

Stage 1 Part B Planning Proposal Assessment

Bulahdelah Highway Service Centre Planning Proposal Application

Applicant: Linfield Property Nominee Pty Ltd and NGP Investments (No. 2) Pty Ltd
c/- Coastplan Group Pty Ltd
PO Box 568 FORSTER NSW 2428

Landowner: As above

Property: Lot 100 DP 1139447
No. 9844 Pacific Highway
BULAHDELAH NSW 2423

Proposal: Amend Schedule 1 of Great Lakes LEP 2014 to permit a Highway Service Centre (HSC) on the part of this lot closest to the highway and to excise the land with the HSC (2.6ha) by subdivision.

Amend the Additional Permitted Uses map to include this site.

Assessor: Richard Pamplin
Special Projects Coordinator
MidCoast Council

Date: 11 September 2018

Application Processing History

Action	Date
PP Lodged with Council (application signed)	08 November 2017
Meeting with RMS to discuss application	04 December 2017
Formal request to RMS to provide advice on application	19 December 2017
Applicant advised that PP does not meet Acceptability test under Council policy [Stage 1 Part A PP assessment]	02 February 2018
Response from RMS not supporting application	11 April 2018
Council resolves to continue with application taking into consideration current policy position on HSCs and RMS advice	13 June 2018
Revised PP lodged by applicant	02 August 2018
Applicant advised that PP now meets Acceptability test [Stage 1 Part A PP re-assessment] to progress to full review	21 August 2018
Stage 1 Part B PP full assessment completed [this report]	11 September 2018

Executive Summary

This assessment provides a review of the PP, separated into the main issues affecting this application, as well as providing feedback from any internal and pre-gateway agency referrals.

It should be noted that Council's two stage approach to the assessment and processing of a PP only requires the applicant to lodge sufficient information for Council to be in a position to decide whether the application should be supported to proceed to a Gateway Determination from the NSW Department of Planning and Environment (DPE). Costly and/or lengthy studies which are unlikely to result in the PP not continuing can be undertaken post-Gateway.

Stage 1 of the processing of a PP is up to and including issuing of a Gateway Determination from DPE, while Stage 2 covers the remainder of processing of the application – finalisation of outstanding studies, referral to government agencies, public exhibition and ultimate making of the plan (formerly called gazettal).

The issues that must be addressed in Stage 1 of this application include:

- Compliance with the planning framework, specifically:
 - Local, regional and State policies/strategies;
 - State Environmental Planning Policies;
 - Ministerial Directions; and
- Economic Impact Assessment of the HSC on the existing commercial area of Bulahdelah.

Overall, this PP has been found to consider the relevant issues affecting the proposed development on this site sufficiently to proceed to a Gateway Determination from the NSW Department of Planning and Environment (DPE), subject to the amendments identified in this report being undertaken to the PP and the following studies mentioned in the PP being attached prior to referral to DPE for a Gateway Determination:

- European and Aboriginal Cultural Heritage assessments;
- Previous ecological studies; and
- Contamination assessment.

However, following a Gateway Determination (Stage 2) the following studies will need to be undertaken prior to the PP being exhibited:

- Preparation of a water and sewer servicing strategy, to Council's Water Services Division satisfaction;
- Identification of specific actions (and inclusion in a Planning Agreement) for the township of Bulahdelah that can be funded by the applicant/landowner to offset any anticipated adverse economic impact that the HSC may have on the local business community;
- Provision of a bushfire hazard assessment to the satisfaction of the NSW RFS; and
- Assessment of an appropriate buffer distance and means to implement this between the HSC and future dwellings.

Specific government agency consultation identified to be undertaken prior to exhibition include:

- Referral to the NSW Roads and Maritime Services to identify whether any upgrades of RMS infrastructure would be required as a result of this development;
- Referral of the Aboriginal Cultural Heritage Assessment to OEH for advice on its adequacy in regard to it meeting the OEH guidelines for this type of assessment;
- Referral to Essential Energy and Telstra to confirm that the proposed development can be serviced; and
- Referral to the RFS to confirm assessment criteria for this type of development to comply with the guideline *Planning for Bushfire Protection 2006*.

It is recommended that Council not seek to utilise its delegations for this PP as it has a pecuniary conflict of interest in that Council will be negotiating (and including in a Planning Agreement) funding from the developer to cover works and other actions for Council to oversee to offset the potential negative economic impacts on the Bulahdelah business community that may be caused by the HSC; which directly relates to the progression of this PP.

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1. Economic impact on Bulahdelah

1.1 Economic Impact Assessment

A full review of the Economic Impact Assessment prepared by HillPDA and provided in the PP was undertaken by Council's planning consultant, David Crofts from Strategy Hunter as part of the Adequacy test for this PP, as it was anticipated to be the most important issue affecting whether Council should support this PP.

This assessment is included in the Strategy Hunter Amended Planning Proposal Adequacy report dated August 2018.

This assessment from Strategy Hunter agrees with the HillPDA report in that it is difficult to precisely quantify the economic impact of a HSC in this location on the township of Bulahdelah. The HillPDA report relies upon qualitative data obtained from surveys of people present in the streets at the two survey periods. The report concludes that approximately 30% of people currently visiting Bulahdelah state that they would instead have stopped at a HSC had one been available.

The impact of this anticipated loss of 30% of trade currently spent within the business community of Bulahdelah is not able to be quantified. Not only is there likely to be less people visiting (and spending money) in Bulahdelah, but studies cannot determine the resilience of existing businesses to a change in trade.

