

**Planning Proposal Request
and
Statement of Environmental Effects**

PROPOSED HIGHWAY SERVICE CENTRE

PACIFIC HIGHWAY & TWEED VALLEY WAY CHINDERAH NSW



For P. Guinane Pty Ltd

July 2013





**DOCUMENT : STATEMENT OF ENVIRONMENTAL EFFECTS
& REQUEST FOR LEP AMENDMENT**

CLIENT : P. GUINANE PTY LTD

ISSUE DATE : JULY 2013

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LTD**

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Executive Summary

BACKGROUND AND SITE

Jim Glazebrook and Associates Pty Ltd (JGA) on behalf of P Guinane Pty Ltd has prepared this Development Application and Planning Proposal request. It addresses a proposal to construct a highway service centre on land located to the south of the Pacific Highway – Tweed Valley Way interchange at Chinderah. The proposal caters for northbound highway traffic.

The proposed service centre site is a parcel of land containing 3.9 hectares (plus road widening) with frontages to the Pacific Highway and Tweed Valley Way, about 2.8 kilometres south west of Chinderah Village. That site is to be created in title by way of a subdivision involving three (3) lots of land. Those lots are described as:

- Lot 11 DP 1134229 (53.69 hectares) which straddles Tweed Valley Way and has frontage to the Pacific Highway to the east and the Tweed River to the west;
- Lot 1 DP 1165676 (1.244 hectares) which is a closed road traversing Lot 11 and;
- Lot 1 DP 210674 (29.71 hectares) which has frontages to Tweed Valley Way to the east and the Tweed River to the west.

Small pieces of Lot 11 DP 1134229 and Lot 1 DP210674 (3432m²) are to be dedicated as public road to accommodate a roundabout on Tweed Valley Way for access to the service centre.

The above lots are used predominantly for tea tree cultivation with the 3.9 ha highway service centre site being vacant grassland.

The site is low lying, relatively flat and flood prone. The site drains to the west to an exiting table drain, which runs to a culvert under Tweed Valley Way. From that point the drain runs west through the subject site and discharges to the Tweed River.

Surrounding land use is dominated by sugar cane and tea tree cultivation with associated farm dwellings and infrastructure. Other land uses of note are the Melaleuca Station Crematorium adjacent to the service centre site to the south and the Australian Bay Lobsters aquaculture farm (currently being established) on the eastern side of the Pacific Highway opposite the service centre site.

The existing BP highway service centre is located to the north adjacent to the Chinderah Industrial Estate. That service centre caters only for southbound traffic. This proposal would complete the planning for highway service centres on this segment of the highway.

There is an extensive history concerning site selection for a highway service centre catering for northbound traffic. Following a rezoning request by the (then) owner of the proposed highway service centre site, and examination of various alternative sites at and near Chinderah, Tweed Shire Council (TSC) gave its support for the development of the site for this purpose. The LEP amendment process commenced and a Local Environmental Study prepared however the LEP amendment was never exhibited due to concerns over access raised by the then Roads and Traffic Authority (now Roads and Maritime Services (RMS)) and agricultural lands issues.

The RMS has now agreed to the proposed access arrangements from the Pacific Highway and detailed examination of the 3.9ha site indicates that it has limited agricultural value. Previous legislative and planning impediments to the proposal have now been satisfactorily resolved.

THE PROPOSAL

The proposal incorporates a number of elements. They include:

- A planning proposal request to amend the Tweed LEP 2000 to enable the construction of a highway service centre on the land; and
- A development application for the proposed highway service centre and an associated subdivision (boundary adjustment) to create a separate lot for the service centre. The proposal is staged as follows:
 - Stage 1 - proposed subdivision (boundary adjustment)
 - Stage 2 - proposed highway service centre

The major tenant for the service centre would be Shell.

The proposed subdivision (boundary adjustment) involves reconfiguring the existing three (3) lots to create three (3) new lots as follows:

- Proposed Lot 112 having an area of 3.9 hectares to accommodate the proposed highway service centre;

-
- Proposed Lot 110 having an area of 29.02 hectares and frontage to the Tweed River and Tweed Valley Way; and
 - Proposed Lot 111 having an area of 50.84 hectares. This lot straddles Tweed Valley Way and has frontage to the Tweed River and Pacific Highway.

The proposed subdivision also provides for road widening to accommodate a roundabout on Tweed Valley Way.

The highway service centre would contain one (1) central building (single storey) with car fuel bowsers and canopy located to the south east of the building and linked to it by a covered entry. A truck canopy and fuelling area is located on the southwestern side of the building. The building and car fuelling area are oriented towards the northbound lanes of the Pacific Highway.

The service centre layout was designed to meet the requirements of NSW Roads & Marine Services. It includes the following key elements:

- Service centre building having a gross floor area (GFA) of approximately 1270m²;
- The building contains the service station control centre and five (5) other tenancies providing a range of food outlets and a dining area. Two (2) of the food outlets have drive through facilities;
- Outdoor dining area and playground;
- Truckers lounge and public amenities;
- A landscaped area of 12,334m
- Roadworks to construct an off ramp from the Pacific Highway to provide ingress for northbound traffic and a roundabout on Tweed Valley Way to provide ingress to, and egress from, the site.

Filling of the site is proposed to ensure that the building and refuelling areas are above the design flood level. The fill slopes away from those areas to achieve drainage and suitable grades for the car parking and internal access areas.

Reticulated water supply would be provided and wastewater would be treated and disposed of on site.

To facilitate the proposal, an amendment to the Tweed LEP 2000 is requested. The planning proposal request is to insert a site-specific clause to enable the land to be used for highway service centre purposes.

PLANNING CONTROLS

The subject land is zoned 1(b2) Agricultural Protection under the Tweed LEP 2000. The proposed highway service centre is prohibited in that zone. The application is therefore made in accordance with Part 3 Division 4B of the Environmental Planning & Assessment Act 1979 (as amended). That Division relates to "Instrument Amendments and Development Applications" and allows a combined LEP amendment request and development application to be lodged. Justification for the amendment is provided in the "Planning Proposal" and following gazettal of the LEP amendment, the proposed development would be permissible with consent.

The objectives of the 1(b) zone are:

Primary objective

- to protect identified prime agricultural land from fragmentation and the economic pressure of competing land uses.

Secondary objective

- to allow other development that is compatible with agricultural activities.

An agricultural assessment has been completed. It demonstrates that, despite the zoning, the land is not prime agricultural land and the proposal would be unlikely to affect existing agricultural activities in the locality. Consequently, it is concluded the proposal is consistent with the relevant zone objectives.

"Subdivision" is permissible with development consent in the 1(b2) zone but proposals must meet the minimum prescribed lot size (clause 20). Although the proposed highway service centre lot (3.9ha) is less than the prescribed 40ha minimum for the 1(b2) zone, it is authorised under clause 20 as it is to be used for a purpose other than residential or agricultural. The residue lots created by the proposed road widening are authorised under clause 19 (1)(4) of the Tweed LEP 2000.

An objective of the Tweed LEP (Clause 5) is to promote development which is consistent with the principles of ecologically sustainable development (ESD). In that regard the development has been designed, and the application documents prepared, in recognition of those principles.

The proposal has been examined in the context of all of the relevant clauses of the Tweed LEP 2000 and has been found to be satisfactory in that regard.

The draft Tweed LEP 2012 has been exhibited and therefore pursuant to Section 79C(1)(ii) of the Environmental Planning and Assessment Act 1979, it must be considered in determination of the application.

The land has a draft zoning of RU1 Primary Production. A highway service centre is prohibited in that zone. JGA, on behalf of P. Guinane Pty Ltd, made a submission to the draft LEP 2012 requesting that a site-specific amendment be incorporated in the draft LEP to facilitate development of the subject land for a highway service centre.

The Principal Development Standard relating to subdivision requires a minimum lot size in the RU1 Primary Production Zone of 40 hectares. There does not appear to be a clause which allows for the creation of smaller lots for non-primary production purposes, where the lot size is greater than a 10% departure from the standard.

The draft LEP 2012 contains additional local provisions. Of relevance are clauses 7.1 (Acid sulfate soils), 7.6 (Flood planning), 7.7 (Floodplain risk management), 7.11 (Earthworks & drainage) 7.14 (Stormwater management) and 7.15 (Essential services).

Those clauses are not a constraint to approval of the proposal.

Council has resolved to forward the exhibited draft LEP 2012 (with changes) to the Department of Planning. Inconsistency of the proposal with the zoning and minimum lot size is justified for the reasons outlined in the planning proposal request. Notwithstanding this, due to the savings provisions contained in the draft LEP, the draft LEP does not have determining weight.

The proposal has been examined in relation to the relevant State Environmental Planning Policies (SEPP's), which are;

- SEPP No. 33 – Hazardous and Offensive Development
- SEPP No. 44 – Koala Habitat Protection
- SEPP No. 55 – Remediation of Contaminated Land
- SEPP No. 65 - Advertising and Signage
- SEPP No. 71 – Coastal Protection
- SEPP (Infrastructure) 2007
- SEPP (Rural Lands) 2008
- SEPP (North Coast Regional Environmental Plan) (deemed SEPP)

The proposal is consistent with the objectives and requirements of those SEPP's.

Tweed Development Control Plan (DCP) 2008 also applies to the proposal. Specifically, the following sections of the TDCP are relevant:

- Section A2 – Site Access & Parking Code (DCP SA2)
- Section A3 – Development of Flood Liable Land
- Section A5 – Subdivision Manual (DCP SA5)
- Section A11 – Public Notification of Development Proposals
- Section A13 – Socio-Economic Impact Assessment
- Section A15 – Waste Minimisation and Management

The proposal has been examined with respect to the relevant requirements of the Tweed DCP and has been found to be satisfactory in that regard.

The proposal constitutes “integrated development” pursuant to section 91 of the EP & A Act 1979, as approvals would be required under,

- Section 100B of the Rural Fires Act 1997 as the proposal involves a subdivision of land that could lawfully be used for rural residential purposes (proposed Lot 111); and

-
- Section 91 of the Water Management Act 2000 as the proposal involves excavation that will intercept the groundwater table for the installation of the fuel tanks and work within 40 metres of a waterway (farm dam).

In these circumstances, the consent authority (TSC) consults the relevant approval bodies during the development assessment process and, prior to determination of the application, the approval body must advise the consent authority whether or not a license/approval would be issued and what the general terms of that approval/license would be.

As the proposal also contains a request to amend the Tweed LEP 2000, directions issued under Section 117(2) of the EP & A Act are also examined. The proposal is satisfactory with respect to the relevant directions. However, detailed analysis of Section 117(2) Direction 5.3 – Farmland of State and Regional Significance on the NSW Far North Coast and Section 117(2) Direction 5.4 – Commercial and Retail Development along the Pacific Highway, North Coast has been undertaken to demonstrate consistency or justify any perceived inconsistency.

DEVELOPMENT ISSUES

Potential environmental and socio-economic issues arising from the proposal have been identified and evaluated in the context of,

- Soil & water;
- Agricultural land;
- Flora & fauna;
- Access, traffic & parking;
- Noise;
- Hazards (flooding, contamination and bushfire);
- Utilities;
- Noise management;
- Heritage;
- Waste management;
- Visual Impacts;
- Socio-Economic impacts; and
- Amenity;

Key findings and recommendations with respect to those matters include:

Soil and Water

- Potential impacts arise due to erosion and sediment movement, exposure of acid sulfate soils and interaction with the groundwater table. Those impacts can be satisfactorily managed;
- The proposed development will have no impact on the existing drainage capacity and negligible impact on downstream properties;

-
- The internal drainage network would provide sufficient stormwater drainage for the site and would be designed during detail design stage to Tweed Shire Council Development Design Specification D5; and
 - There are a range of soil types that can be imported to the site to meet engineering design requirements for geotechnical stability.

Agricultural Land

- The land is constrained in terms of its agricultural suitability by inconvenient shape, size and location; and
- The agricultural classification of the land was determined according to the guidelines contained in the Rural Land Evaluation Manual (NSW Department of Planning, 1988). The agricultural assessment concluded that the proposed highway service centre site is Class 4 agricultural land which is: "Land suitable for grazing but not for cultivation".

Flora and Fauna

- The service centre site has been highly disturbed by past agricultural activities and is cleared of all native vegetation; and
- Due to the highly disturbed nature of the site and surrounds (eg. two busy highways, tea tree and cane plantations, tea tree distillery, slashing etc.) it is highly unlikely that any threatened species would occur on the site.

Access, Traffic & Parking

- Access to the service centre site from the Pacific Highway is proposed via an exit ramp from the existing Pacific Highway/Tweed Valley Way (northbound) exit ramp. The RMS is satisfied with the preliminary design of the access;
- A two-lane arterial roundabout is proposed at the Tweed Valley Way access which is to cater for inbound vehicle movements from Tweed Valley Way and all exiting vehicle movements. A Sidra intersection analysis indicates that the roundabout would have minimal impact on existing traffic conditions;
- Most site-generated traffic would not be new to the road network, but rather existing vehicle movements redirected through the site; and
- Car parking numbers comply with the requirements of Tweed DCP Section A2 and truck parking (25 spaces) meets RMS requirements.

Hazards

- Flooding - The land is located in the flood storage area of the Tweed River floodplain. The site would be filled above the design flood level (RL 3.5m AHD) at the service centre building and grade down across the car parking area from this level to achieve a maximum car park slope of 2.5% and suitable drainage. On site effluent disposal areas are proposed to be at a minimum of RL 2.9m AHD, which is the defined Q50 flood level. Modelling indicates that peak flood levels increase by less than 0.01m due to the impact of the proposed development. That is considered to be negligible;
- Contamination - soil sampling and analysis was undertaken to determine the presence and concentration of any contaminants of concern. Laboratory analysis indicates that there is very low risk that the contaminants of concern exceed the adopted Health Investigation Levels. Further investigation or remediation is not required; and
- Bushfire - A small area on the eastern and northern boundary of the site is identified as bushfire prone land as it is located within a 100 metre buffer to vegetation located on the eastern side of the Pacific Highway. A bushfire hazard assessment has been completed which indicates that the proposal is compliant with prescribed standards.

Noise

- An analysis of predicted noise levels was undertaken for all nominated sensitive receiver sites. That analysis indicates that noise levels at all receivers comply with the relevant criteria established by the NSW Industrial Noise Policy. Therefore, no acoustic treatment is required.

Utilities

- Electricity and telecommunication services are available in the immediate vicinity of the site and can be provided by agreement with the relevant providers;
- Reticulated water supply is available to the site; and
- Reticulated sewerage is not available to the site. Therefore, on site treatment and disposal is proposed. It is proposed to treat all sewage in a modular sewage treatment plant with irrigation of reticulated water. Acceptable environmental outcomes are expected.

Waste Management

- Waste generated during the construction and operational phase of the development would be managed in accordance with an approved Waste Management Plan.

Visual Impacts

- The land is flat and low lying and located on the Tweed River floodplain;
- Likely visual impacts have been examined from Terranora and Cudgen ridgelines, the Pacific Highway and Tweed Valley Way and from Melaleuca Station; and
- The likely visual impacts of the proposed development are acceptable in the context of the Tweed Shire Scenic Landscape Evaluation Study.

Socio-Economic Impacts

- The development would result in positive economic benefits and negligible social impacts. These are summarised as follows:
 - Provision of approximately 95 equivalent full time jobs during the construction phase of the development;
 - Creation of approximately 212 operational jobs comprising 46 full time employees, 78 part time employees and 88 casual employees;
 - Economic multiplier effect for the local wider economy of up to \$150 million per annum and an additional 80 jobs;
 - Provision of a highway service centre to cater for northbound highway traffic to complement the existing centre at Chinderah, which caters for southbound traffic. There is a demonstrated need for this centre as part of highway traffic planning. This facility will assist with driver fatigue and road safety;
 - Minor increase in highway retail convenience facilities without detracting from local retail establishments;
 - Positive 'public realm' effects due to provision of obligation free rest area; and
 - No change to housing, human service facilities or community access issues.

Heritage

- The entire site has seen significant ground disturbance. Whilst this has occurred, there is still a possibility of Aboriginal objects being located within the project area. Consequently, management measures are proposed in the event that objects are discovered during construction.

Amenity

- Impacts likely to affect the human environment were assessed in terms of soil and water management, noise, traffic, flooding and visual impacts. Those assessments concluded that the identified impacts were either acceptable or could be satisfactorily managed.

PLANNING PROPOSAL

A 'Planning Proposal' is the document which explains the intended effect and purpose of a proposed LEP or LEP amendment and the justification for making it.

The relevant requirements of the Department of Planning & Infrastructure and the Tweed Shire Council for planning proposals are addressed.

A site-specific clause is proposed to be inserted in the Tweed LEP 2000 to enable the development of the site for a highway service centre.

The proposed amendment to the LEP is justified on the following basis:

- Analysis of development issues indicates that the proposal is a suitable land use for the site;
- The proposal responds to a demonstrated but unmet need to establish a highway service centre at Chinderah to cater for northbound Pacific Highway traffic; and
- The proposal is consistent with relevant planning policies/strategies;

Section 1.0

Introduction

This section sets out the authorisation for this report, discusses the background of the proposal and identifies the project team.

1.1 BRIEF

Jim Glazebrook & Associates Pty Ltd (JGA) has been briefed by P. Guinane Pty Ltd to prepare a Statement of Environmental Effects and Planning Proposal request (Local Environmental Plan Amendment application) in respect of a proposal to construct a highway service centre on land described as Lot 11 DP 1134229, Lot 1 DP 1165676 and Lot 1 DP 210674 Tweed Valley Way & Pacific Highway, Chinderah.

P. Guinane Pty Ltd is the owner of Lot 11 DP 1134229 and Lot 1 DP 1165676 and Lot 1 DP 210674 is owned by Paul and Patricia Bolster.

The proposal is a combined development application and Local Environmental Plan amendment pursuant to Sections 72I & J of the Environmental Planning & Assessment Act 1979.

The regional context of the subject site is shown in Figure 1.

1.2 BACKGROUND

A highway service centre presently operates at Lot 2 DP 1010771 Pacific Highway, Chinderah (refer Figure 1). That facility only caters for southbound traffic. It has long been recognised that there is a need in the Chinderah locality for a facility that would cater for north bound Pacific Highway traffic. An outline of the history of planning for such a facility is summarised below:

- As part of the planning for the Yelgun to Chinderah upgrade of the Pacific Highway, which was completed in 2002, the need for a highway service centre(s) was identified. The criteria for the location of highway service centre sites were set out in the Ministers Section 117(2)

Direction No.S28 Environmental Planning & Assessment Act 1979 (EP & A Act). One site (which services southbound traffic only) was approved at Chinderah in 2001 and its construction completed in 2007. That facility has been operational since 2007 and is known as the BP Chinderah Travel Centre;

- May 2001 – The owners of Melaleuca Station, Pacific Highway Chinderah, made a request to Council to amend the Tweed Local Environmental Plan (LEP) 2000 to enable a Highway Service Centre to be constructed on their land to service northbound Pacific Highway traffic. At the time, Melaleuca Station was a rural tourist facility, and the land immediately to the north was to contain the highway service centre. Melaleuca Station has since been converted to a crematorium. The land that was the subject of the LEP amendment request is generally in the same location as the current proposal by P. Guinane Pty Ltd;
- 7 November 2001 - Tweed Shire Council considered a report on the proposal to amend the Tweed LEP 2000 to enable the construction of a highway service centre on Lot 703 and part of Lot 704 DP 1000580 Pacific Highway Chinderah (ie. the vacant land north of Melaleuca Station – the land currently owned by P. Guinane Pty Ltd);

At that meeting Council resolved to prepare a Draft Plan.

