

Draft LEP Amendment No. **12**

Planning Proposal BP Highway Service Centre

Lot 1 DP 1127741 and Lot 2 DP 1010771

Pacific Motorway, Chinderah

**Version 3 - Final**

August 2015

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## Introduction

### Purpose

The Tweed Shire Council (TSC) received a request for a Planning Proposal from BP Australia Limited for the purposes of affecting an amendment to the Tweed Local Environmental Plan 2014 to facilitate expansion of the highway service centre located at Pacific Motorway (Ozone Street) in Chinderah.

Tweed Shire Council's Planning Committee resolved on 5 March 2015 as follows:

- 1. A planning proposal, pursuant to s.55 of the *Environmental Planning and Assessment Act 1979*, to facilitate redevelopment and expansion of the highway service centre on Lot 1 DP 1127741 and Lot 2 DP 1010771 be prepared and submitted for a Gateway Determination, as administered by the NSW Department of Planning & Environment.**
- 2. The Minister for Planning or their Delegate be advised that Tweed Council is not seeking plan making delegations for the planning proposal.**
- 3. The Minister for Planning or their Delegate be requested that the minimum exhibition period for joint exhibition of the Planning Proposal and corresponding Development Application (DA10/0737) should be for a period not less than 28 days and should be concurrent.**
- 4. On receipt of the Minister's Gateway Determination Notice to proceed any 'conditional' requirements of the Minister and any other study or work required by Council for the purpose of making a proper determination of the lands suitability are to be completed, and included within the public exhibition material.**
- 5. Following public exhibition of the Planning Proposal a report is to be submitted to Council detailing the content of submissions received and any proposed amendment(s).**

## Part 1 Objectives and intended outcomes

### Statement of objectives and intended outcomes

The intent of this planning proposal is to enable redevelopment and expansion of the existing BP highway service centre, located at Pacific Motorway/Tweed Coast Road intersection in Chinderah.

The need for redevelopment and expansion of the highway service centre is related to safety of the traffic on the Pacific Motorway. The existing configuration and size of the refuelling and parking areas for the trucks cause congestions at the entry to the station and on the slip road, which at times extends in to the motorway's lanes. The proposed expansion of the highway service centre is expected to mitigate this hazard as it will result in development of additional truck refuelling canopies, caravan parking area and new parking for trucks.



Figure 1: BP Highway service centre in Chinderah (Lot 2 DP 1010771) and adjoining site for the proposed redevelopment and expansion (Lot 1 DP 1127441).





*Figure 2: View of the highway service centre, Lot 2 DP 1010771*



*Figure 3: View towards the site proposed for expansion of the highway service centre*

## Property details

The proposal is for Lot 2 DP 1010771, being the site of the existing highway service centre located at the southbound lane of the Pacific Motorway in Chinderah and Lot 1 DP 1127741, being an undeveloped lot adjoining the BP station to the east. The total area of these two lots is approximately 5.7 hectares.

Lot 2 DP 1010771 is developed with the highway service station, which includes a convenience shop, refuelling bays for both passenger cars and trucks, take-away restaurant, landscape areas and parking sites, separate for staff, customers and bays for heavy trucks. Lot 1 DP 1127741 is currently undeveloped and vegetated with Broad-leaved Paperbark/Swamp She-oak Closed Forest and the Endangered Ecological Community (EEC) Swamp Sclerophyll Floodplain Forest. This EEC comprises 1.32 hectares (or approximately 33%) of the total 4.041 of this lot. The site is sloping to the south and east, with an open drainage channel running generally along the eastern boundary.

The site is located at the intersection of Pacific Motorway, Tweed Coast Road, Chinderah Road and Ozone Street. Access to the site is via an off-ramp from the Pacific Motorway, and the Ozone Street from the south.

As provided under Part 4 (Mapping) of this planning proposal, the Tweed LEP 2014 zoning of Lot 2 DP 1010771 is RU2 Rural Landscape. Lot 1 DP 1127741 is partially zoned RU2 with the remainder deferred from the LEP 2014. This part of the lot, as well as land to the north and east is zoned 7(a) Environmental Protection (Wetlands & Littoral Rainforests) and 1(a) Rural under the Tweed LEP 2000. Land deferred from the LEP 2014 is subject to the Department of Planning and Environment (DPE) review of Environmental Zones in the Far North Coast. Land to the south of the site is zoned IN1 General Industrial.

## Site context and setting

The site is located in distance from larger urban centres, and its primary function is to provide fuel and services to traffic travelling the Pacific Motorway on the southbound lane. Whilst low density residential areas are located approximately 500 metres to the east (residential precinct of Kingscliff) and 300 metres to the west (Chinderah) they are distinctly separated from the highway service centre by the Pacific Motorway and vegetation growing parallel to the open drainage channel. An industrial area is located immediately to the south of the site, adjacent the Pacific Motorway/Tweed Coast Road interchange and accessed from Morton and Ozone Streets.

## Part 2 Explanation of provisions

The proposed outcome will be enabled by the following amendments to the LEP 2014:

- Amendment of the land zoning map applying to Lot 2 DP 1010771 and that part of Lot 1 DP 1127741 that is within the proposed development footprint and currently zoned RU2 Rural Landscape to the IN1 General Industrial zone, in accordance with the proposed Land Zoning map shown at Part 4 Mapping, and
- Amendment to the map pursuant to Clause 2.5 (Additional Permitted Land Uses Map) to identify the location of the highway service centre as item number 11, in accordance with the proposed Additional Permitted Uses map shown at Part 4 Mapping, and



- Amendment to the Lot Size map for Lot 2 DP 1010771 and that part of Lot 1 DP 1127741 proposed to be zoned IN1, as shown at Part 4 Mapping, and
- Inclusion of an additional item in Schedule 1, permitting development of a highway service centre with consent on Lot 2 DP 1010771 and that part of Lot 1 DP 1127741 proposed to be zoned IN1. The proposed wording of the additional item is as follows:

*“11 Use of certain land at Ozone Street and Pacific Motorway at Chinderah:  
 (1) This clause applies to Lot 2 DP 1010771 and part of Lot 1 DP 1127741 located at Ozone Street and Pacific Motorway, Chinderah, shown as “11” on the Additional Permitted Uses Map.  
 (2) Development for the purpose of a highway service centre is permitted with consent.”*

The remainder of Lot 1 DP 1127741, being land located outside of the proposed development footprint is to retain its current zoning: part RU2 Rural Landscape and part Deferred Matter. Land labelled as Deferred Matter is excluded from the Tweed LEP 2014 and subject to the LEP 2000 where it is zoned 1(a) Rural and 7(a) (Wetlands and Littoral Rainforests). This site will retain its status as a Deferred Matter until the completion of the review of environmental zones in the Northern Rivers region, initiated by the (then) Department of Planning & Infrastructure in 2012.

## Part 3 Justification

### Section A Need for the planning proposal

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

The planning proposal is not a direct result of any strategic study or report. The need for highway service centres servicing traffic travelling along the Pacific Motorway is identified under the *Far North Coast Regional Strategy 2006-2031*. Part 9 of this Strategy (p. 37) contains the following provisions regarding the preferred location of this type of development:

*Highway service centres may be located beside the Pacific Highway at Chinderah and Ballina.*

Consistency of this planning proposal with the provisions of the *NSW Far North Coast Regional Strategy* has been considered and is provided under Section B-3 below.