Additionally, this loss of trade is likely to be corrected over time by the anticipated increase in volume of traffic on the Pacific Highway (RMS anticipates a 2.5% annual increase). While a mathematical exercise is possible to determine the period over which the volume of people may increase to current levels following construction of a HSC. Such work cannot predict factors that will lead to changing levels of spending of individuals and groups over time, whether the anticipated 30% loss of trade may actually be higher or lower due to other factors affecting travel patterns or whether businesses within Bulahdelah may close or relocate during this recovery period and other businesses are established that are more niche in nature that affect current spending patterns.

While a HSC will create additional jobs (most likely for local residents), it could also lead to job losses within existing businesses that mainly cater to the travelling public. This is another factor that cannot be readably quantified.

1.2 Mitigation of adverse economic impacts

It is potentially possible to offset any adverse economic impacts of a HSC on the existing business community of Bulahdelah. But just as it is not possible to quantify the adverse economic impacts of a HSC, it is also not possible to quantify the positive effect that any actions may have in dollar terms and whether these will effectively mitigate effects from the HSC. Hence mitigation actions become a value judgement.

If Council continues to support this PP then it is the role of Council, in partnership with the Bulahdelah community (specifically the Bulahdelah Chamber of Commerce), to implement actions that may minimise any adverse economic impacts from the HSC. It is the role of the HSC proponent to fund these actions over a suitable time period.

To minimise the risk of not being able to effectively mitigate any negative impacts of a HSC, it is recommended that a number of actions be undertaken that may each lead to an increase in the volume of people attracted to stop in Bulahdelah and/or lead to an increase spend from existing shoppers.

The applicant's consultant, Gavin Maberly-Smith from the Coastplan Group confirmed in an email dated 28 February 2018 that the owner is prepared to enter into a Planning Agreement to mitigate impacts to local businesses in Bulahdelah. Options for inclusion in the Planning Agreement include:

- Main Street improvements including landscaping, heritage lighting etc.;
- Provision of additional amenities/infrastructure to support Council's RV Friendly Town approach, such as better street parking and enhanced or additional amenities;
- Business Assistance Package, such as works on main street approaches and funding of a business adviser to assist local businesses; and
- Local promotions area within the HSC itself.

Acceptability: The PP assessment is satisfactory in that it has gone as far as possible in identifying the economic impact of the HSC on the Bulahdelah community. This meets the Stage 1 requirements of the PP, however at Stage 2 the options for mitigating this impact need to be fully explored with Council and the Bulahdelah community and included in a Planning Agreement prior to the plan being made.

1.3 Pre-Gateway (Stage 1) actions

Nil.

1.4 Post Gateway (Stage 2) actions

At its' Strategic Committee Meeting on 13 June 2018 Council resolved to note the commitment of the proponent to enter into a Planning Agreement for township improvements and that a Planning Agreement be developed with the Bulahdelah Chamber of Commerce and community after a Gateway Determination is issued.

This consultation is yet to occur and the actions yet to be refined and included in a Planning Agreement that can be exhibited concurrently with the PP.

2. Ecology

2.1 Ecological assessment

The Site Analysis section of the PP notes that the land has been subject to significant ecological investigation previously, for a previous PP which resulted in residential and environmental zoning of parts of the site. These studies did not identify any native vegetation communities over the land proposed for the HSC, instead identifying it as cleared land.

Section 3.B.3 of the PP addresses SEPP 44 – Koala Habitat Assessment in that while the larger lot has previously identified that there are some koala habitat on the site but that this was not core koala habitat. The HSC part of the site was not considered relevant for use by the koala.

Section 3.C.1 of the PP notes that none of the four previous ecological studies covering the lot have identified any environmental constraints over the proposed HSC location. Council's Senior Ecologist concurs with this assessment.

The studies referenced are not included in the PP.

Acceptability: The PP assessment is satisfactory (Stage 1 & 2), however for completeness the missing studies (or extracts thereof) should be attached to the PP prior to sending to DPE for a Gateway Determination.

2.2 Pre-Gateway (Stage 1) actions

Include the previous ecological studies (or extracts thereof), as attachments to the PP, which have been relied upon to form the opinion that no ecological constraints exist on this part of the site, prior to referral to DPE for a Gateway Determination.

2.3 Post-Gateway (Stage 2) actions

Nil.

3. Contamination

3.1 Contamination assessment

The Site Analysis section of the PP (under the Geology heading) states that contamination assessments were previously undertaken for this lot as part of the previous PP which rezoned parts of the site for residential development. It states that this assessment found that the only contamination on the site was limited to a machinery shed on the lot, but that this is not where the HSC is proposed.

Section 3.B.3 of the PP address SEPP 55 – Remediation of Land, states that a planning authority must consider whether the site is contaminated and if so whether it can be remediated for the proposed use. This section references the same previous studies for the prior PP.

The assessment referenced is not included in the PP.

Acceptability: The PP assessment IS satisfactory for Stage 1 in that all that is required is advice as to whether an existing assessment exists or whether the applicant commits to undertaking one.

3.2 Pre-Gateway (Stage 1) actions

Include the previous contamination assessment (or extract thereof), as an attachment to the PP, which have been relied upon to form the opinion that no contamination exists on this part of the site, prior to referral to DPE for a Gateway Determination.

