

## Planning and Assessment

IRF19/383

### Gateway determination report

<b>LGA</b>	MidCoast
<b>PPA</b>	MidCoast Council
<b>NAME</b>	Bulahdelah Highway Service Centre
<b>NUMBER</b>	PP_2018_MCOAS_004_00
<b>LEP TO BE AMENDED</b>	Great Lakes Local Environmental Plan 2014
<b>ADDRESS</b>	9844 Pacific Highway, Bulahdelah
<b>DESCRIPTION</b>	Part Lot 100 DP 1139447
<b>RECEIVED</b>	29 November 2018
<b>FILE NO.</b>	IRF19/383
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this.

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The planning proposal seeks to facilitate a highway service centre (HSC) at 9844 Pacific Highway, Bulahdelah (Part Lot 100 DP 1139447). It is proposed to allow a HSC through an additional permitted use mapped on a portion of the lot. The planning proposal also seeks to ensure that a future HSC can be subdivided from the remainder of the lot.

### 1.2 Site description

The site is a 2.6ha portion of a 59.7ha lot adjacent to the Bulahdelah northern interchange of the Pacific Highway, north-east of the Bulahdelah town centre. The site is accessed from Recovery Road, which connects to the interchange.

The site is mostly cleared and adjoins a dwelling and rural infrastructure from a previous hobby farm. It is situated in the north-east corner of the larger lot, with its location denoted with a red star in Figure 1 and detailed in Figure 2 (next page).

The area of the planning proposal has a medium slope of 5-10° towards the golf course to the north. The southern portion of the site increases in slope towards Bulahdelah/Alum Mountain to the south, a significant local feature and a local heritage-listed item.

The planning proposal notes an approved development application on part of the lot for a tourist facility, including serviced apartments, which the proposal states has commenced. An approval for residential subdivision on part of the lot is also noted.



Figure 1: Site map with approximate location of proposed HSC denoted by red star (Lot 100 in yellow).



Figure 2: Detailed aerial photo of proposed HSC location.



### 1.3 Existing planning controls

The site is primarily zoned RU2 Rural Landscape, with a small portion of R2 Low Density Residential land also affected.

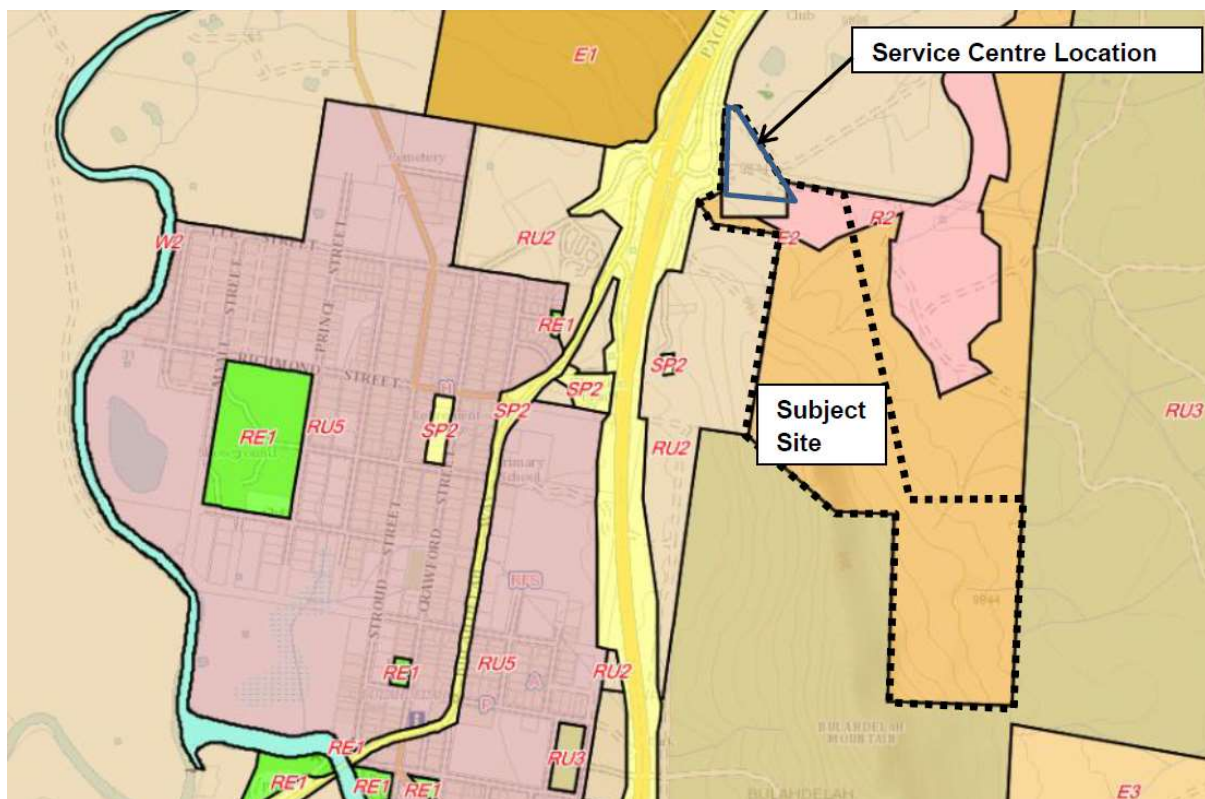


Figure 3: LEP zoning with site outlined blue and shown in the context of Lot 100 (dotted line).

