

**TITLE:** [PR-PC] Draft Tweed Development Control Plan - Section A17 - Business Development, Enterprise Corridor and Business Park Zones

**SUBMITTED BY:** Planning Reforms

**FILE REFERENCE:** GT1/DCP/A17 Pt1



## Civic Leadership

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

1	Civic Leadership
1.1	Ensure actions taken and decisions reached are based on the principles of sustainability
1.1.1	Establish sustainability as a basis of shire planning and Council's own business operations

### SUMMARY OF REPORT:

This report updates Council on the public exhibition process of the draft Tweed Development Control Plan - Section A17 - Business Development, Enterprise Corridor and Business Park Zones (draft DCP).

Council resolved on 12 December 2013 to publicly exhibit the draft DCP, which occurred from 14 January - 28 February 2014. During the exhibition period 37 submissions were received, primarily in relation to the site specific controls for Lot 10 DP 1084319, being the Boyds Bay Business Park (currently known as the Boyds Bay Garden World retail nursery site). Submissions received detailed a desire for Council to accommodate a proposed Masters Home Improvement Store development by amending the draft DCP provisions relating to the Boyds Bay Business Park site to reflect the application currently lodged with Council.

This report concludes that subject to minor amendments, which are contained in the draft DCP attached to this report, the draft DCP is now suitable for adoption. The implementation of the draft DCP will assist in providing an appropriate planning framework for employment purposes outside of the Shire's CBD areas and enable the development of the Boyds Bay Business Park by satisfying the provisions of Clause 7.13 of the Tweed Local Environmental Plan 2014.

Whilst adoption of the draft DCP is sought, Council officers recommend a subsequent amendment be prepared for public exhibition. The proposed future amendment seeks to extend the land to which Section A17 applies to also include IN1 General Industrial zoned land.

### RECOMMENDATION:

**That Council:**

- Adopts the Tweed Development Control Plan, Section A17 – Business Development, Enterprise Corridor and Business Park Zones, as provided as Attachment 1 to this report;**

2. **Endorses the public notice of the adoption of the Tweed Development Control Plan in accordance with Clause 21(2) of the Environmental Planning and Assessment Regulation 2000, satisfying the provision of Clause 7.13 of the Tweed Local Environmental Plan 2014 – Development requiring the preparation of a development control plan;**
3. **Forwards a copy of the Development Control Plan Section A17 to the Director-General of the NSW Planning and Infrastructure in accordance with Clause 25AB of the Environmental Planning and Assessment Regulation 2000;**
4. **Prepares an amendment to the Tweed Development Control Plan, Section A17 to expand land affected by Section A17 to include the IN1 General Industrial zone;**
5. **When prepared, the amendment is to be publically exhibited for a minimum period of 30 days, in accordance with section 74E of the Environmental Planning Assessment Act 1979; and**
6. **Following public exhibition a further report is to be submitted to Council detailing the content and response to submissions received.**

## REPORT:

Council resolved on 12 December 2013 to publicly exhibit Section A17 of the Tweed Development Control Plan, titled Business Development, Enterprise Corridor and Business Park Zones (draft DCP). The draft DCP originated from Clause 53G of the Tweed Local Environmental Plan 2000, which required the preparation of a DCP for the Boyds Bay Business Park site (currently known as the Boyds Bay Garden World site), however was also considered to satisfy a wider benefit by guiding development more generally within the Business Development, Enterprise Corridor and Business Park zones.

The Tweed Local Environmental Plan 2000 as it related to the Boyds Bay Business Park site has since been repealed by the Tweed Local Environmental Plan 2014 (LEP 2014). Nonetheless, the requirement for a DCP has been maintained within the LEP 2014, specifically by way of Clause 7.13, which details as follows:

### *7.13 Development requiring the preparation of a development control plan*

- (1) The objective of this clause is to ensure that development on certain land occurs in accordance with a site-specific development control plan.*
- (2) This clause applies to development on land identified as "DCP required" on the Key Sites Map.*
- (3) Development consent must not be granted for development on land to which this clause applies unless a development control plan that provides for the matters specified in subclause (4) has been prepared for the land.*
- (4) The development control plan must provide for all of the following:*
  - (a) design principles drawn from an analysis of the site and its context,*
  - (b) phasing of development,*
  - (c) distribution of land uses, including open space,*
  - (d) subdivision pattern and provision of services,*
  - (e) building envelopes and built form controls,*
  - (f) impact on, and improvements to, the public domain,*
  - (g) identification and conservation of native flora and fauna habitat and habitat corridors on the site, including any threatened species, populations or ecological communities,*
  - (h) identification, extent and management of watercourses, wetlands and riparian lands and any buffer areas,*
  - (i) environmental constraints, including climate change, acid sulfate soils, flooding, contamination and remediation.*

## Public Exhibition

The draft DCP was publicly exhibited from 14 January - 28 February 2014, during which 37 submissions were received. The following table provides a summary of the submissions received, relevant planning comments and details where amendment to the draft DCP is warranted.

Issue	Planning Comment
Objection was raised that the site specific controls relating to the Boyds Bay Business Park were excessive and should be amended/removed to assist in facilitating a Masters Home	The draft DCP involves a much wider scope than facilitating a single development proposal. In this regard, the draft DCP firstly applies at a shire-wide level and then secondly provides a framework towards realising the potential and best practice planning outcomes for the Boyds Bay Business Park. Accordingly, there is no value in preparing a DCP if only to replicate a Development Application, particularly prior to the

Issue	Planning Comment
<p>Improvement store, as per the Development Application currently being assessed by Council's Development Assessment Unit. Specific comments included as follows:</p> <p><i>The DCP requirements for extensive architectural detailing may be appropriate in the Tweed Town Centre, but does not make sense on the Boyds Bay Garden World Site. People visiting the site will be going there because of the key attraction – namely a Masters Store.</i></p> <p><i>Masters operates nationwide and has its own distinct corporate design and branding. They know what makes a shopping experience convenient, safe and comfortable for their customers and design their stores accordingly. In my view, Council should be encouraging businesses like Masters to come to the Tweed to provide much needed employment. Council should not be putting up design hurdles or seek to change the well tested design of a “standard” Masters Store via the DCP.</i></p> <p><i>All Masters Stores are required to comply with a 'Design Brief' aimed at ensuring uniformity in corporate presentation as well as a consistent, air-conditioned, safe and pleasant shopping experience for customers. Accordingly, it is suggested that the DCP design criteria need to include design options which better reflect the market and design realities of large floor plate retailing.</i></p> <p><i>The elevations and roof treatments need to be reviewed having regard to the construction constraints associated with the flight path of the Gold Coast Airport.</i></p> <p><i>As stated in the Tweed Shire Council's Youth profile the Tweed has a relatively low</i></p>	<p>conclusion of the application.</p> <p>The planning framework established to facilitate the rezoning of the Boyds Bay Business Park included a number relevant provisions, including encouraging a range of compatible uses, promoting good urban design through integration of all buildings, structures and landscaped areas with strong visual and aesthetic appeal, and facilitating the development of the site as a “stand alone” destination. In addition, various components of the Community Strategic Plan 2013/2026, particularly Objective 2.6, seek to improve urban design in new urban development. In light of the existing planning provisions, the Boyds Bay Business Park specific controls within the draft DCP provides a suite of tangible objectives and controls to realise the requirements of the LEP. With specific relation to building appearance, the following provisions are detailed:</p> <p><i>Objective 7 - To ensure the development includes architectural features that are visually appealing, reduce building mass and create an attractive streetscape.</i></p> <p><i>Control 2(6) Large floor plate development to incorporate appropriate roof form (which may include varying roof heights) and building form articulation to reduce the amenity impacts such as overshadowing to the south and to result in a higher quality built form outcome.</i></p> <p>In addition to the site specific controls, the draft DCP also contains building form provisions applicable throughout the B5, B6 and B7 zones. The objectives of the planning framework include:</p> <p><i>Objective 1 - To encourage building form, and the use of architectural features, materials and colours that contribute to improved building design and the desired streetscape character.</i></p> <p><i>Objective 2 - To encourage finishes and building materials appropriate to the local climatic conditions, solar orientation and site specific features.</i></p> <p><i>Objective 3 - To encourage a mix of materials which serve to break down the overall scale, bulk and mass of large buildings.</i></p> <p>Of note, the draft DCP does not include any provisions that mandate internal layouts or types of building cooling, limiting any variation to a regular 'design brief' to external appearance and general site and climatic response.</p> <p>It is acknowledged that several developers likely to establish within the B5, B6 and B7 zones will have generic building designs that they wish to pursue to afford greater brand association and familiarity. Many of these developers already pursue building designs that embody a number of the objectives listed above, however designs that don't reflect these objectives may need to be more particular with site selection, or use of other design measures (i.e. landscaping, car parking shading, water sensitive urban design corridors adjoining pedestrian pathways), or incorporate some design brief changes in order to meet the objectives stated. In light of the existing planning framework, the provisions of the draft DCP are not considered unnecessarily onerous or restrictive, and are compatible with best practice planning and design.</p> <p>Whilst Council's project team acknowledge the potential investment and employment that may be created from the development of a Masters Home Improvement Store, the site, through various strategic processes has been identified as possessing greater opportunities for both employment and development intensity. Accordingly, controls are included within the draft DCP to preserve those opportunities for the future and to encourage greater levels of employment on the site, as opposed to detailing a DCP that purely reflects the intentions of one developer or development.</p>