3.3 Post-Gateway (Stage 2) actions

Council to review the contamination assessment to ensure acceptability.

4. Heritage

4.1 European Heritage/Visual Impact

4.1.1 Assessment

The Site Analysis section of the PP notes that the site sits within the Bulahdelah Mountain Heritage Conservation Area [listed in Schedule 5 of Great Lakes LEP 2014 – Map HER_008A] and that a heritage assessment was undertaken but that no items of European heritage were identified on the site.

Section 3.C.2 of the PP states that the Bulahdelah Mountain Heritage Conservation Area has the following key heritage values:

- Geological – significant rock outcrop
- Commercial history – previous Alunite mine
- Vegetation
- Scenic
- Aboriginal significance

This section of the PP states that the HSC site is cleared and disturbed, and well below the mountain and outcrops. The site is located on a low slope at the northern end of the mountain and the PP concludes that the proposed development would not have an impact on the scenic landscape quality of the area, with the main feature (the mountain) remaining as the dominant feature post-development. It further states that the site is not highly visible from the surrounding area.

The study referenced is not included in the PP. The study will be referred to Council's Heritage Adviser as part of Stage 2 of the PP process to ensure that it adequately addresses the heritage conservation area.

Acceptability: The PP assessment IS satisfactory for Stage 1 in that all that is required is advice as to whether an existing assessment exists or whether the applicant commits to undertaking one.

4.1.2 Pre-Gateway (Stage 1) actions

Include the European heritage assessment, as an attachment to the PP, which has been relied upon to determine that there are no European heritage items present on the site, prior to referral to DPE for a Gateway Determination.

4.1.3 Post-Gateway (Stage 2) actions

Referral of the heritage assessment to Council's Heritage Adviser to ensure that the study adequately addresses the heritage conservation area.

4.2 Aboriginal cultural heritage

4.2.1 Assessment

The Site Analysis section of the PP notes that an Aboriginal cultural heritage assessment was undertaken and states that the only item found was a scar tree located near the banks of Frys Creek, approximately 700m east of the proposed site for the HSC.

The study referenced is not included in the PP.

Acceptability: The PP assessment IS satisfactory for Stage 1 in that all that is required is advice as to whether an existing assessment exists or whether the applicant commits to undertaking one.

4.2.2 Pre-Gateway (Stage 1) actions

Include the Aboriginal cultural heritage assessment, as an attachment to the PP, which has been relied upon to determine that there are no Aboriginal cultural heritage items on the site, prior to referral to DPE for a Gateway Determination.

4.2.3 Post-Gateway (Stage 2) actions

Government agency referral to OEH to ensure that the Aboriginal Cultural Heritage Assessment meets the OEH guidelines for this type of study (particularly in regard to formal consultation with registered Aboriginal groups and the methodology used to locate Aboriginal artefacts found on the site).

5. Services and infrastructure

5.1 Water and sewer

5.1.1 Assessment

The Site Analysis section of the PP states that there is a 250mm water main passing the property, which supplies the Bulahdelah Golf Club. It notes that this would need to be augmented (at the reservoir) to service the HSC development.

The Site Analysis section also notes that while the site is not currently connected to reticulated sewerage, that a new pump station and rising main can be constructed to connect the HSC site to the reticulated sewerage system.

Section 3.C.2 of the PP (Water and sewer generation) notes that the developer will need to fund any upgrades (augmentation and connection) of the systems to cater for this development.

Council's Water Services Division has confirmed that the HSC site can be connected to reticulated water and sewer. They have also advised that a water and sewer servicing strategy is required as part of the PP. The strategy would need to quantify anticipated flows and demands, identify specific augmentation requirements, sizing of pipes, location and design of a new pump station and the like. The strategy will also need to take into consideration any other proposed development in this location (development of the vacant residential zoned land to the immediate east of the HSC site will need to be factored in). The applicant will need to liaise with Water Services prior to undertaking this work.

Acceptability: The PP assessment IS satisfactory for Stage 1 IF it includes a reference for the need to undertake a water and sewer servicing strategy in Stage 2.

5.1.2 Pre-Gateway (Stage 1) actions

That a reference to the need to undertake a water and sewer servicing strategy at Stage 2 be included in the PP prior to it being forwarded to DPE for a Gateway Determination.

5.1.3 Post-Gateway (Stage 2) actions

Preparation of a water and sewer servicing strategy, to Council's Water Services Division satisfaction.

5.2 Electricity

5.2.1 Assessment

The Site Analysis section of the PP states that there are currently high voltage electricity transmission lines passing through the lot, inferring that connection should be possible.

Acceptability: The PP assessment IS satisfactory for Stage 1 in that all that is required is advice as to whether services can be connected.

5.2.2 Pre-Gateway (Stage 1) actions

Nil.

5.2.3 Post-Gateway (Stage 2) actions

Government agency referral to Essential Energy to confirm that connection is possible.

5.2 Telecommunication

5.3.1 Assessment

The Site Analysis section of the PP states that there are currently underground telecommunication services, inferring that connection should be possible.

Acceptability: The PP assessment IS satisfactory for Stage 1 in that all that is required is advice as to whether services scan be connected.

5.3.2 Pre-Gateway (Stage 1) actions

Nil.

5.3.3 Post-Gateway (Stage 2) actions

Government agency referral to Telstra to confirm that connection is possible.