The entire site has a maximum height limit of 8.5m. A maximum floor space ratio (FSR) of 0.4:1 applies to the site, while a maximum FSR of 0.5:1 applies to the small portion of the site zoned R2 Low Density Residential.

A minimum lot size of 40ha applies to most of the site, with a minimum of 700m<sup>2</sup> applying to the area zoned R2.

The site is part of the Bulahdelah Mountain Heritage Conservation Area (local significance).

The site is mapped as bushfire-prone land, with the northern part of the site being primarily Vegetation Category 2 or Buffer.

### 1.4 Surrounding area

The site adjoins the northern interchange of the Pacific Highway, which services the Bulahdelah township. The town of Bulahdelah is located to the west of the site across the Pacific Highway. To the north of the site is the Bulahdelah Golf Club.

An area of undeveloped residential-zoned land, which was rezoned in 2012, is located to the south-east and north-east of the site. As noted in section 1.2 of this report, the proposal states that development consent has been issued for a residential subdivision on this land. It is not clear if works have commenced.

To the south of the site is the Bulahdelah State Forest, which includes Bulahdelah Mountain, also known as Alum Mountain. It is a local heritage conservation area and

contains the former Alum Mine heritage item (also of local significance). It is the highest point in the local area.

### **1.5 Summary of recommendation**

It is recommended that the planning proposal not proceed.

The planning proposal is not supported because it does not have strategic merit. It is inconsistent with Roads and Maritime Services' Pacific Highway Service Centre Policy, which does not identify Bulahdelah as a location for future HSC development. The proposal is inconsistent with Ministerial direction 5.4 Commercial and Retail Development along the Pacific Highway, North Coast, which implements the policy. The proposal undermines the intent of the policy and direction, which aims to have strategic and considered locations for HSCs on this nationally significant transport corridor.

While supporting studies such as an economic impact assessment and community survey have been undertaken, both indicate the potential for negative impacts on the town centre. Council proposes to offset these impacts on the town centre through initiatives such as town centre improvements like landscaping. However, the ability for the proposed mitigation measures to offset impacts (and reinforce the town centre as required by section 9.1 Direction 5.4) has not been demonstrated.

The supporting studies do not adequately justify the proposal's inconsistency with: section 9.1 Direction 5.4 Commercial and Retail Development along the Pacific Highway, North Coast; Roads and Maritime Services' Pacific Highway Service Centre Policy; or Council's Great Lakes Highway Service Centre Strategy (2004). These policies seek to ensure that new commercial development is considered strategically, and that HSCs balance the rest and service needs of highway users against safe and efficient traffic movement on the highway.

The supporting studies do not justify the proposal's inconsistency with the Hunter Regional Plan 2036, which seeks to enhance inter-regional linkages to support economic growth and revitalise communities.

The MidCoast local government area (LGA) contains several centres that provide varying levels of services to highway users (HSCs, towns, villages). It is recommended that MidCoast Council commence its service centre strategy review and that it be encouraged to do this in consultation with Roads and Maritime Services (RMS) and the community. A new proposal could then be submitted for a Gateway determination if it is supported by this strategic work and RMS.

## **2. PROPOSAL**

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### **2.1 Objectives or intended outcomes**

The planning proposal seeks to allow for the development of a portion of the site for a highway service centre (HSC) and subdivision.

### **2.2 Explanation of provisions**

The proposal seeks to deliver the HSC through an amendment to Schedule 1 – Additional Permitted Uses to allow the use on a portion of the site. The planning proposal also seeks to ensure that on redevelopment, the site can be subdivided to excise the lot containing the HSC, despite the existing minimum lot size of 40ha.

## 2.3 Mapping

An amendment to the additional permitted uses map would be required to enact the proposed changes. A draft indicative map is provided with the planning proposal demonstrating the proposal's intent. Mapping that meets the Department's technical standards would be required prior to finalisation.

## 3. NEED FOR THE PLANNING PROPOSAL

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The planning proposal is not the result of a strategic study or report. It was initiated by the landowner to capture trade from the traffic along the adjoining Pacific Highway, which it states does not stop at the town for services.

### *Consistency with Highway Service Centre policies for the Pacific Highway*

The need for HSCs on the Pacific Highway is detailed in RMS's Pacific Highway Service Centre Policy. It was prepared in response to a proliferation of commercial and retail development fronting the Pacific Highway, and was finalised and implemented by a Ministerial direction to councils in 1998.

