



Planning,
Industry &
Environment

IRF21/2701

Gateway determination report – PP-2021-4130

South Maclean Highway Service Centre, Lot 2 DP 634170, Schwonberg Street, Townsend

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Attachment A – Planning Proposal – version 1 (July 2020) + supporting studies (2020 & 2021)
Attachment B – Gateway Determination
Attachment C – Letter to Council
North Coast Regional Plan 2036

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Clarence Valley
PPA	Clarence Valley Council
NAME	South Maclean Highway Service Centre (0 homes, 15 jobs)
NUMBER	PP-2021-4130
LEP TO BE AMENDED	Clarence Valley LEP 2011
ADDRESS	Schwonberg Street, Townsend
DESCRIPTION	Lot 2 DP 634170
RECEIVED	25/06/2021
FILE NO.	IRF21/2701
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that are clear and adequately explain the intent of the proposal.

The objective of the planning proposal is to enable the development of a highway service centre as an additional permitted use on Lot 2 DP 634170, Schwonberg Street, Townsend.

The subject land is zoned RU2 Rural Landscape under the Clarence Valley Local Environmental Plan (LEP) 2011 and highway service centres are prohibited in the zone.

1.3 Explanation of provisions

The planning proposal seeks to amend the Clarence Valley LEP 2011 as follows:

- Include in Schedule 1 'highway service centre' as an additional permitted use with consent on Lot 2 DP 634170, Schwonberg Street, Townsend; and
- Identify the subject land on the Additional Permitted Uses Map.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The subject site adjoins the new South Maclean interchange on the Pacific Highway, approximately 1 kilometre south west of Townsend, a residential and industrial suburb to the east of Maclean (Figure 1). The 3 hectare site is vacant rural land bound by Schwonberg Street to the east and Goodwood Street to the south (Figure 2). The topography of the land is very low lying and flat at around RL 0.5m AHD.

From 1983 to 2010 the site was occupied by the former Townsend sewage treatment plant, which ceased operations in 2010 and was removed, drained, and remediated prior to being sold. In 2018 the site was rezoned from SP2 Infrastructure to RU2 Rural Landscape with a 40 hectare minimum lot requirement, consistent with surrounding properties (Figure 3).

Land adjoining to the north and east is highly vegetated, while to the south the land is predominately cleared rural land. Ferry Park Rest Area is located on the western side of the highway adjacent to the Clarence River and includes a Visitor Information Centre, arts and crafts gallery and Oliver's restaurant.

