

Draft LEP Amendment No. **24**

s.55 planning proposal  
filming

**Version 1 – Gateway Determination**  
**August 2016**

**THIS PAGE IS BLANK**

# Table of Contents



- Part 1 Objectives and intended outcomes ..... 1
- Part 2 Explanation of provisions ..... 1
- Part 3 Justification ..... 2
- Section A Need for the planning proposal..... 2
- Section B Relationship to strategic planning framework ..... 3
- Section C Environmental, Social and Economic Impact..... 18
- Section D State and Commonwealth interests ..... 18
- Part 4 Mapping ..... 18
- Part 5 Community consultation ..... 18
- Summary and conclusions..... 19
- Part 6 Timeframe and information checklist..... 19





## Part 1 Objectives and intended outcomes

This proposal is to amend cl.2.8 of the Tweed Local Environmental Plan 2014 (“the LEP”) to remove the proscriptive maximum period of use for ‘filming’ on rural zoned land, to the effect that it would be the same as currently exists for ‘sales office’ under subclause 2.8(4).

The proposal is to amend subclause 2.8(5) also to enable an assessment of the appropriateness of retaining any building or works associated with the temporary filming use to be assessed with a development application and conditioned accordingly. This will likewise have the effect of applying the same rules to filming on rural zoned land as currently exists for ‘sales office’.

Tweed Shire Council at its Ordinary Meeting of 21 July 2016 resolved:

1. *The Tweed Local Environmental Plan 2014 be amended to permit filming, with development consent, on rural zoned land within the Tweed Shire local government area, and*
2. *A planning proposal be prepared detailing the extent of the required amendment(s) to the Tweed Local Environmental Plan 2014, and*
3. *The planning proposal is to be forwarded to the Department of Planning and Environment for a Gateway determination at the earliest time.*

For the purpose of clarity, filming is currently permitted with consent within all of the ‘open’ zones under the LEP. An open-zone is one that prohibits only development prescribed as ‘prohibited’, leaving other nominate or innominate uses as permitted with consent by virtue of the exception to Item 3, which reads; “*any other development not specified in item 2 or 4*”. The rural zone is a closed zone.

This approach is consistent with that advised by the Department of Planning and Environment in their correspondence of 2 June 2016, as attached.

## Part 2 Explanation of provisions

The just and efficient enabling proposal is to amend cl.2.8(4) & (5) to include the land use term “filming” with the restriction “on rural zoned land”.

This would enable filming, which is currently ‘permitted with consent’, as a ‘temporary use of land’, but allow the duration of the proposed use to be determined on the specifics and merits of that proposal. It will likewise enable any approved improvements to the land to be evaluated for their retention or removal, and to be conditioned accordingly.

An illustration of what the proposed amendment may look like is provided below:

### 2.8 Temporary use of land

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that:
  - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and

- (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
  - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
  - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.
- (4) Despite subclause (2), the temporary use of land for filming on rural zoned land or use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.
- (5) Subclause (3) (d) does not apply to the temporary use of land for filming on rural zoned land or use of a dwelling as a sales office mentioned in subclause (4).

## 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 the result of a change in the permissibility of the filming use arising from the making of the LEP pursuant to the Standard Instrument (Local Environmental Plans) Order 2006, and subsequent related NSW Planning and Environment 'Practice Notes'.

This change in the law regulating filming on land within the Tweed LGA was not the result of a deliberate decision by Tweed Council; the evidence shows it was consequential on the application of LEP Practice Note PN 11-003 (as attached). This practice note specifically operated to prevent councils from using the land use term 'filming' within the land use tables. As discussed above, this had the 'defaulting' effect of maintaining the permissibility of filming within 'open' zones and prohibiting filming in the 'closed' zones.

At the time, PN 11-003 was consistent with the *NSW Local Government Filming Protocol*, which was released by the former Department of Local Government in 2009. The resulting regulation does not therefore take account of the broader needs and operating parameters of the film production industry and the economic importance of this industry to NSW.