The need for a highway service centre is also identified under *Direction 5.4 of the Section 117 Directions: Commercial and Retail Development along the Pacific Highway, North Coast*. Table 1 of this Direction recognises Chinderah Bay Road interchange (southbound) as the preferred location of the highway service centre. Compliance of this proposal with the Ministerial Directions is demonstrated under section B-4 below.

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

It is considered that the proposed LEP amendment is the most appropriate method to enable the expansion of the highway service centre. To ensure that this occurs in a timely fashion the gateway process is the most appropriate planning mechanism.

### **Section B Relationship to 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)?**

Tweed local government area is subject to the provisions of the *NSW Far North Coast Regional Strategy (FNCRS) 2006-2031*. Assessment of this planning proposal against the provisions of the FNCRS resulted in the following outcomes:

The planning proposal seeks to respond to the regional challenges identified within the NSW FNCRS by providing additional employment land, which is well-located to national highway infrastructure, buffered from the potential conflicts of residential development and seeks to improve the efficiency of the existing highway service centre and industrial node.

Currently containing approximately 28.5 ha of industrial-zoned land as well as the existing highway service centre, the West Kingscliff industrial node is ideally placed at the intersection of the Pacific Highway, the Tweed Coast Road and adjacent the planned West Kingscliff growth footprint. Whilst the Pacific Highway is unlikely to undergo further expansion, Tweed Coast Road is planned to be expanded to 4-lanes and Kingscliff's population likely to increase to the upper limit of a Coastal Town, to close to, or to, a Coastal City scale (as defined within the Coastal Design Guidelines). The expansion of this employment node to the north-east seeks to unlock land to increase the efficiency and safety of the highway service centre, whilst the adjoining bushland and EEC (proposed environmental protection areas) provide a logical footprint boundary. Expansion of this industrial node provides a contribution towards the 32,500 jobs required for the region, within an accessible location, whilst ensuring the scale and character of the nearby Kingscliff and Chinderah localities is not adversely affected.

The specific provisions seek to realign the boundary of environmental protection on the site to accurately reflect the location of Endangered Ecological Communities and enable unconstrained land to be utilised. In addition to protecting existing environmental qualities, the development application accompanying the planning proposal seeks environmental enhancement through a habitat embellishment and management plan. The development application also provides a land use that will not conflict with natural hazards of the locality, specifically flood liable and bushfire prone land.

Review of the Town and Village Growth Boundary Map indicates that the subject site is immediately north of the boundary, placing it within the Coastal zone. Acknowledging the scale of the Town and Village Growth Boundary Map, it appears that the boundary is Ozone Street, land to the South being within the footprint and land to the North outside. In this regard, the planning proposal is accompanied by environmental analysis, which identifies the location of sensitive communities and seeks their protection, including buffers and rehabilitation works. Likewise, the proposal does not propose housing, nor is the proposed development compatible with invigorating non-coastal centres. As discussed previously, the

planning proposal supports the existing highway service centre and industrial node, whilst retaining the interurban break to the north and east. The specific development application seeks improvements to the safety and efficiency of the Pacific Highway.

In light of the above, the planning proposal is in-keeping with the intent of the Town and Village Growth Boundary and is considered to validate the specific physical boundary through site specific analysis.

**2 Is the planning proposal consistent with the local Council’s Community Strategic Plan, or other local strategic plan?**

Council has recently adopted a 10 year *Community Strategic Plan 2013/2023*. The plan is based on four key themes being Civic Leadership, Supporting Community Life, Strengthening the Economy, and Caring for the Environment. The planning proposal is generally consistent with the following relevant Objectives:

<p>Objective 1.5 Manage and plan for a balance between population growth, urban development and environmental protection and the retention of economically viable agricultural land</p>	<p>The planning proposal balances the proposed development and needs of the natural environment by limiting the extent of the proposed industrial zone strictly within the development footprint established with consideration to the extent of the adjoining EEC. Land outside of the development footprint is identified for an environmental zone, pending outcomes of the ongoing review of environmental zones. In addition, the site will be subject to the offset vegetation rehabilitation plan.</p>
<p>Objective 2.4 An integrated transport system that services local and regional needs.</p>	<p>The expansion of the service centre will improve road safety for south bound traffic by providing a safe place to stop and rest, particularly for heavy vehicles.</p>
<p>Objective 3.4 Provide land and infrastructure to underpin economic development and employment.</p>	<p>The service centre is a specialised land use that can only be located in a small number of places. Expansion of the existing site is critical to ensure safety of traffic and long-term viability of the highway service centre.</p>
<p>Objective 4.1 Protect the environment and natural beauty of the Tweed.</p>	<p>The service centre will not result in the loss of any significant habitat. It will not impact excessively on the scenic qualities of the area in the context of the existing interchange and adjacent industrial development. The development application accompanying the planning proposal will seek environmental enhancement through a habitat embellishment and management plan.</p>

### 3 Is the planning proposal consistent with the applicable State Environmental Planning Policies (SEPPs)?

State Environmental Planning Policy	Comments / Assessment
<p><b>State Environmental Planning Policy No. 44 – Koala Habitat</b></p>	<p>The eastern portion of Lot 1 DP 1127741 has been mapped as Secondary Koala Habitat. This section of land is outside of the development footprint and will be subject to the offset management plan aiming to improve ecological status of the land.</p> <p>The remainder of Lot 1 DP 1127741, subject to this planning proposal is not mapped as a koala habitat or corridor and is not subject to provisions of SEPP 44.</p>
<p><b>State Environmental Planning Policy No. 55 – Remediation of Land</b></p>	<p>According to the ecological study lodged in relation to this planning proposal, the subject land had been cleared in 1960's and 1970's, and a large portion of regrowth vegetation cleared again in 2001. There is no information about the use of the subject site for agriculture, and no other history of known contaminating uses on the site. As the purpose of the rezoning does not include any of the land uses listed under clause 6 of the SEPP (residential, educational, recreational or child care) the land has been considered as suitable for all the purposes for which land in the zone concerned is permitted to be used.</p>
<p><b>State Environmental Planning Policy No. 64 - Advertising and Signage</b></p>	<p>The development includes signs as per the meaning of 'advertisements' for the purpose of SEPP 64. Clause 13 provides that advertisements should be consistent with the objectives of the SEPP and the criteria provided under Schedule 1. This consistency should be subject to detailed assessment during the development assessment stage.</p> <p>Clause 15 requires a DCP in force prepared on the basis of an advertising design analysis for advertisements on rural or non-urban land. In case no such DCP is in force, the advertisement needs to relate to the land on which it is to be displayed, or to premises situated on that land or adjacent land.</p> <p>The planning proposal is consistent with the SEPP and specific matters may be addressed as part of the development assessment.</p>