5.4 Roads

5.4.1 Assessment

The Site Analysis section of the PP states that access to the site is from Recovery Road. Access to Recovery Rd from southbound highway traffic will be via the northern (southbound) off-ramp adjacent to the golf course, whereas northbound highway traffic can access either from the southern (northbound) exit and drive through the Bulahdelah township to access the HSC or alternatively traffic can exit via the northern (northbound) exit to gain access to the site.

Section 3.C.2 of the PP (Access) states that there is excellent existing access to the site for local Bulahdelah residents and for the travelling public. The site will cater for both light and heavy vehicles and the PP states that the future design of the HSC will need to meet any RMS requirements for vehicle movements.

It is agreed that the site has very good access for both north and south bound traffic, as well as residents of Bulahdelah. Council's Senior Transport Engineer, Richard Wheatley, has confirmed that access is not a concern for Council and any issues can be dealt with at the Development Application stage.

The response from the RMS letter dated 11 April 2018 does not flag any access problems for this site from the Pacific Highway.

Acceptability: The PP assessment IS satisfactory for Stage 1. A formal agency referral to the RMS at Stage 2 is required to confirm whether current highway access arrangements are satisfactory or whether any upgrades to RMS infrastructure is required.

5.4.2 Pre-Gateway (Stage 1) actions

Nil.

5.4.3 Post-Gateway (Stage 2) actions

Government agency referral to RMS to confirm that access on and off the highway is not a concern, or whether any upgrades are required to RMS infrastructure to facilitate this development.

6. Social Impact

6.1 Assessment

Section 3.C.3 of the PP identifies the following positive and negative impacts of the proposed development:

Positive:

- Local employment will be created to provide various employment types, including for youth, and higher levels of part time employment.
- Greater levels of employment will be available close to home, increasing the opportunity for greater time spent with families and reduced travel time. This has positive health outcomes.
- Less time pressures associated with commuting to and from employment with highway trade jobs in more remote locations such as Coolongolook and The Rock road house.
- Increasing exposure to tourists of the locality through an increased number of stopping options in Bulahdelah and establishing what it offers.
- For people who are travelling along the highway together but in different vehicles, providing a meeting place and a diverse rest stop that encourages people to enjoy the site and the broader context of Bulahdelah.

Negative:

- Job losses as a result of business closure from competition – the service stations may be affected in this manner; however the impacts are largely due to the highway bypass and the new service centre will offer greater employment opportunities.
- Increased traffic through town and at the site may affect nearby residents.

It is purported that the positive social impacts for the travelling public (more rest stop options and choice) as well as additional jobs for the local community, will outweigh the potential adverse social impacts of potential job losses within existing businesses in Bulahdelah and an increase in traffic volumes within the township.

The negative impacts should be ameliorated by the an offset package from the developer for the Bulahdelah community which should soften the economic impacts of a HSC on existing businesses, together with the fact that Bulahdelah Way (old Pacific Highway) previously had significantly higher traffic volumes when it operated as the main coastal highway for northern NSW.

Acceptability: The PP assessment IS satisfactory for Stage 1 & 2.

6.2 Pre-Gateway (Stage 1) actions

Nil.

6.3 Post Gateway (Stage 2) actions

Nil.

7. Compliance with planning framework

7.1 Local and regional policies

7.1.1 Local policies

7.1.1.1 Assessment

Section 3.B.2 of the PP lists the local strategies/policies that are relevant to this PP.

MidCoast Community Strategic Plan 2030

The PP lists the relevant CSP sections and concludes by stating that this development will facilitate the creation of employment and economic opportunities for the Bulahdelah township to combat losses experienced when the town was bypassed by the Pacific Highway.

Acceptability: The PP assessment IS satisfactory for Stage 1 & 2.

Great Lakes Highway Service Centre Strategy 2004

This strategy identified Bulahdelah as a Highway Service Town and determined that 'out-of-town' HSCs were not appropriate as the township needed to continue to attract travellers into the town to support local businesses.

This policy position has enabled existing businesses to adjust and evolve over time to the impact of the highway bypass. Inevitably some businesses (for example, service stations) have closed while new businesses (for example, Oliver's Real Food) have been established in the town.

The PP argues that the site is technically in town as the site is within a lot with a residential zone and fronts onto a 60km/h road (instead of having direct access onto the highway) and hence they are not 'out-of-town'. The argument is therefore that they are consistent with the strategy in this regard. This is a 'borderline' argument. As this issue is not 'material' in nature, there is no need to consider removing it from the PP.

The PP does not rely solely on the above argument, going on to state that they also meet the intent of the strategy by providing local employment (60 direct and 24 indirect jobs) which supports the town. This is a clearly valid argument.

The PP also acknowledges the age of the strategy and points out that it is likely that the strategy (at least for Bulahdelah, if not other HSTs and Highway Service Villages) has run its course and should be revisited.

Council at its 13 June 2018 Strategic Committee Meeting when considering whether or not to provide in-principle support to this application proceeding resolved *that Council write to the RMS immediately to advise it is reviewing the Great Lakes Highway Service Centre Strategy 2004.*

Acceptability: The PP assessment IS satisfactory for Stage 1 & 2.

Great Lakes Rural Living Strategy 2004

The PP notes that this strategy did not permit residential growth on the eastern side of the bypass but that Council in supporting the previous rezoning of this lot for residential development has effectively provided a new policy direction for Bulahdelah. In doing so the PP argues that the HSC is now within the expanded part of the town and hence not 'out-of-town'.