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

This planning proposal represents the most expedient way of achieving the desired result and will enable Tweed Council to respond to an emerging demand from the film industry for film production in remote, secluded areas of natural splendour, and to endeavour to retain this industry in NSW.

A longer term view for providing greater certainty for this industry and to better reflect NSW government's stated objective to support and foster this industry in NSW would be an amendment to the provisions of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, a separate industry specific SEPP, an amendment to the Standard Instrument Order or specific LEPs, to permit filming as permitted with consent within the zone schedule.

These latter alternative approaches will likely require a longer lead time to introduce, and as time is of the essence they represent the least preferred option to that otherwise proposed by this planning proposal.

## 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)?

Relationship with, and consistency of this planning proposal with the Far North Coast Regional Strategy 2006-2031		
Objectives		
<p>To summarise the objectives of the Strategy in so far as they can be related to this planning proposal they are to ensure there are opportunities for a stronger economy and appropriate measures are taken to protect, preserve and manage the environment and natural resources.</p> <p>The overarching objective is to plan for the management of regional growth.</p>	<p>This planning proposal is not inconsistent with these aims. The amendment will provide a more pragmatic response to emerging filming opportunities in the Tweed region and allow for a tailored approval. This process encompasses merit assessment on a case by case approach within which impact upon the environment or access to resources can be adequately addressed or mitigated.</p> <p>Public consultation on filming proposals would be best served at the development proposal stage, when the details and specifics of a project are ascertainable. At the strategic planning level it is impossible to describe the universe of possibilities that may occur and as such it would be superficial of any assessment of the proposed amendment to conclude that it categorically will or will not have some level of impact. It is sufficient however of such a proposal to postulate that any impact subsequently arising will be an indirect effect of the amendment through a subsequent development proposal and not directly attributable to the amendment itself, as might; by way of example, be the case of a land rezoning, reclassification or introduction of an entirely new land use.</p>	
Actions of Relevance		
<u>Theme</u>	<u>Related Action</u>	<u>Consistency</u>
Regional Challenges	<ul style="list-style-type: none"> <li>utilise the Region's reputation to build on the key industry sectors while protecting the natural resources on which these industries depend</li> <li>support and strengthen the Region's economic base by implementing the specific strategies and actions identified in the Regional Industry and Economic Plan for the Northern Rivers (NRRDB 2005).</li> </ul>	<p>Not inconsistent because this proposal seeks to enable possibilities for a specific industry; to enable substantial investment within this sector with certainty. This will be managed through an established statutory process capable of tailoring the environmental assessment and pragmatic solutions to mitigate loss of resource access or productivity, while allowing for other value adding / economic contributing industries to establish for defined periods.</p> <p>The filming industry offers significant benefits to the region, the more apparent being economic benefits to local businesses, employment and national and international advertising.</p> <p>This is consistent with the Northern Rivers Regional Industry and Economic Plan, which specifically seeks to implement actions that will:</p> <ul style="list-style-type: none"> <li>Promote economic development and employment growth in the Northern Rivers region;</li> <li>Assist capitalisation on the region's strengths to broaden and reposition the industry base of the Northern Rivers and to develop new products and markets;</li> <li>Develop solutions for regional or local business</li> </ul>