Section 9.1 Direction 5.4 Commercial and Retail Development along the Pacific Highway, North Coast currently implements the policy following a 2014 review. The Direction identifies locations for new HSCs sets out criteria for HSCs proposed for other locations. This includes a requirement that HSCs reinforce the retail and commercial roles of town centres. Neither the policy nor Direction 5.4 identify Bulahdelah as a supported location for a HSC.

The 2014 policy review gave specific consideration to a HSC at Bulahdelah (Bulahdelah was bypassed in 2013). The submissions report on the review (**Attachment F**) notes that Bulahdelah should remain as a highway service town because it is highly accessible for light and recreation vehicles. The report also states that the HSC at Taree and a proposed centre at Heatherbrae provide sufficient services for the foreseeable future. RMS maintains this position and does not support the planning proposal (**Attachment G**).

The proposal seeks to justify this inconsistency by noting that the RMS policy position is underpinned by Council's outdated Great Lakes Highway Service Centre Strategy (2004), which does not support a HSC at Bulahdelah. It suggests that these policies be reviewed given increasing traffic volumes, the locational benefits of Bulahdelah (being 2.5 hours from Sydney) and the significant loss of trade to Bulahdelah since the bypass in 2013.

### *Economic Impact*

The planning proposal seeks to justify its inconsistency with RMS's policy and Council's strategy by highlighting the economic benefits that a HSC would provide for Bulahdelah. The proposal's economic impact assessment (EIA, Appendix A to **Attachment A**) suggests up to 60 direct jobs would be created. It suggests that the HSC and town centre would be less likely to compete for trade because the service offering would be different (fast food rather than café style). Further, that the HSC would attract new trade to the town.

However, the EIA notes that impacts on the town centre, particularly main street businesses, are difficult to determine. The need to evaluate impacts on the town centre is important because while section 9.1 Direction 5.4 does not identify Bulahdelah as a preferred location for a HSC, the Direction provides that HSCs may occur where they

reinforce the commercial role of the town centre. The EIA states that a community survey (Appendix B to **Attachment A**) was undertaken to better inform the likely impacts. The survey suggests that between approximately 20% and 30% of respondents may not have visited the Bulahdelah town centre that day were the HSC already operational.

The impact of losing up to approximately 30% of potential visitors on the town centre businesses is not evaluated by the EIA. This is potentially a significant impact for the town. The impact on the existing service stations in the town is evaluated by the EIA and an immediate 13% reduction on existing trade is predicted. While these changes indicate fewer visitors and, in turn, less money spent in the town centre, the resilience of business to withstand this change in trade is unknown.

The planning proposal seeks to offset impacts through a series of measures to be funded by the landowner through a planning agreement. Potential measures include main street improvements like landscaping, providing additional amenities and infrastructure to support Council's RV/ caravan friendly town approach, a business assistance package and local promotions of the area at the HSC.

The effectiveness of these potential measures to offset the likely loss in trade has not been evaluated. The proposal therefore has not demonstrated that it would reinforce the commercial role of the town centre, as required by section 9.1 Direction 5.4. The proposal is therefore inconsistent with the Direction and the inconsistency is not considered justified.

The proposal's assertion that trade in the Bulahdelah town centre has decreased since it was bypassed is acknowledged. However, the economic outlook for the Bulahdelah town centre appears positive without the HSC. The EIA recognises that highway service-type businesses continue to trade since the town was bypassed in 2013. New business has been attracted to the Bulahdelah town centre in the form of the national restaurant chain Oliver's. The EIA indicates that traffic volumes are projected to increase by 34% between 2016 and 2028, suggesting the potential for growth in trade.

### *Conclusion*

Given the above, the need for the proposal has not been adequately justified and so the proposal is not supported. The proposal has not demonstrated that it would reinforce the Bulahdelah town centre as required by section 9.1 Direction 5.4 which implements the RMS's Pacific Highway Service Centre Policy. If the proposal was supported it would undermine the intent of the policy and direction, which aims to have strategic and considered locations for HSCs on this nationally significant transport corridor.

The MidCoast LGA contains various types of centres that provide services to highway users (HSCs, towns and villages). In the absence of a further RMS policy review, Council should commence its review of its HSC strategy, and consult with RMS and the community before progressing a HSC proposal.

This approach would enable transport issues to be examined and allow Council to engage with the community about strategies for leveraging highway traffic growth such that it reinforces the town centre. A strategic approach is appropriate given the potential for precedent within the MidCoast LGA and along the Pacific Highway more broadly. If supported by this strategic work and RMS, a new planning proposal for a HSC for the site could be submitted for a Gateway determination.