Issue	Planning Comment
<p><i>index of disadvantage, which means it is more highly disadvantaged than many other areas. There is also high unemployment rate in our Shire and the Masters development would increase long-term employment opportunities in our area.</i></p> <p><i>Any opportunity for growth and employment as positive for the Tweed community.</i></p>	<p><b>Conclusion:</b> The design controls drafted within the Draft DCP are considered to be appropriate to the site when considering site analysis, the Planning Proposal provisions, LEP 2014 framework and the provisions of the Community Strategic Plan 2013/2026. It is acknowledged that many large floorplate developers have a traditional brief to provide homogenous buildings, however it is appropriate that the detail of those designs and any specific non-compliances be assessed on merit within a Development Application. Accordingly, no amendments to the draft are recommended as a result of the concerns raised.</p>
<p>Concern was raised that the Draft Business DCP needs to incorporate clear savings provisions with respect to the application of the DCP for Development Applications lodged prior to the DCP being formally endorsed by Council.</p>	<p>It is not a regular practice by the Planning Reforms Unit to incorporate savings provisions within Sections of the Tweed Development Control Plan, rather, assessing officers apply the provisions of any new or amended Section to applications already lodged with Council pragmatically. Clause 7.13 of the LEP 2014 requires the preparation of a DCP before consent can be issued for the Boyds Bay Business Park and is one of the key drivers for preparing the draft DCP. Any savings provision which precludes the current Development Application for the Masters store from being subject to the draft DCP is considered to undermine Clause 7.13 and potentially restrict Council from issuing development consent.</p> <p><b>Conclusion:</b> A savings provision is not considered necessary as it dilutes the requirements of the LEP 2014 and could potentially delay any consent from being issued for the Boyds Bay Business Park. Accordingly no change is recommended.</p>
<p>Concern was raised that the provision of pedestrian pathways between each row of parking within the car park area, as displayed in Figure 8.2 was unwarranted for the following reasons:</p> <ul style="list-style-type: none"> <li>• <i>Within large open car parks, it is common practice throughout Australia that pedestrians and vehicles 'share' the car park area.</i></li> <li>• <i>Pedestrian pathways need to be 'protected' by wheel stops or raised kerbs. These present a potential trip hazard for pedestrians and present obstacles with respect to manoeuvring trolleys and parents with prams.</i></li> <li>• <i>The provision of pedestrian pathways impedes the opportunity for the parking of trailers in a 'drive through' manner across two parking bays.</i></li> <li>• <i>Drainage throughout the car park is most straightforward if there are as few obstacles as possible within the car park.</i></li> </ul>	<p>In relation of pedestrian movement within the Boyds Bay Business Park, the following site specific requirements are made within the draft DCP:</p> <p><i>Objective 9 - Provide public domain and legibility treatments to support the high volume of pedestrian movement in and around the site.</i></p> <p><i>Control 2(v) - Incorporate a pedestrian network connecting buildings, car parking areas and key outdoor amenity areas.</i></p> <p><i>Incorporate pedestrian pathways within the car parking areas to enable safe movement of pedestrians with trolleys and bulky goods between stores and the car park.</i></p> <p>In light of the above, no controls are contained within the draft DCP that require pedestrian pathways within each row of parking, rather controls require any proponent to demonstrate the inclusion of a pedestrian network that connects buildings, car parking areas and outdoor amenity areas, acknowledging that pedestrians will likely be moving with trolleys and bulky goods. Figure 8.2 of the draft DCP provides an indicative configuration of the site, which includes pedestrian corridors centrally within each car parking aisle, however this does not form a development control. The draft DCP clearly details that illustrations are indicative only and are provided to illustrate certain provisions in the Section.</p> <p><b>Conclusion:</b> The draft DCP does not require the provision of pedestrian pathways between each row of parking within the car park area as an objective or development control. No amendment is recommended.</p>