This argument is really a 'mute-point' in that the proposed development is clearly a HSC and not something that is normally found within the borders of a town. Additionally, as Council has resolved to revisit the HSC strategy and provided in-principle support for this PP, this strategy is not relevant as to whether this PP should proceed or not.

Acceptability: The PP assessment IS satisfactory for Stage 1 & 2.

Great Lakes Heritage Study 2007

The PP correctly identifies that the study identified Aum Mountain for listing as a heritage item and that a heritage conservation area should be established around the mountain. Both of these are included in Great Lakes LEP 2014.

See section 4.1 of this report for details of the assessment of European heritage for this site.

Acceptability: The PP assessment is satisfactory for Stage 1 & 2.

Great Lakes Local Environmental Plan 2014

The PP correctly notes that the LEP is an environmental planning instrument, not a strategy or policy. However, it is appropriate to consider it under this section of the PP (3.B.2) and hence it should be retained.

The PP states that it is consistent with the aims of the LEP, but does not provide any justification for this.

The PP provides commentary around how it generally complies with the objectives of the RU2 and R2 LEP zones, which are deemed satisfactory.

Acceptability: The PP assessment IS satisfactory IF justification is provided as to how it is consistent with the LEP aims.

7.1.1.2 Pre-Gateway (Stage 1) actions

The PP needs to provide justification in section 3.B.2 as to how it is consistent with the Great Lakes LEP 2014 aims, under the heading Great Lakes Local Environmental Plan 2014.

7.1.1.3 Post-Gateway (Stage 2) actions

Nil.

7.1.2 Regional policies

7.1.2.1 Assessment

Hunter Regional Plan 2036

The PP identifies the main Goals and Directions impacted upon by the PP and provides commentary on how this PP relates to these. The PP does not, however, include an assessment of all Goals, Direction and Actions from the Plan as it is required to do (as per Appendix A in Council's PP Template).

Goal 1 – The leading regional economy in Australia

Direction 4: Enhance inter-regional linkages to support economic growth

The PP does not identify specific actions from the Plan that it is consistent with, but rather identifies how it is consistent with the overall intent of this Direction. This is reasonable as the Plan's actions in this Direction are more focused on the wider Newcastle area.

Direction 6: Grow the economy of MidCoast and Port Stephens

The PP does not identify specific actions from the Plan that it is consistent with, but rather identifies how it is consistent with the overall intent of this Direction. This is reasonable as the Plan's actions in this Direction are focused on specific actions not directly relevant to a HSC.

Direction 9: Grow tourism in the region

The PP does not identify specific actions from the Plan that it is consistent with, but rather identifies how it is consistent with the overall intent of this Direction. This is reasonable as the Plan's actions in this Direction are focused on specific actions not directly relevant to a HSC. The PP is clear on how a HSC in this location can contribute to growing tourism.

Goal 3 – Thriving communities

Direction 19: Identify and protect the region's heritage

The PP does not identify specific actions from the Plan that it is consistent with, but rather identifies how it is consistent with the overall intent of this Direction. This is reasonable as the Plan's actions in this Direction are focused on broader strategic direction, rather than specific developments. The PP clearly states, however, how it meets the intent of this Direction.

Direction 20: Revitalise existing communities

The PP does not identify specific actions from the Plan that it is consistent with, but rather identifies how it is consistent with the overall intent of this Direction. This is reasonable as the Plan's actions in this Direction are focused on specific actions not directly relevant to a HSC. The PP does, however, demonstrate how it meets the intent of this Direction.

Highway Service Centres along the Pacific Highway – Policy Review 2014, RMS

This RMS policy review was undertaken prior to revising the section 117 Ministerial Direction (now called section 9.1), relating to developments (including HSCs) along the Pacific Highway. The policy identifies the need for HSCs to be at regular intervals along the Pacific Highway, and that they generally be located near bypassed towns so that the economic benefits can remain with those centres. The specific centres identified in the Review are generally a 25-30 minute driving distance, providing regular opportunities for the travelling public to *stop, revive, survive*.

The PP notes that the exception to the Review in allocation of HSCs is between Tomago and Taree, representing a 1 hour and 10 minute gap. The PP puts forward a solid argument as to why a HSC should be located at Bulahdelah.

Acceptability: The PP assessment IS satisfactory IF Appendix A of Council's PP Template is completed and attached, being an assessment of all goals, direction and actions from the Hunter Regional Plan 2036 as required by DPE for a Gateway Determination.

7.1.2.2 Pre-Gateway (Stage 1) actions

Appendix A of Council's PP Template (Consistency with Hunter Regional Plan Goals, Directions & Actions) must be completed and attached to the PP prior to it being forwarded to DPE for a Gateway Determination.

7.1.2.3 Post-Gateway (Stage 2) actions

Nil.

7.2 State Environmental Planning Policies (SEPPs)

7.2.1 Assessment

Section 3.B.3 of the PP outlines a more detailed assessment of the main SEPPs that affect this PP, with a brief statement made against each SEPP in Appendix D to this PP (Appendix D is deemed satisfactory for Stage 1 & 2).

The review of the assessment of Section 3.B.3 is provided below:

SEPP 33 – Hazardous and Offensive Development

The PP identifies that a HSC will involve the storage of hazardous materials such as fuel and that the SEPP would seek a risk assessment based on volume of stored materials and the distance from sensitive receptors (e.g. dwellings).

