the views of the State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

No consultation has been undertaken in relation to this proposal to date. Future government agency consultation in accordance with directions in the gateway determination will be complied with.

**Part 4 – Mapping**

No mapping changes are needed to facilitate the elements of the planning proposal.

**Part 5 – Community Consultation**

No community consultation has been undertaken in relation to this planning proposal to date. As the Planning Proposal is considered low impact, it is proposed that this planning proposal will be exhibited in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979* for a minimum period of 28 days.

**Part 6 – Timeline**

|  |  |
| --- | --- |
| Plan making step | Estimated completion |
| Gateway Determination | February 2019 |
| Government Agency Consultation | April 2019 |
| Public Exhibition Period | June 2019 |
| Public hearing | N/A |
| Submissions Assessment | July 2019 |
| RPA Assessment of Planning Proposal and Exhibition Outcomes | July 2019 |
| Submission of Endorsed LEP to DP&E for Finalisation  | August 2019 |
| RPA Decision to make the LEP amendment (delegated) | August 2019 |
| Forwarding LEP Amendment to DP&E for Notification (delegated) | August 2019 |

**Appendices**

**Appendix A – Council Report & Minutes**

**Appendix B – State Environmental Planning Policy Checklist**

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| **State Environmental Planning Policy (SEPP) Checklist****Planning Proposal – Service Stations and Highway Service Centres in the SP3 Tourism zone; Forbes Local Environmental Plan 2013** |
| **SEPP** | **Applicable (Y/N)** | **Consistent (Y/N)** | **Comments/Justification** |
| **SEPP 1 – Development Standards** | Y | Y | The planning proposal will not affect the implementation of this SEPP |
| **SEPP 19 – Bushland in Urban Areas** | Y | Y | The planning proposal will not affect the implementation of this SEPP |
| **SEPP 21 – Caravan Parks** | Y | Y | The planning proposal will not affect the implementation of this SEPP |
| **SEPP 30 – Intensive Agriculture** | Y | Y | The planning proposal will not affect the implementation of this SEPP |
| **SEPP 33 – Hazardous and Offensive Development** | Y | Y | The planning proposal will not affect the implementation of this SEPP |
| **SEPP 36 – Manufactured Home Estates** | Y | Y | The planning proposal will not affect the implementation of this SEPP |
| **SEPP 44 – Koala Habitat Protection** | Y | Y | The planning proposal will not affect the implementation of this SEPP |
| **SEPP 47 – Moore Park Showground** | N |  | Not applicable to Forbes LGA |
| **SEPP 50 – Canal Estate Development** | Y | Y | The planning proposal will not affect the implementation of this SEPP |
| **SEPP 52 – Farm Dams and Other Works in Land and Water Management Plan Areas** | Y | Y | The planning proposal will not affect the implementation of this SEPP |
| **SEPP 55 – Remediation of land** | Y | Y | The planning proposal will not affect the implementation of this SEPP |
| **SEPP 62 – Sustainable Aquaculture** | N |  | The planning proposal will not affect the implementation of this SEPP |
| **SEPP 64 – Advertising and Signage** | Y | Y | The planning proposal will not affect the implementation of this SEPP |
| **SEPP 65 – Design Quality of Residential Apartment Development** | Y | Y | The planning proposal will not affect the implementation of this SEPP |
| **SEPP 70 – Affordable Housing (Revised Schemes)** | N |  | Not applicable to Forbes LGA |
| **SEPP (Affordable Rental Housing) 2009** | Y |  | The planning proposal will not affect the implementation of this SEPP |
| **SEPP (Building Sustainability Index: BASIX) 2004** | Y | Y | The planning proposal will not affect the implementation of this SEPP |
| **SEPP (Coastal Management) 2018** | N |  | Not applicable to Forbes LGA |
| **SEPP (Education Establishments and Child Care Facilities) 2008** | Y | Y | The planning proposal will not affect the implementation of this SEPP |
| **SEPP (Gosford City Centre) 2018** | N |  | Not applicable to Forbes LGA |
| **SEPP (Housing for Seniors or People with Disability) 2004** | Y | Y | The planning proposal will not affect the implementation of this SEPP |
| **SEPP (Infrastructure) 2007** | Y | Y | The planning proposal will not affect the implementation of this SEPP |
| **SEPP (Kosciuzko National Park – Alpine Resorts) 2007** | N |  | Not applicable to Forbes LGA |
| **State Environmental Planning Policy (Penrith Lakes Scheme) 1989** | N |  | Not applicable to Forbes LGA |
| **State Environmental Planning Policy (Rural Lands) 2008** | Y | Y | The planning proposal will not affect the implementation of this SEPP |
| **State Environmental Planning Policy (State and Regional Development) 2011** | Y | Y | The planning proposal will not affect the implementation of this SEPP |
| **State Environmental Planning Policy (State Significant Precincts) 2005** | N |  | Not applicable to Forbes LGA |
| **State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011** | N |  | Not applicable to Forbes LGA |
| **State Environmental Planning Policy (Sydney Region Growth Centres) 2006** | N |  | Not applicable to Forbes LGA |
| **State Environmental Planning Policy (Three ports) 2013** | N |  | Not applicable to Forbes LGA |
| **State Environmental Planning Policy (Urban Renewal) 2010** | N |  | Not applicable to Forbes LGA |
| **State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017** | Y | Y | The planning proposal will not affect the implementation of this SEPP |
| **State Environmental Planning Policy (Western Sydney Employment Area) 2009** | N |  | Not applicable to Forbes LGA |
| **State Environmental Planning Policy (Western Sydney Parklands) 2009** | N |  | Not applicable to Forbes LGA |