Should the proposal be supported, then enabling a HSC as an additional permitted use is the most appropriate way of achieving the intended outcome in the LEP. Alternative options, such as permitting a HSC in the RU2 zone, are not supported due to the need to strategically consider the location of HSCs.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 State**

#### **4.1.1 Pacific Highway Service Centre Policy**

The policy is periodically reviewed by RMS, most recently in 2014. In response to feedback received during the exhibition of the policy review, RMS addressed the appropriateness of a HSC at Bulahdelah:

*Bulahdelah has long been recognised by both Roads and Maritime and Great Lakes Shire Council as providing a high level of services to passing traffic. The close interchanges north and south of the town make it very accessible for light and recreational vehicles and visitors do not need to backtrack to return to the highway. Directional and service signposting is also provided, and research has found that the travelling public appreciate towns that can cater for their needs.*

The proposal however highlights the policy's stopping time gaps, suggesting that the gap between Tomago and Taree HSCs justifies a HSC at Bulahdelah. It notes the one hour and 10 minute gap to be inconsistent with the 25-50 minute gap between other HSCs on the highway. Further, it suggests that at 2-2.5 hours travel from Sydney, Bulahdelah is ideally located for a HSC.

However, these assertions are not supported by RMS. In its response to feedback on the policy review about a potential HSC at Bulahdelah, it noted that with a centre at Taree and a proposed centre at Heatherbrae, sufficient provision of services exists for the foreseeable future.

As discussed, allowing a HSC in this location undermines the strategic intent of this policy. Given this policy was recently reviewed, it is considered that no compelling new evidence has been provided to support a deviation from the policy and the precedent the proposal would create. Should Council wish to pursue a HSC in this location, it should work with RMS to review the location through the broader strategic context.

### **4.2 Regional**

#### **4.2.1 Hunter Regional Plan 2036**

The Hunter Regional Plan 2036 sets the priorities and directions for the region to deliver a vision of 'the leading regional economy in Australia with a vibrant new metropolitan city at its heart'.

The regional plan identifies four goals, 27 directions and actions to deliver each goal. While the regional plan does not contain directions or actions that relate to the planning proposal, the following directions are identified in the proposal as being relevant:

- Direction 4 – Enhance inter-regional linkages to support economic growth;
- Direction 6 – Grow the economy of MidCoast and Port Stephens;
- Direction 9 – Grow tourism in the region;



- Direction 19 – Identify and protect the region’s heritage; and
- Direction 20 – Revitalise existing communities.

While the proposal is generally consistent with these directions, detailed consideration of Directions 4 and 20 is provided below.

Direction 4 highlights the importance of inter-regional linkages in supporting the economic growth of the region. The management of land uses adjoining key transport corridors must be considered to protect the efficiencies of freight movement. The Pacific Highway is an important transport corridor for freight, tourism and inter-regional connections.

The strategic location of HSCs, as nominated by RMS, provides a solution to balance development, safety and travellers’ rest needs. Allowing HSCs outside the supported locations undermines the RMS policy and may erode the efficiency of highway movement through the proliferation of signage, highway openings and slowing traffic. The proposal is therefore inconsistent with Direction 4 of the regional plan.

Direction 20 seeks to revitalise communities by concentrating development in urban areas. The proposal seeks to provide economic benefit by way of employment to Bulahdelah; however, it may reduce the economic viability of existing operators in the town. The proposal’s assertion that the site is in the town due to the adjoining, undeveloped residential-zoned land is not supported. Figure 1 (page 2) demonstrates that the site is on the outskirts of the settlement and removed from the town centre.

Mitigation measures by way of a planning agreement are proposed to be considered if a Gateway determination is issued. Measures include street improvements including landscaping, additional facilities and infrastructure for RV/ caravans, a business assistance package and local promotions of the area in the HSC itself.

These mitigation measures could meet the objectives of this Direction with the proposed revitalisation of the main street of Bulahdelah and the provision of additional amenities. However, no evidence is provided to quantify benefits, suggest that the measures would be effective, or form part of a broader strategy to guide the town’s economic growth. The proposal is therefore considered to be inconsistent with Direction 20 of the regional plan.

### **4.3 Local**

#### **4.31 MidCoast Community Strategic Plan 2030**

The planning proposal notes consistency with the MidCoast Community Strategic Plan 2030 as it will provide employment and economic opportunity to Bulahdelah. The plan seeks to provide an environment to grow and strengthen local businesses and attract new business. While the planning proposal would facilitate new business, this may be at the expense of existing business in the town.

#### **4.32 Great Lakes Highway Service Centre Strategy (2004)**

The former Great Lakes Council adopted the Great Lakes Highway Service Centre Strategy in relation to the part of the Pacific Highway that traverses the former LGA. It was commissioned in part to respond to the planned bypass of Karuah and Bulahdelah. The strategy seeks to provide certainty to the community and commercial interests as to where a HSC may be located.



The strategy notes that Bulahdelah is a highway service town as it provides a range of services and facilities to cater for the needs of highway users and the community. This is distinguished from a HSC, which is primarily developed to serve highway users. The highway service function of the Bulahdelah town centre is sought to be maintained under the strategy.

Locating a HSC in a strategic location is seen as necessary in the strategy to avoid an overconcentration of centres, which may:

- compromise highway traffic operation and safety due to the frequency of HSC entry and exit points;
- affect the likely commercial viability of each HSC;
- over-serve the needs of the travelling public; and
- affect the local economic interests and community dynamics of nearby towns, particularly highway service towns such as Bulahdelah.