The PP assessment does not explore this further and how a HSC in this location may impact upon surrounding development. While it is clear that no dwellings immediately about the proposed HSC site, it is worth noting that part of this site and land immediately adjoining (currently in the same lot) is zoned R2 – Low Density Residential. As such, there is likely to be an incompatibility between a HSC and the residential zone in this location.

An assessment should be undertaken of an appropriate separation distance between the HSC and how close housing should be to this development and the R2 zone amended accordingly in this location by this PP. An E3 – Environmental Management zone has been used successfully in the Greater Taree LEP 2010 to separate non-compatible adjoining uses and this zone should be considered for use in this location as a buffer.

Acceptability: The PP assessment IS satisfactory for Stage 1 IF it identifies the need to undertake an assessment for a suitable buffer distance between the HSC and future residential development.

SEPP 44 – Koala Habitat Assessment

The PP advises that previous ecological assessments looked at this issue and while they found some potential koala habitat on the site, that there was no core koala habitat present and that no further assessment is required under this SEPP.

The ecological assessments mentioned are not included in this PP and as such the assessment under this SEPP cannot be verified.

Acceptability: The PP assessment IS satisfactory for Stage 1 IF the previous study is included in the PP prior to forwarding to DPE for a Gateway Determination.

SEPP 55 – Remediation of Land

The PP advises that a previous preliminary contamination assessment was undertaken that only found some localised contamination adjacent to an existing shed, which can easily be remediated and would not make the land unsuitable for a HSC. The assessment mentioned is not included in the PP.

Acceptability: The PP assessment IS satisfactory for Stage 1 IF the previous study is included in the PP prior to forwarding to DPE for a Gateway Determination.

SEPP (Infrastructure) 2007

The PP advises that this SEPP is relevant as a subsequent DA for a HSC will likely affect the electricity network and that a HSC is classified as a 'traffic generating development'. As such the PP is required to be referred to Essential Energy and RMS respectively to seek their feedback on the PP.

Acceptability: The PP assessment IS satisfactory for Stage 1 & 2.

SEPP (Rural Lands) 2008

Ministerial Direction 1.5 – Rural Lands (issued under section 9.1 of the Environmental Planning & Assessment Act 1979) requires the PP to address this SEPP.

This PP address the Rural Planning Principles adequately, but does not address the Rural Subdivision Principles that it is required to as it proposes reducing the lot size for this site to enable the HSC to be excised off the larger lot.

Acceptability: The PP assessment IS satisfactory for Stage 1 IF the Rural Subdivision Principles are included and assessed prior to the PP being forwarded to DPE for a Gateway Determination.

7.2.2 Pre-Gateway (Stage 1) actions

That the PP be amended in Section 3.B.3 (SEPP 33) to indicate an assessment at Stage 2 to determine and implement a suitable buffer between the HSC and future adjoining dwellings.

That the ecological assessments mentioned in this PP be attached prior to forwarding to DPE for a Gateway Determination.

That the preliminary contamination assessment mentioned in this PP be attached prior to forwarding to DPE for a Gateway Determination.

7.2.3 Post-Gateway (Stage 2) actions

That an assessment of an appropriate buffer distance between the HSC and future dwellings be determined and the means to implement the buffer be identified. While implementation may not need to occur until the development stage, the means to ensure this occurs needs to be established at the rezoning stage - whether by zone changes or inclusion in a DCP or the Planning Agreement.

That the previous preliminary contamination assessment be reviewed to ensure it is satisfactory.

That government agency referrals be undertaken with Essential Energy and RMS.

7.3 Ministerial Directions

7.3.1 Assessment

Section 3.B.4 of the PP outlines a more detailed assessment of the main Ministerial Directions (previously called s117, now numbered 9.1) that affect this PP, with a brief statement made against each Ministerial Direction in Appendix E to this PP (Appendix E is deemed satisfactory for Stage 1 & 2).

This PP has been assessed against the revised Directions issued by the Minister for Planning on 3 April 2018 under section 9.1 of the Environmental Planning & Assessment Act, 1979.

The PP does not consider the Directions in number order and this should be amended prior to sending to DPE for a Gateway Determination. While it is obvious why it is number the way it is (the most relevant Direction listed first), it is more appropriate to place the assessment in the correct number order.

The review of the assessment of Section 3.B.4 is provided below:

Direction 1.2 – Rural Zones

The PP states that as they are not altering a zone, that therefore they are compliant with the Direction in that it states that a PP must not rezone land from rural to urban. The PP also states that it is consistent with the objectives of the Direction.

The response in the PP is simplistic in nature and should be altered to directly respond the relevant section of the Direction. It should state that clause (4)(a) applies to MidCoast Council, which specifies that a PP must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.

The PP should state that in seeking to include an additional permitted use (HSC) and subdivision of the site via an amendment to Schedule 1 that the PP is consistent with clause (4)(a). The additional changes to zoning mentioned in this review (reducing the R2 zone and introducing a buffer between the HSC and residential development via use of an E3 zone) still make the PP consistent with this Direction and the PP should state this.

Acceptability: The PP assessment IS satisfactory IF a more detailed response to this Direction is provided that directly addresses the relevant clauses of the Direction.

Direction 1.5 – Rural Lands

The PP correctly states that this Direction applies and that it requires consistency of the PP with the Rural Planning Principles listed in SEPP (Rural Lands) 2008.