State Environmental Planning Policy	Comments / Assessment
<p><b>State Environmental Planning Policy No. 71 – Coastal Protection</b></p>	<p>The subject land is less than 1km from the tidal part of the Tweed River and is within the coastal zone identified in this SEPP. In preparing the planning proposal Council must consider a range of matters identified in clause 8 of the SEPP. A brief response to those is as follows:</p> <p>The planning proposal will not affect public access to the Tweed River foreshore or generate the need to provide new access; the use is suited to its locality given adjoining industrial uses and the Pacific Motorway; the proposal will not affect the scenic amenity of the Tweed River foreshore or cause overshadowing or major view impacts; the proposal will not affect threatened species or wildlife corridors; the use will not be affected by coastal processes; the proposal will not cause conflict with water or land based activities; and is compatible with its neighbouring land uses; the proposal will not cause impacts on waterbodies such as the Tweed River as long as appropriate on site wastewater disposal is implemented and storm water controls are implemented through the DA process; and will not impact on cultural heritage of significance as the cultural heritage due diligence assessment found that there is no heritage constraint on the site of the service centre. Notwithstanding, the report recommends proceedings with caution and includes recommendations in the event cultural heritage is revealed. The planning proposal is consistent with the SEPP.</p>
<p><b>State Environmental Planning Policy (Infrastructure) 2007</b></p>	<p>Under Clause 104 (Traffic Generating Development) in Division 17, a future development application would have to be referred to RMS prior to the determination of the application because it would meet the definition of a service station with frontage to a classified road. RMS was consulted during the public exhibition stage and no objections were lodged in relation to the proposed development. The planning proposal is not inconsistent with the SEPP.</p>
<p><b>State Environmental Planning Policy (Rural Lands) 2008</b></p>	<p>The planning proposal is consistent with the Rural Planning Principles in clause 7 of the Rural Lands SEPP because the proposed use is of wide benefit to the Tweed LGA and the safety of traffic on Pacific Motorway and does not reduce the current and potential productive and sustainable economic activities in rural areas.</p> <p>The planning proposal is consistent with the SEPP.</p>
<p><b>State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007</b></p>	<p>Nothing in this planning proposal will alter the permissibility of mining or extractive industries on the subject land. The Rural zone will remain in place under Tweed LEP 2014. <i>Mining and extractive industries</i> are a permitted use under the IN1 General Industrial zone.</p> <p>The planning proposal is consistent with the SEPP.</p>

#### 4 Is the planning proposal consistent with applicable Ministerial Directions (s117 Directions)?

The Planning proposal is consistent with the Ministerial s117 Directions, as outlined in the following table.

*The consistency with the s117 Directions is assessed in the following table 4.*

*Table 4- Consistency with s117(2) Directions*

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
<b>1. Employment and Resources</b>			
1.1 Business and Industrial Zones	The objectives of this direction are to encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.	This proposal affects land within existing industrial zone by including highway service centre as an additional permitted land use on the subject site.	Consistent.
1.2 Rural Zones	<p><u>Objectives:</u> The objective of this direction is to protect the agricultural production value of rural land.</p> <p><u>Application:</u> Clause 4(a) of this direction is applicable to this planning proposal.</p>	This proposal aims to change rural zoning of the site to IN1 General Industrial zone.	Justifiably inconsistent. Although the site is zoned with a rural zone, Lot 2 DP 1010771 is fully developed with a highway service centre. Lot 1 DP 1127741 is entirely covered with vegetation. The two lots are disconnected from rural parts of the Shire and have not been used for agriculture in recent years. Whilst the proposal aims to rezone rural land with an industrial zone, it is of

Table 4- Consistency with s117(2) Directions

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
			minor significance and meets Objective (5) (d) of this direction.
1.3 Mining, Petroleum Production and Extractive Industries	The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development. This direction applies to all relevant planning authorities.	Nothing in this planning proposal will prohibit or restrict exploration or mining. The site is a small area adjacent to major public infrastructure (Pacific Motorway) and is not likely to be suitable for mining or extractive industries.	Consistent.
1.4 Oyster Aquaculture	<p><u>Objectives:</u> To ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal, and to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.</p> <p><u>Application:</u> This direction applies to Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area as identified in the NSW Oyster Industry Sustainable Aquaculture Strategy (2006).</p>	This planning proposal does not impact on a Priority Oyster Aquaculture Area.	Consistent.
1.5 Rural Lands	<p><u>Objectives:</u> To protect the agricultural production value of rural land and to facilitate the orderly and economic development of rural lands for rural and related purposes.</p> <p><u>Application:</u> This direction applies to all planning proposals to which State Environmental Planning Policy (Rural Lands) 2008</p>	This proposal aims to change rural zoning of the site to IN1 General Industrial zone.	Justifiably inconsistent. The two lots are disconnected from rural parts of the Shire and have not been used for agriculture in recent years.

*Table 4- Consistency with s117(2) Directions*

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	applies, including Tweed Shire.		In the wider context of rural land in the Tweed, this rezoning is considered a minor matter as provided under clause 6(b) of this Direction.
<b>2. Environment and Heritage</b>			
2.1 Environment Protection Zones	<p><u>Objective:</u> The objective of this direction is to protect and conserve environmentally sensitive areas.</p> <p><u>Application:</u> This direction applies to all relevant planning authorities.</p>	<p>The planning proposal does not alter or include any environmental zoned land. Expansion of the existing highway service centre on Lot 1 DP 1127741 has been designed with consideration to the extent of the adjoining EEC Lowland Rainforest on Floodplain and/or Swamp Sclerophyll Floodplain Forest. This EEC comprises 1.32 hectares (or approximately 33%) of the total 4.041 of this lot. Appropriate buffers to sensitive areas along the eastern edge will be applied within future development of the site, consistent with the Tweed DCPs.</p>	<p>Consistent. Council requires the preparation of the offset management plan to rehabilitate vegetation on Lot 1 DP 1127741, outside of the development footprint. Offsetting will be required to be undertaken as a development consent condition through the preparation of an offset management plan.</p>
2.2 Coastal Protection	<p><u>Objective:</u> The objective of this direction is to implement the principles in the NSW Coastal Policy.</p> <p><u>Application:</u></p>	<p>This proposal is located within the coastal zone. However it will not affect public access to the Tweed River foreshore or generate the</p>	<p>Consistent.</p>



*Table 4- Consistency with s117(2) Directions*

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>This direction applies to the coastal zone, as defined in the Coastal Protection Act 1979.</p>	<p>need to provide new access; the use is suited to its locality given surrounding land use and proximity to the Pacific Motorway; the proposal will not affect the scenic amenity of the Tweed River foreshore or cause overshadowing or major view impacts; the proposal will not affect threatened species or wildlife corridors; the site will not be affected by coastal processes (it is to be filled above the design flood level as necessary); the proposal will not cause conflicts with water or land based activities and is compatible with its neighbouring land uses (crematorium and agriculture);the proposal will not cause impacts on waterbodies such as the Tweed River as long as appropriate on site wastewater disposal is implemented and storm water controls are implemented through the DA process; and will not impact on cultural heritage of significance as the cultural heritage due diligence assessment found that there is no heritage constraint on the site of the service centre.</p>	
2.3 Heritage	<u>Objective:</u>	The site contains no identified	Consistent

*Table 4- Consistency with s117(2) Directions*

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
Conservation	<p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p><u>Application:</u> This direction applies to all relevant planning authorities.</p>	<p>heritage items under the current LEP.</p> <p>The proposal is supported by a Cultural Heritage Due Diligence report prepared in 2010, which indicates that no relics or artefacts were found at the site inspection and no heritage constraint is anticipated. As the heritage legislation in New South Wales changed since 2010, the Applicant engaged the author of the report to prepare a new study, compatible with the new legislation. This study will be prepared prior to the public exhibition.</p>	
2.4 Recreation Vehicle Areas	<p><u>Objective:</u> To protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.</p> <p>This direction applies to all relevant planning authorities.</p>	Not applicable	N/A
<b>3. Housing, Infrastructure and Urban Development</b>			

*Table 4- Consistency with s117(2) Directions*

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
3.1 Residential Zones	<p><u>Objective:</u> To encourage a variety and choice of housing types, to make efficient use of existing infrastructure and services and to minimise the impact of residential development on the environment and resource lands. This direction applies to all relevant planning authorities.</p>	Not applicable	N/A
3.2 Caravan Parks and Manufactured Home Estates	<p><u>Objective:</u> To provide for a variety of housing types, and to provide opportunities for caravan parks and manufactured home estates. This direction applies to all relevant planning authorities.</p>	Not applicable	N/A
3.3 Home Occupations	<p><u>Objective:</u> To encourage the carrying out of low-impact small businesses in dwelling houses. This direction applies to all relevant planning authorities.</p>	Not applicable	N/A
3.4 Integrating Land Use and Transport	<p><u>Objective:</u> To ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight. <u>Application:</u></p>	<p>The planning proposal is not in itself a traffic generating development and will not result in increased resident population. Rather it will tap into existing passing traffic requiring fuel, food or a rest stop. It may become a stopover point for bus services that are southbound, but that is not certain. Adequate transport services exist within the locality. In particular, Murwillumbah and Tweed Heads provide a wide range of public</p>	Consistent.