		<p>development challenges; and</p> <ul style="list-style-type: none"> <li>Identify opportunities to fill gaps left by the market system</li> </ul>
Environment and natural resources	Nil	<p>The Actions under this theme largely relate to LEPs in a broader sense, particularly those making zoning amendments or introducing new land uses into zone schedules, or similar.</p> <p>This proposal does not propose significant change in that sense; it extends to removing a proscriptive element of the cl.2.8 provision to enable the consent authority to decide on the facts and circumstances of the case what duration of use is appropriate, as distinct from applying an arbitrary rule.</p>
Cultural heritage	Nil	Not inconsistent, as this proposal does not introduce, remove or alter land use regulation related to this theme
Natural hazards	Nil	Not inconsistent, as this proposal does not introduce, remove or alter land use regulation related to this theme
Settlement and housing	Nil	Not inconsistent, as this proposal does not introduce, remove or alter land use regulation related to this theme
Settlement character and design	Nil	Not inconsistent, as this proposal does not introduce, remove or alter land use regulation related to this theme
Economic development and employment growth	<ul style="list-style-type: none"> <li>Local environmental plans (and other relevant planning provisions) will facilitate employment growth in regional and major town centres, appropriate homebased employment, and local jobs in towns, villages and neighbourhood centres.</li> </ul>	Not inconsistent because the premise of this amendment is to broaden the attractiveness of the Tweed region to filming opportunities, with the aim of facilitating greater opportunity for local employment, economic activity and related spin-offs, which will benefit rural villages amongst others

Table 1: Relationship with, and consistency of this planning proposal with the Far North Coast Regional Strategy 2006-2031.

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

### Key related themes:

1.5.3	The Tweed Local Environmental Plan will be reviewed and updated as required to ensure it provides an effective statutory framework to meet the needs of the Tweed community.	Consistent because the current LEP regulation for filming does not meet broader community needs through the proscriptive nature of the current cl.2.8 provision.
3.1	Expand employment, tourism and education opportunities	Consistent because this planning proposal seeks to amend the LEP to expand the opportunity for filming industry projects in the region that require a longer period of use
3.1.4	Market the Tweed as a destination for business and tourism.	Consistent because filming industry projects provide the potential for free national and international marketing of the region’s unique and splendourous natural environments, which in turn can influence and promote tourism and business



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

The planning proposal is not inconsistent with any State Environmental Planning Policy applying to the Tweed local government area.

#### 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.

*Table 2- 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	<p><u>Objective</u> Summary; to protect, encourage and support employment / strategic centres</p> <p><u>Application</u> When a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).</p>	Not relevant because these are 'open' zones and filming is presently regulated as permitted with consent.	Not inconsistent
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> A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</li> <li>(b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).</li> </ul>	Not relevant because the proposal does not amend any land zoning or alter the permissible density of land in a rural, or any other, zone. The amendment seeks to make permissible a longer duration of use for filming as a temporary use of land above the current limit, and if appropriate for the land to permit the retention of any approved works associated with the filming use.	Not inconsistent
1.3 Mining, Petroleum Production and Extractive Industries	<p><u>Objectives:</u> 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</p>	<p>Relevant because this planning proposal will permit with development consent the temporal use of land for filming for a longer duration than is currently permitted.</p> <p>Filming land-use is currently permitted under the Codes SEPP or</p>	Not inconsistent

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

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p><u>Application:</u> When a relevant planning authority prepares a planning proposal that would have the effect of:</p> <ul style="list-style-type: none"> <li>(a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or</li> <li>(b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.</li> </ul>	<p>under cl.2.8 with consent, but is limited to 30 days in a calendar year under the SEPP and 52 days in any 12 month period under the LEP.</p> <p>The proposed amendment to the LEP will maintain the need for consent and the use being temporary, but there will be no prescribed limit on the duration. The premise is that current regulation is too onerous and denies a tailored approach, that a merit assessment on a case by case approach is better suited to this land-use. Given the limited number of major filming activities and the economic spin-offs that can arise, this represents a more logical basis for regulating filming in the closed zones. It also provides a regulatory approach more aligned to the open zones where filming is permitted with consent and without there being a temporal element.</p>	
<p>1.4 Oyster Aquaculture</p>	<p><u>Objectives:</u> To protect Priority Oyster Aquaculture Areas (POA) and oyster aquaculture outside such an area, from adverse impacts on water quality, the health of the oysters and oyster consumers</p> <p><u>Application:</u> When there is a change in land use that could result with adverse impact or incompatibility</p>	<p>Relevant because there are a number of oyster producers operating in the Tweed estuary, with a limited number of POAs, as depicted in Figure 1 below.</p> <p>Filming is currently permitted without consent under the Codes SEPP, but is limited to 30 days in a calendar year, or under the LEP for a period of 52 days in any 12 month period, with consent. The amendment will regulate that the temporary use of land for filming under the LEP will maintain the requirement for approval, but will remove the prescribed duration of use so that a tailored response to individual proposals can better be reflected and managed in the approval.</p>	<p>Not inconsistent</p>
<p>1.5 Rural Lands</p>	<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> when:</p> <ul style="list-style-type: none"> <li>(a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including</li> </ul>	<p>Relevant because cl.2.8 is a provision with has shire-wide application. However, it will have no direct impact on current zoning or lot size.</p>	<p>Not inconsistent</p>