The PP however fails to mention that clause (5) of the Direction (as this PP [as per clause (3)(b) of the Direction] will effectively change the minimum lot size within a rural zone to excise the HSC off from the wider lot) requires the PP to also be consistent with the Rural Subdivision Principles listed in SEPP (Rural Lands) 2008. The PP should be amended to reflect this.

This section of the PP then refers the reader to the previous section of the PP [in 3.B.3] that addresses this SEPP.

Acceptability: The PP assessment IS satisfactory IF it also mentions that the PP is required to be consistent with the Rural Subdivision Principles. These principles must then also be addressed within this PP [in section 3.B.3].

Direction 2.3 – Heritage Conservation

The PP states that this Direction applies to the PP as the site is located within a heritage conservation area. It also states that a study was undertaken in 2010 which assessed European and Aboriginal cultural heritage for the prior PP on this site. This study is not attached to the PP.

The PP states that the previous study only found one Aboriginal cultural heritage item (a Scar Tree adjacent to Frys Creek) which would not be impacted upon by the proposed HSC. Without the previous study being attached, this cannot be verified.

The PP states that the cultural heritage value on the top of Alum Mountain is outside the study area, but does not provide any other justification as to why it is not relevant. The Great Lakes Heritage Study 2007 provides a detailed assessment of Alum Mountain and its importance from natural, Aboriginal, archaeological and historical perspectives. Without the mentioned previous study which is not attached but upon which the assessment in the PP is based upon, the relevance or not of Alum Mountain to this site cannot be verified. Regardless, the assessment against this Direction is not sufficient to ascertain whether the Direction has been complied with.

Acceptability: The PP assessment IS satisfactory IF it includes a more detailed assessment against the RPS study mentioned and this study is also attached to the PP.

Direction 4.4 – Planning for Bushfire Protection

The PP states that the site is mapped as bushfire prone land and hence this Direction applies. The Direction requires Council to consult with the NSW Rural Fire Service (RFS) following receipt of a Gateway Determination and prior to being publicly exhibited. The Direction also provides guidance on issues to be considered in assessing bushfire provisions for any PP.

The PP states that it would be capable of meeting the guideline *Planning for Bushfire Protection 2006*.

This is sufficient consideration at Stage 1, but referral to RFS and a bushfire assessment for the proposed development will be required during Stage 2.

Acceptability: The PP assessment is satisfactory for Stage 1.

Direction 5.1 – Implementation of Regional Strategies

This Direction was revoked by the Minister on 17 October 2017 and replaced with Direction 5.10 – Implementation of Regional Plans. An assessment is required against this new Direction.

Acceptability: The PP assessment is satisfactory for Stage 1 & 2 IF an assessment is provided for the new Direction and reference to this Direction removed.

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

The PP provides an assessment against the objectives of this Direction and most objectives are easily met by this development. The only objective that may be more difficult to achieve is (f) *to reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns*. The PP assessment of this objective relies on the Economic Impact Assessment included in the PP. While the argument is put forward that the HSC would attract business that would otherwise bypass the town of Bulahdelah and hence does not impact upon local businesses, this conflicts with the economic impact assessment of the PP which recognises that the HSC will in fact have an impact on local trade and hence a Planning Agreement is proposed to offset this impact.

HSCs can by nature be stand-alone developments that operate (successfully) separately to town centre businesses. It is understood that the reasoning behind this twofold; firstly to ensure that commercial or retail development (including HSCs) does not relocate from within town centres to the outskirts of town to try to capitalise on passing trade and in doing so undermine existing town centres. Secondly, to ensure that town centres are not undermined by out of town HSCs.

The previous discussion on the Economic Impact Analysis submitted with the Planning Proposal for the HSC addresses this issue and, in particular, the offer from the developer to enter into a Planning Agreement to fund works/activities to offset the impact.

The PP correctly identifies that under this Direction the HSC site would be classified as 'out-of-town' and hence rules for this category would apply [section (5)]. Although the PP assessment is brief, it is accurate.

Acceptability: The PP assessment IS satisfactory IF it provides an altered response to Objective (f) to effectively address this Direction as outlined above.

Direction 6.3 – Site Specific Provisions

The PP notes that as this PP proposes to enable a landuse on a specific lot and hence this Direction applies. The PP states that as no additional development standards are proposed then it is consistent with this Direction. This assessment is accurate.

Acceptability: The PP assessment is satisfactory for Stage 1 & 2.

7.3.2 Pre-Gateway (Stage 1) actions

The following changes are required prior to the PP being forwarded to DPE for a Gateway Determination:

- That the assessment of Directions be amended to be shown in correct number order;
- That the assessment in section 3.B.4 of the PP for Ministerial Direction 1.2 – Rural Zones be amended as outlined in this report;
- That the assessment in section 3.B.4 of the PP for Ministerial Direction 1.5 – Rural Lands AND the assessment in section 3.B.3 of the PP for SEPP (Rural Lands) 2008 be amended as outlined in this report;
- That the assessment in section 3.B.4 of the PP for Ministerial Direction 2.3 – Heritage Conservation be amended as outlined in this report AND the 2010 study mentioned be attached to this PP;
- Removal of the reference and assessment of Direction 5.1 – Implementation of Regional Strategies as this Direction has been revoked AND incorporation of an assessment of the new Direction 5.10 – Implementation of Regional Plans; and
- That the assessment in section 3.B.4 of the PP for Ministerial Direction 5.4 – Commercial and Retail Development along the Pacific Highway, North Coast be amended as outlined in this report.