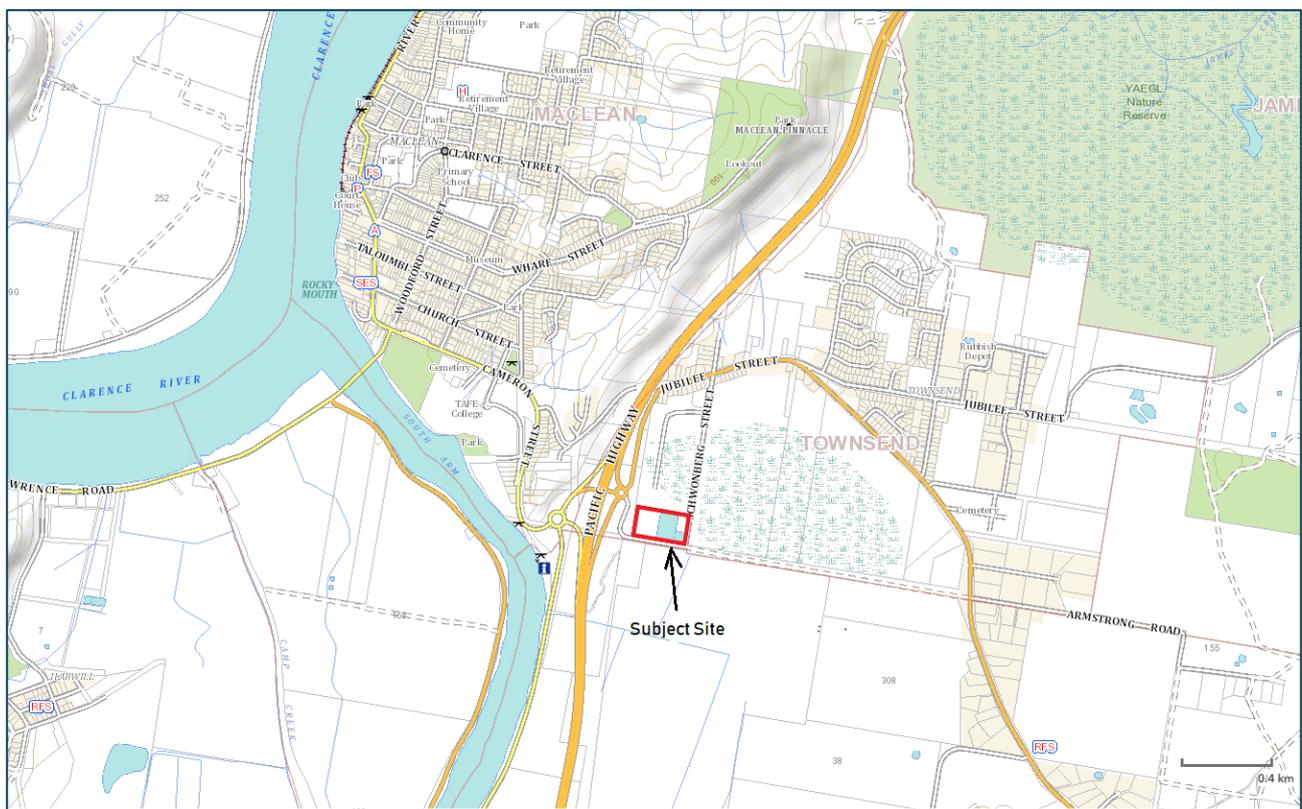


Figure 1: Locality plan (source: DPIE Planning Portal Spatial Viewer)



Figure 2: Site context (source: DPIE Northern Region Viewer)

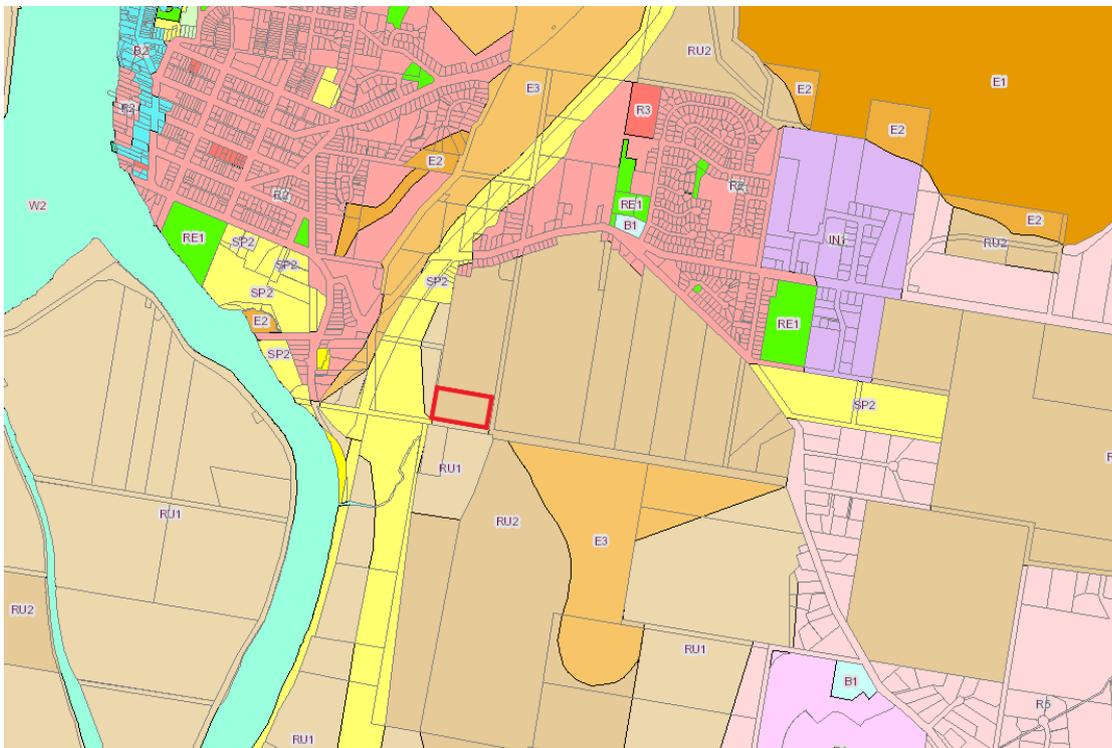


Figure 3: Current zoning - RU2 Rural Landscape (source: DPIE Northern Region Viewer)