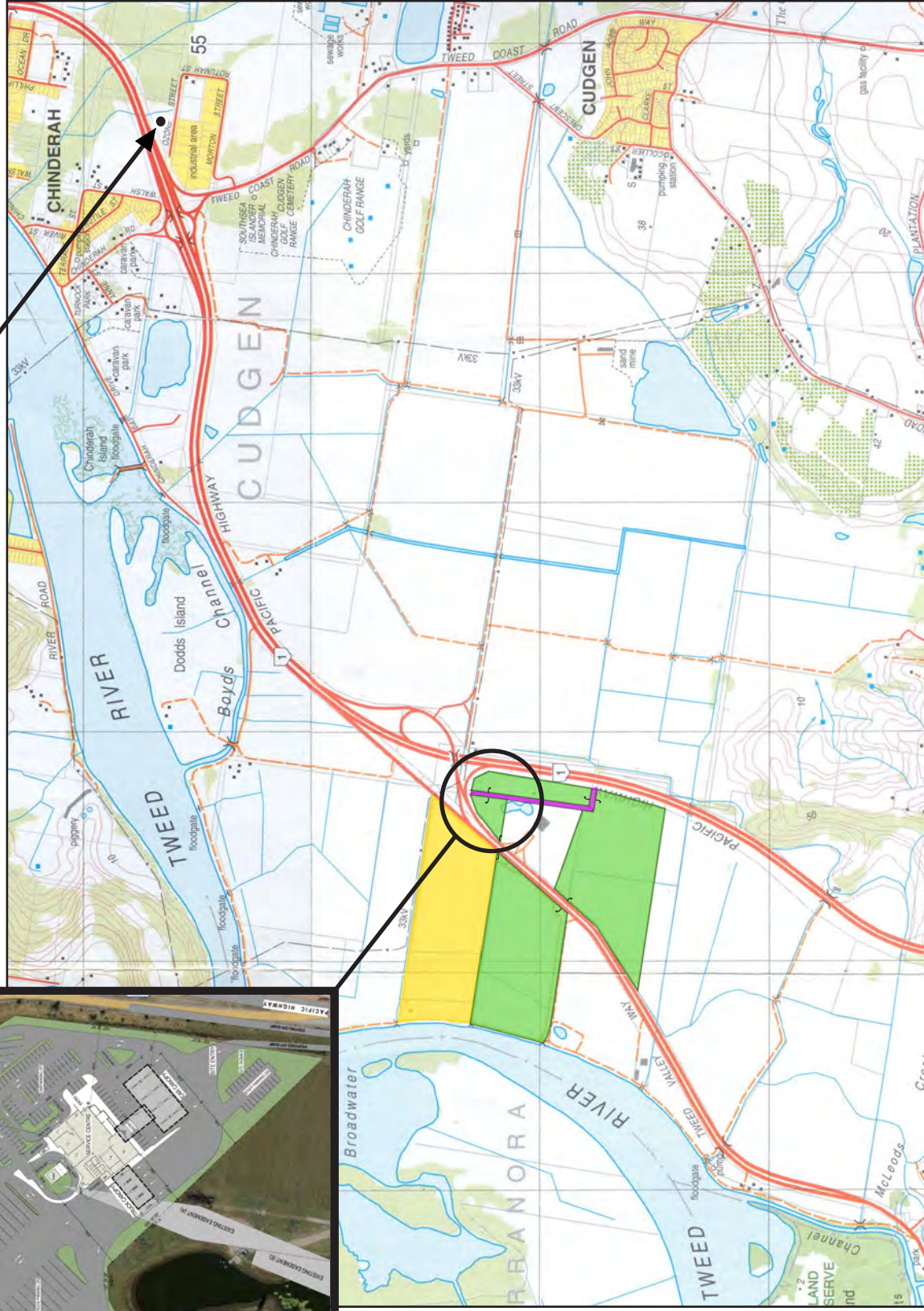
- February 2002 - The Roads & Traffic Authority (RTA) (now NSW Roads & Maritime Services (RMS)) submitted a letter of objection to the Draft Plan pursuant to the required consultation under Section 62 of the EP & A Act 1979. The basis of the objection was that:
 - the proposal is outside the principles for Highway Service Centres outlined in the Planning NSW Policy for commercial development along the Pacific Highway; and
 - access is restricted to the existing Pacific Highway (now Tweed Valley Way) as direct access to the Pacific Highway road corridor under construction would not be permitted;
- March 2002 - Council resolved to enter into discussions with the RTA to determine whether an outcome could be negotiated. The meeting was held in May 2002 and issues covered included:
 - S.117 Ministerial Direction;
 - Access;
 - Urban Design; and
 - Alternative Sites.



- LOT 1 DP 210674
- LOT 11 DP 1134229
- LOT 1 DP 1165676

**EXISTING HIGHWAY
SERVICE CENTRE
(SOUTHBOUND)**

**FIGURE: 1
LOCATION**



CLIENT: Bolster

JOB: Service Station

JGA & ASSOCIATES
TOWN PLANNERS & DEVELOPMENT CONSULTANTS
PTY. LTD.
ACN 603 436 799

DATE: 04/07/2013

SCALE: NTS

FILE: bolsterervoLOC

IMS: bolster/loc/landuse

SOURCE: Dept. Lands, Cadway Projects

The outcome of the meeting was that Council investigate alternative sites and demonstrate to the RTA that Melaleuca Station is the best site, prior to the RTA considering to withdraw its objection;¹

- Following that meeting, investigations were undertaken to identify suitable locations for siting of a highway service centre to service northbound traffic. Sites which were investigated were located at Chinderah, Melaleuca Station, and at the Cudgera Creek interchange. Respective owners were contacted to determine their willingness and availability for their property to be considered for a potential highway service centre site;
- Correspondence was received from the RTA on 11 June 2002 advising Council that *“Council complete its ‘desk top study’ of available and viable sites for a Highway Service Centre on the basis that the RTA site at the Chinderah Interchange is not an alternative option”*. This effectively eliminated the Chinderah site from being considered by Council, leaving only the Melaleuca Station site and the Cudgera Creek site for consideration. The analysis undertaken by Council recommended the Melaleuca Station site;¹
- 2 August 2002 - Upon completion of the desktop analysis a way forward was suggested by the RTA. That was to prepare a Local Environmental Study (LES) which would address among other issues, expected traffic impacts and access;¹
- 22 January 2003 - Council resolved to engage the services of Terra Consulting Pty Ltd to prepare the relevant LES;¹
- 2 October 2003 - LES prepared by Terra Consulting Pty Ltd;¹
- 8 October 2003 - Tweed Shire Council letter sent to Department of Planning seeking Section 65 Certificate;¹
- 4 November 2003 - Letter received from Department of Planning requesting Council to consult with the RTA to have its objection withdrawn to enable Council to issue its own Section 65 Certification under delegation;¹
- 6 November 2003 - Draft Plan and LES forwarded to RTA for comment and to withdraw objection;¹
- 18 December 2003 - RTA correspondence advising that it was planning a meeting with Department of Planning to discuss the matter and develop a firm position;¹

¹ Source Tweed Shire Council letter to Department of Planning, Infrastructure & Natural Resources dated 24 November 2005.

-
- 10 February 2004 - RTA correspondence expressing concern about access to the site and advising that it does not support retention of the existing access to the site from Tweed Valley Way. The RTA also raised other issues pertaining to the S.117 Ministerial Direction which had been previously addressed by both the LES and previous discussions with RTA representatives;¹

Council engaged the services of RoadNet to provide a conceptual access layout for the site;

- 6 July 2004 - RTA correspondence advising it does not support the concept access layout and reconfirming the S.117 Ministerial Direction as a basis for its objection of the Draft Plan;¹
- 12 October 2004 - Concept layout plans for proposed Seagull access to Melaleuca Station off Tweed Valley Way forwarded to RTA for their consideration and withdrawal of its objection to the Draft Plan. That was followed up by discussions between RoadNet, RTA and Council officers;¹
- 30 May 2005 - RTA correspondence outlining traffic design standards desired to be achieved at the Melaleuca Station site;¹
- 26 July 2005 - Letter to Department of Planning requesting Section 65 Certificate;¹
- 29 August 2005 - Department of Planning letter advising that a Section Certificate would not issued;¹
- 24 November 2005 - Letter from Tweed Shire Council to the Department of Infrastructure, Planning & Natural Resources (DIPNR) outlining the history of the draft plan (as described above) and concluding:

“It is apparent the primary concern of RTA is related to traffic management and in particular, access to the site. Council’s Traffic Engineering Division have advised that safe and suitable access to the site can be obtained and developed and the relevant traffic design standards can be met. Detailed access issues and design are generally addressed at the development assessment stage of the development. However, to progress this matter Council will consider inserting the relevant traffic design standards within the Draft Plan if deemed necessary.

Council seeks to progress this matter and in particular simply wishes to enable the Draft Plan to be public exhibited and make it available for public comment.

¹ Source: Tweed Shire Council letter to Department of Planning, Infrastructure & Natural Resources dated 24 November 2005.

Council once again seeks your Department's cooperation on this matter and requests the Department issue the relevant Section 65 Certificate to enable the Draft Plan to be exhibited publicly";

- The Department of Planning wrote back to Council refusing to issue the Section 65 Certificate based on the following:

- “1. The draft Plan is inconsistent with the Ministerial Direction 7 – Commercial and Retail Development along the Pacific Highway, North Coast;
2. The Draft Plan is inconsistent with the Ministerial Direction 14 – Farmland of State and Regional Significance on the NSW Far North Coast; and
3. The identification of a more suitable site for the location of a highway service centre”;

- 4 July 2006 - Tweed Shire Council administrators considered a report from its Strategic Town Planning unit advising of the Department's position with respect to refusing to issue a Section 65 Certificate. The report identified that:

“As a result of the Planning Reforms that are currently being implemented by the Department of Planning, all its Ministerial Directions have been reviewed and amended. The changes to this legislation has some ramifications for the subject draft Plan.

The RTA's objection was based on the previous Ministerial Direction referring to Commercial and Retail Development on the Pacific Highway, and primarily because of its inconsistency governing distances between highway service centres. Changes to the new Ministerial Direction have resulted in these distance provisions being deleted. Hence, the primary reason for the RTA's objection has been eliminated. Notably, the RTA still has concerns about access and egress issues, however no direct access onto or off the highway is envisaged.”

Council officers further commented that:

“There are a couple of issues pertaining to the points raised by the Department's John Finlay. They include:

1. The Department's decision appears to completely ignore the considerable history pertaining to the draft Plan. A desktop analysis was undertaken at the commencement of the project. The site that would satisfy Clause 3(a) of the Ministerial Direction 14 referred to above was investigated as part of the original desktop analysis but was eliminated from consideration because the RTA formally wrote to Council requesting its land not be considered as part of the study. Four (4) years later, after Council committing considerable time, resources and finances to the project, the RTA has “changed its mind” and has requested the Department of Planning to consider their site. It's disappointing that the Department's determination appears wholly based on the RTA's latest letter, disregarding the history of the project.
2. The application of Ministerial Direction 14, Clause 2, appears impractical. It completely disregards the site-specific circumstances of the Melaleuca Station site. The subject site already comprises a tourist facility partially encapsulated within a significant building. The proposed Highway Service Centre is intended

to be sited between the existing building and the interchange and would not reduce adjoining cane farmland. This in addition to an economic, agricultural analysis was provided in an Environmental Study to the Department. This too appears to have been disregarded. Ministerial Direction 14 is intended to protect and conserve state and regionally significant farmland. The proposed Highway Service Centre will not detrimentally impact on the objectives of this ministerial direction.”

Council subsequently resolved that no further work be carried out on the proposed amendment to the Tweed LEP 2000.

It can be seen from this history that Tweed Shire Council has previously supported the development of a highway service centre on the subject land.

During 2011, the current owners began investigating the development of a highway service centre on the site. Those investigations have involved discussions with Tweed Shire Council, the Department of Planning & Infrastructure and NSW Roads & Maritime Services (RMS) (previously RTA). The investigations indicate that previous impediments for progressing the proposal can be overcome by suitable design and addressing current legislation. In particular, it is relevant to note that the RMS have agreed to access to the site from Pacific Highway for northbound traffic and the land nominated in the Ministerial Direction for a highway service centre (northbound) at Chinderah is no longer an option.

All legislative and design issues are discussed in the following sections of this report. The investigations undertaken for the purpose of preparing this application indicate that the site is ideally located for the establishment of a highway service centre.

1.3 REPORT STRUCTURE

This report addresses requirements for both a development application and a planning proposal request and is structured as follows:

- Section 1.0 – Introduction

Sets out the authorisation for this report and discusses the background of the development proposal. It also identifies the consultancies which have undertaken investigations and prepared reports/plans for the proposal and outlines the government authority and public consultation undertaken to date;

- Section 2.0 – Site Details & Context

Describes the site in its real title, physical, environmental and locational contexts;

-
- Section 3.0 – The Development Proposal
Describes the details and objectives of the proposal;
 - Section 4.0 – Planning Controls
Describes the strategic and regulatory context of the proposal including aspects of compliance and justification for any inconsistencies;
 - Section 5.0 – Environmental Interactions & Issues
Provides a description of the environment and presents an analysis of potential impacts. It identifies environmental management/ mitigation measures to achieve the project objectives;
 - Section 6.0 – Socio-Economic Issues
Discusses the socio-economic aspects of the proposal;
 - Section 7.0 – Ecologically Sustainable Development
This section discusses the proposal in the context of the principles of ecologically sustainable development;
 - Section 8.0 – Planning Proposal
Addresses the relevant Department of Planning and Tweed Shire Council requirements for planning proposals and provides justification for the project;
 - Section 9.0 – Summary / Conclusion
Summarises identified issues and presents conclusions based on an analysis of those issues.

1.4 PROJECT TEAM

The project team for this report includes the following firms and individuals:

- Jim Glazebrook & Associates Pty Ltd
 - Town Planning
 - Project Management
 - Report Production
- Cadway Projects Pty Ltd
 - Service Centre Design & Plan Preparation
 - Hazard Analysis

-
- Opus International Consultants (Australia) Pty Ltd
 - Civil Engineering Assessment
 - TTM Consulting (Vic) Pty Ltd
 - Traffic Impact Assessment
 - HMC Environmental Consulting Pty Ltd
 - Acid Sulfate Soil Assessment
 - Ground Water Assessment
 - Soil Contamination
 - On site Sewage Management
 - TTM Consulting (Gold Coast) Pty Ltd
 - Environmental Noise Assessment
 - John Allen & Associates
 - Agricultural Assessment
 - Everick Heritage Consultants Pty Ltd
 - Cultural Heritage Assessment
 - James Warren & Associates Pty Ltd
 - Flora & Fauna Assessment
 - B & P Surveys
 - Survey
 - RPS Group
 - Socio-Economic Impact Assessment
 - Deborah Carlile & Paul Mjatelski Pty Ltd
 - Landscape Architect

1.5 CONSULTATION

Prelodgement consultation has taken place with:

- Tweed Shire Council. This included a meeting with the Development Assessment Panel on 11 November 2011 and subsequent meetings and discussions with council staff;
- NSW Department of Planning & Infrastructure;
- NSW Roads & Maritime Services (RMS); and

-
- Community group representatives and the adjoining property owner as part of the Socio-Economic Impact Assessment (refer Sections 4.1, 4.4.5 & 6.2).

Details of the proposal were forwarded to NSW Primary Industries (Agriculture) seeking its response with respect to consistency of the proposal with Section 117 Direction 5.3 – Farmland of State and Regional Significance on the NSW Far North Coast. No response was received however that issue was discussed at a meeting involving the proponent and officers of the Department of Planning & Infrastructure (Greg Yeates and Paul Garnett).

Advice received from government authorities is discussed in relevant sections of this report.

Section 2.0

Site Details & Context

This section describes the site in its real title, physical, environmental and locational contexts.

2.1 THE SITE

For the purposes of clarity and consistency the following terms are used through this report:

- (i) “service centre site”, meaning the 3.9 hectare piece of land and 3,432m² of road widening which is to be developed for the purpose of the service centre;
- (ii) “subject site”, meaning the totality of all the land involved with the service centre site and the proposed subdivision.

The subject site is comprised of three (3) parcels of land described as:

- Lot 11 DP 1134229 which has an area of 53.69 hectares. This parcel straddles Tweed Valley Way and has frontages to the Pacific Highway to the east and Tweed River to the west. The service centre site is located on a portion of this property and a portion of a closed road which runs through the property. The service centre site contains 3.9 hectares plus road widening.
- Lot 1 DP 1165676 Pacific Highway which has an area of 1.244 hectares. This is a closed road which was purchased by the applicant. It has frontage to the Pacific Highway motorway to the east and the motorway interchange to the north and a piece of it forms part of the service centre site;
- Lot 1 DP 210674 which has an area of 29.91 hectares and frontages to Tweed Valley Way to the east and Tweed River to the west. This property is part of the subject site as a small piece of it is to be dedicated as public road to accommodate a roundabout on Tweed

Valley Way for access to the service centre. This property is owned by Paul and Patricia Bolster.

The location of the subject site and the service centre site are shown on Figure 2. The Deposited Plans are contained in Appendix B.

The service centre site is bounded by the Pacific Highway and agricultural land (tea tree growing) to the east, Tweed Valley Way to the west and the Pacific Highway off ramp to the north. Part of its southern boundary adjoins the Melaleuca Station Crematorium site and the remaining part of the southern boundary adjoins part of the parent parcel. This application includes the necessary subdivision to create a separate lot for the service centre.

The parent parcel(s) are used predominantly for tea tree cultivation. In the past the land has been used for sugar cane cultivation.

Site improvements on Lot 11 DP 1134229 include agricultural sheds which are used as part of a tea tree processing facility and a dam. The sheds and dam are located immediately south of the proposed service centre. The dam extends onto the Melaleuca Station property (Lot 10 DP 1134229) and both properties share its use.

Development consent (DA 09/0664) has been issued for a fill pad for a future dwelling on part of Lot 11, located on the western side of Tweed Valley Way, adjacent to the Tweed River. That consent has not as yet been implemented.

A dwelling and agricultural shed are located on Lot 1 DP 210674, adjacent to the Tweed River.

All of the land is low lying, flood prone and does not contain any significant vegetation.

Site features and adjoining properties are shown in Photoplate 1.

2.2 LOCAL & REGIONAL CONTEXT

The locality generally is relatively low lying and flat, being on the flood plain of the Tweed River. Surrounding land is dominated by sugar cane and tea tree cultivation with associated farm dwellings and infrastructure. The Melaleuca Station Crematorium is located adjacent to the subject site, on the eastern side of Tweed Valley Way. An aquaculture farming (Australian Bay Lobsters) operation is currently being established on land on the eastern side of the Pacific Highway, opposite the service centre site.

Figure 3 shows surrounding land uses.

The service centre site is located approximately 2.8 kms south west of Chinderah Village and 3 kms west of Cudgen Village.