The strategy includes an inventory of highway service facilities, rest areas and service towns and determined that the current service arrangements in the LGA are appropriate. Consideration for locations of future HSCs in the LGA, including in Bulahdelah, is also provided. The strategy concludes that 'any proposals to develop an "out-of-town" HSC at Bulahdelah requiring direct access or use of a connector road to the highway should be prohibited'.

The planning proposal contends that the highway bypass has had a significant detrimental economic impact on highway service businesses in Bulahdelah. The proposal suggests there is a proportion of trade from the highway to businesses in the town primarily from people who wish to visit the town for a different experience from typical highway service facilities.

Council supports the proposal to locate a HSC on this site despite it contravening its strategy. It intends to review its strategy, which is appropriate given the interest in HSCs in the LGA, that highway upgrades are complete and the potential to impact on the community. The strategy review should occur in consultation with RMS and the community, and a new proposal submitted if it is supported by the review and the RMS.

#### **4.4 Section 9.1 Ministerial Directions**

The proposal is either inconsistent with the following directions or further work is required before consistency can be determined.

##### **4.41 Direction 1.2 Rural Zones**

The proposal is inconsistent with this Direction because enabling the RU2-zoned site to be developed for a HSC and reducing the minimum lot size would increase the permissible density of the land, contrary to the Direction.

The site is surrounded by a golf course, the Pacific Highway, and residential and conservation uses and therefore has limited agricultural usability given the potential for land-use conflict and its fragmentation from other land used for rural purposes. The proposal's inconsistency with this Direction is of minor significance.

##### **4.42 Direction 1.5 Rural Lands**

The proposal is inconsistent with this Direction because it does not promote opportunities for investment in productive, diversified, innovative or rural economic

activities as required by the Direction. As noted above, the land has limited agricultural value given adjoining uses and as it is fragmented from other rural lands. It is considered that the proposal's inconsistency with this Direction is of minor significance.

#### 4.43 Direction 2.3 Heritage Conservation

The site is in the Bulahdelah Mountain Heritage Conservation Area and adjoins the Alum Mountain heritage item. The proposal does not seek to amend the heritage controls that apply to the site. The proposal is supported by a heritage assessment, which was prepared from a previous scheme and applied more broadly to the site.

While the proposal is not recommended to proceed, additional consultation with the Heritage Council of NSW and the Karuah Local Aboriginal Land Council should occur before consistency with this Direction can be determined.

#### 4.44 Direction 4.4 Planning for Bushfire Protection

The site is mapped as bushfire-prone land, including Vegetation Category 1, 2 and Buffer, and therefore this Direction applies. Consultation with the NSW Rural Fire Service is required before consistency with this Direction can be determined.

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

The Direction seeks to ensure that commercial development does not impede the function or safety of traffic movement on the Pacific Highway. The Direction aims to balance the provision of food, fuel and the rest needs of travellers on the highway with the viability of town centres.

The Direction applies to land in the vicinity of the Pacific Highway. While the site frontage is located on Recovery Road, the site is within 150 m of the highway and so the Direction is considered to apply. The Direction classifies land to which it applies as being on either 'within town' or 'out-of-town' segments of the highway. This planning proposal applies to land on an out-of-town segment because the site does not have an urban zone and is in an area where the highway speed limit is greater than 80km/h.

The Direction requires that 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. The Direction also requires safety and efficiency of the highway to be considered, but only where a site has frontage to the highway. As the site is near to the Pacific Highway but does not have frontage, the proposal only needs to demonstrate consistency with the objectives of the Direction.

The planning proposal provides an assessment against the objectives of the Direction which concludes that the proposal is consistent with each of the objectives.

Table 1 Excerpt from planning proposal assessment against objectives of Direction 5.4

<i>(a) to protect the Pacific Highway's function, that is, to operate as the North Coast's primary inter- and intra-regional road traffic route</i>	The HSC will provide areas for servicing of highway traffic, including heavy vehicles, and will support and enhance the function of the highway as the North Coast's primary inter- and intra-regional road traffic route.
<i>(b) to prevent inappropriate development fronting the highway</i>	The site of the proposed HSC does not have frontage to the highway and is accessed from

	the interchange and service roads at the northern end of the Bulahdelah township.
<i>(c) to protect public expenditure invested in the Pacific Highway</i>	The proposal will not impact on the function or use of the Pacific Highway and will protect public infrastructure invested along the highway.
<i>(d) to protect and improve highway safety and highway efficiency</i>	The HSC is located at a key location for drivers (including heavy vehicles) to stop and revive, improving highway safety and efficiency.
<i>(e) to provide for the food, vehicle service and rest needs of travellers on the highway</i>	The proposal will provide a location for food, vehicle servicing and rest at a key location along the highway.
<i>(f) to reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.</i>	<p>The HSC's primary purpose is to capture passing trade on the highway that may otherwise bypass the town (this is its target market). There is potential for the HSC to capture trade that would otherwise use in-town services for fuel and food. To address this, the EIA was prepared to examine the positive impacts of the HSC and the impacts on the town centre.</p> <p>The EIA identifies that the impacts on Bulahdelah's main street would be low. The proposal includes the development of a planning agreement with Council (on behalf of the Bulahdelah community) to provide works/assistance to offset this impact and help the role of the main street to be strengthened and reinforced.</p>

The planning proposal's consistency assessment is not supported. While the proposal may satisfy objectives (a) to (e), it does not satisfy objective (f). Objective (f) requires proposals to reinforce the retail and commercial function of the centre, and this has not been demonstrated as discussed below.