1.5 Mapping

The planning proposal includes locality, site, development concept, and additional permitted use mapping which is generally considered suitable for agency and community consultation. Detailed site constraints mapping is also contained within the supporting studies.

2 Need for the planning proposal

The land is identified in the North Coast Regional Plan 2036, and section 9.1 Direction 5.4 Commercial and Retail Development along the Pacific Highway, North Coast, as a potential highway service centre site. The planning proposal is needed to undertake the changes to the Clarence Valley LEP to facilitate the development.

Council's approach to enabling the permissibility of a highway service centre as an additional permitted use is considered appropriate. Permitting highway service centres throughout the RU2 Zone would be inconsistent with the State and regional planning framework, while zoning the land for employment purposes could permit other unintended uses not appropriate for the site should the highway service centre not proceed.

The planning proposal is considered to be the best means of achieving the objectives and intended outcomes.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the North Coast Regional Plan 2036.

Table 1 - Regional Plan assessment

Regional Plan Objectives	Justification
Direction 9: Strengthen regionally significant transport corridors	<p>This Direction identifies the important role that regionally significant transport corridors such as the Pacific Highway have, and that highway service centres should be located at certain approved sites. These include the South Maclean interchange. A concept layout of the highway service centre is shown at Figure 4.</p> <p>While the use of the land for a highway service centre is consistent with this Direction, it is considered appropriate that Transport for NSW be consulted to ensure no adverse impact to the safety and efficiency of the State and regional road network.</p>

Regional Plan Objectives	Justification
<p>Direction 11: Protect and enhance productive agricultural lands</p>	<p>The majority of the site is mapped as important farmland (Figure 5) situated at the north eastern extent of a much larger expanse of mapped important farmland which also includes the adjoining highway interchange. This Direction aims to support long-term agricultural production and requires that urban development be located away from important farmland.</p> <p>It is considered that, whilst being inconsistent with this Direction, the planning proposal will have a negligible impact on agricultural production as the site represents a relatively small pocket of mapped important farmland (3ha), has not been used for agriculture for almost 40 years and is identified in the Regional Plan as potentially suitable as a highway service centre site adjacent to the South Maclean interchange. The proposal is also considered to be generally consistent with the intent of the important farmland variation criteria contained in the regional plan, particularly noting the existing strategic identification of the site for a highway service centre.</p>