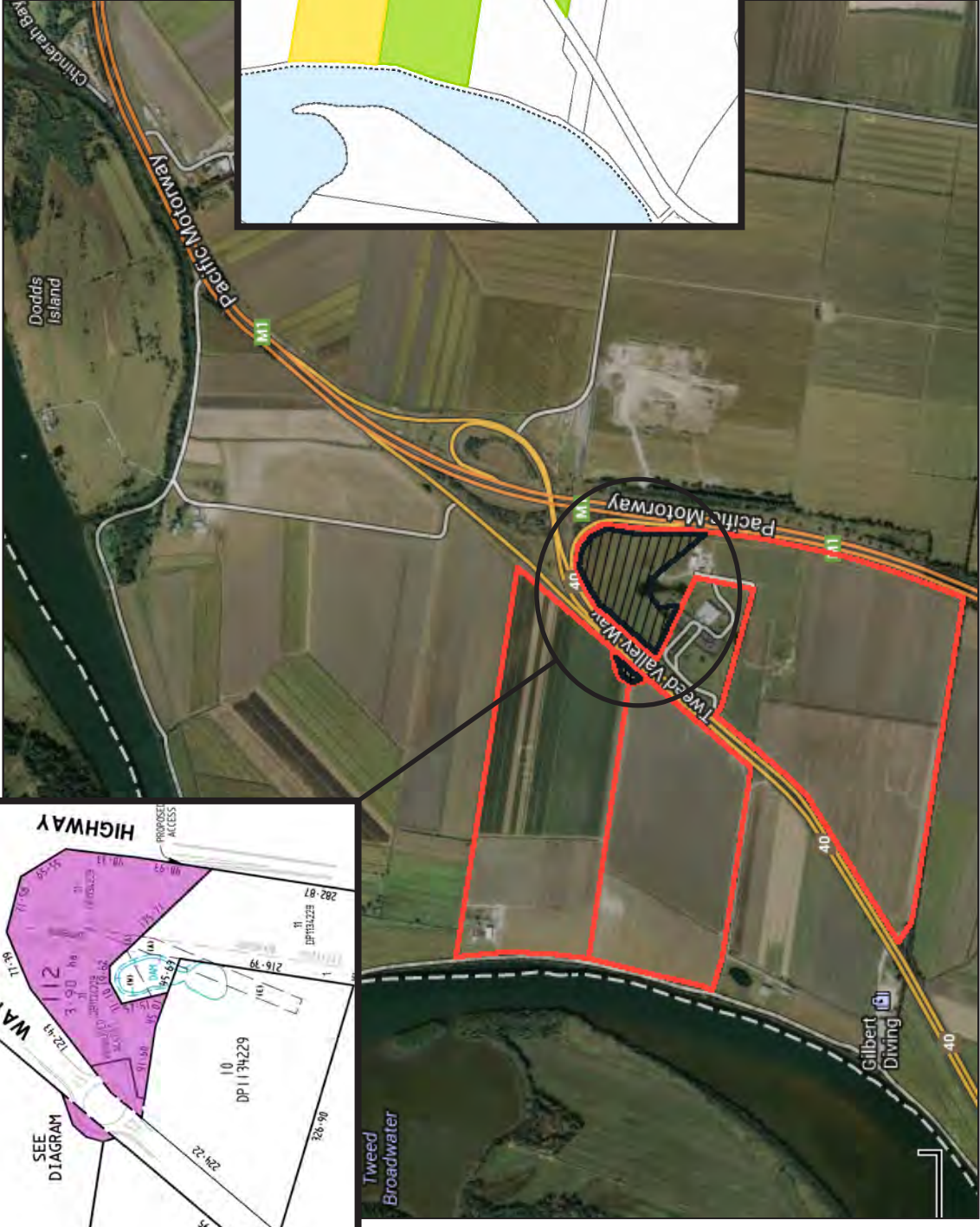
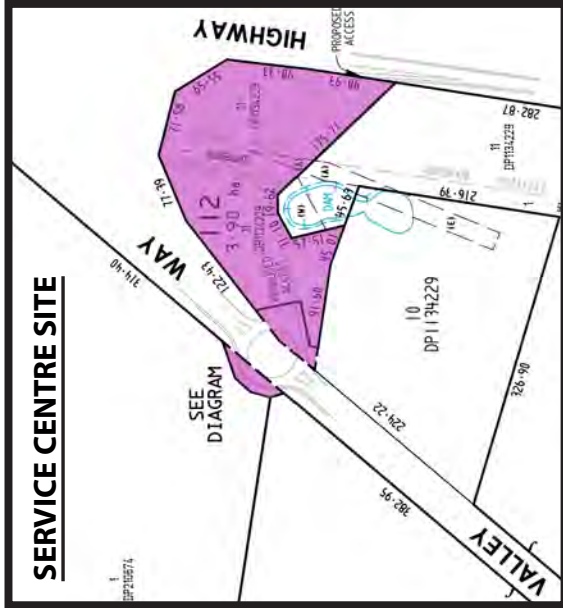
A highway service centre is already established in Chinderah adjacent to the Chinderah industrial estate (refer Figure 1 and 3). That existing service centre caters for southbound traffic only. The closest highway service centre which caters for B Double trucks travelling north is at Coffs Harbour approximately 285 kms south of the site and at Coomera, approximately 60 kms north of the site. Approval has been issued for a new highway service centre at Ballina (80 kms south of the site) although construction of that facility has not commenced at the time of preparing this report.

2.3 SITE ANALYSIS

Following identification and analysis of the site constraints and features a detailed site analysis plan was prepared (Cadway Design, refer Appendix C).

Discussion of the site features, environmental interactions and issues and their relevance to the project design is contained in Sections 5.0 and 6.0.

FIGURE: 2
SUBJECT SITE &
SERVICE CENTRE SITE



- LOT 1 DP 210674
- LOT 11 DP 1134229
- LOT 1 DP 1165676

CLIENT: Bolster FILE: bolsterervoFIG3	JOB: Service Station	JGA JIM GLAZEBROOK & ASSOCIATES <small>PTY. LTD. A/CN 603 836 799 TOWN PLANNERS & DEVELOPMENT CONSULTANTS</small>	DATE: 04/07/2013	SCALE: nts	
	IMS: bolster/subsite/AR2/SCS		SOURCE: GOOGLEMAPS / B & P SURVEYS / TSC		

FIGURE 3

SURROUNDING LAND USES



 SUBJECT SITE

 SERVICE CENTRE SITE

CLIENT: Bolster

JOB: Service Station

FILE: bolsterervoFIG2

IMS: bolster/AR1

JGA JIM GLAZEBROOK & ASSOCIATES
 TOWN PLANNERS & DEVELOPMENT CONSULTANTS
 PTY. LTD.
 ACN 603 826 799

DATE: 04/07/2013

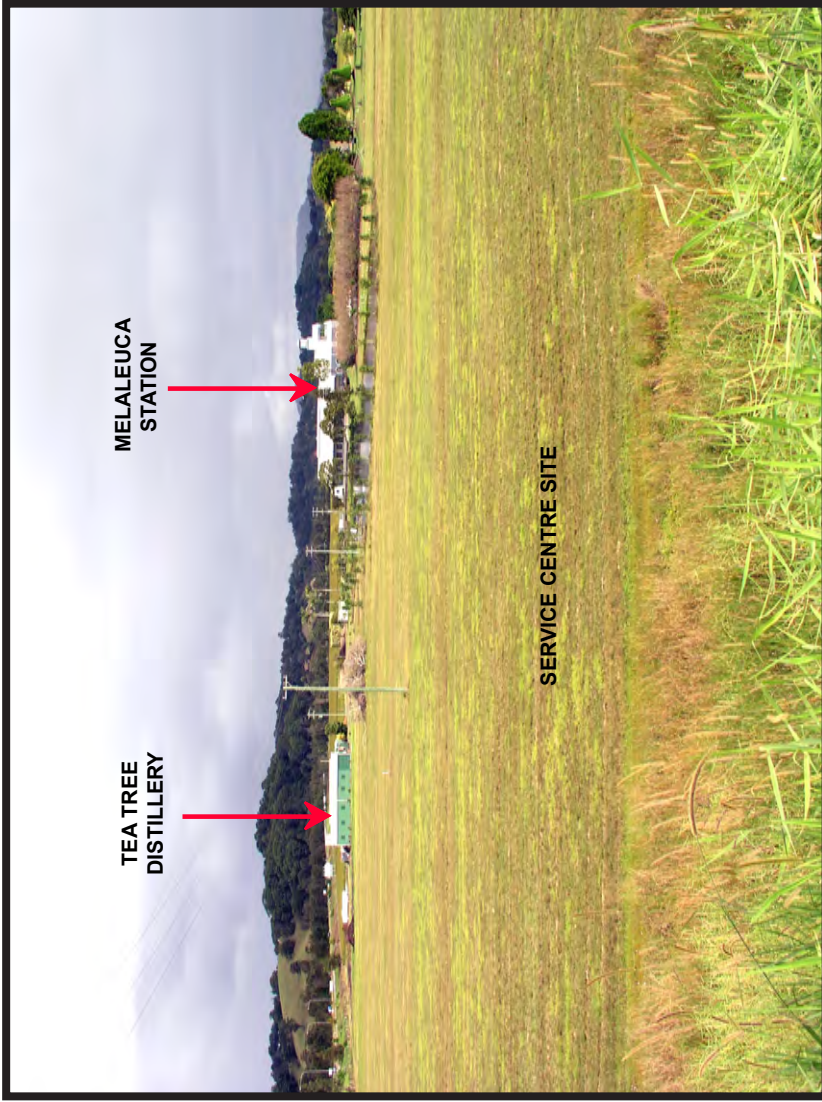
SCALE: nts

SOURCE: GOOGLEMAPS





AERIAL PHOTO — SERVICE CENTRE SITE



VIEW OF SITE AND ADJOINING DEVELOPMENT -photo taken from Interchange looking South

CLIENT: Bolster

JOB: Service Station

FILE: bolsterPL11

IMS: siteaerial/013

JGA **JIM GLAZEBROOK & ASSOCIATES**
PTY. L TD.
 A/CN 603 428 799
 TOWN PLANNERS & DEVELOPMENT CONSULTANTS

DATE: 09/07/2013

SCALE: not to scale

SOURCE: JWA / JGA



Section 3.0

The Development Proposal

This section describes the details and objectives of the proposal.

3.1 OUTLINE

The proposal incorporates a number of elements. These include:

- A planning proposal request to amend the Tweed LEP 2000 to enable the construction of a highway service centre on the land; and
- A development application for the proposed highway service centre and an associated subdivision (boundary adjustment) to create a separate lot for the service centre. The proposal is staged as follows:
 - Stage 1 - proposed subdivision (boundary adjustment)
 - Stage 2 - proposed highway service centre

The major tenant for the service centre is expected to be Shell. The smaller tenancies are not yet finalised but strong interest is shown by nationally recognised franchises.

3.2 DEVELOPMENT APPLICATION – STAGE 1 PROPOSED SUBDIVISION (BOUNDARY ADJUSTMENT)

The proposal incorporates a boundary adjustment to create a lot for the proposed highway service centre. The proposed subdivision plan is contained in Appendix D (B & P Surveys). It is accompanied by a Subdivision Information Statement (Jim Glazebrook & Associates Pty Ltd, June 2013).

The land comprising the subdivision is as follows:

- Lot 1 DP 1134229 which has an area of 53.69 hectares and contains a tea tree distillery and a tea tree plantation;

- Lot 1 DP 1165676 which is a closed road having an area of 1.244 hectares; and
- Lot 1 DP 210674 having an area of 29.91 hectares. This property contains a residence, agricultural shed and a tea tree plantation.

It is proposed to alter the boundaries between those lots to create:

- Proposed Lot 112 having an area of 3.9 hectares to accommodate the proposed highway service centre;
- Proposed Lot 110 having an area of 29.02 hectares and frontage to the Tweed River and Tweed Valley Way; and
- Proposed Lot 111 having an area of 50.84 hectares. This lot straddles Tweed Valley Way and has frontage to the Tweed River and Pacific Highway.

The proposed subdivision also provides for road widening to accommodate a proposed roundabout on Tweed Valley Way.

It is proposed to undertake the subdivision prior to commencement of the highway service centre to ensure separate title for the development site. Physical site works are not required to implement the subdivision. There would be no additional lots or dwelling entitlements created.

3.3 DEVELOPMENT APPLICATION –STAGE 2 PROPOSED HIGHWAY SERVICE CENTRE

Plans of the proposal are contained in Appendix C.

3.3.1 Site Planning & Layout

The proposed highway service centre contains the following key elements:

- Service centre building having a gross floor area (GFA) of approximately 1270m², consisting of:
 - Shell service centre (tenancy 6) : 190m²;
 - Tenancy 1 – food outlet and drive through takeaway : 80m²;
 - Tenancy 2 – food outlet : 130m²;
 - Tenancy 3 – food outlet and drive through takeaway : 109m²;

-
- Tenancy 4 – food outlet : 80m²
 - Tenancy 5 – food outlet : 25m²
 - Dining area : 184m²;
 - Outdoor dining area and playground;
 - Truckers lounge;
 - Public amenities; and
 - Associated plant room(s), storage & staff area(s);
- A car and a truck canopy linking to the service centre building. The car canopy covers 16 car refuelling areas and the truck canopy covers four (4) truck refuelling areas;
 - Landscaped area of approximately 1.2ha (31% of site area) and hard surface area of 2.7ha (69% of site area);
 - Six (6) underground petrol product storage tanks (UPSS) and one (1) underground LPG vessel;
 - Construction of an off ramp from the Pacific Highway to provide access to the site for northbound highway traffic;
 - Construction of a roundabout on Tweed Valley Way to provide access to, and egress from, the site;
 - Landscaped car parking areas containing 117 car parking spaces (97 customer and 20 staff), 25 B-Double truck parking spaces and five (5) spaces suitable for use by buses or vehicles towing trailers or caravans; and
 - Filling the development envelope to levels between RL 1.8m AHD and 3.675m AHD. Approximately 62,000m³ of fill would be required.

One central building is proposed with the car fuel bowsers and car canopy located to the south east of the building and linked to it by a covered entry. A truck canopy/truck fuelling area is located on the south western side of the building. The building and car fuelling area are oriented towards the northbound lanes of the Pacific Highway.

The parking and circulation layout separates heavy vehicles from cars and other light vehicles and includes a separate staff parking area. Customer car parking is conveniently located at the entry to the service centre building.

The layout incorporates two (2) drive through facilities for proposed food outlets.

Table 1 below outlines the RMS requirements for a highway service centre.

TABLE 1
RMS REQUIREMENTS FOR A HIGHWAY SERVICE CENTRE

LAND USE	OBJECTIVE	COMPULSORY FACILITIES	ALLOWED FACILITIES
Highway Service Centre	<p>A facility operating for 24 hours per day that provides a range of services for the travelling public and commercial highway users.</p> <p>Encourages drivers to stop and take effective rest breaks at appropriate intervals along a highway in the interest of driver safety.</p> <p>Integrated and approved as part of a single development or as staged development in accord with a single approved plan.</p>	<p>Segregated fuel plazas for light and heavy vehicles</p> <p>Segregated parking for light and heavy vehicles (25 heavy vehicles spaces as minimum).</p> <p>Service Station.</p> <p>Shop servicing the travelling public.</p> <p>Restaurant/s (sit down).</p> <p>Food and drink outlets (fast food).</p> <p>Amenities (toilets, baby change room, showers).</p> <p>Waste disposal facilities.</p> <p>Public telephone/s.</p> <p>Tourist information booth.</p> <p>Public obligation free rest area facility.</p>	<p>Direct egress from highway.</p> <p>Vehicle maintenance and repair workshop (emergency only).</p> <p>Postal and banking facilities (eg. ATM).</p> <p>Drive through food outlet.</p> <p>Children's play facilities.</p> <p>Outdoor picnic/eating area/BBQ.</p> <p>Other services consistent with the objectives.</p>

The proposed highway service centre meets the objectives described in this Table and includes all of the compulsory facilities. Of the 'allowed facilities', the proposal includes direct egress from the highway, banking facilities (ATM), two (2) drive through outlets, children's play facilities in the outdoor eating area and a truckers lounge which is consistent with the objectives in Table 1.

Landscaping is proposed throughout the parking areas and along site boundaries (refer Appendix E). Clearly legible pedestrian linkages would be provided along key pedestrian desire lines across the site. Details are to be provided on design plans.

To fill the site, approximately 62,000m³ of material would be imported. The source of this fill is not yet known but it would be obtained from an approved site. Details of the suitability of the fill for the development in terms of potential contamination and geotechnical stability would be provided to Council before work commenced.

The proposed development is to be serviced by reticulated water and an on-site sewage management system.

3.3.2 Building Design

Functionally, the design is a conventional service centre layout with car fuel bowsers at the front, truck bowsers separated to the side and a single central service centre building containing fuel sales and convenience goods at the front. The remainder of the building accommodates food tenancies, rest rooms, dining area and a trucker's lounge. The truckers lounge has a separate entry from the western side of the building, closest to the truck parking area.

The service centre building is a single storey structure with a maximum height of 5.7m. The car and truck canopies have heights of 5.325m and 5.975m respectively and the car canopy link would be 7.875m high.

The building would be constructed using a variety of materials and finishes including metal roof and fascia sheeting, painted rendered finish on walls, steel columns, aluminium framed glazing and glazed balustrades. Final colours have not yet been selected but indicative tones are shown on the plans contained in Appendix C. These have been chosen to reflect the buildings modern design.

The building includes provision for advertising panels, however specific details for these and a larger pylon sign will not be available until all tenancies are finalised and their needs determined. It is proposed to lodge a separate development application for signage, at the appropriate time.

3.4 AMENDMENT TO LOCAL ENVIRONMENTAL PLAN (PLANNING PROPOSAL).

To facilitate the proposal, an amendment to the Tweed LEP 2000 is requested. The planning proposal request is to insert a site specific clause to enable the land to be used for highway service centre purposes. The planning proposal request is further discussed in Section 8.0.

3.5 OBJECTIVES

The objectives of the proposed development are:

- To meet an identified need for a highway service centre for northbound traffic along the Pacific Highway in the Chinderah locality;
- To improve highway traffic safety by providing a well located and designed rest point for commercial truck operators and the travelling public;

-
- To boost the local economy through capturing increased consumer expenditure into the local economy;
 - To improve the local economy through the generation and provision of full time employment;
 - To provide a range of services and facilities on site to meet the needs of highway motorists; and
 - To manage potential environmental impacts within acceptable limits.