*Table 4- Consistency with s117(2) Directions*

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	All relevant planning authorities.	transport services.	
3.5 Development Near Licensed Aerodrome	<p><u>Objectives:</u> To enable effective and safe operation of aerodromes and to development within the Australian Noise Exposure Forecast. This direction applies to all relevant planning authorities.</p>	Not applicable	N/A
3.6 Shooting Ranges	<p><u>Objectives:</u> To maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, to reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land and to identify issues that must be addressed when rezoning land adjacent to an existing shooting range.</p> <p><u>Application:</u> This direction applies to all relevant planning authorities.</p>	Not applicable	N/A
<b>4. Hazard and Risk</b>			
4.1 Acid Sulfate Soils	<p><u>Objective:</u> The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p> <p><u>Application:</u> This direction applies to all relevant planning authorities that are responsible for land having a probability of containing acid sulfate soils, as shown on Acid Sulfate Soils Planning Maps held by the Department of Planning.</p>	The site is mapped as classed as High probability on Council's mapping. Notwithstanding, management of the Acid Sulfate Soils will be dealt with at the development assessment stage on the basis of clause 7.1.	Consistent
4.2 Mine Subsidence and Unstable Land	<p><u>Objective:</u></p>	Not applicable	N/A



Table 4- Consistency with s117(2) Directions

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.</p> <p><u>Application:</u> This direction applies to land that: is within a Mine Subsidence District proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961, or has been identified as unstable land.</p>		
4.3 Flood Prone Land	<p>The objectives of this direction are: (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</p>	Applicable as the site is mapped as a flood planning area.	The flood study prepared in relation to this planning proposal demonstrates compliance with Council's floodplain risk management plan. Justifiably inconsistent and of minor significance and meets Objective (5) (d)
4.4 Planning for Bushfire Protection	<p><u>Objectives:</u> (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) to encourage sound management of bush fire prone areas. Where this direction applies</p> <p><u>Application:</u> All local government areas in which the responsible Council is required to prepare a bush fire prone land map under section 146 of the Environmental Planning and Assessment Act 1979 (the EP&amp;A Act), or, until such a map has been certified by the Commissioner of the NSW Rural Fire</p>	The site contains a bushfire buffer and Vegetation Category 1. The bushfire study finds that future development may be managed appropriately and APZs provided. This will be subject to additional assessment at the future DA stage.	The proposal was consulted with the NSW RFS during the public exhibition stage, no objections were received.

*Table 4- Consistency with s117(2) Directions*

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	Service, a map referred to in Schedule 6 of that Act.		
<b>5. Regional Planning</b>			
5.1 Implementation of Regional Strategies	<p><u>Objective:</u> To give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies. This direction applies to land to which the regional strategies, including the Far North Coast Regional Strategy, apply.</p>	<p>The planning proposal seeks to respond to the regional challenges identified within the NSW FNCRS by providing additional employment land, which is well-located adjacent to national highway infrastructure, buffered from the potential conflicts of residential development and seeks to improve the efficiency of the existing highway service centre and industrial node. As outlined under Section B point 1 above, review of the Town and Village Growth Boundary Map indicates that the subject site is immediately north of the boundary, placing it within the Coastal zone.</p>	<p>The proposal is not within the Town and Village Growth Boundary Map. This inconsistency is considered to be of minor significance, considering the scope of the proposed development, which is limited to carpark for heavy vehicles and will include vegetation management plan for the remainder of the lot. The locality is also identified for a highway service centre in the S117 Direction 5.4.</p>
5.2 Sydney Drinking Water Catchments	<p><u>Objective:</u> To protect water quality in the Sydney drinking water catchment.</p>	Not applicable	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	<p><u>Objective:</u> To ensure that the best agricultural land will be available for current and future generations, to provide more certainty on the status of the best agricultural land, and to reduce land use conflicts. This direction applies to the Tweed Shire Council area.</p>	Not applicable	N/A

*Table 4- Consistency with s117(2) Directions*

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	<p><u>Objective:</u> To manage commercial and retail development along the Pacific Highway.</p> <p><u>Application:</u> areas on the North Coast that the Pacific Highway traverses, including Tweed Shire Council.</p>	<p>This proposal will amend Schedule 1 to LEP 2014 to permit a highway service centre as an additional use in location as described in this Direction.</p> <p>The proposal is consistent with the localities provided in table 1 for Chinderah, being Chinderah Bay Road for southbound traffic and consolidates the highway service centre uses in a single southbound location.</p>	Consistent
5.8 Second Sydney Airport: Badgerys Creek	<p><u>Objective:</u> This direction is to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek.</p>	Not applicable	N/A
5.9 North West Rail Link Corridor Strategy	<p><u>Objective:</u> To promote transit-oriented development and manage growth around train stations and to ensure development is consistent with the Corridor Strategy and precinct Structure Plans.</p>	Not applicable	N/A
<b>6. Local Plan Making</b>			
6.1 Approval and Referral Requirements	<p><u>Objective:</u> To ensure that LEP provisions encourage the efficient and appropriate assessment of development. This direction applies to all relevant planning authorities.</p>	The planning proposal will not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.	Consistent

*Table 4- Consistency with s117(2) Directions*

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
6.2 Reserving Land for Public Purposes	<p><u>Objective:</u> To facilitate the provision of public services and facilities by reserving land for public purposes, and to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition. This direction applies to all relevant planning authorities.</p>	Not applicable	N/A
6.3 Site Specific Provisions	<p><u>Objective:</u> To discourage unnecessarily restrictive site specific planning controls. This direction applies to all relevant planning authorities.</p>	<p>The planning proposal seeks to zone the land appropriate to the land uses proposed. The planning proposal does not contain schematic drawings.</p>	Consistent
<b>7. Metropolitan Planning</b>			
7.1 The Metropolitan Strategy	This direction applies to Sydney metropolitan councils only.	Not applicable	N/A



## Section C Environmental, Social and 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?

The site was cleared in the past and the vegetation on land proposed for the development of a car park forms a relatively young habitat, not considered to be of important ecological significance. Access to the proposed car park will be provided through a relatively narrow patch of Coastal Brush Box Open Forest and will involve a small extent of vegetation clearing. To compensate this loss of vegetation, Council will require an offset vegetation rehabilitation plan for the remainder of Lot 1 DP 1127741, which eastern portion is mapped as a koala habitat. It is considered unlikely that the planning proposal, as outlined, will negatively impact on critical habitat or threatened species.