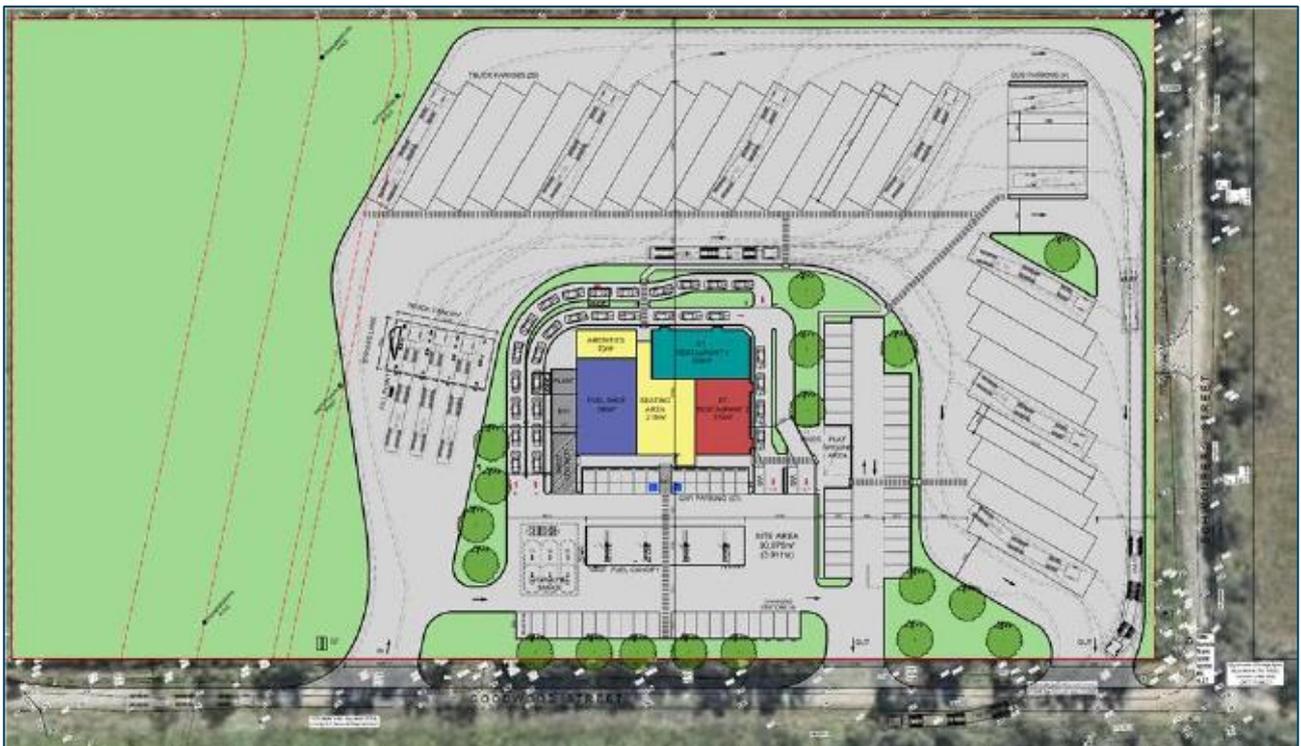


Figure 4: Highway service centre concept (source: Planning Proposal, Bitzios traffic study)

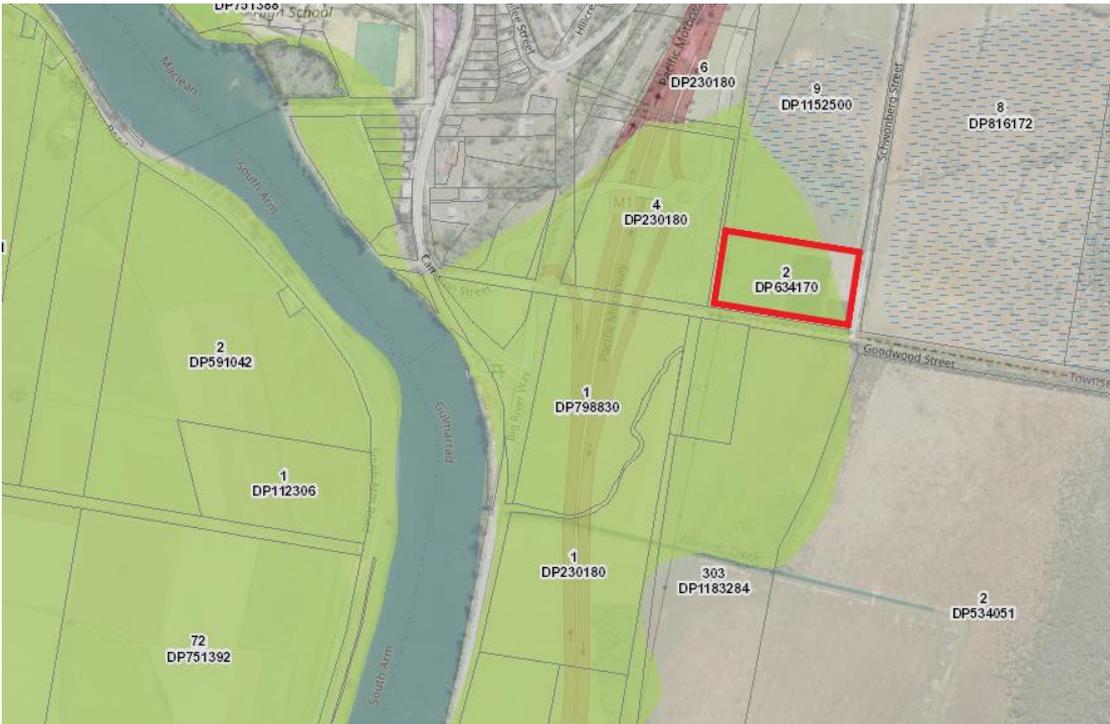


Figure 5: Important farmland mapping (source: DPIE Northern Region Viewer)