FIGURE: 4

ZONING EXTRACT

LEGEND

1. RURAL

- (a) RURAL
- (b1) AGRICULTURAL PROTECTION
- (b2) AGRICULTURAL PROTECTION
- (c) RURAL LIVING

2. RESIDENTIAL

- (a) LOW DENSITY RESIDENTIAL
- (b) MEDIUM DENSITY RESIDENTIAL
- (c) URBAN EXPANSION
- (d) VILLAGE
- (e) RESIDENTIAL TOURIST
- (f) TOURISM

3. BUSINESS

- (a) SUB-REGIONAL BUSINESS
- (b) GENERAL BUSINESS
- (c) COMMERCE & TRADE
- (d) WATERFRONT ENTERPRISE
- (e) SPECIAL TOURIST (Jack Evans Boatharbour)

4. INDUSTRIAL

- (a) INDUSTRIAL

5. SPECIAL USES

- (a) SPECIAL USES (Other reserves include those indicated by red lettering)

6. OPEN SPACE

- (a) OPEN SPACE
- (b) RECREATION

7. ENVIRONMENTAL PROTECTION

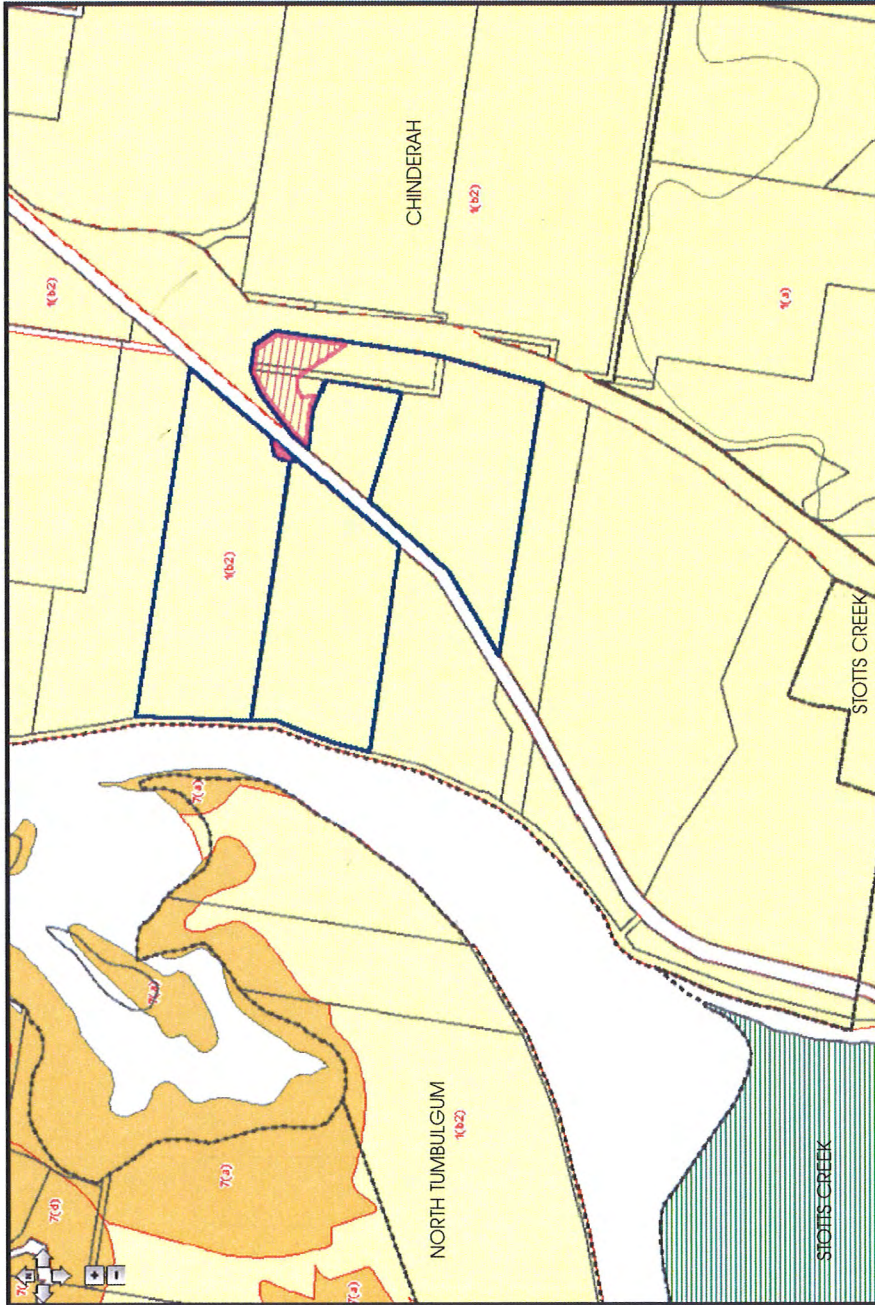
- (a) ENVIRONMENTAL PROTECTION (Wetlands & Littoral Rainforests)
- (b) ENVIRONMENTAL PROTECTION (Scenic / Escarpment)
- (c) ENVIRONMENTAL PROTECTION (Coastal Lands)
- (d) ENVIRONMENTAL PROTECTION (Habitat)

8. NATIONAL PARKS / NATURE RESERVES

- (a) NATIONAL PARKS & NATURE RESERVES

ADDITIONAL CONTROLS

- CLAUSE 37 (Transmission Line Corridor)
- CLAUSE 38 (Future Roads)
- CLAUSE 41 (Heritage Conservation Area)
- CLAUSE 52 (Kings Beach/Kings Forest/Osprey Nest)
- CLAUSE 52 (Minimum Lot Sizes)
- CLAUSE 52 (Pottsville)
- CLAUSE 52 (Stormwater and Fill)
- CLAUSE 52 (Cobaki Lakes)
- CLAUSE 52 (Existing and Future Dam Areas)
- CLAUSE 53 (Schedule 3 Item)



□ SUBJECT SITE

▨ SERVICE CENTRE SITE

CLIENT: Bolster

JOB: Service Station

FILE: bolstersevoZON

IMS: bolster/ZON1

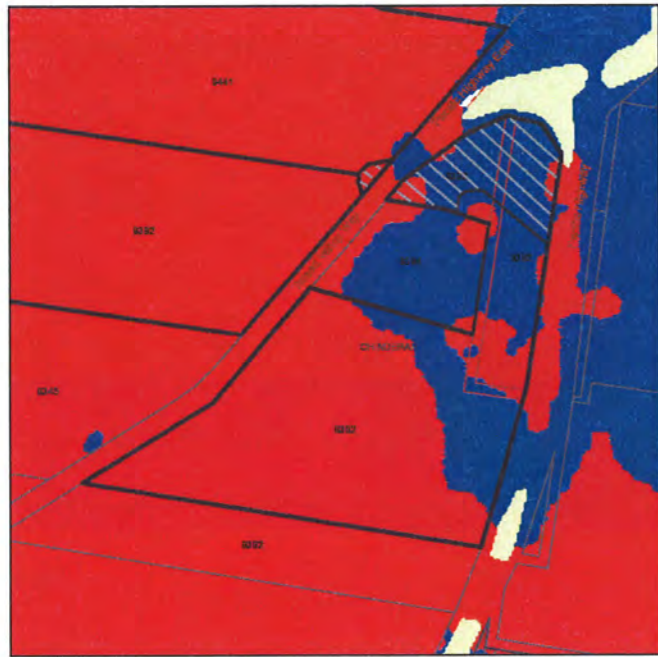
JGA JIM GLAZEBROOK & ASSOCIATES
TOWN PLANNERS & DEVELOPMENT CONSULTANTS

DATE: 04/07/2013

SOURCE: T.S.C.

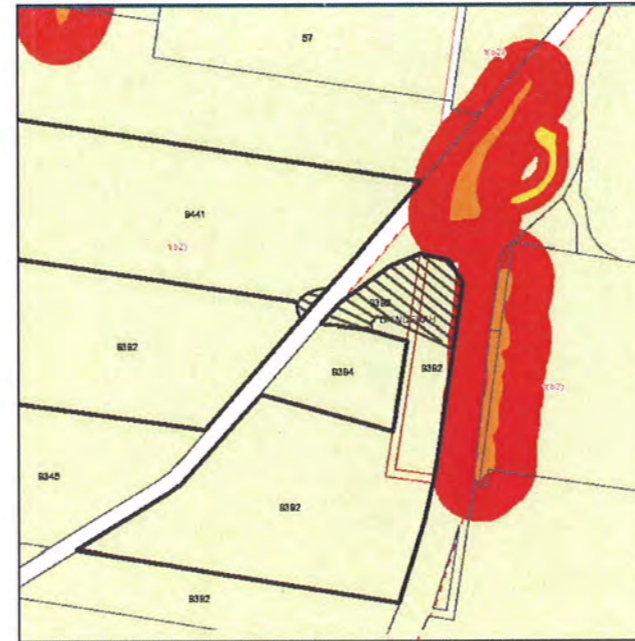
SCALE: not to scale





- Subject site
- Service Centre Site
- ARI 100 year (AEP 1%) Flood
- <= 0.3 'Low Flow Area'
- > 0.3 'High Flow Area'

FIGURE : a) Flooding



- Subject site
- Service Centre Site
- Bushfire Prone Land (2012)
- Vegetation Category 1
- Vegetation Category 2
- Vegetation Buffer

FIGURE : b) Bushfire



- Subject site
- Service Centre Site
- Agricultural Land Suitability
- Arable land suitable for intensive cultivation
- Arable land suitable for regular cultivation of crops
- Bananas
- Grazing land or land well suited to pasture improvement
- Horticulture
- Land suitable for grazing but not cultivation
- Land unsuitable for agriculture
- National Parks, Nature reserve and Recreation Areas
- State Forest
- Urban
- Water

FIGURE : c) Agricultural Land Suitability



- Subject site
- Service Centre Site
- Acid Sulfate Soils Planning Maps
- Class 1 Any Works
- Class 2 Works below the ground surface
- Class 3 Works beyond 1 metre below the natural ground surface
- Class 4 Works beyond 2 metres below the natural ground surface
- Class 5 Works within 500 metres of adjacent class 1, 2, 3 or 4 land which are likely to lower the watertable below 1 metre AHD in class 1, 2, 3, or 4 land.

FIGURE : d) Acid Sulfate Soils

CLIENT: Bolster

JOB: Service Station



DATE: 04/07/2013

SCALE: not to scale

FILE: bosternapconst

IMS: FL1/AC1/bfr/ag

SOURCE: TSC

Section 4.0

Planning Controls

This section describes the strategic and regulatory context of the proposal including aspects of compliance and justification for any inconsistencies.

4.1 TWEED LOCAL ENVIRONMENTAL PLAN 2000 (Tweed LEP 2000)

The subject land is zoned 1(b2) Agricultural Protection under the Tweed LEP 2000 (refer Figure 4). The proposed highway service centre is prohibited in that zone. This application is therefore made in accordance with Part 3 Division 4B of the Environmental Planning & Assessment Act 1979 (as amended). That Division relates to “Instrument Amendments and Development Applications”. It is requested that the LEP be amended by incorporating the 3.9 hectare development site into Schedule 3 “Development of Specific Sites” and enabling the land to be used for a highway service centre. Justification for the amendment is provided in “Planning Proposal” (Section 8.0). Following gazettal of the LEP amendment, the proposed development would be permissible with consent.

“Subdivision” is permissible with development consent in the 1(b2) zone but proposals must meet the minimum prescribed lot size (clause 20).

The objectives of the 1(b) zone are:

Primary objective

- to protect identified prime agricultural land from fragmentation and the economic pressure of competing land uses.

Secondary objective

- to allow other development that is compatible with agricultural activities.

Broad agricultural land suitability mapping is shown on Figure 5c.

An agricultural assessment has been completed and that assessment demonstrates that, despite its zoning, the land is not prime agricultural land (John Allen & Associates, June 2013, refer Appendix F). Further, the proposal would be

unlikely to affect existing agricultural activities in the locality. That is discussed in the examination of agricultural issues in Section 5.2. Consequently it is concluded the proposal is consistent with the relevant zone objectives.

The following clauses of the Tweed LEP 2000 are relevant to the proposal:

Clause 5: outlines that an objective of the plan is to promote development that is consistent with the principles of ecologically sustainable development. The proposal is consistent with that objective (refer Section 7.0).

Clause 8: provides that the consent authority may grant consent to development only if:

- (a) it is satisfied that the development is consistent with the primary objective of the zone within which it is located;
- (b) it has considered those other aims and objectives of this plan that are relevant to the development; and
- (c) it is satisfied that the development would not have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of Tweed as a whole.

Consistency with the relevant zone objectives is discussed above. Moreover justification for the proposed LEP amendment is discussed in Section 8.0.

Potential impacts on the community, locality and catchment are discussed in Sections 5.0 and 6.0. It is concluded that the proposal would not have an unacceptable cumulative impact.

The proposal is considered to be satisfactory in the context of clause 8 considerations.

Clause 15: relates to the availability of essential services and requires that consent must not be granted for a development unless a water supply and facilities for the removal or disposal of sewage and drainage are available. Water supply would be by way of connection to reticulated supply which is available to the site. The existing drainage system would be utilised for the proposal and sewage disposal would be by way of an on-site system. Details of the supply of essential services are discussed in Section 5.7.

Clause 17: requires that a socio-economic impact assessment (SEIA) be prepared in respect of a proposed development where the consent authority considers that a proposal is likely to have a significant social or economic impact in the locality. Tweed DCP Section A-13 – Socio-Economic Impact Assessment specifies the type and scale of development that triggers the need for the preparation of a SEIA. A SEIA is required for this proposal and it is contained in Appendix G (RPS, June 2013).

Clause 20: relates to subdivision in rural zones. Clauses 20(2) and 20(3) provide:

- “(2) Consent may only be granted to the subdivision of land:
- (a) within Zone 1(a), 1(b2), 7(a), 7(d) or 7(l) if the area of each allotment created is at least 40 hectares, or
 - (b) within Zone 1(b1) if the area of each allotment created is at least 10 hectares.
- (3) Despite subclause (2), consent may be granted to the subdivision of land where an allotment to be created is less than 40 hectares, or 10 hectares in the case of Zone 1(b1), if the consent authority is satisfied that the allotment will be used for a purpose, other than for an agricultural or residential purpose, for which consent could be granted.”

Proposed Lot 112 has an area of 3.9 hectares. The LEP amendment would make the proposed service centre a consent use. Therefore, as the consent would not be issued until the LEP is amended, the proposed subdivision would be authorised pursuant to Clause 20(3).

Proposed Lot 111 complies with the minimum lot size. Proposed Lot 110 has an area of 29.02 hectares, which is less than the prescribed standard. However, as the part of the proposal that affects this lot is for widening a public road, consent is unnecessary (TLEP 2000 clause 19(1)(4)) and consequently the lot size is irrelevant.

Clause 22: applies to land that has frontage to a designated road and requires the consent authority to be satisfied of certain matters relating to access, capacity and safety of the designated road, traffic noise and scenic impacts. Tweed Valley Way is an RMS designated road. The Pacific Highway along the frontage of the site is not mapped as a designated road. Issues in relation to traffic and access are discussed in Section 5.4, scenic values in Section 6.1 and noise impacts in Section 5.5. The proposed development is itself not sensitive to noise.

Clause 23: requires that a road or other means of access which forms a junction or intersection with a designated road must not be opened or formed except with development consent. The development application proposes a new access point onto Tweed Valley Way.

Clause 24: prescribes building setbacks from designated roads. Buildings associated with the highway service centre are to be setback a minimum distance of 30 metres from Tweed Valley Way. The proposal complies with this requirement.

Clause 31: requires consideration of the impacts of developments on adjoining waterbodies, with particular emphasis on scenic quality, water quality, aquatic ecosystems, flora/fauna and public accessibility.

The subject site adjoins the Tweed River to the west (refer Figure 2). The proposed service centre site is located approximately 800 metres to the east of the river. The intervening land contains the Tweed Valley Way and farm land used for

tea tree cultivation. Impacts on the river are expected to be minimal and this is examined in detail in Section 5.0. Specifically, impacts on flora/fauna and water quality are addressed in Section 5.1 and 5.3. Visual impacts from the proposed works are discussed in Section 6.1. Public access and foreshore issues do not arise.

Clause 34: applies to flood prone land and requires the consent authority to consider the extent and nature of flooding, the effect of the development on flooding of other land in the vicinity, mitigation measures, impact on emergency services and the provisions of Tweed DCP Section A3 – Development of Flood Liable Land. Flood hazard categories are illustrated on Figure 5a.

A detailed flood assessment has been prepared by and is at Appendix H (Opus International Consultants (Aust) Pty Ltd July 2013). Tweed DCP Section A3 is discussed in Section 4.4.2.

Clause 35: requires an assessment of the extent and likely impacts of acid sulfate soils. The land is identified as Class 2 on Council's Acid Sulfate Soils Planning Map (refer Figure 4d). Accordingly, investigations for the presence of acid sulfate soils have been undertaken and a management plan prepared. Appendix I contains the Acid Sulfate Soil Management Plan (HMC Environmental Consulting Pty Ltd, July 2013)

Clause 39: The objective of this clause is to ensure that contaminated land is adequately remediated prior to development occurring.

A contaminated land assessment has been completed and that assessment indicates that remediation is not required (Preliminary Site Contamination Investigation, HMC Environmental Consulting, July 2013 refer Appendix K).

Clause 39A: relates to bushfire protection. A small area on the eastern part of the site is mapped as fire prone as it is part of a buffer area (refer Figure 5b). A Bushfire Risk Management Plan is contained in Appendix L (Bushfire Safe (Aust) Pty Ltd, May 2013).

Clause 47: relates to advertising signs. Advertising signs for the site would be subject of a future development application(s) where statutorily required. Future signage would solely relate to uses on the site and therefore would be permissible.

4.2 DRAFT TWEED LEP 2012

The draft Tweed LEP 2012 was placed on exhibition on 14 November 2012 and concluded on 18 January 2013.

Pursuant to Section 79C(I)(ii) of the Environmental Planning and Assessment Act 1979, as the draft LEP has been placed on exhibition it must be considered in

determination of the application. The relevant provisions of the draft LEP in respect of this proposal are discussed below:

Zoning: The land has a draft zoning of RU1 Primary Production. A highway service centre is prohibited in that zone. JGA, on behalf of P. Guinane Pty Ltd, has made a submission to the draft LEP 2012 requiring that a site specific amendment be incorporated in the draft LEP to facilitate development of the subject land for a highway service centre (refer Appendix M).

Principal Development Standards: The minimum lot size in the RU1 Primary Production Zone is 40 hectares. There does not appear to be a clause which allows for the creation of smaller lots for non primary production purposes, where the lot size is greater than a 10% departure from the standard.

Additional local provisions: The draft LEP 2012 contains additional local provisions. Of relevance are clauses 7.1 (Acid sulfate soils), 7.6 (Flood planning), 7.7 (Floodplain risk management), 7.11 (Earthworks & drainage) 7.14 (Stormwater management) and 7.15 (Essential services).

Those clauses are not a constraint to approval of the proposal.

Council has resolved to forward the exhibited draft LEP 2012 (with changes) to the Department of Planning. Inconsistency of the proposal with the zoning and minimum lot size is justified for the reasons outlined in the planning proposal request.

Notwithstanding those inconsistencies, the draft LEP contains a savings provision (Clause 1.8A) which states that if a development application is made before the commencement of the Plan, and the application has not been finally determined before that commencement, the application must be determined as if the Plan had been exhibited but not commenced. Consequently, as the development application is lodged before the commencement of the draft LEP, the draft plan does not have determining weight.

4.3 STATE ENVIRONMENTAL PLANNING POLICIES (SEPP's)

Table 2 outlines the SEPP's relevant to the proposal and discusses the applicable provisions thereof.