Issue	Planning Comment
<p>Concern was raised in relation to the specified buffer distances to land uses adjoining the Boyds Bay Business Park; particularly suggesting that this issue could be better addressed via a merit based approach, rather than requiring compliance with a numerical standard.</p>	<p>The buffer distance controls established for the Boyds Bay Business Park were based on 3D modelling of potential built forms and acknowledge the sensitivities and of the adjoining land uses. Nonetheless, within the NSW Planning System, it is common industry practice that numerical controls prescribed within a DCP are not viewed as development standards, rather as means of achieving an acceptable solution to an overarching objective. This practice is reinforced throughout the Tweed Development Control Plan, which prescribes the process for applications which propose an alternative solution to achieve the DCP's objective/s.</p> <p>Specific to the Boyds Bay Business Park, the overarching objectives are:</p> <p style="padding-left: 40px;"><i>Objective 6 - To ensure that development scale, height, buffers and interface treatments are provided to maintain the amenity of adjoining properties, and,</i></p> <p style="padding-left: 40px;"><i>Objective 10 - To integrate site landscaping and water sensitive urban design to address cross site stormwater flows and minimise hardstand areas.</i></p> <p>Accordingly, it is open to Council to consider alternatives to the prescribed numerical buffers. The ability for any alternative solution proposed is assessed on its merits against the objectives stated.</p> <p><b>Conclusion:</b> In light of the above, it is not considered necessary to amend or remove the existing control, as alternatives to the numerical solutions provided can be pursued within a Development Application.</p>
<p>Concerns were raised that the suggested uses/opportunities provided in the Draft DCP are unclear and inconsistent having regard to the terms of the proposed B7 Business Park zone under the Draft TLEP 2012. Notably retail premises are proposed to be prohibition in the B7 zone yet the draft DCP suggests that retail focussed activities, notably direct factory outlet centres are possible.</p>	<p>The concerns identified are relevant and inconsistencies between the draft DCP and the LEP 2014 are present in the Boyds Bay Business Park - Summary Data Sheet.</p> <p><b>Conclusion:</b> It is recommended that the Boyds Bay Business Park - Summary Data Sheet be deleted from the draft DCP.</p>
<p>Concern was raised that the Draft Business DCP does not satisfy the requirements of Clause 53G(8) of the Tweed Local Environmental Plan 2000 (as it relates to the Boyds Bay Business Park), as it does not give adequate provisions to ensure that development will not conflict with the hierarchy of retail centres in the Tweed.</p>	<p>The Boyds Bay Business Park is zoned B7 Business Park within the LEP 2014. The B7 zone prohibits all retail premises, with the exception of Bulky goods premises; Garden centres; Food and drink premises; Hardware and building supplies; Kiosks and Neighbourhood shops. Accordingly, the range of permissible retail based land uses is limited and as such is not likely to undermine existing centres, particularly Tweed Heads South as the focal retail centre. In addition to the limited retailing uses permitted, the Boyds Bay Business Park is isolated from other business based land zonings, constrained by site area and is also constrained by permissible building height and activity as a result of its proximity to the Gold Coast Airport. Finally, through the recent LEP amendment process, the economic impact of the Business Parks' rezoning and future development on existing centres was investigated and concluded as satisfactory.</p> <p>In light of the above considerations, the draft DCP establishes the following aim and objectives to reaffirm the previous Planning Proposal framework:</p> <p style="padding-left: 40px;"><i>Aim - Support an integrated design approach that establishes a variety of complementary business land uses which respond to site constraints within a quality urban and building design within a business park setting.</i></p> <p style="padding-left: 40px;"><i>Objective 2 - Ensure opportunities for a variety of land uses,</i></p>