3.2 Local

The proposal’s consistency with relevant local plans and strategies is outlined below:

Table 2 - Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement (LSPS)	Whilst Council has not discussed consistency of the planning proposal with the LSPS, it is considered to be consistent with the themes and planning priorities contained within the LSPS, specifically Priority 11 strengthen the local economy and provide opportunities for quality local employment. Prior to community consultation, it is recommended that the planning proposal be updated to include a discussion on the proposal’s consistency with Council’s LSPS.
Clarence Valley Regional Economic Development Strategy	The proposal is considered to be consistent with Council’s Economic Development Strategy which identifies the need for better Pacific Highway connections and in particular, improvements to the Goodwood Street access to the Pacific Highway to provide for integration of the local road network.

3.3 Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all relevant section 9.1 Directions except the following discussed below:

Table 3 - 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.5 Rural Lands	No – Justifiably inconsistent	<p>This Direction applies as the planning proposal will affect land within a rural zone and is unable to satisfy all the requirements of the Direction such as the Rural Subdivision Principles and supporting farmers in exercising their right to farm.</p> <p>This inconsistency is considered to be of minor significance given the small area of land involved (3ha) and as the proposal is generally consistent with the North Coast Regional Plan and the site has not been used for agricultural purposes for almost 40 years.</p>
2.2 Coastal Management	No – Justifiably inconsistent	<p>The planning proposal is inconsistent with this Direction as it contains land that is partly mapped within the coastal environmental area map and does not include provisions that give effect to and are consistent with the <i>Coastal Management Act 2016</i> and other documents specified by the Direction.</p> <p>This inconsistency is considered to be of minor significance as the subject site is physically separated from any foreshore area or watercourses, by the Pacific Highway, and the proposal does not impact on any matters of coastal significance.</p>
2.3 Heritage Conservation	No – Justifiably inconsistent	<p>The planning proposal is inconsistent within this Direction as it does not contain provisions to facilitate the conservation of matters of Aboriginal heritage significance.</p> <p>The inconsistency with the Direction is considered to be of minor significance as the planning proposal is supported by an Aboriginal Cultural Heritage Assessment that found no reason that the proposal cannot proceed subject to recommendations should an artefact be found during construction. Also, the site does not contain any items listed as having local or state heritage significance.</p> <p>Consultation with the relevant Local Aboriginal Land Council is however recommended.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.1 Acid Sulfate Soils	No – Justifiably inconsistent	<p>The planning proposal is inconsistent with this Direction as it will allow an intensification of land use on acid sulfate soils and it is not supported by an acid sulfate soils study.</p> <p>The inconsistency is considered to be of minor significance as Clarence Valley LEP 2011 contains suitable provisions to ensure that this matter can be appropriately considered and addressed at development application stage.</p>
4.3 Flood Prone Land	No - Justifiably inconsistent	<p>The planning proposal is inconsistent with this Direction because it will facilitate an intensification of land use within the flood planning area, involve potentially up to 165,000m³ of filling of flood prone land (based on a 'worst case' scenario) and does not give effect to the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.</p> <p>This inconsistency is considered to be of minor significance as the proposal is supported by a flood impact assessment which concludes that the magnitude of changes is expected to be negligible with less than a 1mm rise in flood levels in the area. Consultation with the Biodiversity Conservation Division is however recommended.</p>
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Unresolved	<p>This Direction applies to council areas on the North Coast along the Pacific Highway between Port Stephens and Tweed Shire. The South Maclean interchange is an identified location under the Direction for a highway service centre subject to Transport for NSW (Roads and Maritime Services) being satisfied that the centre can be safely and efficiently integrated into the highway interchange.</p> <p>Until consultation with Transport for NSW (Roads and Maritime Services) been completed to confirm the suitability of the proposal, this Direction remains unresolved.</p>
5.10 Implementation of Regional Plans	No - Justifiably inconsistent	<p>The proposal is inconsistent with this Direction as it is inconsistent with aspects of the North Coast Regional Plan 2036 as discussed in Section 3.1 of this report.</p> <p>For the reasons outlined above, this inconsistency is considered to be of minor significance.</p>

3.4 State environmental planning policies (SEPPs)

With exception of SEPP (Primary Production and Rural Development) 2019, the planning proposal is considered to be consistent with all relevant SEPPs as discussed in the table below.