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

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>the alteration of any existing rural or environment protection zone boundary) or                      (b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone.</p>		
<b>2. Environment and Heritage</b>			
2.1 Environment Protection Zones	<p><u>Objective</u>                      To protect and conserve environmentally sensitive areas</p> <p><u>Application</u>                      when a relevant planning authority prepares a planning proposal</p>	<p>Not relevant to this planning proposal because it does not seek to amend the zoning of land or change regulation that might otherwise cause or impact the vulnerability of environmentally protected lands.</p>	<p>Not inconsistent</p>
2.2 Coastal Protection	<p><u>Objective</u>                      To implement the principles in the NSW Coastal Policy</p> <p><u>Application</u>                      when a relevant planning authority prepares a planning proposal that applies to land in the coastal zone</p>	<p>Not relevant to this planning proposal because it does not directly bring about a change to land within the coastal zone, nor does it change the permissibility of land-uses under cl.2.8; its effect is primarily to remove the prescribed duration of use specifically for a filming use.</p>	<p>Not inconsistent</p>
2.3 Heritage Conservation	<p><u>Objective</u>                      To conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance</p> <p><u>Application</u>                      when a relevant planning authority prepares a planning proposal</p>	<p>Not relevant to this planning proposal because it is not altering any regulation affecting heritage conservation, including zoning, and is not of itself capable of conserving heritage significance. Heritage conservation provisions within the LEP work in tandem with the development assessment provisions applicable to any future approval arising under cl.2.8 – that requirement is not being amended</p>	<p>Not inconsistent</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>Not relevant to this planning proposal because it does not seek to change the regulation of recreation vehicles or land on which a recreation vehicle access or development may occur</p>	<p>Not inconsistent</p>

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

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p><u>Application</u> When a relevant planning authority prepares a planning proposal</p>		
<p><b>3. Housing, Infrastructure and Urban Development</b></p>			
<p>3.1 Residential Zones</p>	<p><u>Objective</u> (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.</p> <p><u>Application</u> When a relevant planning authority prepares a planning proposal that will affect land within: (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted.</p>	<p>Not relevant to this planning proposal because the regulation proposed for amendment relates to the temporary use of land not permanent residential uses; it has no bearing on the objectives of this Direction regarding residential zones and their use for residential purposes</p>	<p>Not inconsistent</p>
<p>3.2 Caravan Parks and Manufactured Home Estates</p>	<p><u>Objective</u> (a) to provide for a variety of housing types, and (b) provide opportunities for caravan parks and manufactured home estates</p> <p><u>Application</u> When a relevant planning authority prepares a planning</p>	<p>Not relevant to this planning proposal because cl.2.8 does not regulate caravan parks and manufactured home estates; that regulation resides within the zoning schedules and no alteration of these is proposed</p>	<p>Not inconsistent</p>