TABLE 2
STATE ENVIRONMENTAL PLANNING POLICIES (SEPP's)
APPLICABLE TO TWEED SHIRE

SEPP	APPLICABLE X or ✓	DESCRIPTION/RELEVANT PROVISIONS	COMMENT
SEPP No. 1 Development Standards	X		
SEPP No. 4 Development with Consent & Miscellaneous Exempt & Complying Development	X		
SEPP No. 6 Number of Storeys in a Building	X		
SEPP No. 14 Coastal Wetlands	X		
SEPP No. 15 Rural Land Sharing Communities	X		
SEPP No. 21 Caravan Parks	X		
SEPP No. 22 Shops & Commercial Premises	X		
SEPP No. 26 Littoral Rainforests	X		
SEPP No. 30 Intensive Agriculture	X		
SEPP No. 32 Urban Consolidation (Redevelopment of Urban Land)	X		
SEPP No. 33 Hazardous & Offensive Development	✓	Requires determination of whether a development is hazardous or offensive industry and requires that in considering any application to carry out potentially hazardous offensive development, measures proposed to reduce impact are considered	A Hazard Identification and Risk Assessment has been completed (Cadway Projects, June 2013, refer Appendix N). The "threshold screening" indicates that the proposal is not potentially hazardous industry.
SEPP No. 36 Manufactured Homes Estates	X		
SEPP No. 44 Koala Habitat Protection	✓	Requires that the Council cannot approve development in an area affected by the Policy without an investigation of core koala habitat.	The Flora & Fauna Assessment (Appendix O) concludes that no native vegetation will be removed. A plan of management is not required.
SEPP No. 50 Canal Estate Development	X		

SEPP	APPLICABLE X or ✓	DESCRIPTION/RELEVANT PROVISIONS	COMMENT
SEPP No. 55 Remediation of Land	✓	Requires that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed.	The site is suitable for the intended use. Contamination is discussed in Section 5.6.2 and Appendix K.
SEPP No. 60 Exempt & Complying Development	X		
SEPP No. 62 Sustainable Aquaculture	X		
SEPP 64 Advertising & Signage	✓	Aims to ensure that signage is compatible with the desired amenity and visual character of the area and requires consideration of the matters contained in Schedule 1 of the Policy.	Signage will be the subject of a separate application(s).
SEPP No. 65 Design Quality of Residential Flat Development	X		
SEPP No. 71 Coastal Protection		The land is within the coastal zone and therefore the provisions of the Policy apply. The land adjacent to the Tweed River, on the western portion of the subject site is identified as a 'sensitive coastal location'. When preparing a draft LEP or determining a development application the matters outlined in Part 2 (clause 8) must be considered.	<p>With respect to the matters of relevance to this application, it is commented that;</p> <ul style="list-style-type: none"> • The proposal would not affect public access to the foreshore; • The proposal does not generate the need to provide any new public access to or along the foreshore; • The site is not affected by coastal processes; • The proposal would not significantly impact on flora and fauna. This issue is discussed in Section 5.3 and Appendix O; • There are no known heritage items on, or within close proximity of the site (refer Section 6.3 and Appendix P); • Water quality would be maintained within acceptable levels; and • Suitable land closer to Chinderah is not available for the construction of a highway service centre. <p>With respect to relevant matters in Part 4 of the Policy, it can be commented that,</p> <ul style="list-style-type: none"> • The proposal would not affect the right of access of the public to or along the foreshore;

SEPP	APPLICABLE X or ✓	DESCRIPTION/RELEVANT PROVISIONS	COMMENT
			<ul style="list-style-type: none"> The on-site effluent disposal system has been designed to ensure satisfactory environmental outcomes (refer Section 5.7 and Appendix Q);and The development would not discharge untreated stormwater to the sea or creek. <p>Consequently it is concluded that the proposal is consistent with the aims of the Policy.</p>
SEPP (Affordable Rental Housing)2009	X		
SEPP (Building Sustainability Index : Basix) 2004	X		
SEPP (Exempt & Complying Development Codes) 2008	X		
SEPP (Housing for Seniors or People with a Disability) 2004	X		
SEPP (Infrastructure) 2007	✓	<p>Division 17 relates to "Roads & Traffic". Clause 101 relates to development with frontage to a classified road. The relevant objective of the clause is to ensure that development does not compromise the effective and ongoing operation and function of designated roads. Clause 101(2) requires that,</p> <p><i>(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:</i></p> <p><i>(a) where practicable, vehicular access to the land is provided by a road other than the classified road, and</i></p> <p><i>(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:</i></p> <p><i>(i) the design of the vehicular access to the land, or</i></p> <p><i>(ii) the emission of smoke or dust from the development, or</i></p> <p><i>(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and</i></p>	<p>The relevant traffic and access considerations are addressed in Section 5.4 and the traffic impact assessment (TTM Consulting, Appendix R).</p> <p>The RMS is satisfied with the location and preliminary design from the Pacific Highway (refer Appendix R).</p> <p>The proposal satisfies the objectives of Clause 101.</p>

SEPP	APPLICABLE X or ✓	DESCRIPTION/RELEVANT PROVISIONS	COMMENT
		<p>(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.</p> <p>Clause 104 relates to traffic generating development. It requires that the proposal be forwarded to the RMS and the consent authority to consider any submission made by the RTA (RMS).</p>	The application will be formally referred to the RMS as part of Council's consultation process.
SEPP (Major Development) 2005	X		
SEPP (Mining, Petroleum & Extractive Industries) 2007	X		
SEPP (Rural Lands) 2008	✓	The aim of the Policy is to facilitate the orderly and economic use and development of rural lands for rural and related purposes. Clause 7 contains "Rural Planning Principles".	<p>The proposal is consistent with the relevant rural planning principles as:</p> <ul style="list-style-type: none"> • The social, economic and environmental interests of the community will be maintained; • Important natural resources have been identified and will be protected; • The proposal will not impact on opportunities for rural lifestyle; • No rural landuse conflicts will result; and • There will be no loss of agricultural land. <p>Justification of the proposal with respect of the agricultural classification of the land and potential conflicts are discussed in Sections 4.5.4, 5.2 and the Agricultural Assessment (Appendix F).</p>
SEPP (Temporary Structures) 2007	X		
SEPP (State and Regional Development) 2011	X		The proposal is not of a category or of a value which triggers a need for determination by the Joint Regional Planning Panel.
SEPP (North Coast Regional Environmental Pal) – deemed SEPP	✓	This deemed SEPP contains considerations for plan preparation and development control.	The relevant matters are addressed separately in Table 3.

TABLE 3
NORTH COAST REGIONAL ENVIRONMENTAL PLAN

CLAUSE	APPLICABLE X or ✓	COMMENT
DIVISION 1 - AGRICULTURAL RESOURCES		
7. Plan preparation- prime crop or pasture land	X	The Agricultural Land Assessment demonstrates that the land is not prime crop or pasture land (refer Appendix F).
8. Plan preparation-minimum lot size	X	No changes to minimum lot sizes are proposed by the draft LEP.
9. Plan preparation-concessional lots	X	
10. Plan preparation-cluster farming	X	
11. Plan preparation-intensive animal industries	X	
12. Development Control-impact on agricultural activities	✓	This clause requires that the Council shall not grant consent to an application to carry out development on rural land unless it has first considered the likely impact of the proposed development on the use of adjoining or adjacent agricultural land and whether the development will cause a loss of prime crop or pasture land. The proposal would have no impact on adjacent agricultural land. The site is not prime crop or pasture land. Agricultural issues are discussed further in Section 5.2.
DIVISION 2 – CATCHMENT MANAGEMENT		
14. Plan preparation-wetlands or fishery habitats	X	
15. Development Control-wetlands or fishery habitats	✓	This requires Council to consider issues in relation to the quality and quantity of flows of water to the wetland or habitat, habitat loss, public foreshore access, wetland pollution etc. The relevant issues are discussed in Sections 5.1, 5.3 and 5.7. Potential impacts can be satisfactorily managed.
DIVISION 3 – GEOLOGICAL RESOURCES		
17. Plan preparation-extractive materials	X	There are no major deposits of extractive materials on or adjacent to the site.
18. Development Control-extractive industry	X	
DIVISION 4 – RURAL HOUSING		
20. Plan preparation-rural land release strategy	X	New residential housing is not proposed by the proposed LEP amendment. Proposed Lot 111 would be greater than 40 hectares and therefore retain its dwelling entitlement.
21. Plan preparation-dwellings on rural land	X	No changes to the rural housing/subdivision provisions of the LEP are proposed.
22. Plan preparation-dual occupancy	X	
DIVISION 5 - FORESTRY		
25. Plan preparation-state forests	X	
26. Plan preparation-areas other than state forests	X	No changes to the rural land use zone in relation to forestry are proposed.

CLAUSE	APPLICABLE X or ✓	COMMENT
27. Plan preparation-timber processing plants	X	
PART 3 CONSERVATION & THE ENVIRONMENT		
DIVISION 1 – THE NATURAL ENVIRONMENT		
29. Plan preparation-natural areas and water catchments	X	The land does not contain any environmental protection zonings and is not within a drinking water catchment.
29A Development control-natural areas and water catchment	X	
31. Plan preparation-coastal hazard areas		
32 Plan preparation –coastal hazard areas		
32A Plan preparation-coastal lands	✓	No changes to existing provisions in the LEP in relation to this clause are proposed.
32B Development Control-coastal lands	✓	This clause applies to land to which the NSW Coastal Policy applies. The NSW Coastal Policy is discussed in Section 4.6. This clause also requires consideration of the Coastline Management Manual and the North Coast Design Guidelines. There are no relevant provisions in these documents relating to this proposal. The proposal does not raise any public foreshore access or overshadowing issues.
33. Development Control – coastal hazard areas	X	
DIVISION 3 – HERITAGE		
36. Development Control-heritage items, generally	X	There are no heritage items on or adjacent to the site.
36A Development Control-heritage items of State & regional significance	X	
36C Development Control-Conservation areas of State & regional significance	X	
36D Development control – Advertising of heritage applications	X	
36E Conservation incentive relating to heritage items	X	
36F Development in the vicinity of heritage items	X	
PART 4 URBAN DEVELOPMENT		
DIVISION 1 – STRATEGIC PLANNING		
38. Plan preparation-urban land release strategy	X	

CLAUSE	APPLICABLE X or ✓	COMMENT
39. Plan preparation-retail, commercial or business activities	✓	<p>This clause requires that a draft local environmental plan should not provide for the establishment of significant retail, commercial or business development unless:</p> <p>(a) the expansion is adjacent to or adjoins the existing commercial centre, or</p> <p>(b) if the expansion is not adjacent to or adjoining the existing centre, that development is in accordance with a commercial/retail expansion strategy prepared by the Council, published for public discussion and:</p> <p>(i) be available, without charge, for public inspection and comment at the office of the Council during normal office hours; and</p> <p>(ii) be forwarded by the Council for their information to such public authorities as, in the opinion of the Council, have responsibilities reasonably requiring them to be aware of the strategy.</p>
40. Plan preparation-principles for urban zones	X	<p>The proposal is for a specific type of commercial development which relies on its location beside the highway. There are no other appropriate sites beside commercial areas for this use. TSC has previously identified the site as its preferred location for a highway service centre when assessing alternatives.</p>
DIVISION 3 – ENVIRONMENTAL HAZARDS		
45. Plan preparation-hazards	✓	<p>This clause requires that a draft LEP should not permit development for tourism, rural housing or urban purposes on land subject to certain hazards unless the Council has made an assessment of the extent of the hazard and include provisions in the plan to minimise adverse impact. Relevant hazards (ie. flooding, contamination etc.) are addressed in Section 5.6. These hazards are not an impediment to the proposed development. No specific provisions are required to be incorporated in the draft LEP.</p>
46A Plan preparation-flood liable land	✓	<p>This clause relates to flood liable land and contains provisions identifying that a draft LEP applying to flood liable lands should not alter zoning from special use flood liable to urban zones unless justified by a floodplain management plan. It is not proposed to 'rezone' the site. Flooding issues can be satisfactorily managed and are discussed in Section 5.6.1.</p>
DIVISION 4 – COMMERCIAL & INDUSTRIAL DEVELOPMENT		
47. Plan preparation & Development Control – principles for commercial and industrial development	✓	<p>This clause requires that before preparing a draft LEP relating to commercial or industrial development, Council should take into consideration the following principles:</p> <p>(a) strong multi-functional town centres should be maintained to focus the drawing power of individual businesses and maintain the integrity of the main business area by only zoning land for further commercial or retail development where that development adjoins or is adjacent to the existing town centre;</p> <p>(b) provisions contained in local environmental plans relating to retail, commercial, business and industrial zones should be flexible, especially to enable the development of light service industry near the central business district; and</p> <p>(c) there should be an adequate supply of zoned industrial land located where it is physically capable of development for industrial purposes, is not environmentally fragile and can be serviced at a reasonable cost.</p>

CLAUSE	APPLICABLE X or ✓	COMMENT
		The proposal would not affect town centres. It is not proposed to 'rezone' the land or change provisions relating to retail, commercial, business and industrial zones.
48. Plan preparation-maintenance of industrial development zonings	X	
DIVISION 5 – TALL BUILDINGS		
50. Plan preparation-height controls	X	
PART 5 – REGIONAL INFRASTRUCTURE		
DIVISION 1 – TRANSPORT		
53. Plan preparation-primary arterial roads	✓	This clause identifies that a draft LEP should contain provisions to promote the safety and efficiency of the primary aerial road. It should also contain provisions to restrict access onto those roads except at specifically constructed intersections. Traffic and access matters are discussed in Section 5.4 and Appendix R. The proposal satisfies this clause.
54. Plan preparation-secondary arterial roads	X	
55. Plan preparation-existing controls for main or arterial roads	✓	The draft LEP does not propose to alter provisions in the current LEP relating to traffic or access to primary or secondary roads in rural areas.
55A Plan preparation-development of new airports	X	
56. Plan preparation-land in the vicinity of aerodromes	X	
56A Plan preparation-bus services	X	
DIVISION 2 – UTILITY SERVICES		
58. Plan preparation-servicing urban areas	✓	This clause requires that a draft LEP should not permit development for urban purposes unless Council is satisfied of certain matters in relation to the economic use of existing services, the provision of water & sewerage services, effluent disposal, water pollution and public transport facilities. Reticulated town water is available to service the development. An on-site sewerage management system is proposed and stormwater would be treated on site prior to discharge (refer Sections 5.1 and 5.7). The proposal would not increase demand for public transport facilities.
DIVISION 3 – HEALTH & EDUCATION		
61. Plan preparation-health & education facilities	X	
63. Plan preparation-community use of schools & other facilities	X	
66. Development control-adequacy of community & welfare services	X	
PART 6 – TOURISM & RECREATION		
69. Plan preparation-environmental features & hazards	X	

CLAUSE	APPLICABLE X or ✓	COMMENT
70. Plan preparation-principles for location of tourism development	X	
71. Plan preparation-provision of services to tourism development	X	
72. Plan preparation-large scale resort development	X	
73. Plan preparation-residential development of tourism	X	
74. Plan preparation-tourism development on farms	X	
75. Development control-tourism development	X	
76. Development control-natural tourism areas	X	
DIVISION 2 – RECREATION		
78. Plan preparation-public recreation areas	X	
79. Plan preparation-recreation vehicle areas	X	
80. Plan preparation-existing zones for public open space	X	
81. Development control-development adjacent to the ocean or a waterway	X	
82. Development control-sporting fields or specialised recreation facilities	X	

4.4 TWEED DEVELOPMENT CONTROL PLAN (DCP) 2008

4.4.1 Section A2 – Site Access & Parking Code (DCP SA2)

Proposed access to the highway service centre is via an exit ramp from the existing Pacific Highway (north bound) and a two-lane arterial roundabout on Tweed Valley Way. Site access arrangements are further discussed in Section 5.4 and in detail in the Traffic Impact Assessment (TTM Consulting (Vic) June 2013, refer Appendix R).

The Traffic Impact Assessment examines the proposal with respect to the car parking rates required by Tweed DCP SA2. A total of 117 formal car parking spaces are proposed in the following arrangements:

- a staff parking area for twenty (20) vehicles in the south-eastern corner of the site;

- a communal car parking area for eighty three (83) vehicles located at the main entrance to the service centre building for shared use by all customers; and
- a parking area for fourteen (14) vehicles at the convenience store frontage.

In addition to the above there is also:

- adequate space for a further sixteen (16) vehicles to park at the fuel pumps;
- 25 truck parking spaces on the western portion of the site suitable for B-Double trucks; and
- five (5) parking spaces suitable for use by buses or vehicles towing trailers or caravans.

The Traffic Impact Assessment identifies the following staff and customer parking requirements in accordance with Tweed DCP SA2:

TABLE 4
STAFF PARKING REQUIREMENT

PROPOSED USE	EQUIVALENT PARKING CODE USE	AREA / NO.	STAFF PARKING RATE	STAFF PARKING REQUIREMENT
Service Station Convenience Store	Convenience Store	190 sqm	0.5 spaces per 100 sqm	1
Convenience Restaurants with Drive-Thru	Fast Food Outlets	12 no.*	1 space per staff at peak operating time	12
Commercial Tenancies	Fast Food Outlets^	7 no.^	1 space per staff at peak operating time	7
Total				20

* It is estimated that the convenience stores with drive-thru component will have in the order of six (6) staff members on-site at any one time based on three (3) back of house staff preparing meals and three (3) front of house staff working on registers/drive-thru.

^ Given the nature of the site, likely uses of the commercial tenancies will be take-away in nature such as a café or a small scale fast-food outlet which does not require a drive-thru such as "Subway". Staffing levels at these outlets during peak operating times have been estimated at 3. The staffing level at the smaller (25m²) outlet has been estimated at 1.

TABLE 5
CUSTOMER PARKING REQUIREMENT

PROPOSED USE	EQUIVALENT PARKING CODE USE	AREA / NO	CUSTOMER PARKING RATE	CUSTOMER PARKING REQUIREMENT
Service Station Convenience Store	Convenience Store	190 sqm	3.5 spaces per 100 sqm	7
Convenience Restaurants with Drive-Thru	Fast Food Outlets	189 sqm*	Greater of 12 spaces per 100 square metres gross floor area of 1 space to every 4 seats + Queuing area for 6 cars where drive-thru provided	23
Commercial Tenancies	Fast Food Outlets	235 sqm*	Greater of 12 spaces per 100 square metres gross floor area of 1 space to every 4 seats	28
Dining Area	Fast Food Outlets	184 sqm*	Greater of 12 spaces per 100 square metres gross floor area of 1 space to every 4 seats	22
Total				80

* Parking requirements have been based upon floor area as seating numbers have not yet been determined. The communal dining area has conservatively been included in the analysis.

Based on those tables, a total of 100 car parking spaces are required (20 staff and 80 customers). The proposal with 117 spaces exceeds that requirement.

The Traffic Impact Statement also demonstrates that the two (2) drive through facilities for the takeaway outlets provide adequate length and width for the queuing of six (6) cars.

All car parking spaces and aisle widths meet the design criteria for short term high turnover parking at shopping centres in accordance with AS2890.1:2004 – Table 1.1.

Two (2) loading bays are proposed. They are located on the western and northern corners of the buildings in a convenient location to service all tenancies. The loadings bays are designed to cater for heavy rigid vehicle in accordance with the requirements of the DCP.

Traffic, access and parking issues are further discussed in Section 5.4.

4.4.2 Section A3 – Development of Flood Liable Land (DCP SA3)

The design flood level for the site is RL 3.5m AHD.

Filling would be undertaken to provide flood immunity for the service centre and fuel pumps/filling stations above the design flood level. The remainder of the development site will be filled and graded to achieve appropriate car park levels and slopes and to provide suitable stormwater drainage.

Car park levels grade up across the site from above RL 1.8m AHD on the western portion of the site near the Tweed Valley Road access point to RL 3.675m AHD at the highest point on the northern side of the proposed building.

The property is in a rural location therefore the provisions of A3.10 apply. With respect to commercial development, the DCP requires the provision of flood free storage areas for stock and equipment susceptible to water damage. The proposal complies in that regard as the minimum floor level of the building will be above the design flood level.

The majority of the site is mapped as a 'low flow area' (refer Figure 5a). However, a small area adjacent to the south western boundary is mapped as a 'high flow area'. Part of this area is proposed to be filled to create the site access and for effluent disposal. That is a minor encroachment into the high flow area and a detailed flood assessment for the site indicates that peak flood levels do not increase by more than 0.01m due to the impact of the proposed development which is considered negligible (refer Appendix H).

The proposal is not 'critical', 'sensitive' or 'habitable' development with respect to the emergency response provisions in DCP SA3. Consequently, no special provisions are required in that regard.

Flooding issues are further discussed in Section 5.6.1.

4.4.3 Section A5 – Subdivision Manual (DCP SA5)

The application has been prepared in accordance with the relevant guidelines contained in DCP SA5.

The subdivision information statement is attached at Appendix D.

The design of the subdivision was determined by the location of existing road boundaries, land area required to accommodate the proposed highway service centre and the location of the existing tea tree distillery and dam. Issues relevant to the design of the subdivision are further discussed in Section 5.0 of this report.

4.4.4 Section A11 – Public Notification of Development Proposals (DCP SA11)

The proposal is required to be advertised in accordance with the Environmental Planning and Assessment Regulations 2000.

4.4.5 Section A13 – Socio-Economic Impact Assessment (DCP SA13)

A Socio-Economic Impact Assessment (RPS Consultants, June 2013), has been prepared and is at Appendix G.

4.4.6 Section A15 – Waste Minimisation and Management (DCP SA15)

A preliminary Waste Management Plan (WMP) has been prepared and is at Appendix S.