The role of Bulahdelah has historically been as a highway service town i.e. a town that provides services to highway travellers. Following the bypass of Bulahdelah, the EIA states that an immediate decline in trade was experienced as highway traffic passing through the town dropped to 9.5% of pre-bypass volumes.

The planning proposal contends that the decline in trade following the bypass of the town is an impact that has already been incurred by businesses and cannot be undone. As this loss to business has occurred, a HSC would therefore have a positive economic impact as it will attract visitors who would otherwise not stop, noting that highway traffic is predicted to increase by 34% between 2016 and 2028.

The EIA suggests that as there would be a difference in the service offering between the town centre (local cafes) and the HSC (fast food), the HSC would have little adverse impact. The proposal asserts that the EIA and survey results conclude the

HSC would have an overall positive economic impact and the proposed planning agreement would offset any impacts on the town centre itself.

However, as detailed in section 3 of this report, this conclusion is not supported. Bulahdelah continues to be a highway service town, as intended by the 2014 RMS policy review which deliberately excluded HSCs from Bulahdelah. Allowing a HSC in Bulahdelah would undermine the highway service town function that the town centre currently performs.

The EIA and community survey suggest that the town centre would experience a loss in trade (due to a potential loss of up to 30% of visitors). The benefits resulting from the offset measures proposed for the town centre have not been quantified. As a result, the proposal has not demonstrated that it would reinforce the role of the town centre as required by the Direction. The proposal is therefore inconsistent with Direction 5.4. This inconsistency is not adequately justified by the proposal.

#### Direction 5.10 Implementation of Regional Plans

The Hunter Regional Plan 2036 applies to the site and its application is discussed in section 4.21 of this report.

As noted, there is some inconsistency with Directions 4 and 20 of the regional plan. It is considered that the proposal's inconsistency with Direction 5.10 has not been justified.

### **4.5 State environmental planning policies (SEPPs)**

The planning proposal identifies four relevant SEPPs, which are discussed below:

#### 4.51 SEPP No 33—Hazardous and Offensive Development

The proposal notes that due to the intended future use of a HSC involving fuel storage, SEPP 33 is relevant. This SEPP outlines matters required to be addressed at the development application stage to mitigate the risk associated with the storage of hazardous material, being vehicle fuel. The proposal notes that while a separation distance to adjoining uses has not yet been established, it can be accommodated on-site, noting that 50m has been used in similar applications.

#### 4.52 SEPP No 44—Koala Habitat Protection

As noted in section 4.43 of this report, studies completed for a previous rezoning support the planning proposal. These included an assessment of koala habitat. The report found that while there is no core koala habitat, there is some potential koala habitat, which is generally located in the south and east of the site. The area subject to this planning proposal is generally cleared and was not found to be potential koala habitat.

#### 4.53 SEPP No 55—Remediation of Land

A preliminary contamination assessment report from the previous rezoning of the site supports this proposal. The report identifies a small amount of soil contamination adjoining a machinery shed likely as a result of heavy oils, such as motor oil or grease. The location is beyond the area subject to the planning proposal; however, the assessment concludes that the site can be made suitable for residential uses, which are typically the most sensitive use. The proposal considers that contamination matters can be resolved at the development application stage.

#### 4.54 SEPP (Infrastructure) 2007



The relevance of this SEPP is twofold; the site includes an electricity easement and the proposed use is a traffic-generating development under Schedule 3.

Both matters are relevant to the development application stage and require consultation and approval with relevant agencies. Should the proposal proceed, it would be appropriate to consult with these agencies at the development application stage.

## **5. SITE-SPECIFIC ASSESSMENT**

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### **5.1 Social**

Council's assessment of the social impact identifies positive and negative outcomes that will likely result from the HSC development. Employment and associated benefits, which may include reduced commutes, and the potential for attracting new visitors to the town are noted as positive impacts. Job losses from business closures in town, and increased traffic movements, are noted as negative impacts arising from the HSC.

The loss of the viability of businesses in the town centre may also reduce the role of Bulahdelah as a hub and meeting place for the community.

### **5.2 Environmental**

#### **5.2.1 Ecological**

The planning proposal is supported by a local environmental study, which was prepared to support a 2011 planning proposal that rezoned a portion of the site for residential purposes. Given the location of the proposed HSC at the northern tip of the large-lot adjoining development, no significant environmental constraints are identified.

