
TWEED SHIRE COUNCIL - MEETING TASK SHEET

ACTION ITEM - Council Meeting - 19 November 2020

TITLE: Tweed Local Environmental Plan 2014 – Mapping Anomaly Corrections Planning Proposal

STAFF RECOMMENDATION

That Council:

1. Endorses proceeding with the Tweed Local Environmental Plan 2014 Mapping anomaly corrections planning proposal and that the planning proposal be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination under s 3.34 of the Environmental Planning and Assessment Act, 1979;
2. Seeks the Minister's dispensation for the need for public consultation because the planning proposal is to rectify mapping errors and ensure procedural correctness only, being to "correct an obvious error in the principal LEP, or address other matters that are of a minor nature" as provided by the Environmental Planning and Assessment Act, 1979 s.3.22; and
3. Endorses delegation to the General Manager for making of the local environmental plan amendment following a successful Gateway Determination.

MEETING RESOLUTION

Cr Reece Byrnes (Deputy Mayor)

Cr Ron Cooper

RESOLVED that Council:

1. Endorses proceeding with the Tweed Local Environmental Plan 2014 Mapping anomaly corrections planning proposal and that the planning proposal be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination under s 3.34 of the Environmental Planning and Assessment Act, 1979;
 2. Seeks the Minister's dispensation for the need for public consultation because the planning proposal is to rectify mapping errors and ensure procedural correctness only, being to "correct an obvious error in the principal LEP, or address other matters that are of a minor nature" as provided by the Environmental Planning and Assessment Act, 1979 s.3.22; and
 3. Endorses delegation to the General Manager for making of the local environmental plan amendment following a successful Gateway Determination.
- The Motion was **Carried**

VOTE FOR - Cr Katie Milne, Cr Chris Cherry (Mayor), Cr Pryce Allsop, Cr Reece Byrnes (Deputy Mayor), Cr Ron Cooper, Cr James Owen, Cr Warren Polglase

VOTE AGAINST - None

ABSENT. DID NOT VOTE - Nil.

TITLE:**Tweed Local
Environmental
Plan 2014 –
Mapping
Anomaly
Corrections
Planning
Proposal****Submitted By:**

Strategic Planning
and Urban Design

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:**Leaving a Legacy**

Looking out for future generations

1.4.1 Strategic Land-use Planning - To plan for sustainable development which balances economic, environmental and social considerations. Promote good design in the built environment.

ROLE:

PROVIDER - Council delivers over 50 different services to the Tweed Community.

EXECUTIVE SUMMARY

State Environmental Planning Policy Amendment (Tweed Valley Hospital) 2019 (made 22 February 2019) was prepared by the Department of Planning, Industry and Environment (DPIE) to enact mapping amendments, including within the Tweed Local Environmental 2014, to facilitate the new Tweed Valley Hospital. The SEPP rezoned the hospital site to SP2 Infrastructure with a nominated use as *“health services facility”*.

In doing so the amendment to the Tweed LEP 2014 inadvertently created a number of mapping anomalies and format inconsistencies to the zoning, lot size, height of buildings and floor space ratio mapping layers of map sheet 23. The most significant of these errors were corrected by the DPIE via Tweed LEP Amendment No 27 in February 2020 however it fell short of rectifying all errors with several minor mapping anomalies remaining and consequently the map sheet does not conform with the DPIE's formal mapping standards.

The purpose of this report is to seek Council endorsement to:

- proceed with a planning proposal to correct these minor drafting anomalies;
- seek the Minister's dispensation for the need for public consultation because the planning proposal meets the requirements as a procedural matter to “correct an obvious error in the principal LEP, or address other matters that are of a minor nature” as provided by the *Environmental Planning and Assessment Act, 1979 (EP&A Act)* s.3.22 and is of no consequence to public interest; and
- endorse making of the LEP amendment under delegation and in accordance with the EP&A Act requirements.

This planning proposal is a mapping amendment only and seeks to correct these remaining mapping anomalies. The planning proposal does not seek to alter or amend any zoning or development standards.

It is recommended the planning proposal proceed to ensure consistency with the DPIE's own State-based mapping standards and requirements.