4.5 ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 (EP & A Act 1979)

4.5.1 Instrument Amendments & Development Applications

Part 3 Division 4B relates to instrument amendments and development applications. It applies if a development application is made for consent to carry out development, which may only be carried out if an environmental planning instrument applying to the land, on which the development is proposed to be carried out, is appropriately amended.

This application is made in accordance with Section 72I and J of the Environmental Planning and Assessment Act 1979, as amended. The 'planning proposal' (ie. LEP amendment request) has been prepared in accordance with Section 55(2) of the EP & A Act (refer Section 8.0).

4.5.2 Threatened Species

Section 5A of the Act requires consideration of the impact of a development on threatened species, populations and ecological communities and their habitat, within the meaning of the Threatened Species Conservation Act, 1995.

The Flora & Fauna Assessment (refer Appendix O) addresses those matters. It is concluded that the proposal does not require the preparation of a Species Impact Statement.

4.5.3 Integrated Development

Section 91 identifies development requiring approvals under certain other legislation and establishes that such development is "integrated development".

The proposal is integrated development as approvals are required under:

- Section 100B of the Rural Fires Act 1997 as the proposal involves a subdivision of land that could lawfully be used for rural residential purposes (proposed Lot 111); and
- Section 91 of the Water Management Act 2000 as the proposal involves excavation that will intercept the groundwater table for the installation of the fuel tanks and work within 40 metres of a waterway (farm dam). Although the farm dam is artificial it is identified as a waterbody on the relevant topographic map and the NSW Office of Water has confirmed that a controlled activity approval is required in this regard.

4.5.4 Section 117 Directions

Table 5 below contains a list of Directions issued by the Minister for Planning to relevant planning authorities under Section 117(2) of the EP & A Act 1979. It identifies the Directions which are applicable to the planning proposal and whether the proposal is consistent with those Directions.

TABLE 6
SECTION 117 DIRECTIONS

DIRECTION	APPLICABLE ✓ OR X	COMMENT
1. Employment and Resources 1.1 Business & Industrial Zones 1.2 Rural Zones 1.3 Mining, Petroleum Production & Extractive Industries 1.4 Oyster Aquaculture 1.5 Rural Lands	X ✓ X X ✓	<p>The proposal is of 'minor significance' as this report establishes that the land is not suitable for agriculture and there are no other suitable sites for a highway service centre on urban zoned land. It is not proposed to 'rezone' the land but include a specific clause in the LEP to enable the development.</p> <p>The land is not suitable for agricultural use and is therefore consistent with this Direction. SEPP (Rural Lands) 2008 is addressed in Section 4.3.</p>
2. Environment and Heritage 2.1 Environmental Protection Zones 2.2 Coastal Protection 2.3 Heritage Conservation 2.4 Recreation Vehicle Areas	X ✓ ✓ X	<p>The NSW Coastal Policy is discussed in Section 4.6.</p> <p>No places or objects of Aboriginal cultural heritage significance were identified in the project area (refer Section 6.3 for further discussion).</p>
3. Housing, Infrastructure and Urban Development 3.1 Residential Zones 3.2 Caravan Parks and Manufactured Homes Estates 3.3 Home Occupations 3.4 Integrating Land Use and Transport 3.5 Development Near Licensed Aerodromes	X X X X X	
4. Hazard and Risk 4.1 Acid Sulfate Soils 4.2 Subsidence and Unstable Land 4.3 Flood Prone Land 4.4 Planning for Bushfire Protection	✓ X ✓ ✓	<p>The proposal is consistent. Acid sulfate soil issues are discussed in Section 5.1.</p> <p>The proposal is consistent. There will be negligible flooding impacts as a result of the proposal (refer Section 5.6.1).</p> <p>The proposal is consistent. Refer to Section 5.6.3 for discussion of bushfire issues.</p>
5. Regional Planning 5.1 Implementation of Regional Strategies 5.2 Sydney Drinking Water Catchments 5.3 Farmland of State and Regional Significance on the NSW Far North Coast 5.4 Commercial and Retail Development along the Pacific Highway, North Coast	✓ X ✓ ✓	<p>The proposal is consistent. Refer to Section 4.8 for discussion of the Far North Coast Regional Strategy.</p> <p>The site is identified as regionally significant farmland. Consistency with this Direction is discussed in Section 4.5.4.</p> <p>This Direction is discussed in Section 4.5.4.</p>

DIRECTION	APPLICABLE ✓ OR X	COMMENT
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)	X	
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	X	
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	X	
5.8 Second Sydney Airport: Badgery Creek	X	
6. Local Plan Making		
6.1 Approval and Referral Requirements	✓	The proposal is consistent.
6.2 Reserving Land for Public Purposes	X	
6.3 Site Specific Provisions	✓	The proposal is consistent as no new development standards are proposed in the site specific LEP.
7. Metropolitan Planning	X	

Section 117(2) Direction 5.3 – Farmland of State and Regional Significance on the NSW Far North Coast

The objectives of this Direction are:

- “(a) to ensure that the best agricultural land will be available for current and future generations to grow food and fibre;
- (b) to provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning; and
- (c) to reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.”

This Direction applies when a planning authority prepares a planning proposal for land mapped as ‘state significant farmland’, ‘regionally significant farmland’ or ‘significant non-contiguous farmland’ on the “Northern Rivers Farmland Protection Project, Final Map 2005”.

The proposed development site is part of a broader land area mapped as Regionally Significant Farmland. According to clause 4(b) of the Direction, a planning proposal must not “rezone land identified as ‘Regionally Significant Farmland’ for urban or rural residential purposes”. Further, clause 5 states that:

“A planning proposal may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning or (an officer of the Department nominated by the Director-General) that the planning proposal is consistent with:

- (a) the Far North Coast Regional Strategy; and
- (b) Section 4 of the report titled *Northern Rivers Farmland Protection Project- Final Recommendations, February 2005, held by the Department of Planning.*”

With respect to clause 4(b), the application does not seek to ‘rezone’ the land, rather it is proposed that a site specific clause be inserted into the shire-wide Tweed LEP to enable the development of a highway service centre on the land.

Notwithstanding the fact that a rezoning is not proposed, the intent of the clause is to ensure that the objectives of the Direction are met and further discussion follows in that regard.

The agricultural assessment at Appendix F specifically addresses:

- The agricultural land classification according to the guidelines contained in the Rural Land Evaluation Manual;
- The Northern Rivers Farmland Protection Mapping and its methodology;
- The value of the land for agricultural purposes; and
- The objectives of the 1(b2) Agricultural Protection Zone pursuant to the Tweed LEP 2000.

Relevant observations and conclusions from the assessment are:

- “• This report has shown that the 3.9 hectares of land is classified as Class 4 land; that is land that is a low agricultural value. Issues of practical and economic land use management were major considerations in this classification. The parcel of land is of an inconvenient shape, is in an inconvenient location and is of insufficient size to enable its purposeful and long term agricultural use. The Northern Rivers Farmland Protection Project has previously mapped the land as regionally significant farmland. However, this mapping project was done at a scale of 1:100,000 as opposed to an individual property scale, and also during the mapping process gave considerable weight to soil landscape data in contrast to the major agricultural limiting factors that are inherent to this instance;
- The existing and previous owners of the studied land have since 1992 utilised the majority of the land (with the exception of the 3.9 hectare study area and also land for housing, farm roads and infrastructure) for commercial tea tree and sugar cane production. More recently the 3.9 hectares of land (study area) has been removed from agricultural operation due to issues of low productivity and practical land use management and is currently maintained (slashing) purely for aesthetic purposes and weed control only;
- Development of 3.9 hectares of land to a non-agricultural use will not therefore detract in any significant way from the existing agricultural production potential of the remainder of the land involved with this subdivision and nor of the wider region. Furthermore approval of the development will take pressure off surrounding lands that are of a higher agricultural value for developments of a similar nature; and
- From an agricultural perspective therefore, it is considered that there should be no reason why Council and the State Government should not approve the application.”

The agricultural assessment demonstrates the limited agricultural value of the land. Consequently, objectives (a) and (b) of the Direction are met. With respect to objective (c), the service centre site is remote from the balance of farming land being surrounded on three (3) sides by the motorway interchange and on the fourth side by a crematorium, farm dam and tea tree distillery. Land use conflicts between agricultural and non agricultural land uses are therefore unlikely to arise and consequently, it is concluded that the proposal is consistent with objective (c) of the Direction.

Moreover, it is noted that planning principle 9 of section 4 of the Northern Rivers Farmland Project identifies that public infrastructure is permitted on land mapped as state or regionally significant where no feasible alternatives are available. While a highway service centre is not provided by a Council or state agency it is effectively “public infrastructure” as it provides infrastructure used by the travelling public in accordance with RMS planning for state highways. The planning process for establishing a highway service centre for northbound highway traffic at Chinderah undertaken by Tweed Shire Council did not result in any feasible alternative sites for such a facility. The site nominated in Section 117(2) Direction 5.4 – Commercial and Retail Development along the Pacific Highway, North Coast, within Chinderah owned by the RMS is not suitable for a highway service centre for traffic and amenity reasons. It has now been abandoned for that use (refer Section 4.5.2). Consequently, it is considered that the proposal is consistent with planning principle 9 of section 4 of the Northern Rivers Farmland Project.

As a result of the detailed agricultural suitability analysis it can be concluded that the proposal is consistent with the Far North Coast Regional Strategy and Section 4 of the Northern Rivers Farmland Protection Project – Final Recommendations, February 2005. Therefore, if the Department considers that the proposal is a ‘rezoning’ and consequently inconsistent with clause 4(b) of the Direction, the inconsistency is justified under the provisions of clause (5) and the Direction is not an impediment to the proposal proceeding.

Section 117(2) Direction 5.4 – Commercial and Retail Development along the Pacific Highway, North Coast

This Direction is specifically addressed in the letter from TTM Consulting (Vic) Pty Ltd dated 9 January 2013 addressed to JGA. That letter is reproduced below and demonstrates that the proposal meets the objectives of the Direction and that the proposal would not adversely affect the safety or efficiency of the Pacific Highway.

“TTM Consulting (Vic) Pty Ltd has reviewed the proposed Service Centre development in light of Section 117(2) of the Environmental Planning and Assessment Act 1979.

Paragraph 5 of the Section defines the subject site as an “out of town” area as it abuts a length of the Pacific Highway where the posted speed limit is 80kph or greater.

Accordingly, the Section deems that the planning proposal must satisfy the following requirements:-

- (a) *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, and*
- (b) *Development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway.*

The following subsections address the above requirements.

Consistency with the Objectives of the Section 117 Direction

The objectives for managing commercial and retail development along the Pacific Highway and our response to each objective are as follows:-

To protect the Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route.

Access to the Service Centre will be from the off-ramp to Tweed Valley Way (southbound), which will be relocated approximately 260 metres south of its current location. No other works are proposed on the highway.

The proposal will therefore have no bearing on the functionality of the Pacific Highway as an inter- and intra-regional road traffic route.

To prevent inappropriate development fronting the highway.

The development will provide services, fuel, amenities and food facilities which are required by motorists travelling along the highway.

Currently there is no similar northbound facility in the vicinity of the site and therefore the location of this development is considered appropriate.

To protect public expenditure invested in the Pacific Highway

The development will cause no adverse impacts to the current operation of the Pacific Highway.

To protect and improve highway safety and highway efficiency

TTM Consulting has been liaising with RMS concerning the access arrangements to the site from both the Pacific Highway and Tweed Valley Way. The latest correspondence with RMS is attached to this letter and the concept plans presented in that attachment are the outcomes of our discussions. These are also the concept plans which are currently before Council.

A roundabout access on Tweed Valley Way was originally suggested by RMS as it was considered a relatively safe arrangement to return oversize vehicles to the Pacific Highway. Similarly, the ramp access arrangement to the site from the Pacific Highway has been revised at RMS request such that it is designed in accordance with AustRoads guidelines for 'preferred treatments'. This will ensure that all deceleration of vehicles exiting the highway will occur in auxiliary lanes and is in line with the Pacific Highway Upgrade currently in progress.

Furthermore, the location of the Service Centre will promote the "Rest Revive Survive" road safety message, which is well supported by the potential availability of services, fuel, amenities and food at appropriately located intervals along major highways.

To provide for the food, vehicle service and rest needs of travellers on the highway.

The Service Centre development will provide the following:-

- Three (3) food and beverage tenancies, a drive-thru take-away service and convenience store to provide for the food needs of travellers,
- A playground area, dining area and truck, caravan, coach and car parking to provide for the rest needs of travellers, and
- Fuel, air and water services to provide for the vehicle service needs of travellers.

To reinforce the role of retail and commercial development in town centres where they can best service the populations of the towns.

The development will provide fuel, food and convenience store facilities which are specifically targeted at motorists and travellers. The development will not provide significant retail or commercial facilities that would be better located within a town centre.

Furthermore, the provision of food and vehicle service facilities on the highway will ensure oversized vehicles are not required to enter town centres.

Impact on Safety and Efficiency of the Highway.

The Section requires development with frontage to the Pacific Highway consider the impact which the development has on the safety and efficiency of the highway.

As the site does not have direct frontage to the main carriageways of the highway it will in no way impact on the safety or efficiency of traffic flow along the highway.

The inbound access to the site from the Pacific Highway off-ramp will be constructed to AustRoads 'preferred treatment' standards, ensuring that all deceleration into the site occurs in an auxiliary lane so that there is no impact on safety or efficiency of traffic flow along the interchange.

In summary, the location of the proposed Service Centre is aligned with the requirements of the Section 117 direction.

Service Centre Location outlined by the Section 117 Direction.

Paragraph 6 of the Section recommends the "western side of highway in Urban Zone" as a permitted locality for a northbound service centre, provided that the Roads and Traffic Authority is satisfied that the service centre could be safely and efficiently integrated into the Highway interchanges.

The above site is located adjacent to a roundabout intersection with overpass which makes providing access to and from the highway difficult. It is unlikely that an access arrangement that aligns with the objectives of this direction could be implemented effectively.

Furthermore, the Minister has advised the RTA since the printing of Section 117 direction that the above site will not be approved as a site for a highway service centre as it sits within the township of Chinderah.

The subject site will better align with the Section 117 objectives."

The Section 117 direction nominates sites where highway service centres may proceed (notwithstanding the requirements of paragraphs (4) and (5)) provided that the RMS is satisfied that the highway service centre can be safely and efficiently integrated into the highway interchange(s) at those localities. With respect to northbound traffic, the direction nominates that a highway service centre can proceed in Chinderah on the western side of the highway in the urban zone. That includes land in Chinderah owned by the RMS. There are traffic engineering and planning reasons as to why the RMS land is not suitable for a highway service centre. Those include:

- Access constraints making access arrangements that achieve the objectives of the Direction being difficult to achieve;
- Proximity of the site to residential development which would suffer from significant adverse amenity impacts from a 24 hour operation; and
- Land size constraints. The RMS site (Lot 13 & 14 DP 830659) has an area of 1.77 hectares which is too small for all facilities required in a highway service centre. Enlargement of the RMS site is not feasible as

adjacent privately owned land is approved for an industrial subdivision which has been constructed.

Notwithstanding those reasons, the Minister for Road and Ports, Mr Duncan Gay, has confirmed in a letter dated 30 July 2012 to the Member for Tweed, Mr Geoff Provest, that the RMS land has been abandoned as a potential site for a Highway Service Centre, and from a highway strategy perspective it is desirable that a service centre be developed in Chinderah to complement the existing service centre. A copy of this letter is provided in Appendix T.

Highway service centres can be considered on other land under the terms of this Direction. In that regard, the proposal is consistent with the Direction as it meets the requirements of clauses 5(a) and 5(b) which are:

- “(5) A planning proposal that applies to land located on “out-of-town: segments of the Pacific Highway must provide that:
- (a) 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 and
 - (b) development with frontage to the Pacific Highway must consider impact the development has on the safety and efficiency of the highway”.

4.6 NSW COASTAL POLICY 1997

The subject land is affected by the NSW Coastal Policy. The Policy is essentially a strategic management document which sets out *“directions to be taken by local and state government in the planning and management of the coast... (it) is underpinned by a number of principles which are designed to guide decision making and to clarify the basic philosophy of the goals”*.

The Policy is required to be given effect, where necessary, through specific planning instruments. Where relevant those are addressed in this Statement. Strategic actions and principles in relation to development control are set out in Tables 2 and 3 of the Policy. This application does not raise any inconsistencies in respect of those matters.

4.7 TWEED 4/24 STRATEGIC PLAN 2004-2024

This plan provides the strategic policy framework and visionary direction for the future management, protection and development of the Tweed. There are no specific controls which apply to this proposal but it is consistent with the theme of some of the strategic aims, particularly in relation to,

- ‘caring for the environment’ by identifying potential impacts and implementing management measures to minimise potential impacts;

-
- ‘strengthening the economy’ by supporting a regional facility which has been identified for many years as being necessary to meet the need of road users; and
 - ‘managing rural change’ by identifying that the land, although zoned for “agricultural protection” is not suitable for agricultural pursuits due to its size, location and physical site characteristics.

4.8 FAR NORTH COAST REGIONAL STRATEGY (FNCRS)

The FNCRS was adopted by the NSW Government in 2006. The purpose of the strategy is to manage anticipated population growth within the Far North Coast Region, balancing environmental assets, cultural values and natural resources of the region.

The need for a highway service centre to cater for northbound traffic at Chinderah has long been recognised. The Strategy identifies that a highway service centre may be located beside the Pacific Highway at Chinderah however specific sites are not nominated. Any new highway service centre would need to be adjacent to the highway and out of the village due to amenity constraints. Therefore, site selection is limited to land south of the village which is dominated by flood prone agricultural land. Investigations undertaken for this proposal indicate that the service centre site is not high quality agricultural land and that flood constraints are minimal. Other potential impacts are negligible or can be satisfactorily managed. Consequently the proposal meets one of the primary underlying objectives of the FNCRS, that being to manage environmental impacts and maintain the character of the region. This is achieved within the context of the proposal complying with Council’s codes and policies.

Importantly, the strategy identifies economic challenges for the area. The proposal helps achieve objectives in that regard by contributing to the future economic development of the area through significant job creation and flow-on effects (refer Section 6.2). The proposal meets the sustainability criteria established in the Strategy.

Section 5.0

Environmental Interactions & Issues

This section provides a description of the environment and presents an analysis of potential impacts resulting from the proposal. It identifies environmental management/mitigation measures to achieve the project objectives.

5.1 SOIL & WATER

5.1.1 Acid Sulfate Soils

The land is identified as Class 2 on Council's Acid Sulfate Soil Planning Map (refer Figure 5d).

Earthworks involving excavation would be required for site stripping, installation of underground fuel storage tanks, wet weather storage tanks and services. Consequently investigation for potential acid sulfate soils has been undertaken and an Acid Sulfate Soil Management Plan prepared (HMC Environmental Consulting Pty Ltd, July 2013, refer Appendix I).

Eight (8) boreholes were drilled across the highway service centre site. Testing results indicate potential acid sulfate soil on the site below approximately 1.0 metre depth. The assessment indicates that although some actual or existing acidity was recorded, it appears to be minor and probably associated with organic matter.

The groundwater table on the site is shallow at approximately 1.0m depth and oxidation would not be expected below this depth. The results are consistent across boreholes.

The majority of infrastructure for the development would be located in filled material. Excavation to depths 1.0m below natural ground level would be limited to a small area of the site and work would be completed within several days.

To comply with adopted guidelines and to protect the environment, the conservative application of an alkaline amendment to any soil below 1.0m depth is proposed.

5.1.2 Groundwater

Appendix J is a Dewatering Management Plan (HMC Environmental Consulting Pty, Ltd, July 2013).