#### **5.2.2 Heritage**

The planning proposal is supported by a cultural heritage assessment, including a European and an Aboriginal cultural heritage assessment, which determines that there is no European heritage on the site and an Aboriginal item, being a scarred tree, is approximately 700m from the proposed HSC location.

At the time of the report (2010), the Bulahdelah Mountain Heritage Conservation Area that applies to the site was not yet in effect. A nomination for the upper slopes of Alum Mountain as an Aboriginal place was under consideration. While both are noted, they are not assessed in detail.

The cultural heritage assessment responds to a proposed residential zoning of part of the lot proposed in 2011, which largely did not include the land subject to this proposal. It is also considered that the outcome of the two proposals differs significantly when determining the impact on the scenic values of Alum Mountain.

The subject planning proposal does not adequately address the potential impact of the proposed HSC on the heritage values of the conservation area. The proposal suggests the development will be contained to the low slopes and the mountain will remain the dominant feature. The proposal also contends that the site is not highly visible from the surrounding area.

This statement is questionable as a HSC typically requires significant signage and visual prominence from the highway to effectively draw traffic from the highway. While the mountain may remain the dominant feature, further assessment of the appropriateness of a visually prominent development in this location against the heritage significance would be required should the matter proceed.

### **5.3 Economic**

As outlined in section 3 of this report, the proposal would result in up to 60 direct jobs. However, some negative economic impact is also anticipated on the existing shops and services in Bulahdelah that seek to service a similar market.

The planning proposal notes the applicant's intention to enter into a planning agreement with Council to provide potential mitigation measures. These measures include:

- encouraging visitors to the town centre with main street improvements, including landscaping;
- providing additional amenities and infrastructure to support Council's RV/caravan-friendly town approach, such as improved street parking or additional amenities;
- a business assistance package, such as funding a business advisor to assist local businesses; and
- local promotions of the area in the HSC itself.

The measures are recommended following community and business consultation and suggest that Bulahdelah is developing a niche market as an RV-friendly town. The terms of any agreement are proposed to be considered if a Gateway determination is issued, with input from the Bulahdelah Chamber of Commerce and the community.

### **5.4 Infrastructure**

The planning proposal notes that the water main passing through the site will need to be augmented at the reservoir and that a connection to reticulated sewerage will be required.

Council states that the site can be serviced but a servicing strategy would be required if a Gateway determination is issued to detail the requirements.

The proposal seeks to use the existing highway infrastructure for access. Two routes have been identified as options for accessing the site from the south, with one route providing access from the north (Figure 4, next page).