7.3.3 Post-Gateway (Stage 2) actions

Government agency referral to RFS to determine assessment requirements for this type of development in order to comply with the *Planning for Bushfire Protection 2006* guideline.

8. State and Commonwealth Interests

8.1 Public infrastructure

8.1.1 Assessment

The PP provides a summary of the services currently available and those which can be extended to connect to the site and concludes that adequate public infrastructure currently exists or can be provided at the developers cost to the site.

Acceptability: The PP assessment is satisfactory for Stage 1 & 2.

8.1.2 Pre-Gateway (Stage 1) actions

Nil.

8.1.3 Post-Gateway (Stage 2) actions

Nil.

8.2 Public Authority Views

8.2.1 Assessment

The PP notes the pre-gateway advice obtained from the RMS (incorrectly stating that it is included as Appendix E to the PP) and summaries the position of the RMS.

The PP states that consultation should be undertaken post gateway with the following agencies:

- RMS;
- Transgrid; and
- Essential Energy.

The overall assessment of this PP has determined that the following government agencies be consulted following a Gateway Determination:

- RMS;
- OEH;
- RFS;
- Essential Energy; and
- Telstra.

Acceptability: The PP assessment IS satisfactory for Stage 1 IF it includes the RMS letter in an appendix to the PP and alters the government agencies to be consulted following a Gateway Determination to those indicated above.

8.2.2 Pre-Gateway (Stage 1) actions

Include the RMS letter as an appendix to the PP prior to being forwarded to DPE for a Gateway Determination.

That the government agencies to be consulted following a Gateway Determination be amended as shown in this report.

8.2.3 Post-Gateway (Stage 2) actions

Update this section to reflect responses from other agencies and include these as appendices to the PP.

9. Mapping

9.1 Assessment

The PP identifies that Council will need to prepare mapping associated with the LEP amendment to Great Lakes LEP 2014 in accordance with the Standard Technical Requirements for maps. This is correct.

The PP states that the Additional Permitted Uses Map will need to be amended as shown in Figure 6 in the PP to include this site. This is correct.

Acceptability: The PP assessment is satisfactory for Stage 1 & 2.

9.2 Pre-Gateway (Stage 1) actions

Nil.

9.3 Post-Gateway (Stage 2) actions

Nil.

10. Community Consultation

10.1 Assessment

The PP includes details of the consultation undertaken to date by the proponent with the Bulahdelah Chamber of Commerce and a public meeting which was held. Details of the issues raised at these meetings and the views of those who attended have been included. This section provides a satisfactory documentation of previous consultation.

The PP mentions letters from the Bulahdelah Chamber of Commerce that it states are provided in Appendix C. Appendix C is however blank – these letters need to be included in the PP.

The PP identifies the requirement to publicly exhibit the PP for a 28 day period and indicates Council's standard consultation process for PPs. This is acceptable, though the reference to all documents being made available at all Council offices should be altered to indicate these being available at the Taree, Forster and Tea Gardens Council Offices as well as at the Bulahdelah Library.

The PP, however, fails to mention the Council resolution from 13 June 2018 Strategic Committee Meeting that states that a Planning Agreement will be developed with the Bulahdelah Chamber of Commerce and the community following a Gateway Determination. It would be expected that the PP identify the form that this consultation should take.

Acceptability: The PP assessment IS satisfactory for Stage 1 IF the changes identified above are included prior to being forwarded to DPE for a Gateway Determination.

10.2 Pre-Gateway (Stage 1) actions

That the changes identified in section 10.1 above be undertaken to the PP prior to it being forwarded to DPE for a Gateway Determination.

10.3 Post-Gateway (Stage 2) actions

That the PP be updated to indicate the results of all consultation.

11. Timeline

11.1 Assessment

The PP provides a table indicating the main timeframes for the different stages in the PP process.

Considering the results of the review of this entire PP, the timeframe for the PP to be amended (to include the changes identified in this report) following a Council resolution to forward to DPE appears overly optimistic. The timeframe for the applicant to amend the PP and for these to be checked prior to sending to DPE is likely to take at least 4 weeks. Additionally it is understood that the Gateway Panel does not usually meet in January and as such a Gateway Determination in January is highly unlikely.

Acceptability: The PP assessment IS satisfactory for Stage 1 IF the timeframes are adjusted to be more realistic.

11.2 Pre-Gateway (Stage 1) actions

Adjust the timeframes to be more realistic.

11.3 Post-Gateway (Stage 2) actions

Update the timeframes pre-exhibition and prior to seeking the plan being made to show the actual times that these steps occurred.

12. Conclusion

12.1 Assessment

The PP provides a good summary in this section of why the PP is being pursued and what LEP provisions require amending to facilitate the development.

Acceptability: The PP assessment IS satisfactory for Stage 1.

12.2 Pre-Gateway (Stage 1) actions

Nil.

12.3 Post-Gateway (Stage 2) actions

Amend the Conclusion as required following additional studies and agency consultation.

13. Appendices

13.1 Assessment

Appendices A-C are missing from the PP and they do not follow those required in Council's PP Template. The appendices need to be included and accord with Council's template.

Acceptability: The PP assessment IS satisfactory for Stage 1 IF all appendices are included and IF they follow the format of Council's PP Template.

13.2 Pre-Gateway (Stage 1) actions

Amend the appendices to follow Council's PP Template and include all missing appendices.

13.3 Post-Gateway (Stage 2) actions

Update the appendices as required following additional work undertake during Stage 2 in the PP.