The groundwater depth in the monitoring bore was measured at 0.7m. The maximum depth of excavation for underground fuel storage tank and wet weather storage tank installation would be 3m (RL -2.0m AHD). The required drawdown in this isolated location would be approximately 2.8m.

The water quality of the groundwater collected from the monitoring bore indicates treatment is required prior to discharge. A number of treatment options are available to meet nominated discharge criteria. A monitoring schedule has been developed in that regard.

5.1.3 Existing & Proposed Drainage

Appendix H is an Engineering Impact Assessment Report (Opus International Consultants (Aust) Pty Ltd). It examines existing and proposed drainage. Existing ground levels vary within the proposed service centre site from approximately RL 1.1m AHD to RL -0.6m AHD. The development site is generally flat with an average approximate grade of 0.4%. The site discharges to the west into a table drain along Tweed Valley Way. The table drain flows south and discharges into an irrigation channel to the west via a pipe culvert under Tweed Valley Way. The irrigation channel discharges into the Tweed River.

A survey plan is attached to the Engineering Impact Assessment Report (Appendix H).

The proposed development site forms a single catchment that contributes to the runoff which flows into an existing 1500mm culvert under Tweed Valley Way. The total catchment area is 7.94 ha.

Calculations undertaken indicate that:

- there would be a minor increase in the runoff from the proposed development compared to the runoff under existing conditions;
- the total peak runoff from the developed catchment would be contained in the 1500mm culvert under Tweed Valley Way without requiring an upgrade;
- there would be an increase of 90mm in the ponded water level immediately upstream of the culvert during a 100 year ARI event. This is considered insignificant;
- the proposed development would have no impact on the existing drainage capacity and negligible impact on downstream properties;

-
- as part of the proposed development it is recommended that the existing 600mm culvert be removed to improve flow conditions through the culvert under Tweed Valley Way; and
 - the internal drainage network would provide sufficient stormwater drainage for the site and would be designed during detail design stage to Tweed Shire Council Development Design Specification D5.

5.1.4 Stormwater Quality

Construction Phase

Construction phase sediment and erosion controls are proposed to reduce soil erosion and achieve water quality in compliance with Tweed Shire Council Design Specification D7 Stormwater Quality. Control measures are described in the Engineering Impact Assessment Report (Appendix H) and include the provision of a sediment basin, silt fencing, hay bales, rock check dams, cut off drains and diversion channels. A stabilised construction site entry off Tweed Valley Way is proposed.

Operational Phase

Tweed Shire Council specifies “Deemed to Comply” stormwater treatment requirements in its Design Specification D7 - Stormwater Quality. The proposed development incorporates suitable deemed to comply treatment devices. Those include proprietary GPT devices such as “Humeceptor”. Three (3) humeceptors are proposed having a combined equivalent storage capacity of 35.1m³ for sediment and 7.8m³ for oil.

A fuel and oil separator is proposed to treat stormwater in the vicinity of the fuel pumps and tank filling points.

5.1.5 Geotechnical Stability

The Engineering Impact Assessment Report at Appendix H states that the type of imported fill material would preferably be of a granular nature and would be required to comply with engineering criteria to limit sensitivity due to moisture such that any building foundation can be designed for an “S” or “M” soil classification. Furthermore, the soil required for road subgrade construction would also be specified to have characteristics to minimise pavement depths. There are a range of soil types available which would meet the above criteria. Sources would be advised prior to construction.

The upper one (1) metre of the fill to be used in the effluent disposal area would be non-compacted customised profile. The filling in the effluent disposal area would be carried out in accordance with the “On-site Sewerage Management Report” prepared by HMC Environmental Consulting Pty Ltd.

Proposed batters along boundaries have maximum slopes of 1V:2H. Most of the batters have slopes of 1V:4H.

Retaining walls are proposed along some parts of the northern boundary. Retaining walls would be provided in accordance with Tweed Shire Council Development Design Specification D6. Actual retaining wall heights and foundation requirements would be determined as part of a geotechnical investigation during the detailed design stage.

5.2 AGRICULTURAL LAND

The agricultural assessment at Appendix F has the following objectives:

- To identify the agricultural values of the land;
- To identify any potential impacts those values would have on the future use of the land for non-agricultural purposes;
- To provide an assessment of what the effect the construction of the service centre would have on agriculture in the wider region; and
- To provide suitable recommendations to alleviate any potential land use conflicts that may be identified.

The service centre site is currently not utilised for any agricultural purpose. General maintenance operations in the form of slashing of the area are undertaken as required. The remainder of the property is utilised for the commercial production of tea tree. Farm infrastructure includes a distillery and dam (immediately to the south of the service centre site). The southern boundary of proposed Lot 112 also adjoins the Melaleuca Station Crematorium. Adjoining and surrounding land uses are illustrated in Figure 3. Following completion of the highway service centre, proposed Lot 111 would continue to be used for the growing and processing of tea tree.

In 2009, the owners ceased using proposed Lot 112 for any agricultural purpose due to its inconvenient location and shape, its poor productivity compared to the remainder of the property, the difficulty with designing an appropriate drainage system due to existing slope values and the practical issue of land area available. It is not large enough to justify its use for tea tree cultivation.

Proposed Lot 112 is zoned 1(b2) Agricultural Protection under the Tweed LEP 2000. It is also identified as Regionally Significant Farmland under the Northern Rivers Farmland Protection Project mapping.

The agricultural classification of the land was determined according to the guidelines contained in the Rural Land Evaluation Manual (NSW Department of

Planning, 1988). The agricultural assessment concluded that proposed Lot 112 is Class 4 agricultural land which is:

“Land suitable for grazing but not for cultivation. Agriculture is based on native pastures or improved pastures established using minimum tillage techniques. Production may be seasonally high but the overall production level is low as a result of major environmental constraints”.

The principal determining factors in this land class determination were the landform pattern and soil types as well as issues of practical and economic land management. Essentially, the constraints to using proposed Lot 112 for agricultural production include:

- inconvenient location;
- inconvenient shape; and
- insufficient size.

With respect to mapping the site as regionally significant farmland, the agricultural assessment identifies that the mapping project was done at a scale of 1:100,000 as opposed to individual property scale, and the mapping process gave considerable weight to soil landscape data in contrast to the major agricultural limiting factors that are inherent to proposed Lot 112.

Furthermore the assessment identifies that development of proposed Lot 112 for a non-agricultural use would not detract in any significant way from the existing agricultural production of the remainder of the site (proposed Lot 111) or of the wider region. Moreover, approval of the development would take pressure off surrounding lands that are of a higher agricultural value.

The assessment concludes that:

“Development of the subject land would result in the removal of this land from future agricultural production. It is not believed that this will have a significant effect on the long term agricultural production potential of the wider region. That is the report has shown that the land is of an inconvenient shape, size and location to allow for purposeful and practical agricultural land use(s) to occur.”

5.3 FLORA & FAUNA

A Flora & Fauna Assessment is at Appendix O.

The service centre site has been highly disturbed by past agricultural activities and is cleared of all native vegetation.

The site consists of one vegetation community, slashed paddock formally used as a tea tree plantation. The vegetation is comprised of exotic grasses and weeds. Since completion of the inspection for the flora and fauna assessment, the owner has planted a row of fig trees along part of the southern boundary as a visual screen.

No threatened flora species or Ecological Endangered Communities were recorded on the site.

A brief fauna survey was undertaken using techniques of 'opportunistic sightings' and 'active searching'. No amphibians or reptiles were recorded during the survey and no mammals were observed. Three (3) bird species were recorded. These were the Plover, Sacred Ibis and Wood duck. No threatened species were recorded. The assessment indicates that due to the highly disturbed nature of the site and surrounds (eg. two busy highways, tea tree and cane plantations, tea tree distillery, slashing etc.) it is highly unlikely that any threatened species would occur on the site.

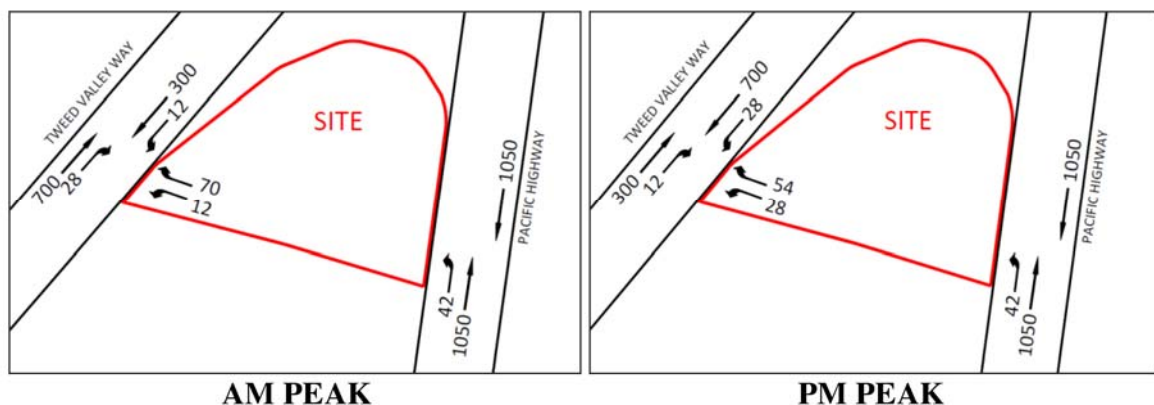
The site does not support either potential or core koala habitat within the meaning of State Environmental Planning Policy No.44 – Koala Habitat Protection.

No matters of National Environmental Significance under the Commonwealth Environmental Protection & Biodiversity Conservation Act (1999) are relevant to the site. Therefore, Commonwealth Assessment of the proposal is not required.

5.4 ACCESS, TRAFFIC & PARKING

A Traffic Impact Assessment is at Appendix R.

Most site generated traffic would not be new to the road network, but rather existing vehicle movements redirected through the site. Post development peak hour traffic volumes on which impacts are estimated are as follows:



Access to the service centre site from the Pacific Highway is proposed via an exit ramp from the existing Pacific Highway/Tweed Valley Way (northbound) exit ramp. All deceleration of vehicles entering the service centre would occur in the auxiliary lane parallel to the highway exit lane. Vehicles continuing along the highway exit lane to access Tweed Valley Way would be unimpeded.

The projected number of vehicles entering the site from the Pacific Highway during each peak period is estimated to be 42. The access has been designed in accordance with the 'preferred' treatments outlined in "Austroads Guide to Road Design Part 4C: Interchanges". The design aims to provide more than ample capacity for the projected peak traffic period. RMS has advised in its letter dated 15 March 2013, that it is satisfied that the concept design for the ramp access to the service centre site is suitable to safely manage traffic exiting the Highway (refer Appendix R).

A two-lane arterial roundabout is proposed at the Tweed Valley Way access which is to cater for inbound vehicle movements from Tweed Valley Way and all exiting vehicle movements. The roundabout is designed to cater for B-Double trucks.

A Sidra intersection analysis has been undertaken. That analysis indicates that the roundabout would have minimal impact on existing traffic conditions along Tweed Valley Way.

Construction traffic would access the site from Tweed Valley Way. A detailed construction traffic management plan would be prepared prior to work commencing.

The Traffic Impact Assessment discusses parking, circulation and loading considerations. The relevant conclusions of that assessment are:

- The development provides 117 on-site parking spaces which exceeds the requirements of Tweed DCP SA2 (refer 4.4.1). Parking space dimensions and aisle widths comply with AS2890.1:2004;
- Five (5) spaces are provided for the use of vehicles with trailers and buses. Swept path diagrams have been used to demonstrate that design and confirm that vehicles can satisfactorily access those spaces;
- 25 truck parking spaces suitable for B-Doubles are provided. Swept path diagrams have been prepared for several 'end' spaces to confirm adequate manoeuvring space is provided;
- Fuel trucks can adequately access and service the development;
- Two (2) loading bays are proposed at convenient locations and swept path diagrams indicate that loading bay arrangements are satisfactory;

-
- 16 car fuel points are proposed and are located for convenient access. There is also adequate queuing room for vehicles at the car and truck fuel pumps; and
 - Two (2) drive-through take-away outlets are proposed. Both drive-through systems have a single point of entry and exit. It is demonstrated that both systems have adequate storage length for queued vehicles.

The proposal is concluded to be satisfactory with respect to traffic, access and parking considerations.

5.5 NOISE

Appendix U is an Environmental Noise Assessment (TTM Consulting Pty Ltd, June 2013).

The development would generate noise from a number of sources. The potential noise sources which have been identified include:

- single event car door closure, car bypass and car engine ignition;
- voice;
- fast food speaker box;
- refuelling (fuel pumps);
- truck manoeuvring/passbys and truck reversing alarm;
- small rigid delivery truck with refrigeration plant;
- bus passby; and
- waste collection and waste bin lid slamming.

The nearest affected sensitive receptors which were identified are:

- North – A dwelling located approximately one (1) kilometre north of the northern boundary of the service centre site.
- North east – A dwelling located approximately 1.2 kilometres north east of the northern boundary of the service centre site;
- West – north west – A dwelling located approximately 900 metres west of the western (Tweed Valley Way) boundary of the service centre site. That dwelling is located on the subject site and a noise logger was placed in its front yard to monitor ambient noise; and
- South – Melaleuca Station crematorium located immediately south and adjoining the southern boundary of the service centre site. A noise logger was placed on the service centre site in a position representative of ambient noise levels at Melaleuca Station.

An analysis of predicted noise levels with no additional acoustic barriers was undertaken for all nominated sensitive receiver sites. That analysis indicates that noise levels at all receivers comply with the relevant criteria established by the NSW Industrial Noise Policy. Therefore, no acoustic treatment is required.

Following concern raised by the Chinderah Progress Association concerning potential noise impacts on residents in Chinderah village, TTM Consulting were also asked to examine this potential impact. TTM advises that:

“Noise levels at Chinderah Village are predicted to be 4-5 dB(A) lower than those at Receiver 3 based on distance attenuation alone. There is also expected to be some additional attenuation from the bank of Tweed Valley Way and other intervening topography between the site and receiver. Based on the measured ambient noise levels, we predict that noise levels from the service centre would generally be inaudible at Chinderah Village.”

The following management strategies are recommended to be implemented to reduce noise:

- Surface finish of the driveway(s) and drive-through facilities should be low squeal (ie. no polished or painted concrete);
- No metal speed bumps. Speed bumps should be built into the finished surface of the carpark;
- Any grates or other potential covers in the car parks and access driveways must be rigidly fixed in position to eliminate clanging, and be maintained; and
- Total noise levels associated with mechanical and refrigeration equipment should not exceed 86dB(A) L_{Aeq} (period) at a distance of 1m (or sound power level of 94dB). This assumes no shielding and direct line of sight to the nearest receiver. Where this cannot be achieved, a detailed mechanical plant assessment should be carried out by a suitably qualified acoustic consultant once equipment selections are determined.

Those management recommendations would be complied with.

Construction hours would be in accordance with Council’s normal requirements ie. 7.00 am to 7.00 pm Monday to Saturday, with no work on Sundays or public holidays.

Environmental noise would be managed within acceptable limits.

5.6 HAZARDS

5.6.1 Flooding

The design flood level for the area is RL 3.5m AHD. The site would be filled above the design flood level to the service centre building and grade down across the car parking area from this level to about RL 1.8m AHD to achieve a maximum car park slope of 2.5% and suitable drainage. On site effluent disposal areas are proposed to be at a minimum of RL 2.9m AHD which is the defined Q50 flood level.

The proposed highway service centre is at a higher level than the adjoining Tweed Valley Way and Pacific Highway. Consequently, the centre would not operate when surrounding roads are flooded.

BMT WBM were engaged to undertake a flood impact assessment for the proposal. That report is attached to the Engineering Impact Assessment (Appendix H). The modelling indicates that peak flood levels do not increase by more than 0.01m due to the impact of the proposed development and that is considered to be negligible.

5.6.2 Contamination

A Preliminary Site Contamination Investigation report is at Appendix K.

The site has been previously used for sugar cane growing which is a potentially contaminating activity. Consequently, soil sampling and analysis was undertaken to determine the presence and concentration of contaminants of concern in vicinity of the service centre site.

The Preliminary Site Contamination Investigation concludes as follows:

“A preliminary soil investigation included the collection of samples and laboratory analysis for contaminants of concern. No detections of cadmium, mercury, organo-chlorine or organo-phosphate pesticides were recorded in the collected samples. The laboratory results for lead, copper and arsenic were typical of background concentrations and were below the adjusted Health Investigation Level for the “A” residential exposure setting stated in Table 11-A of Schedule B (7a) *“Guideline on Health-Based Investigation Levels”* within the National Environment Protection (Assessment of Site Contamination) Measure 1999. There is a very low risk that the contaminants of concern exceed the adopted Health Investigation Levels in the vicinity of the proposed highway service centre site.

Based on the information provided within this report, a site inspection carried out on 3 August 2011, and laboratory results from collected soil samples, it is concluded that, in relation to potential site contamination associated with current or past land use, the proposed highway service centre site is considered suitable for the proposed land use.

In relation to potential site contamination associated with current or past land use, further investigation or remediation is not required”.

5.6.3 Bushfire

A Bushfire Risk Management Plan report is at Appendix L.

A small area on the eastern and northern boundary of the site is identified as bushfire prone land as it is located within a 100 metre buffer to vegetation located on the eastern side of the Pacific Highway (refer Figure 5b).

The assessment accompanying the plan indicates that the proposal is compliant with prescribed specifications.

5.7 UTILITIES

Power and telecommunication services are available in the immediate vicinity of the site and can be provided by agreement with the relevant providers.

Above ground electricity lines traverse the site in an easement (refer Appendix B). As part of the construction works, the above ground lines would be removed and placed underground in a location agreed to by the service provider. The current easement would be relocated.

Water supply is discussed in the Engineering Impact Assessment Report (Appendix H). Reticulated water supply would be via an existing connection on Lot 11 DP 1134229 which is located approximately 350 metres south of the proposed service centre site. A 22.5 KI tank for potable water supply would also be provided. The existing dam is proposed to be used for fire fighting supply.

Reticulated sewerage is not available to the site. Therefore, on site treatment and disposal is proposed. A detailed On-site Sewage Management Report has been prepared (HMC Environmental Consulting Pty Ltd, July 2013, refer Appendix Q). It is proposed to install a package sewage treatment plant. The effluent would have secondary treatment suitable for landscape irrigation. The secondary treated and disinfected effluent would be distributed to a nominated effluent disposal area via a dripline installed in the imported soil profile. The report concludes that the recommended onsite treatment and disposal methods would result in an acceptable level of environmental impact whilst minimising the risk to the public health and the environment.

5.8 WASTE MANAGEMENT

A preliminary Waste Management Plan is at Appendix S.

Waste would be generated during both the construction and on-going operational stages of the development. That would be managed in accordance with an approved Waste Management Plan.

Section 6.0

Socio-Economic Issues

This section identifies and discusses the socio-economic issues relating to the proposal.

6.1 VIEWS & LANDSCAPE

A Visual Impact Assessment is at Appendix V (Jim Glazebrook & Associates Pty Ltd, June 2013). It discusses potential impacts in the context of:

- The Terranora & Cudgen ridgelines;
- The Pacific Highway & Tweed Valley Way;
- Night views; and
- Melaleuca Station Crematorium.

Conclusions arising from the analysis of potential visual impacts are:

- The proposed site is suitable for the proposed use because of its size, location adjacent to existing infrastructure and development and its lack of distinctive or landmark visual elements;
- The project design appropriately balances the need to comply with regulatory requirements and the achievement of acceptable outcomes in terms of visual impacts; and
- The likely visual impacts of the proposed development are acceptable in the context of the Tweed Shire Scenic Landscape Evaluation Study.