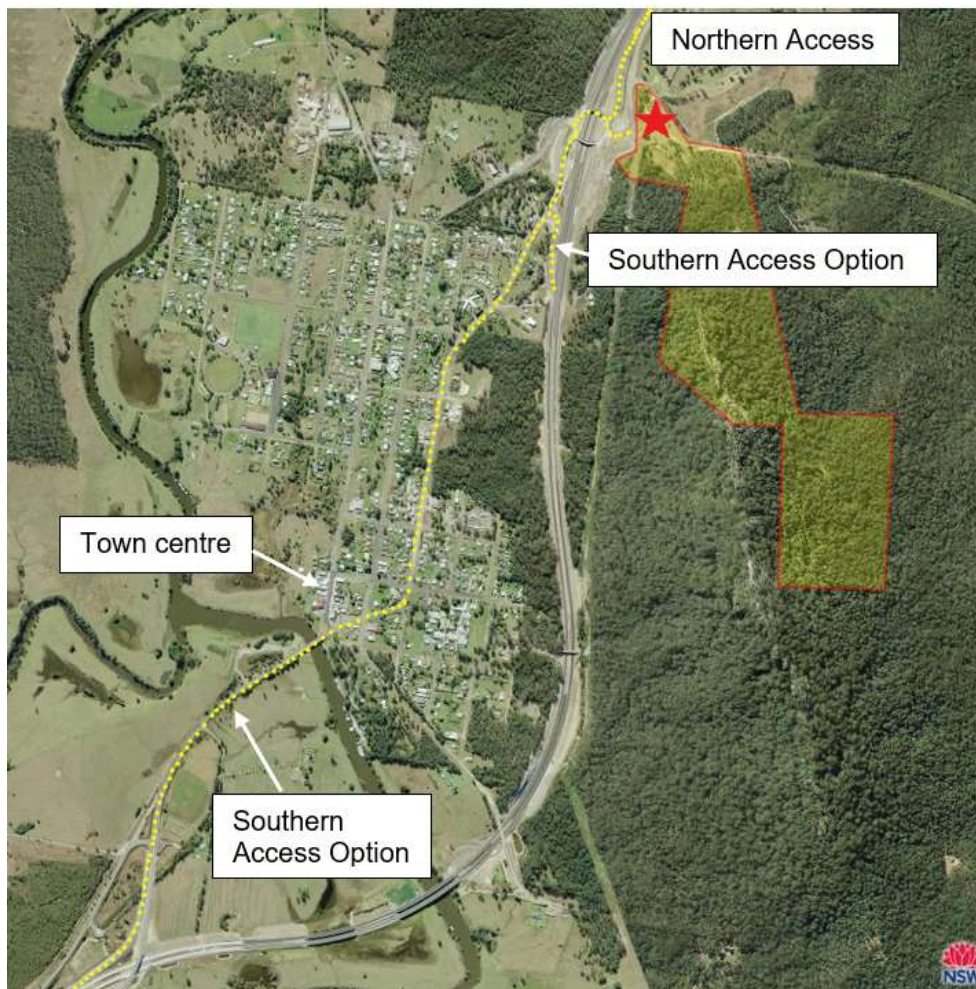


Figure 4: Suggested site access options.

RMS has advised that it does not support the planning proposal from a strategic perspective. No advice has been provided regarding HSC access. Approval from RMS would be required if the matter proceeded to the development application stage.

The planning proposal proposes consultation with RMS, Telstra, NBN and TransGrid/Essential Energy to ensure appropriate servicing can be delivered.

## 6. CONSULTATION

### 6.1 Community

The planning proposal nominates a public exhibition period of 28 days.

Landowner consultation with the Bulahdelah Chamber of Commerce occurred before Council supported the planning proposal. The chamber supported the proposal noting it is 'integral to the whole project', presumably including the approved tourist facility and undeveloped residential-zoned land.

A community meeting was held by the landowner in October 2016, with approximately 115 attendees.

The planning proposal indicates that further consultation (by Council) with the chamber and the community would occur regarding the planning agreement.

Notwithstanding this, if the proposal was to proceed, Council should ensure that it engages with all business owners within the town also.

## **6.2 Agencies**

Council consulted with RMS prior to its consideration of the planning proposal. RMS met with Council in December 2017 to discuss the proposal and an additional proposal for a HSC at Tea Gardens.

RMS wrote to Council on 11 April 2018 advising that it does not support the planning proposal as it is contrary to section 9.1 Direction 5.4 Commercial and Retail Development along the Pacific Highway, North Coast (as discussed in section 4.45 of this report).

The Department discussed the advice with RMS in January 2019. RMS reaffirmed this position, outlining that the Direction is a result of a strategic approach to locate HSCs along the Pacific Highway. Bulahdelah was excluded from the list of permitted HSC locations to funnel economic benefit into the town following the 2013 bypass.

The proposal suggests that consultation with the following agencies would occur:

- RMS;
- Office of Environment and Heritage;
- service providers including Telstra, NBN and TransGrid/Essential Energy; and
- NSW Rural Fire Service.

Consultation with the NSW Heritage Council and the Karuah Local Aboriginal Land Council would also be appropriate should the matter proceed.

## **7. TIME FRAME**

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It is recommended that the planning proposal not be supported and therefore no LEP time frame is required.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Council has requested not to be the local plan-making authority for this proposal. As the proposal is recommended to be refused, no authorisation is required.

## **9. CONCLUSION**

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The planning proposal seeks to permit an additional permitted use of a HSC and to facilitate its excision from the remainder of the lot through an exception to the minimum lot size.

The location of future highway service centres along the Pacific Highway requires strategic consideration to ensure the provision of appropriate facilities for road users is balanced against road safety. Locations of such development must also ensure that bypassed towns that previously provided highway services, such as Bulahdelah, can maintain this role.

The proposal seeks a departure from RMS and Council policy on this matter which seeks to maintain Bulahdelah as a highway service town. Recent policy review by RMS considered a request for a HSC at Bulahdelah and it was not supported. Consultation between the Department and RMS in 2018 and 2019 has demonstrated that RMS still does not support a HSC development at Bulahdelah.



Ministerial Direction 5.4 implements the RMS HSC policy. The planning proposal would result in a loss of trade to the town centre, and the benefits of offset measures proposed for the town centre have not been quantified. As a result, the proposal has not demonstrated that it would reinforce the town centre as required by the Direction. It is therefore inconsistent with the Direction, and the inconsistency has not been justified.

Council intends to review its HSC policy. It is assumed this will consider the impact of the bypass program that has been completed in the LGA. It is considered that a review of the strategy more broadly, in consultation with RMS and the community, should be completed prior to the progression of ad-hoc site-specific planning proposals for HSCs.

The proposal is recommended not to proceed.

## **10. RECOMMENDATION**

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It is recommended that the delegate of the Minister determine that the planning proposal should not proceed because it is:

- inconsistent with the RMS Pacific Highway Service Centre Policy and Council's Great Lakes Highway Service Centre Strategy;
- inconsistent with the Hunter Regional Plan 2036, specifically Direction 4 – Enhance inter-regional linkages to support economic growth and Direction 20 – Revitalise existing communities; and
- inconsistent with section 9.1 Direction 5.4 Commercial and Retail Development along the Pacific Highway, North Coast and 5.10 Implementation of Regional Plans, and the inconsistency is not justified.



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