RECOMMENDATION:

ATTACHMENTS

1. Planning Proposal - Mapping Anomaly corrections Tweed LEP 2014

COUNCIL IMPLICATIONS:

a. Legislation/Policy/Existing Strategic Plans

Corporate Policy not applicable

b. Sustainability:

i. Financial (Budget/Long Term Financial Plan/Whole of Life Cost):

Not applicable

ii. Environmental:

Not applicable

iii. Social:

Not applicable

c. Legal Considerations:

Not applicable.

d. Risk Considerations:

The risk of not proceeding is that the statutory LEP mapping is not accurate and may result in confusion and inconsistency.

e. Engagement/Communication:

Inform - Assisting the community to learn about Council services and programs.

REPORT:

Background

The NSW government Standard Instrument LEP process includes standard technical requirements for spatial datasets and maps. All LEP mapping is required to be presented consistent with these requirements.

State Environmental Planning Policy Amendment (Tweed Valley Hospital) 2019 (made 22 February 2019) was prepared by the Department of Planning, Industry and Environment (DPIE) to enact mapping amendments, including within the Tweed Local Environmental 2014, to facilitate the new Tweed Valley Hospital. This amendment rezoned the hospital site to *SP2 Infrastructure* with a nominated use as *“health services facility”*.

Following the commencement of this amendment, a number of inconsistencies with the government’s mapping standards were identified and subsequently raised with the DPIE; they related to:

- minor drafting anomalies which are inconsistent with the standard technical requirements, and
- more significantly errors in the lot size mapping layer, which incorrectly nominated a 2,000 sqm minimum lot size (MLS) instead of the correct 450sqm MLS for the urban areas Kingscliff within mapping sheet number 23.

In response to these concerns the DPIE amended Tweed LEP 2014 (Amendment No 27) in February 2020 and while it corrected the minimum lot size mapping layer it did not address the remaining drafting errors; which are now the basis of this report and further planning proposal.

LEP amendment requirements

The DPIE advised that Council will need to rectify the draft errors through a planning proposal.

This amendment does not seek to amend any zoning or development standards with respect of the hospital site or surrounding land, rather it seeks only to correct mapping format inconsistencies to ensure consistency with the statutory mapping standards and requirements.

As such it is considered that the planning proposal is a procedural matter which may be progressed under the Environmental Planning and Assessment Act, 1979 Section 3.22 Expedited amendments of environmental planning instruments, as follows:

3.22 Expedited amendments of environmental planning instruments

(1) An amending environmental planning instrument may be made under this Part without compliance with the provisions of this Act relating to the conditions precedent to the making of the instrument if the instrument, if made, would amend or repeal a provision of a principal instrument in order to do any one or more of the following—

(a) correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error,

(b) address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature,

The mapping amendments are outlined in full in the Attachment 1 Planning Proposal - Tweed Local Environmental Plan 2014 Mapping anomaly corrections.

The following summarises the drafting anomalies to be corrected to Land Zoning, Lot Size, Height of Buildings and Floor Space Ratio mapping layers of map sheet 23:

1. Cartographic

- Labelling should be consistent in font size, style and horizontally placed.
- Red outline of deferred matter areas to be “brought forward and on top of” the black outlining for other purposes.
- SEPP boundaries to be aligned to cadastre.

2. Map Symbolology

- Corrections to the colour applied to the waterway zones.
- Corrections to the symbolology Labelling.

3. Map Legend

- Corrections to the legend of the mapping symbolology.
- Remove symbolology not applicable to LEP.
- Add missing symbolology that applies to LEP.

4. Map Grid

- References to the Tweed City Centre map tile numbers to be removed.
- Corrections to distortions to the map tile key.

The above amendments will ensure consistency with the relevant mapping standards.

Consultation and process

Given the planning proposal is a procedural matter, the purpose of which is to “correct an obvious error in the principal LEP, or address other matters that are of a minor nature” as provided for under the EP&A Act s.3.22(1)(a) and (b) it is recommended that dispensation of the public consultation element of the LEP process be sought from the Minister, as required under the “Guide to preparing local environmental plans” and that Council delegate to the General Manager authority to finalise and make the plan.

Should the Gateway Determination require any consultation, this process will be undertaken and reported back to Council.

OPTIONS:

1. Endorse proceeding with the required Mapping Anomaly Corrections Planning Proposal as outlined in this report and provided in Attachment 1; or
- 2, Defer consideration of the matter pending further information through a workshop.

Option 1 is recommended.

PREVIOUS COUNCIL RESOLUTIONS:

Nil.