6.2 SOCIO-ECONOMIC IMPACTS

A Socio-Economic Impact Assessment (SEIA) is at Appendix G. This SEIA has been undertaken in accordance with the methodology contained in DCP A13 – Socio-Economic Impact Assessment.

The development would result in positive economic benefits and negligible social impacts. Those are summarised as follows:

- Provision of approximately 95 equivalent full time jobs during the construction phase of the development;
- Creation of approximately 212 operational jobs comprising 46 full time employees, 78 part time employees and 88 casual employees;
- Economic multiplier effect for the local wider economy. The effect is up to \$150 million per annum and an additional 80 jobs.
- Provision of a highway service centre to cater for northbound highway traffic to complement the existing centre at Chinderah which caters for southbound traffic. There is a demonstrated need for this centre as part of highway traffic planning. This would assist with driver fatigue and road safety;
- Minor increase in highway retail convenience facilities without detracting from local retail establishments;
- Positive 'public realm' effects due to provision of obligation free rest area; and
- No change to housing, human service facilities or community access issues.

Community consultation undertaken for the project indicated general support for the proposal. Concerns raised in relation to potential impact on Melaleuca Station would be mitigated and be within acceptable limits. Also, potential noise impacts on Chinderah residents are specifically addressed in the Environmental Noise Assessment (Appendix U) and have been found to be satisfactory.

The SEIA addressed potential alternative uses for the site and determined that the proposal is the most appropriate and justified in context of the socio-economic considerations.

6.3 HERITAGE

A Cultural Heritage Due Diligence Assessment (Everick Heritage Consultants Pty Ltd, June 2013) is at Appendix P.

There are no heritage items or conservation areas on or near the subject site (Tweed LEP 2000).

A copy of the assessment has been provided to the Tweed Byron Local Aboriginal Land Council (LALC) and the Tweed Shire Council Aboriginal Advisory Committee

(AAC) for comment. Tim Robbins of Everick Heritage Consultants attended the AAC on two (2) occasions to discuss the proposal.

The AAC noted that a ceremonial site was recorded on the Bundjalung Mapping Project approximately one (1) kilometre north of the project area. The heritage assessment notes that archaeologically, there is no evidence to link the project area with the ceremonial site.

The AAC also had concerns over the potential for isolated artefacts to be located in the project area. It was noted that there was anecdotal evidence of cane farms in the region finding Aboriginal stone axes whilst working their properties.

A disturbance analysis of the property was undertaken using aerial photographs from 1962, 1987 and 1996. Parish maps from 1913, 1920, 1928 and 1942 were also reviewed.

That analysis indicates that the entire site has seen significant ground disturbance. Most of the site has seen such disturbance on numerous occasions. Whilst this has occurred, the possibility of Aboriginal objects being located within the project area cannot be ruled out. Consequently, a reasonable approach to manage this potential is required. The Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW (Office of Environment & Heritage, 2010) is intended to act as a test of reasonableness in this regard. It establishes what, if any, future impact mitigation strategies are required. The intent of the Code is that where lands have been subject to significant ground disturbance, it is reasonable to proceed with caution. The recommendations of the heritage assessment reflect that approach and it concludes that no further assessment is recommended for the project. The specific recommendations are:

“Recommendation 1: Aboriginal Human Remains

It is recommended that if human remains are located at any stage during earthworks within the Project Area, all works must halt in the immediate area to prevent any further impacts to the remains. The Site should be cordoned off and the remains themselves should be left untouched. The nearest police station, the Tweed Byron LALC and the OEH Regional Office, Coffs Harbour are to be notified as soon as possible. If the remains are found to be of Aboriginal origin and the police do not wish to investigate the Site for criminal activities, the Aboriginal community and the OEH should be consulted as to how the remains should be dealt with. Work may only resume after agreement is reached between all notified parties, provided it is in accordance with all parties' statutory obligations.

It is also recommended that in all dealings with Aboriginal human remains, the Proponent should use respectful language, bearing in mind that they are the remains of Aboriginal people rather than scientific specimens.

Recommendation 2: Aboriginal Cultural Material

It is recommended that if it is suspected that aboriginal material has been uncovered as a result of development activities within the Project Area:

- (a) work in the surrounding area is to stop immediately;

-
- (b) a temporary fence is to be erected around the site, with a buffer zone of at least 10 metres around the known edge of the site;
 - (c) an appropriately qualified archaeological consultant is to be engaged to identify the material; and
 - (d) if the material is found to be of Aboriginal origin, the Aboriginal community is to be consulted in a manner as outlined in the OEH guidelines: *Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010)*.

Recommendation 3: Notifying the OEH

It is recommended that if aboriginal cultural materials are uncovered as a result of development activities within the Project Area, they are to be register as Sites in the Aboriginal Heritage Information Management System ('AHIMS) managed by the OEH. Any management outcomes for the site will be included in the information provided to the AHIMS.

Recommendation 4: Conservation Principles

It is recommended that all effort must be taken to avoid any impacts on Aboriginal Cultural Heritage values at all stages during the development works. If impacts are unavoidable, mitigation measures should be negotiated between the Proponent, OEH and the Aboriginal Community.”

It is concluded that there are no heritage constraints to the proposed development.

6.4 AMENITY

Impacts likely to affect the human environment were considered in Section 5.0. Those were assessed in terms of soil and water management, noise, traffic, flooding and visual impacts. Those assessments concluded that the identified impacts were either acceptable or could be satisfactorily managed.

Section 7.0

Ecologically Sustainable Development

This section discusses the proposal in the context of the principles of ecologically sustainable development.

Since the early 1990's environmental policy and legislation at all levels of government has embraced the concept of ecologically sustainable development (ESD).

ESD is essentially about ensuring that development and resource utilisation are managed in a manner which can be sustained in the long term.

The objectives of the Act (Section 5) specifically commit to ESD. The Local Government Amendment (Ecologically Sustainable Development) Act 1997 establishes that:

"Ecologically sustainable development requires the effective integration of economic and environmental considerations in decision making processes. Ecologically sustainable development can be achieved through the implementation of the following principles and programs:

- (a) the precautionary principle – namely, that there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

In the application of the precautionary principle, public and private decisions should be guided by:

- (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment; and
 - (ii) an assessment of the risk-weighted consequences of various options;
- (b) inter-generational equity – namely, that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
 - (c) conservation of biological diversity and ecological integrity – namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration;

-
- (d) improved valuation, pricing and incentive mechanisms – namely, that environmental factors should be included in the valuation of assets and services, such as:
- (i) polluter pays – that is, those who generate pollution and waste should bear the cost of containment, avoidance and abatement;
 - (ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of waste;
 - (iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

The Tweed Shire Council has committed to ESD principles through the inclusion of specific provisions (clause 5) in the Tweed LEP 2000.

The proposed development has been designed, and this report prepared, having regard to the principles of ESD. In particular, the following considerations are relevant,

- There is no threat of serious or irreversible harm to the environment (refer Section 5.0). Practical cost effective measures would be implemented to limit potential environmental impacts within established acceptable limits;
- The actual costs of implementing environmental management protocols would be borne by the owner/operator;
- The proposed environmental management measures aim to maintain the quality of the environment in accordance with the principle of inter-generational equity; and
- The development would not be detrimental to the conservation of biological diversity and ecological integrity.

Section 8.0

Planning Proposal

This section addresses the relevant requirements of the Department of Planning & Infrastructure and the Tweed Shire Council for planning proposals and provides justification for the project.

8.1 INTRODUCTION

A 'Planning Proposal' is the document which explains the intended effect and purpose of a proposed LEP or LEP amendment and the justification for making it.

Section 55(2) of the EP & A Act provides that:

“(2) The planning proposal is to include the following:

- (a) a statement of the objectives or intended outcomes of the proposed instrument;
- (b) an explanation of the provisions that are to be included in the proposed instrument;
- (c) the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117);
- (d) if maps are to be adopted by the proposed instrument, such as maps for proposed land use zones; heritage area; flood prone land – a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument; and
- (e) details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.”

Following an examination of the site characteristics and issues associated with the specific development proposal (Section 5.0 and 6.0), the particular items that must be included in a 'planning proposal' under Section 55(2) of the Act can be addressed. Those are discussed in the following sections in accordance with the document titled “A guide to preparing local environmental plans” (Department. of Planning 2009). Specific Tweed Shire Council requirements are also addressed.

The Department of Planning has prepared an “Information Checklist” for planning proposal requests. The completed checklist is contained in Appendix W.

8.2 TWEED SHIRE COUNCIL REQUIREMENTS

Tweed Shire Council's "Guideline – Planning Proposal Process & Procedure – Amending a Local Environmental Plan" (Version 1.4) indicates that the following information is required to form the basis of a request for a planning proposal:

- i. Landowners un-limited consent authorising the making of a draft LEP over the subject land(s);
- ii. Legal property description in full; and
- iii. A justification based upon the Local Government Amendment (Ecologically Sustainable Development) Act 1997, on environmental, economic and social considerations.

In that regard it is advised that:

- Owners consent is provided in Appendix X;
- The legal property description is provided in Section 2.1; and
- An assessment of environmental, economic and social issues is contained in Sections 5.0 and 6.0 and justification for the proposal in this context is provided in Section 7.0.

The Aboriginal Cultural Heritage Due Diligence Assessment required by Council is contained in Appendix P.

Tweed Shire Council's Guidelines also require the matters contained in the Department of Planning & Infrastructure's "A Guide to preparing planning proposals" to be addressed. Those matters are addressed in Section 8.3.

The last version of Council's Guidelines (version 1.4) became effective on 14 September 2011. It indicates that Council may refuse to accept a request and any draft LEP proposal for any of the following reasons:

- it contains insufficient detail;
- it may be premature;
- it provides no strategic context; or
- it cannot be accommodated within the Planning and Regulation (Planning Reforms) Directorate's current work program.

In relation to those matters it is commented that:

-
- The planning proposal request contains substantial detail, more than would normally be expected with a planning proposal request, as it also incorporates a development application which contains a full detailed assessment of the development;
 - The proposal is not premature as the need for a highway service centre for northbound traffic was identified during the Pacific Highway Motorway planning process. An investigation of potential sites was undertaken by Tweed Shire Council in 2002 where the subject site was identified as the preferred site (refer Section 1.2). The highway has been open for over 12 years without this critical facility;
 - Strategic context for the facility was established by the site selection process undertaken by Tweed Shire Council in 2002; and
 - Changes were made to Part 3 of the EP&A Act 1979 on 2 November 2012 after Council's guidelines were last updated. One outcome of those changes is that landowners or developers who ask Council to prepare a planning proposal to rezone land or amend development controls now have the ability to request a review by the Department of Planning & Infrastructure if the Council has refused to progress their proposal or has not determined it within 90 days. Therefore, rezoning or LEP amendment requests are now recognised by the planning system and Council should therefore process this planning proposal request.

8.3 DEPARTMENT OF PLANNING & INFRASTRUCTURE REQUIREMENTS

8.3.1 Part 1 – Statement of Objectives or Intended Outcomes

The objective or intended outcome of the planning proposal is to enable the construction of a highway service centre on land described as Lot 11 DP 1134229, Lot 1 DP 1165676 and Lot 1 DP 210674 Pacific Highway & Tweed Valley Way, Chinderah.

8.3.2 Part 2 – Explanation of Provisions

The proposed outcome will be achieved by amending the Tweed LEP 2000 by inserting into Schedule 3 – Development of specific sites, the following:

Additional Development permitted with development consent		Conditions
Lot 11 DP 1134229, Lot 1 DP 116567 and Lot 1 DP 210674 Pacific Highway & Tweed Valley Way, Chinderah	Development for the purpose of "highway service centre" being an integrated development which has direct access to a controlled access road or motorway, and contains service station facilities with separate car and truck refuelling bays, a convenience shop within the service station from which food, drinks and other convenience goods are sold, or offered for sale, to the travelling public, refreshment room facilities, including sit-down, takeaway and drive-through fast food outlets, adequate short-term parking facilities for cars, buses and trucks (minimum 25 truck spaces), toilet and washroom facilities, rest areas and playgrounds, and tourist information booth, with such facilities serving the needs of highway motorists and commercial users, and fuel and fast food made available 24 hours, 7 days per week.	Nil

8.3.3 Part A – Justification for the Proposal

For the purpose of addressing the justification for the planning proposal, the Director-General has issued requirements regarding the specific matters which must be addressed in planning proposals (refer Section 55(3) of the EP & A Act). Those matters are set out below in bold with appropriate responses following.

A. Need for the planning proposal

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

The planning proposal is not the subject of any recent strategic study or report, however the need for a highway service centre at Chinderah has long been acknowledged. "Pacific Highway Upgrade Yelgun to Chinderah Environmental Impact Statement Working Paper No.1 – Traffic, Transport and Economic Assessment" (Sinclair Knight Merz, 1998) identified that a major truck stop was planned for Chinderah. That has partially been completed by the construction of the BP Travel Centre at Chinderah to cater for southbound traffic but northbound traffic continues to be under serviced.

More specifically, the investigations of various sites in Chinderah to cater for northbound traffic by Tweed Shire Council in 2002 identified the subject site as the most suitable for the construction of a highway service centre. That was discussed in Section 1.2.

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

The essential facts are:

- A highway service centre is needed to cater for northbound traffic. That is necessary for road safety, amongst other reasons;

-
- The site for a highway service centre nominated in Section 117(2) Direction 5.4 – Commercial and Retail Development along the Pacific Highway, North Coast is not suitable for engineering and planning reasons. Further, the Minister for Roads and Ports Mr Duncan Gay, has advised that the site has been abandoned for that purpose (refer Appendix T);
 - Tweed Shire Council's examination of alternate sites in 2002 recommended the subject site as the most suitable; and
 - The investigations undertaken for this report indicate that the site is suitable for the proposed use on environmental, social and economic grounds.

Consequently, the planning proposal is considered the best means of achieving the intended outcome as it aims to permit development of the land for a specific use which has been examined and justified.

3. Is there a net community benefit?

To determine whether there will be a net community benefit the relevant guidelines indicate that the assessment should only evaluate the external costs and benefits of the proposal (ie. the externalities). The assessment should generally assume that any private costs will be cancelled out by any private benefits. Therefore, the community benefits are considered to be:

- Provision of essential transport infrastructure to meet the needs of the general travelling public and commercial operators;
- Provision of 95 equivalent full time jobs during construction;
- Creation of approximately 212 operational jobs comprising 46 full time employees, 78 part time employees and 88 casual employees; and
- Multiplier effect of up to \$150 million per annum and 80 jobs.

Potential negative external impacts which have been assessed include flooding and drainage issues and visual impacts.

Management measures are proposed which would mitigate potential external impacts. If the proposal does not proceed then the potential benefits of providing regional traffic 'infrastructure' in both traffic management and economic benefits would be foregone.

Therefore it is concluded that the proposal has a net community benefit.

B. Relationship to the strategic planning framework

- 1. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney, Metropolitan Strategy and exhibited draft strategies)?**

The Far North Coast Regional Strategy (the Strategy) is an initiative of the NSW Government to guide sustainable growth across the Far North Coast Region. Many of the aims of the Strategy relate to housing and population growth and development of employment lands.

The proposal is consistent with the strategy which was discussed in Section 4.8.

- 2. Is the planning proposal consistent with the local council's Community Strategic Plan or other local strategic plan?**

The proposal is consistent with the Tweed Shire 2004/2020 Strategic Plan (refer Section 4.7).

- 3. Is the planning proposal consistent with applicable state environmental planning policies?**

The proposal is consistent with relevant SEPP's. These have been addressed in Section 4.3, Tables 2 and 3.

- 4. Is the proposal consistent with applicable Ministerial Directions *S 117 directions)?**

Yes. Refer to Section 4.5.4 Table 6 for discussion.

C. Environmental, social & economic impact

- 1. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

A detailed Flora and Fauna Assessment has been prepared (Appendix O). Flora and fauna issues have been discussed in Section 5.3. Critical habitat, threatened species, populations or ecological communities or their habitats would not be adversely affected by the proposal.

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

Potential environmental impacts of the proposal have been discussed in detail in Section 6.0.

3. How has the planning proposal adequately addressed any social and economic effects?

A detailed Socio-Economic Impact Assessment has been completed for the proposal (refer Appendix G).

Any potential negative social impacts would relate solely to local amenity. The assessment of these impacts in Sections 5.5 and 6.1 indicate that they are satisfactory. Management measures are proposed to reduce visual impacts and potential noise impacts comply with relevant standards. The economic effects of the proposal are positive.

D. State and Commonwealth interests

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

The proposal would have a minimal impact on public infrastructure.

2. what are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?

(Note: The views of State and Commonwealth Public Authorities will not be known until after the initial gateway determination. This section of the planning proposal is completed following consultation with those public authorities identified in the gateway determination).

Consultation with the RMS, TSC and Department of Planning & Infrastructure has been undertaken by the proponent as part of the development investigation process. Details of that is discussed in Section 1.5. Further consultation will be undertaken by Tweed Shire Council when considering the planning proposal request.

4. Details of the community consultation that is to be undertaken on the planning proposal.

Community consultation would be undertaken by Tweed Shire Council in accordance with the requirements of the EP & A Act 1979, the Environmental Planning & Assessment Regulations 2000 and Tweed Shire Council's DCP 2008 – Section A11 – Public Notification of Development Proposals.

Section 9.0

Summary / Conclusion

This section summarises issues and presents conclusions based on an analysis of those issues.

- ❑ P. Guinane Pty Ltd proposes to construct a highway service centre on, and undertake a subdivision (boundary adjustment) of, land described as Lot 11 DP 1134229, Lot 1 DP 1165676 and Lot 1 DP 210674 Tweed Valley Way and Pacific Highway Chinderah. The subject site has a combined area of 84.1 hectares and the area of the service centre site is 3.9 hectares. Proposed road widening occupies a further 0.34 hectares.
- ❑ The proposed highway service centre would primarily cater to traffic travelling north along the Pacific Highway and fulfil a recognised but unmet transport infrastructure need. An ingress/egress point would also be provided on Tweed Valley Way;
- ❑ The proposed highway service centre would have parking for 117 customers and staff vehicles, 25 trucks (up to B Double size) and five (5) caravan/cars with trailers. In addition to fuel sales, the facility would contain a convenience store for the sale of convenience goods required by the travelling public, two (2) drive through outlets, two (2) sit down/takeaway outlets, obligation free rest facilities and a truckers lounge;
- ❑ The land is zoned 1(b2) Agricultural Protection under the Tweed LEP 2000. The proposal is prohibited, however the application is accompanied by a request for a planning proposal to amend the Tweed LEP 2000 to make the development permissible with consent. The application is made in accordance with Section 72I & J of the EP & A Act 1979;
- ❑ All relevant statutory planning matters have been addressed and the proposal satisfactorily responds to relevant assessment criteria;
- ❑ Development issues have been addressed in the context of,
 - Soil & water;

-
- Agricultural land;
 - Flora & fauna;
 - Hazards;
 - Access & traffic;
 - Noise;
 - Hazards (flooding, contamination, and bushfire);
 - Utilities;
 - Noise Management;
 - Heritage;
 - Socio-Economic impacts; and
 - Amenity;

Analysis of those issues indicates that potential impacts could be satisfactorily managed and that there is no absolute constraint to the development proceeding;

- ☐ The proposed amendment to the LEP is justified on the basis that:
 - Analysis of development issues indicates that the proposal is a suitable land use for the site;
 - The proposal responds to a demonstrated but unmet need to establish a highway service centre at Chinderah to cater for northbound Pacific Highway traffic; and
 - The proposal is consistent with relevant planning policies/strategies;
- ☐ The planning proposal to amend the applicable planning instrument is properly justified and the development application is appropriate for conditional approval.

KELLIE SHAPLAND
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July 2013