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

#### Flooding

According to the Hydraulic Investigation study prepared by Cardno in July 2010, filling of the development site will be required to ensure the truck parking area is flood free to the local Q<sub>100</sub> flood level. According to this study, as there is enough freeboard to existing dwellings and the Pacific Motorway there are no adverse impacts anticipated by this proposed truck parking area. Council has requested that the Hydraulic Investigation study be updated to enable assessment of the revised development footprint against recently updated (in 2014) flood planning maps. The updated study was placed on public exhibition.

#### Bushfire

A Bushfire Risk Management Plan (BushfireSafe, 2010) prepared for this planning proposal concluded that the proposed development will comply with the minimum requirements for:

1. Asset protection zones detailed in Table A2.5 Minimum Specifications for Asset Protection Zones for Residential and Rural Residential Subdivision Purposes (for class 1 & 2 buildings) in FDI 80 Fire Areas in the Planning for Bushfire Protection manual (RFS, 2006), and
2. Access in accordance with section 4.1.3-2 (Property Access) in the Planning for Bushfire Protection manual (RFS, 2006).

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

#### Cultural Heritage

A Due Diligence Assessment was prepared by Ian Fox & Associates in April 2015. This Assessment concluded that no areas or objects of Aboriginal cultural heritage significance were identified within the proposed expansion of the highway service centre. As such, the development as proposed may proceed with due caution. The study, in accordance with the Due Diligence Code, concluded that a more detailed survey or impact assessment is not

required. There is also no need to apply for an Aboriginal Heritage Impact Permit (AHIP). Three precautionary recommendations are made in the Assessment to ensure that BP Australia Pty Ltd continues to meet its legal obligations with respect to Aboriginal cultural heritage for this proposed Service Centre expansion project:

- Monitoring During Ground Disturbance,
- Procedure for Incidental Finds,
- Submission of the Assessment to the Office of Environment and Heritage.

## **Noise**

The noise impact assessment had been prepared by the applicant on Council's request, and was assessed as part of the preliminary review of the development proposal carried out in 2012. The study was placed on public exhibition along with other supplementary studies received by Council so far, as the potential noise impact of heavy trucks has been concerning the local community. The impact of noise on adjoining land is not considered to critically impact on the planning proposal, and ultimately development of the subject site.

## **Section D State and Commonwealth interests**

### **1 Is there adequate public infrastructure for the planning proposal?**

On balance the issues relating to infrastructure all require additional work to resolve to the level of detail required for a successful DA, but are plausible in terms of this strategic planning proposal stage. Preliminary assessment of studies outlining the details of the proposed development did not identify a need for additional infrastructure required for this development: the proposed scope of work is of a minor nature and is not expected to increase demand on infrastructure.

### **2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

The Gateway determination, issued on 30 March 2015, included a requirement to consult with the following public authorities, under section 56(2)(d) of the Environmental Planning & Assessment Act 1979:

- NSW Office of Environment and Heritage,
- NSW Roads and Maritime Services,
- NSW Rural Fire Service,
- Local Aboriginal Land Council

Digital copies of the planning proposal and associated studies were sent to these agencies on 23 June 2015 and the following responses were received:

- NSW Roads and Maritime Services, in their response of 7 July 2015 supported the proposed development and provided comments in relation to additional signage and line marking, which have been evaluated and responded to as part of the DA component of the joint application,
- NSW Rural Fire Services, in their response of 29 July 2015 raised no objections to the planning proposal and provided advice with respect to the development application regarding provision and maintenance of asset protection zones,
- NSW Office of Environment and Heritage, in their response of 5 August 2015, made the following comments:

- It is recommended that prior to finalising the Planning Proposal a program of test excavation be carried out within the project area to determine whether Aboriginal objects are present,
- If the outcome of the E-zones review is to deny the ability to rezone areas of the site for environment protection purposes, OEH recommends that another suitable zone should be applied and that this land is dedicated to Council in accordance with a voluntary planning agreement for management in perpetuity,
- The preparation of a detailed Ecological Assessment is required to enable adequate assessment of the biodiversity impact and offset proposal. OEH recommends BioBanking or offset in accordance with *OEH Principles for the use of biodiversity offsets in NSW*,
- Vegetation communities should be mapped on site, particularly in relation to the EEC. The extent of the area containing the EEC Swamp Sclerophyll Floodplain Forest should be verified on ground by a suitably qualified person. Any land containing EEC Swamp Sclerophyll Floodplain Forest should be zoned E2,
- OEH is unable to provide comments in relation to the presence of Acid Sulphate Soils on the subject site as adequate study has not been provided

These comments were evaluated and responded to in Council report of 3 September 2015. No response was received from Local Aboriginal Land Council.