Table 4 - Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Primary Production and Rural Development) 2019	The SEPP applies as the planning proposal will affect regionally significant farmland.	No – Justifiably inconsistent	As discussed in Table 3 above, the proposal is unable to comply with all the requirements of the SEPP. This inconsistency is considered to be of minor significance due to the small area of land involved (3ha), the land is not currently or likely to be used in the future for primary production purposes, and is identified in the North Coast Regional Plan as a potential highway service centre site.
SEPP 55 Remediation of Land	The SEPP applies	Yes - Consistent	The site was previously used as a sewage treatment plant up until 2010 and since that time has remained unoccupied. A Site Audit report and Statement submitted in support of the planning proposal confirms that the site has been remediated to a Residential Level Criteria. As such, development of the site for a highway service centre is not considered to be constrained by past land use activities.

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 5 - Environmental impact assessment

Environmental Impact	Assessment
Biodiversity	<p>The planning proposal notes that there are no flora and fauna issues associated with the subject site. Having regard to the previous use of the land as a sewage treatment plant, it is considered there will be no likely adverse impact on biodiversity as a result of this planning proposal.</p>
Flooding	<p>The site is identified on the Flood Planning Map contained within the Clarence Valley Council LEP 2011 and is subject to tidal inundation, local flooding from the local catchment area to the north, east and south of the site, and regional flooding from the Clarence River to the west.</p> <p>A Flooding Assessment was undertaken to determine the flood impacts that could arise as a result of land filling. Based on a 'worst case' scenario and assuming 'as constructed' design geometry and drainage associated with the Pacific Highway upgrade, the assessment concluded that the impact of potential fill (165,000m³) required to facilitate the proposed service centre, which is within a flood storage area, is expected to be less than 1mm and therefore will have a negligible effect on flood levels and flows in the area.</p> <p>The Goodwood Street access is proposed to be raised to the level of the South Maclean interchange off-ramp to facilitate reliable and safe access and evacuation from the site in the event of flooding.</p> <p>As such, it is concluded that the planning proposal will not have any detrimental impacts to the environment as a consequence of flooding. Consultation with the Biodiversity Conservation Division is however recommended.</p> <p>It recommended that, prior to agency and community consultation, the planning proposal be amended to include reference to the Flooding Assessment (Apr 2021).</p>

Environmental Impact	Assessment
Groundwater and Soil Stability	<p>The planning proposal is supported by a Geotechnical Investigation Report and Addendum, to assess subsurface soil conditions to determine the suitability of the site for placement and compaction of up to 5m of fill across the site to facilitate a building footprint for the service centre proposal.</p> <p>The investigation recommended that ground improvement be undertaken to manage the high risk of differential settlements post construction where new loads, due to addition of filling and structures, are applied to areas underlain by soft clay.</p> <p>Several possible ground improvement options are identified in the report and Council has indicated that further detailed analysis to determine a viable geotechnical design solution will be a consideration at the development application stage.</p> <p>It is recommended that the planning proposal be amended to include reference to the supporting Geotechnical Investigation Report (Dec 2020) and Addendum (Mar 2021) prior to community consultation.</p>
Potentially hazardous storage	<p>The highway service centre is understood to be classified as potentially hazardous due to the nature of materials stored on the site. It is therefore considered appropriate that the NSW Environment Protection Authority be consulted.</p>

4.2 Social and economic.

The proposal is not considered likely to create any adverse social or economic impacts. It is however recommended that the planning proposal be amended prior to community consultation to include discussion on likely increased employment opportunities and expected social benefits of the proposal.

No adverse impact to European or Aboriginal cultural heritage is expected. An Aboriginal cultural assessment submitted in support the proposal concluded that there was no reason the proposal could not proceed due to the Aboriginal cultural and heritage issues.