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

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	proposal		
3.3 Home Occupations	<p><u>Objective</u> To encourage the carrying out of low-impact small businesses in dwelling houses</p> <p><u>Application</u> When a relevant planning authority prepares a planning proposal</p> <p><u>What a must occur</u> planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent</p>	Not relevant to this planning proposal because it does not propose to alter the regulatory provisions for home occupations and is not amending any land-use zone schedule	Not inconsistent
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:</p> <ul style="list-style-type: none"> <li>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</li> <li>(b) increasing the choice of available transport and reducing dependence on cars, and</li> <li>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</li> <li>(d) supporting the efficient and viable operation of public transport services, and</li> <li>(e) providing for the efficient movement of freight</li> </ul> <p><u>Application</u> This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist</p>	Not relevant to this planning proposal because the proposed amendment will not affect the stated objectives being (a) to (e), and even if there was some level of change it would be temporary in any case. It does not affect or propose the zoning of land.	Not inconsistent

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

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
<p>3.5 Development Near Licensed Aerodrome</p>	<p>purposes.</p> <p><u>Objective</u>                      (a) to ensure the effective and safe operation of aerodromes, and                      (b) to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and                      (c) to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.</p> <p><u>Application</u>                      When a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome</p> <p><u>What must be done</u>                      Summary: for a planning proposal that sets controls for the development of land in the vicinity of a licensed aerodrome the relevant planning authority must undertake specific / prescribed consultation and take certain prescribed matters into account</p>	<p>Not relevant to this planning proposal because the proposed amendment does not 'set a control' in relation to introducing a land-use, as the filming land-use is currently permitted, not least as a temporary use of land. What this amendment seeks to achieve is a merit based assessment of the duration of that temporary use on a case by case basis opposed to an arbitrary proscription.</p>	<p>Not inconsistent</p>
<p>3.6 Shooting Ranges</p>	<p><u>Objective</u>                      (a) to maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range,                      (b) to reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land,                      (c) to identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range</p>	<p>Not relevant to this planning proposal as it does not propose any land rezoning.</p>	<p>Not inconsistent</p>

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

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p><u>Application</u> When a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range</p> <p><u>What must not be done</u> A planning proposal must not seek to rezone land adjacent to and/ or adjoining an existing shooting range that has the effect of:</p> <ul style="list-style-type: none"> <li>a permitting more intensive land uses than those which are permitted under the existing zone; or</li> <li>b permitting land uses that are incompatible with the noise emitted by the existing shooting range.</li> </ul>		
<b>4. Hazard and Risk</b>			
4.1 Acid Sulfate Soils	<p><u>Objective</u> 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> When a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils, as shown on the Acid Sulfate Soils Planning Maps held by DP&amp;E.</p>	Not relevant to this planning proposal because it does not directly bring about a change to land within areas potentially affected by acid sulfate soils, nor does it change the permissibility of land-uses under cl.2.8; its effect is only to alter the length of time a use for filming may occur under that clause, subject to development consent. Any subsequent development of land under the amended cl.2.8 will continue to be assessed for its environmental impact regarding acid sulfate soils	Not inconsistent
4.2 Mine Subsidence and Unstable Land	<p><u>Objective</u> 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> When a relevant planning authority prepares a planning</p>	Not relevant to this planning proposal because the use of land for filming is already a permitted use, as a temporary use of land in the rural zone, with development consent; it is the permissible duration of the filming use that is being proposed for amendment	Not inconsistent