# Part 4 Mapping

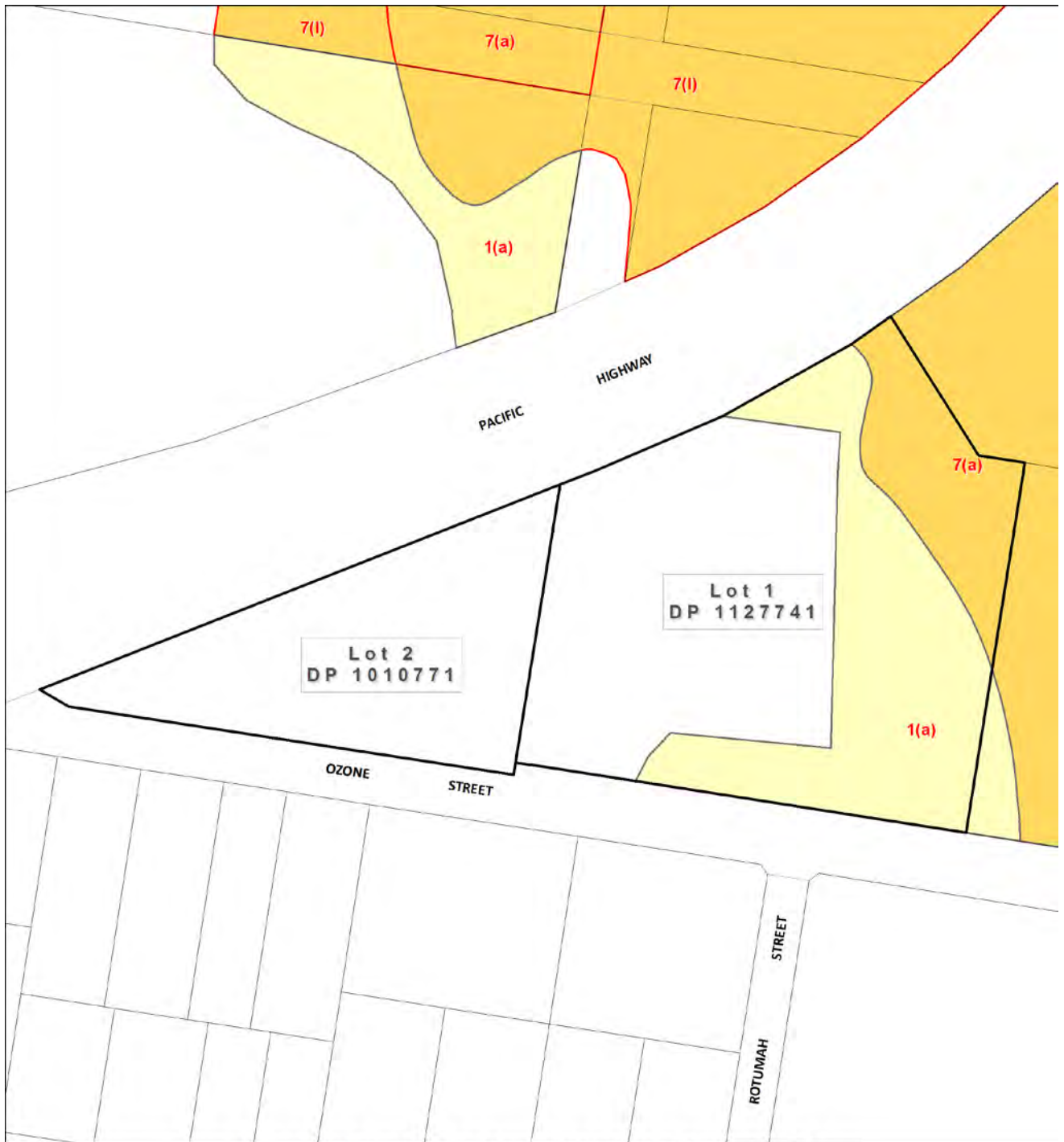


## Locality Plan

Planning Proposal -- PP15/0001 BP Chinderah Highway Service Centre  
 Lot 1 DP 1127741 and part of Lot 2 DP 1010771; 1 Ozone Street, Chinderah

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**Tweed Local Environmental Plan 2000**  
 Planning Proposal -- PP15/0001 BP Chinderah Highway Service Centre  
 Lot 1 DP 1127741 and part of Lot 2 DP 1010771; 1 Ozone Street, Chinderah

**Tweed Local Environmental Plan 2000**

**LAND ZONING**

- 1(a). RURAL
- 1(b1). AGRICULTURAL PROTECTION
- 1(b2). AGRICULTURAL PROTECTION
- 1(c). RURAL LIVING
- 2(a). LOW DENSITY RESIDENTIAL
- 2(b). MEDIUM DENSITY RESIDENTIAL
- 2(c). URBAN EXPANSION
- 2(d). VILLAGE
- 2(e). RESIDENTIAL TOURIST
- 2(f). TOURISM
- 4(a). INDUSTRIAL
- 5(a). SPECIAL USES
- 6(a). OPEN SPACE
- 6(b). RECREATION
- 7(a). ENVIRONMENTAL PROTECTION (Wetlands & Littoral Rainforests)
- 7(d). ENVIRONMENTAL PROTECTION (Scenic / Escarpment)
- 7(f). ENVIRONMENTAL PROTECTION (Coastal Lands)
- 7(l). ENVIRONMENTAL PROTECTION (Habitat)
- 8(a). NATIONAL PARKS & NATURE RESERVES
- UNZ. UNZONED LAND
- defer. DEFERRED

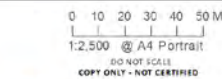
**Tweed Local Environmental Plan 2000**

**ADDITIONAL CONTROLS**

- Clause 37 (Transmission Line Corridor)
- Clause 38 (Future Roads)
- Clause 52 (Existing and Future Dam Areas)
- Clause 52 (Minimum Lot Sizes)
- Clause 52 (Stormwater and Fill)
- Clause 53 (Schedule 3 Item)
- Clause 52 (Pottsville)

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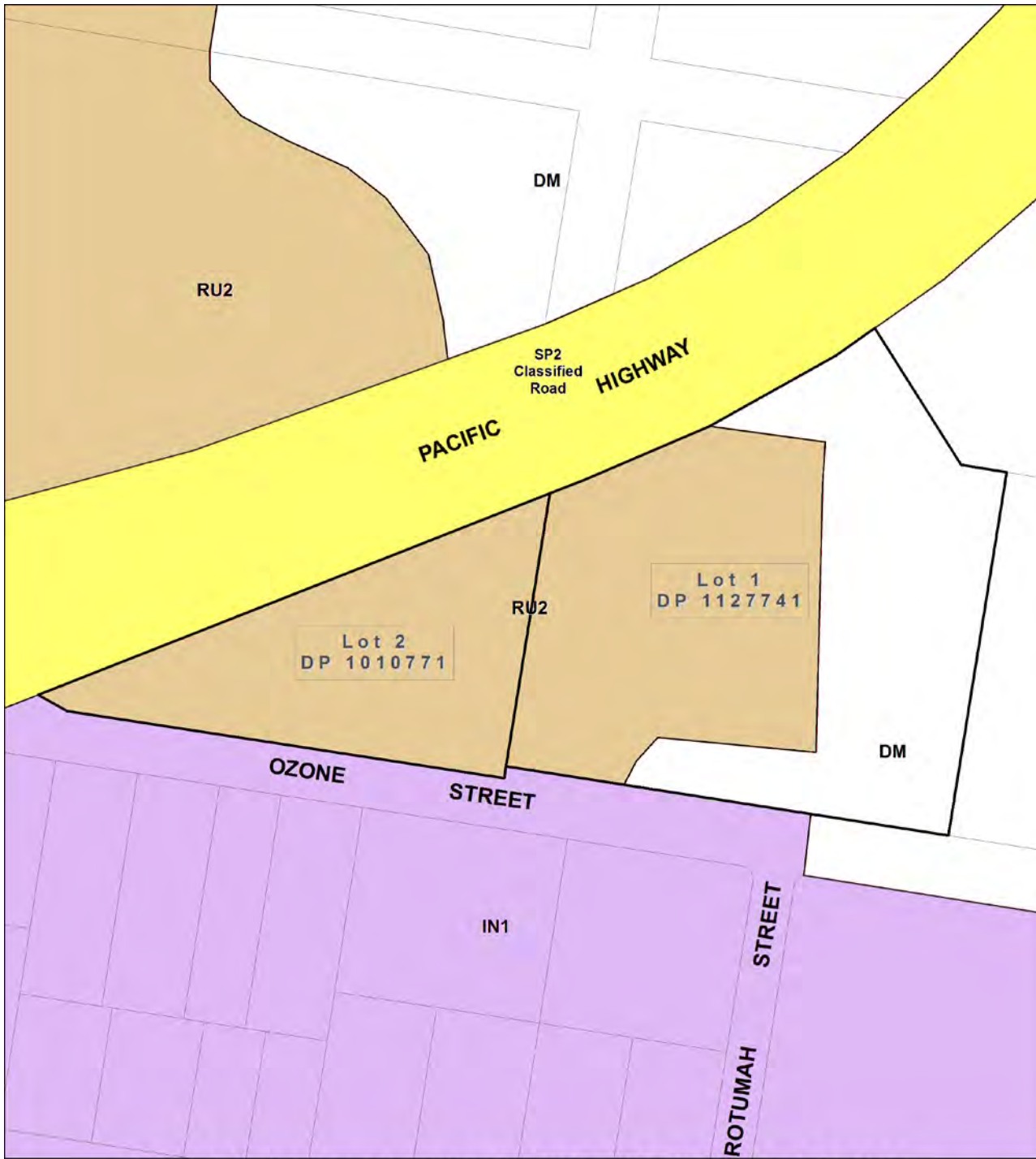
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### Tweed Local Environmental Plan 2014 - Land Zoning

Planning Proposal -- PP15/0001 BP Chinderah Highway Service Centre  
 Lot 1 DP 1127741 and part of Lot 2 DP 1010771; 1 Ozone Street, Chinderah