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 6 - Infrastructure assessment

Infrastructure	Assessment
Sewer	<p>A new sewer pump station and rising main is proposed to connect the site to Council's reticulated sewerage system. Council has indicated that this is an acceptable arrangement, and that further consideration will be given to sewer servicing requirements at the development assessment stage.</p>
Water	<p>Water supply infrastructure in the locality is sufficient for the proposal. The specific requirements will be determined at the development assessment stage.</p>

Stormwater	A stormwater treatment train approach is proposed, primarily using bio-retention basins/swales. Detailed design will be a consideration at the development application stage.
Roads	<p>Traffic modelling undertaken to support the planning proposal concluded that the road network has sufficient capacity to accommodate the proposed service centre.</p> <p>Adequate road access can be provided through a widening and lifting of Goodwood Street providing direct access to the new Pacific Highway via the South Maclean interchange. Specific requirements for road infrastructure will be determined at the development application stage.</p> <p>It is recommended that the planning proposal be referred to Transport for NSW (Roads and Maritime Services) to assess the proposal and confirm that the service centre can be safely and efficiently integrated into the South Maclean highway interchange.</p> <p>It is also recommended that the planning proposal be amended to include reference to the supporting Traffic Impact Assessment (Mar 2021), prior to agency and community consultation.</p>

5 Consultation

5.1 Community

The planning proposal does not specify a proposed exhibition period. Given the nature of the proposal, a 14 day community consultation period is considered appropriate and will inform the conditions of the Gateway determination.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted. It is recommended the following agencies be consulted on the planning proposal and given 21 days to comment:

- Transport for NSW (Roads and Maritime Services)
- Department of Planning, Industry and Environment (Biodiversity and Conservation Division)
- Yaegl Traditional Owners Corporation
- NSW Environment Protection Authority

6 Timeframe

The proposal does not specify a proposed timeframe to complete the LEP. The Department recommends a timeframe of nine (9) months to ensure it is completed in line with its commitment to reduce processing times.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

The proposal does not identify whether Council seeks plan-making delegations. As the planning proposal is generally consistent, or justifiably inconsistent with the State, regional and local

planning framework, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- the proposal is generally consistent with the Regional Plan and local planning framework for a highway service centre at the South Maclean interchange on the Pacific Highway; and
- the proposal is expected to provide positive economic and social benefits with minimal environmental impacts.

As discussed in the previous sections 4 and 5, prior to agency and community consultation the proposal should be updated to:

- include discussion on the proposal's consistency with Council's Local Strategic Planning Statement;
- include discussion on the likely increased employment opportunities and expected social benefits of the proposal; and
- include reference to all supporting studies.

9 Recommendation

It is recommended the Director, as delegate of the Secretary:

1. **Agree** that any inconsistencies with section 9.1 Directions 1.5 Rural Lands, 2.2 Coastal Management, 2.3 Heritage Conservation, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land and 5.10 Implementation of Regional Plans are minor or justified; and
2. **Note** that the consistency with section 9.1 Direction 5.4 Commercial and Retail Development along the Pacific Highway, North Coast is unresolved and will require justification.

It is recommended the Director, as delegate of the Minister:

1. Note the planning proposal is to be updated prior to agency and community consultation to:
 - include discussion on the proposal's consistency with Council's Local Strategic Planning Statement;
 - include discussion on the likely increased employment opportunities and expected social benefits of the proposal; and
 - include reference to all supporting studies;
2. Determine that the planning proposal should proceed subject to the following conditions:
 - Consultation is required with the following public authorities:
 - Transport for NSW (Roads and Maritime Services)
 - Department of Planning, Industry and Environment (Biodiversity and Conservation Division)
 - Yaegl Traditional Owners Corporation
 - NSW Environment Protection Authority
3. The planning proposal should be made available for community consultation for a minimum of 14 days.

4. The timeframe for completing the LEP is to be nine (9) months from the date of the Gateway determination.
5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



12/7/21

_____ (Signature)

_____ (Date)

Craig Diss
Manager, Local and Regional Planning
Northern Region



15/7/2021

_____ (Signature)

_____ (Date)

Jeremy Gray
Director, Northern Region
Local and Regional Planning

Assessment officer

Sandra Bush
Planning Officer, Northern Region
Phone: (02) 6588 5535