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

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>proposal that permits development on land that:</p> <ul style="list-style-type: none"> <li>(a) is within a mine subsidence district, or</li> <li>(b) has been identified as unstable in a study, strategy or other assessment undertaken:                             <ul style="list-style-type: none"> <li>(i) by or on behalf of the relevant planning authority, or</li> <li>(ii) by or on behalf of a public authority and provided to the relevant planning authority</li> </ul> </li> </ul>		
4.3 Flood Prone Land	<p>Applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.</p>	<p>Not relevant to this planning proposal because the proposed amendment does not create, remove or alter a provision that affects flood prone land</p>	<p>Not inconsistent</p>
4.4 Planning for Bushfire Protection	<p><u>Objective</u></p> <ul style="list-style-type: none"> <li>(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</li> <li>(b) to encourage sound management of bush fire prone areas</li> </ul> <p><u>Application</u></p> <p>When a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.</p>	<p>Not relevant to this planning proposal because the amendment to cl.2.8 will not affect land mapped as bushfire prone land in a way different to how that land is already affected by that clause. If the amendment was introducing a new land-use the case may be different but, as it is the amendment does not seek to alter the permissibility of the use only the duration of that use</p>	<p>Not inconsistent</p>
<b>5. Regional Planning</b>			
5.1 Implementation of Regional Strategies	<p><u>Objective</u></p> <p>To give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies</p> <p><u>Application</u></p> <p>When a relevant planning authority prepares a planning proposal</p>	<p>The Far North Coast Regional Strategy 2006 is the prevailing regional strategy in this locality, and it encourages economic development opportunities and management of rural and environmental lands. The proposed amendment is aimed at facilitating the broader use of rural land for filming and owing to the requirement for development consent can be readily assessed for environmental harm or impact. The proposal will allow for economic use of rural land on a temporary basis, contribute to local employment, and inject income to local</p>	<p>Not inconsistent</p>

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

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		businesses as well as having potential tourism benefits	
5.2 Sydney Drinking Water Catchments	Local government areas not including Tweed	Not relevant	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	<p><u>Objective</u></p> <ul style="list-style-type: none"> <li>(a) to ensure that the best agricultural land will be available for current and future generations to grow food and fibre,</li> <li>(b) to provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and</li> <li>(c) to reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.</li> </ul> <p><u>Application</u></p> <p>Applies (to Tweed) when a relevant planning authority prepares a planning proposal for land mapped as: State significant farmland, regionally significant farmland, or significant non-contiguous farmland.</p> <p><u>What Must Not Occur</u></p> <p>A planning proposal must not:</p> <ul style="list-style-type: none"> <li>(a) rezone land identified as “State Significant Farmland” for urban or rural residential purposes.</li> <li>(b) rezone land identified as “Regionally Significant Farmland” for urban or rural residential purposes.</li> <li>(c) rezone land identified as “significant non-contiguous farmland” for urban or rural residential purposes.</li> </ul>	This planning proposal does not seek to rezone any land or change the permissibility of a land-use within any zone, its purpose being an amendment to the temporal nature of filming as a temporary land use permitted under cl.2.8.	Not Inconsistent
5.4 Commercial and Retail Development along the Pacific Hwy, North Coast	<p><u>Objective</u></p> <p>Summary: managing commercial and retail development along the Pacific Highway to preserve and protect the safe function of the highway and its users</p> <p><u>Application</u></p>	Not relevant to this planning proposal	N/A