**Tweed Local Environmental Plan 2014**  
**LAND ZONING**

<b>B1</b> Neighbourhood Centre	<b>B5</b> Business Development	<b>R1</b> General Residential	<b>RU1</b> Primary Production	<b>W1</b> Natural Waterways
<b>B2</b> Local Centre	<b>B7</b> Business Park	<b>R2</b> Low Density Residential	<b>RU2</b> Rural Landscape	<b>W2</b> Recreational Waterways
<b>B3</b> Commercial Core	<b>E1</b> National Parks & Nature Reserves	<b>R3</b> Medium Density Residential	<b>RU5</b> Village	<b>W3</b> Working Waterways
<b>B4</b> Mixed Use	<b>IN1</b> General Industrial	<b>R5</b> Large Lot Residential	<b>SP1</b> Special Activities	<b>DM</b> Defered Matter
	<b>IN4</b> Working Waterfront	<b>RE1</b> Public Recreation	<b>SP2</b> Infrastructure	<b>MD</b> SEPP (Major Development) 2005
		<b>RE2</b> Private Recreation	<b>SP3</b> Tourist	<b>TCC</b> Tweed City Centre LEP 2012

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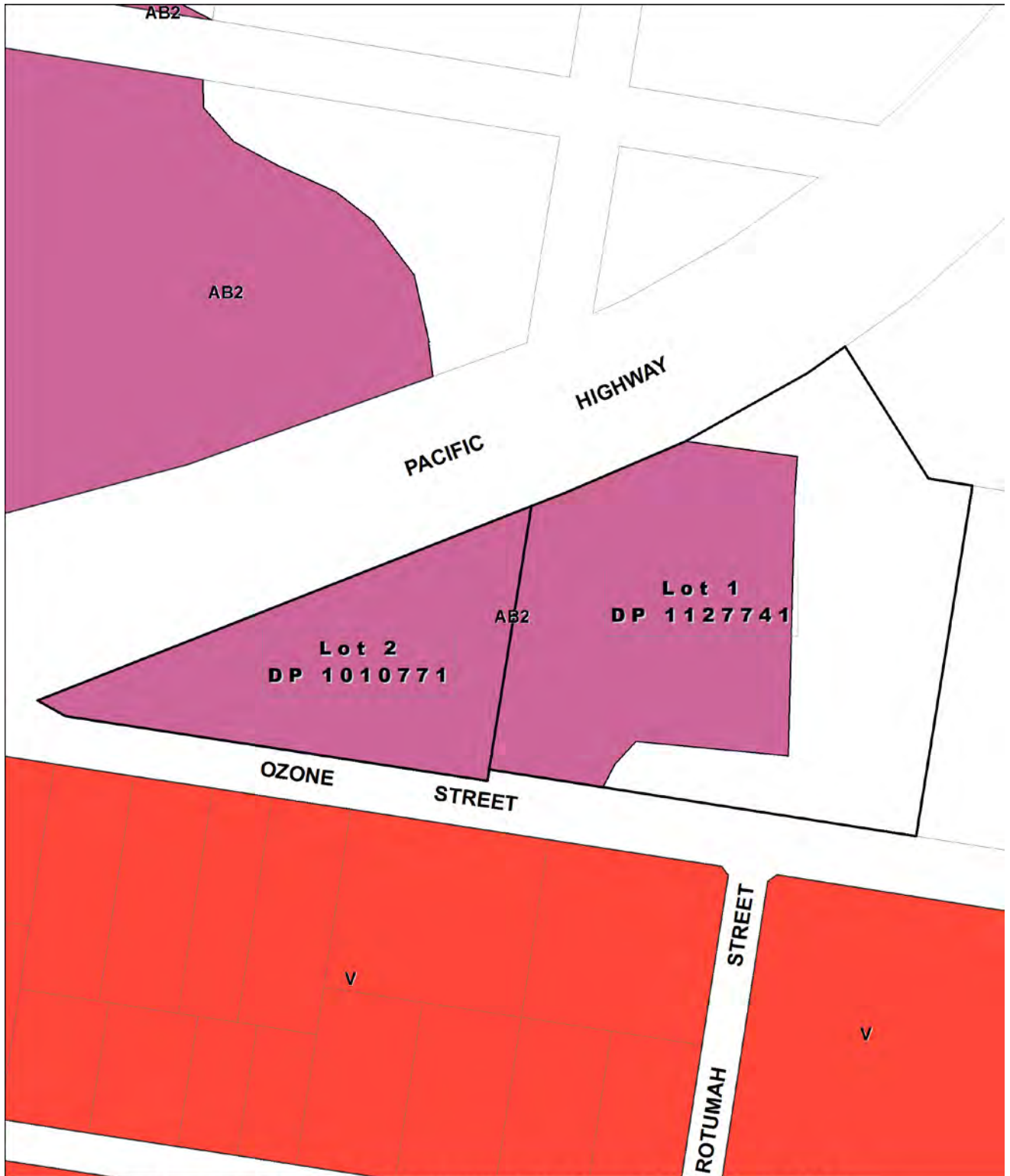
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### Zoning of the site under the Tweed LEP 2014.



### Tweed Local Environmental Plan 2014 - Lot Size

Planning Proposal -- PP15/0001 BP Chinderah Highway Service Centre  
 Lot 1 DP 1127741 and part of Lot 2 DP 1010771; 1 Ozone Street, Chinderah

Tweed Local Environmental Plan 2014  
 Minimum Lot Size (sq m)

**G** 450    **V** 2000    **Y** 1 ha    **Z** 4 ha    **AB1** 10 ha    **AB2** 40 ha

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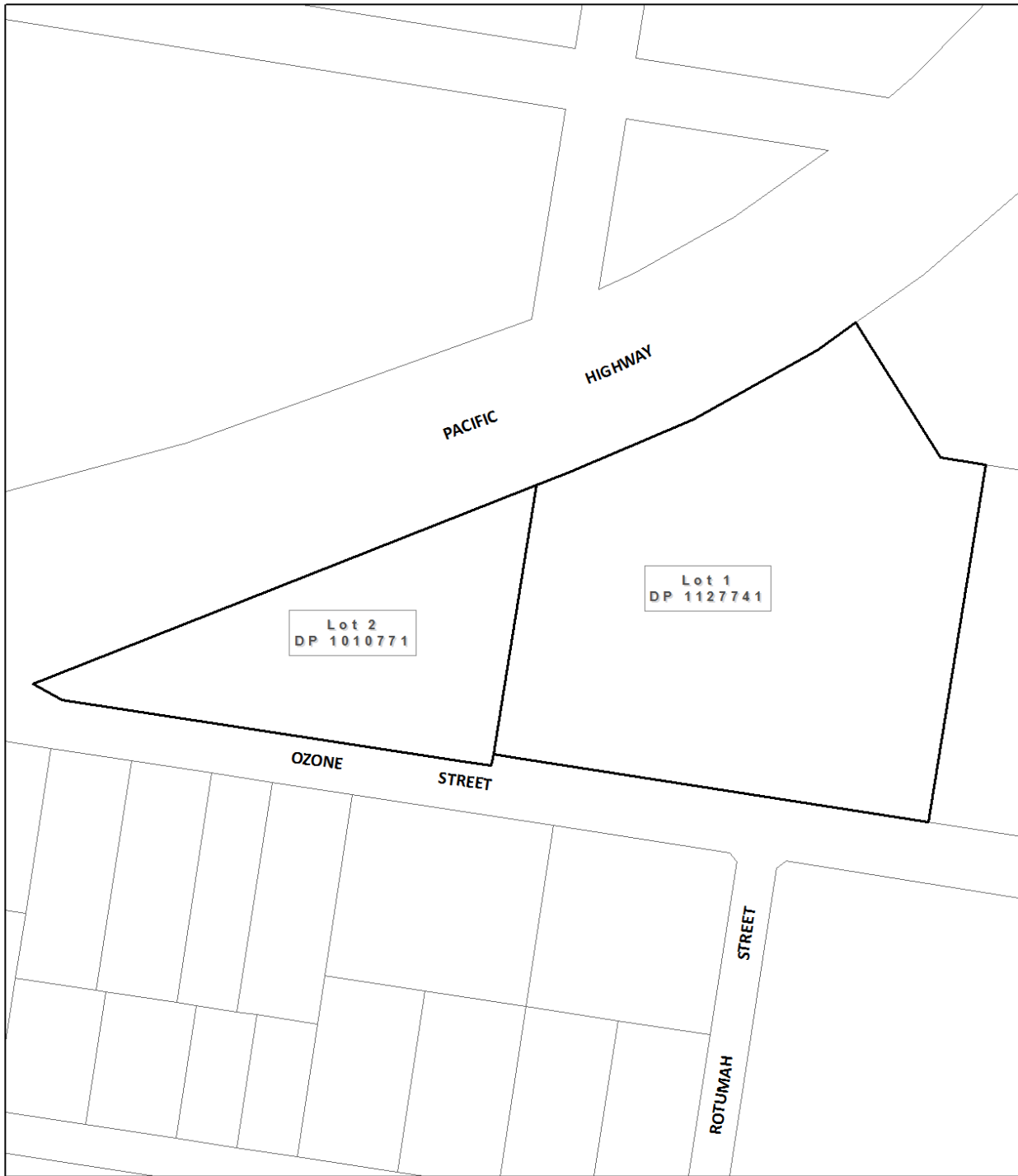
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### CURRENT ADDITIONAL PERMITTED USES