**Appendix C – Section 9.1 Direction Checklist**

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| **State Environmental Planning Policy (SEPP) Checklist****Planning Proposal – Service Stations and Highway Service Centres in the SP3 Tourism zone; Forbes Local Environmental Plan 2013** |
| **Direction** | **Planning Proposal Compliance** |
| 1. **Employment and Resources**
 |
| 1.1 Business and Industrial Zones | Does not apply to this planning proposal |
| 1.2 Rural Zones | Does not apply to this planning proposal |
| 1.3 Mining, Petroleum Production and Extractive Industries | Does not apply to this planning proposal |
| 1.4 Oyster Aquaculture | Does not apply to this planning proposal |
| 1.5 Rural Land | Does not apply to this planning proposal |
| **2. Environment and Heritage** |
| 2.1 Environmental Protection Zones | Consistent. The planning proposal is not expected to affect or alter existing environmentally sensitive areas. |
| 2.2 Coastal Protection | Does not apply to this planning proposal |
| 2.3 Heritage Conservation | Consistent. The effects of this planning proposal will not directly affect or change the existing requirements for heritage management and conservation in the LEP. |
| 2.4 Recreation Vehicle Areas | Consistent. The proposed amendment will not affect development for the purpose of a recreational vehicle area. |
| **3. Housing, Infrastructure and Urban Development** |
| 3.1 Residential Zones | Does not apply to this planning proposal |
| 3.2 Caravan Parkes and Manufactured Home Estates | Consistent. The planning proposal will not affect development potential for caravan parks. |
| 3.3 Home Occupations | Does not apply to this planning proposal |
| 3.4 Integrating Land Use and Transport | Consistent. The proposal does not include the addition of any developments the relevant policies apply to (see *The Right Place for Business and Services – Planning Policy)*.  |
| 3.5 Development Near Licensed Aerodromes | Does not apply to this planning proposal |
| 3.6 Shooting Ranges | Does not apply to this planning proposal |
| **4. Hazard and RIsk** |
| 4.1 Acid Sulphate Soils | Does not apply to this planning proposal |
| 4.2 Mine Subsidence and Unstable Land | Consistent. This planning proposal will not affect land within a mine subsidence district or that has been identified as unstable. |
| 4.3 Flood Prone Land | Consistent. The planning proposal will have the effect of enabling Highway Service Centres and Service Stations in SP3 Tourist Zone, some of which may be flood prone. Any development enabled by the proposal will still require a merit assessment and consideration of the constraints on the subject site. |
| 4.4 Planning for Bushfire Protection | Consistent. The planning proposal will have the effect of enabling Highway Service Centres and Service Stations in SP3 Tourist Zone, some of which may be bushfire prone. Any development enabled by the proposal will still require a merit assessment and consideration of the constraints on the subject site. |
| **5. Regional Planning** |
| 5.1 Implementation of Regional Strategies | Planning policy complies with the relevant regional strategy as discussed in Section B. |
| 5.2 Sydney Drinking Water Catchment | Does not apply to this planning proposal |
| 5.3 Farmland of State and Regional Significance on NSW Far North Coast | Does not apply to this planning proposal |
| 5.4 Commercial and Retail Development along the Pacific Highway, North Coast | Does not apply to this planning proposal |
| 5.5 Development in the vicinity of Ellalong, Paxton and Millfield | Revoked 18 June 2010 |
| 5.6 Sydney to Canberra Corridor | Revoked 10 July 2008, see amended direction 5.1 |
| 5.7 Central Coast | Revoked 10 July 2000, see amended direction 5.1 |
| 5.8 Second Sydney Airport: Badgerys Creek | Does not apply to this planning proposal |
| 5.9 North West Rail Link Corridor Strategy | Does not apply to this planning proposal |
| **6. Local Plan Making** |
| 6.1 Approval and Referral Requirements | Consistent. This proposal does not introduce any new concurrence or consultation provisions or any additional designated development types. |
| 6.2 Reserving Land for Public Purposes | Consistent. This planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes nor does it propose to reserve land for a public purpose. |
| 6.3 Site Specific Provisions | Consistent. This planning proposal will allow for a new land use that will be permissible in SP3 Zone. |
| **7. Metropolitan Planning**  |
| 7.1 Implementation of Metropolitan Strategy | Does not apply to this planning proposal |
| 7.2 Implementation of Greater Macarthur Land Release Investigation | Does not apply to this planning proposal |