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

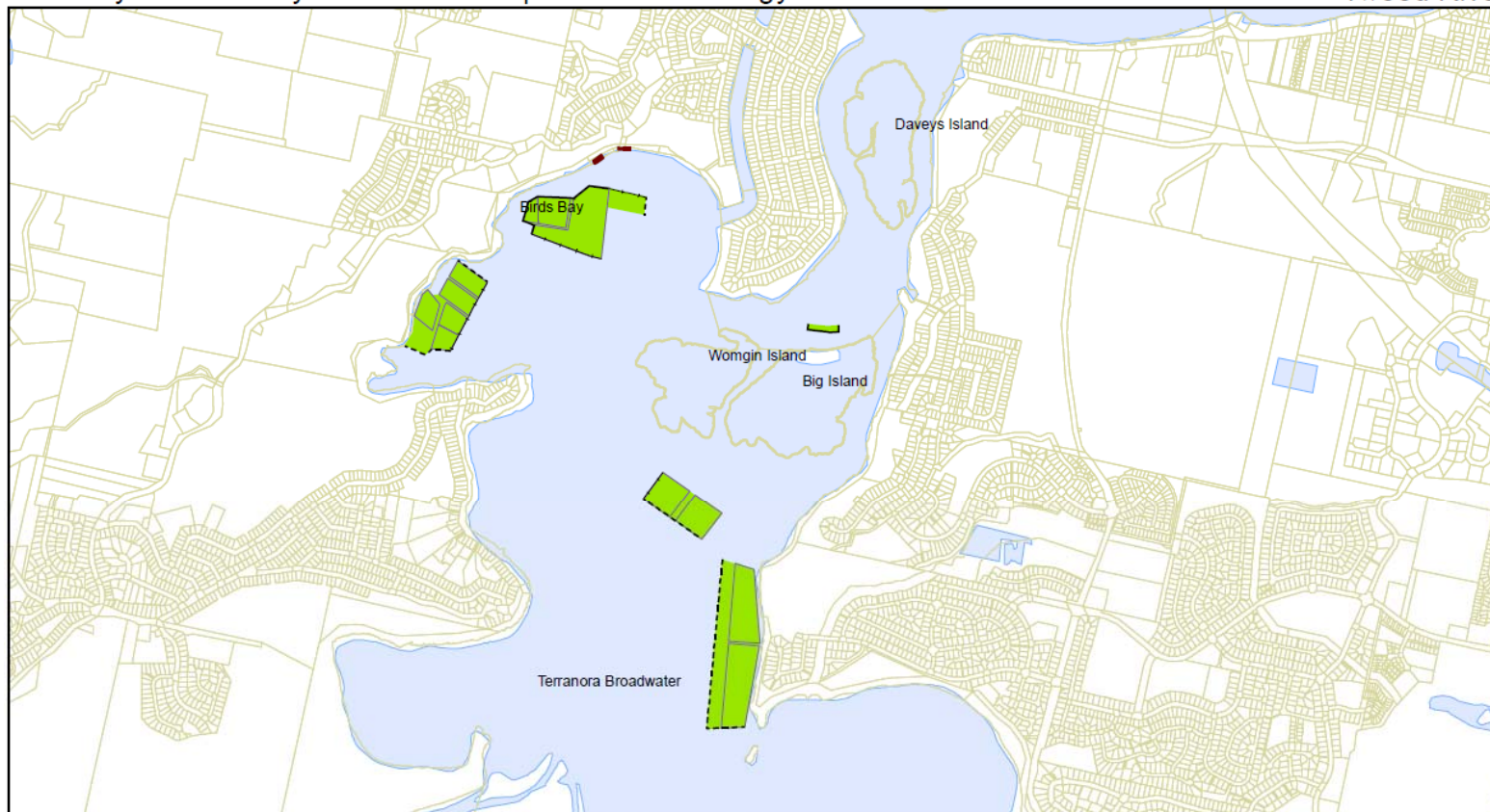
S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	When a relevant planning authority prepares a planning proposal for land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.		
5.8 Second Sydney Airport: Badgerys Creek	Applies to other local government areas than Tweed	Not relevant to this planning proposal	Not inconsistent
5.9 North West Rail Link Corridor Strategy	Applies to other local government areas than Tweed	Not relevant to this planning proposal	Not inconsistent
<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</p> <p><u>Application</u> When a relevant planning authority prepares a planning proposal</p> <p><u>What must be done</u> Ensure provisions minimise concurrence roles, consultation or referral of DAs to a Minister or public authority, unless their consent is first granted to do so, not identify development as designated unless certain matters are addressed</p>	Not relevant to this planning proposal because it does not propose an amendment of the kind referred to in the Direction.	Not inconsistent
6.2 Reserving Land for Public Purposes	<p><u>Objective</u> (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</p>	Not relevant to this planning proposal because it does not create, reduce or alter existing zoned reserves, and is not the subject of a direction of the Minister or public authority for that purpose.	Not inconsistent

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

<b>S117 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>
6.3 Site Specific Provisions	<p><u>Objective</u> To discourage unnecessarily restrictive site specific planning controls.</p> <p><u>Application</u> When a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out</p> <p><u>What must not be done</u> A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either: (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended</p>	Relevant to this planning proposal as it seeks to amend a development standard within in an existing provision; to the effect that it will be less onerous relating to 'filming' than is presently the case	Not inconsistent
<b>7. Metropolitan Planning</b>			
7.1 Implementation of A Plan for Growing Sydney	Applies other local government areas other than Tweed	Not relevant to this planning proposal	Not inconsistent