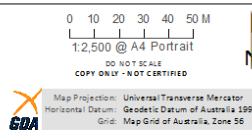
Local Environmental Plan 2014 - Amendment No.12  
 Lot 1 DP 1127741 and part of Lot 2 DP 1010771;  
 No.1 Ozone Street, Chinderah

**Tweed Local Environmental Plan 2014**  
 Additional Permitted Uses

Affected Properties

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**PROPOSED LAND ZONING**  
 Local Environmental Plan 2014 - Amendment No.12  
 Lot 1 DP 1127741 and part of Lot 2 DP 1010771;  
 No.1 Ozone Street, Chinderah

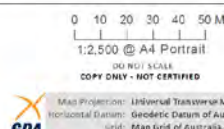
Tweed Local Environmental Plan 2014  
 LAND ZONING

**IN1** General Industrial

Affected Properties

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### PROPOSED LOT SIZE

Local Environmental Plan 2014 - Amendment No.12  
 Lot 1 DP 1127741 and part of Lot 2 DP 1010771;  
 No.1 Ozone Street, Chinderah

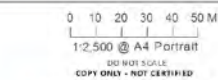
**Tweed Local Environmental Plan 2014**  
 Minimum Lot Size (sq m)

**V** 2000

 Affected Properties

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### PROPOSED ADDITIONAL PERMITTED USES

Local Environmental Plan 2014 - Amendment No.12  
 Lot 1 DP 1127741 and part of Lot 2 DP 1010771;  
 No.1 Ozone Street, Chinderah

Tweed Local Environmental Plan 2014  
 Additional Permitted Uses

- Refer to Schedule 1
- Affected Properties

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## Part 5 Community consultation

The Planning Proposal, DA10/0737 and accompanying studies were placed on exhibition from 24 June to 24 July, satisfying condition of the Gateway determination to make the documentation publicly available for a minimum of 28 days.

In total, four submissions were received from the community, with three of them made with respect of adjoining land: by the owners of the adjoining land, by planning consultant on behalf of these owners, and by solicitors, on behalf of these owners. Key issues raised in these submissions are as follows:

- Objection to the proposed development as the subject site was previously deemed unsuitable for such use in 1996 due to potential impacts on flora and fauna habitat and loss of native vegetation.
- Noise impact assessment report is inadequate as it is based on assumption that the development would not generate additional truck movements into and out of the facility. Also, it does not consider the NSW Road Noise Policy and the impact of the Proposal on sleep disturbance. Measurement of noise to the closest receptors is not accurate as there are other receptors located at Phillip Street which are located in similar proximity, if not closer to the proposed expansion site.
- Lot 1 DP 1127741 contains an easement over its south-east section providing access to adjoining property. Once the adjoining property is developed with a dwelling house, the easement will need to be cleared and paved. As such, this portion of the site can't be subject to offset/revegetation arrangements. Also, further seven part test is required as the outcomes of such test included in the Ecological Assessment of June 2012 have been questioned under the peer review by Cumberland Ecology. Further, the proposal had been amended in line with one of Cumberland Ecology's recommended options but this has not lead to re-evaluation of impacts on traffic, noise etc. All studies accompanying the joint application should be amended and re-exhibited. In assessment of the ecological values of the site, references to regrowth vegetation are inaccurate as some of that vegetation is remnant and of higher ecological value.
- Traffic impact not properly assessed as it suggests that the proposed development will not increase traffic travelling to or from the site.
- Construction Phase impacts: studies accompanying the DA and PP do not adequately address construction phase impacts and proposed mitigation measures.
- Vegetation clearing history provided in the ecological reports is inaccurate and understate the value of the existing vegetation. The proponent should be required to provide an amended 7 Part Test Report and substantial additional offset planting in the locality.

Another submission was lodged by local resident concerned about increase of noise related with truck traffic and exhaust/compression braking.

All above comments were evaluated and responded to in Council report of 3 September 2015.

## Summary and conclusions

The objective and intended outcome of this planning proposal is to enable the expansion of the BP highway service centre located at Pacific Motorway in Chinderah. The preferred method to achieve this will be an amendment to Schedule 1 of LEP 2014 to allow a highway service centre on the subject land and amendment to the Land Zoning Map to zone the site IN1 General Industrial. As part of the development approval, the proponent will be required to undertake an offset vegetation management plan on the remainder of Lot 1 DP 1127741 located outside of the proposed development footprint.

## Part 6 Timeframe and information checklist

The previously submitted for the Gateway Determination, has been updated to reflect a minor delay in the preparation of the updated hydraulic study, required for the public exhibition:

<b>Task</b>	<b>Timeframe</b>	<b>Completed</b>
Referral of the Planning Proposal for Gateway determination	March 2015	
Gateway Determination	March 2015	
Undertake requirements of the Gateway Determination and prepare V2 Planning Proposal	April 2015	
Public exhibition	June/July 2015	
Agency consultation	June/July 2015	
Review submissions, respond and prepare V3 Planning Proposal for Council's consideration	July/August 2015	
Council report to finalise and refer the plan to the DPE to be made	September 2015	
Referral of the Plan to the DPE for making	September 2015	
Plan to be made within 9 months of Gateway	November 2015	

## APPENDICES

Appendix 1	Ecological Assessment December 2013
Appendix 2	Aboriginal Cultural Heritage Due Diligence Assessment 2015
Appendix 3	Bushfire Risk Management Plan
Appendix 4	Ecological Status Review and Options Analysis 2014
Appendix 5	Traffic Impact Assessment 2010
Appendix 6	Hydraulic Investigation 2015
Appendix 7	Council report and resolution of March 2015
Appendix 8	Approved Site Layout
Appendix 9	Noise Assessment 2012





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