**FIGURE 1**  
 NSW Oyster Industry Sustainable Aquaculture Strategy 2014

Tweed River



**LEGEND**

- Priority oyster aquaculture areas
- Current oyster leases
- Current oyster aquaculture areas in Marine Parks Estate

**OISAS Lease marking requirements**

- 10 metre intervals
- 25 metre intervals
- 50 metre intervals
- Special navigation and marking conditions
- Coastal water
- Cadastral boundaries
- Land-based oyster facilities - Crown Land Lease
- Actual lease
- Indicative



## 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?**

No. Temporary development for filming is currently permitted with consent, this proposal seeks to enable a broader assessment of the suitability of the timeframe on which a specific proposal may operate and whether it is appropriate to permit any approved works to remain on the land. This will be managed through merit assessment of an application under Part 4 of the *Environmental Planning and Assessment Act 1979*, and conditions of consent tailored to meet the needs of an approval.

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

No. See comment about mitigating approach to environmental harm at Item 1 above.

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

The planning proposal does not give rise to direct social and economic effects. While this may occur indirectly through a future filming proposal these matters would be addressed through the merit based assessment referred to at Item 1 above.

## Section D State and Commonwealth interests

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

The planning proposal does not cause reliance on or upgrades to or the provision of new public infrastructure. As noted at Item 3 to Section C a future filming proposal may indirectly cause demand on public infrastructure and such matters would be assessed through a merit based assessment.

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

This planning proposal is the basis for a gateway determination.

## Part 4 Mapping

The amendment is to a provision of the Tweed Local Environmental Plan 2014; there is no mapping associated with the amendment.

## Part 5 Community consultation

The Gateway determination will specify the community consultation that must be undertaken for this planning proposal. The consultation will be tailored to specific proposals generally on the basis of a 14 day exhibition period for low impact planning proposals and a 28 day exhibition period for all other planning proposals.

Tweed Council's consideration of the matter did not conclude with a recommendation regarding a period of public exhibition. Given that filming is a permitted land-use under cl.2.8 currently and requirement for development approval is maintained, and public notification of such application is reasonably foreseeable and certain, a formal public exhibition of the LEP amendment is not considered essential.

## Summary and conclusions

The objective and intended outcome of this planning proposal is to support the NSW Government's commitment to the filming industry, and its recognition of the economic value filming has for NSW. This will be achieved by permitting an assessment of the duration of an already permitted land use to be undertaken on a case by case basis, as opposed to an arbitrary proscriptive provision of 52 in any calendar year as presently prescribed. It will also permit an evaluation of whether any approved works are appropriate to remain on the land at the expiration of the temporary filming use, to enable any value adding works to remain in perpetuity, or for some other specified time.

The preferred method to achieve this outcome for present purposes is an amendment to cl.2.8(4) and (5).

## Part 6 Timeframe and information checklist

Task	Timeframe	Completed
Council Planning Committee meeting	July 2016	Yes
Referral of the planning proposal for Gateway determination	August 2016	
<b>Gateway Determination</b>	<b>August</b>	
Undertake requirements of the Gateway Determination and prepare V2 planning proposal	August/September 2016	
Public exhibition	TBA / September	
Agency consultation		
Review submissions, respond and prepare V3 planning proposal for Council's consideration	October	
Council report to finalise and refer the plan to the DPE to be made	October/November	
Referral of the Plan to the DPE for making	November	
Plan to be made within 6 months of Gateway	December	



Customer Service | 1300 292 872 | (02) 6670 2400

[tsc@tweed.nsw.gov.au](mailto:tsc@tweed.nsw.gov.au)

[www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au)

Fax (02) 6670 2429

PO Box 816

Murwillumbah NSW 2484