Issue	Planning Comment
	<p><i>tenancy types and sizes.</i></p> <p>The cumulative suite of planning considerations detailed above are considered to ensure that the development of the Boyds Bay Business Park does not conflict with Council's established retail principles.</p> <p><b>Conclusion:</b> In light of the applicable land use restrictions, site constraints and specific aim and objectives of the draft DCP no amendments are recommended.</p>
<p>Concern was raised in relation to the opportunities for retail activities within the DCP, particularly measures to accommodate and control appropriate neighbourhood commercial and retail uses, to ensure that development will not conflict with the hierarchy of retail centres in the Shire, outside of 'ancillary buildings and structures' and that the 'business theme' of proposed development in the B7 Business Park zone should be demonstrated for all development in this zone, and the proposal should be justified on economic and land use planning grounds.</p>	<p>The draft DCP includes provisions to guide retailing ancillary to a primary land use. These controls are predominately relevant to ancillary retail development within the B7 Business Park zone, as the B5 Business Development zone permits a wide range of stand-alone retail activities. Accordingly, the relationship with Council's Retail Principles, specific to each of the zones, is provided below.</p> <p>B5 Business Development - The localities of South Tweed Heads (namely Industry Drive, Machinery Drive, Greenway Drive and Corporation Circuit) and Murwillumbah (South Murwillumbah and Tweed Valley Way south of Quarry Road and north of Colin Street) include the use of the B5 zone within the LEP 2014. Both of these localities are considered to be existing primary retail centres. In light of the B5 zoned locations within the Shire, further retail expansion and development is considered to compliment and reinforce Council's adopted retail principles, therefore negating a need to 'control' the specific scale of retail activities.</p> <p>B6 Enterprise Corridor - No applicable comments as the zone is not currently included within the LEP 2014.</p> <p>B7 Business Development - As detailed previously, a limited range of stand-alone retail activities is permissible within the zone, however the draft DCP acknowledges that many permissible land uses may seek to provide factory outlet or 'seconds' retail floorspace. Both Objectives and Controls are included within the draft DCP to regulate such 'Shop' activities to daily convenience needs or products ancillary to the premises core function and to retain the retail primacy of existing retail centres.</p> <p>An area open to greater interpretation revolves around land uses such as Bulky goods, Garden centres and Hardware and building supplies. These land uses are widely acknowledged as retail premises, however by their nature (large floorplate, use of trailers to transport purchased goods, customer patronage is heavily vehicle dependant) are often located 'out of centre' to other retail based uses.</p> <p>As concluded previously, the Boyds Bay Business Park, which is likely to have a primary focus around these larger floorplate retail uses, is not considered to undermine Council's retail principles due to site limitations and the draft DCP framework.</p> <p>The submission received requests that an 'economic impact statement' be submitted to ensure that <i>'the overriding 'business theme' or business niche of a newly proposed business park should be justified not only through a site analysis and land use planning process, but through sound economic planning and modelling...'</i> as detailed within the draft DCP. In this regard, strictly requiring an economic impact statement with an application is not considered necessary as any fundamental economic impact concerns would have primarily been addressed within the Planning Proposal process. Once the suitability of the overarching suite of permissible land uses is resolved, any specific land use concerns can be addressed through the Development Application process with the usual consideration of the Retail Principles and Section A13 (Socio Economic Impact Assessment) of the Tweed Development Control Plan. Accordingly, it is not considered necessary to replicate existing adopted provisions and holistically require an Economic Impact</p>

Issue	Planning Comment
	<p>Assessment/Statement.</p> <p><b>Conclusion:</b> The combination of permitted land uses, DCP provisions (both within the draft DCP and the existing Section A13) and cross referencing to Council's adopted retail principles is considered to provide a sufficient framework regarding retailing activities. No specific amendment to the draft DCP is recommended.</p>

### Additional Matters

In addition to the amendments recommended by way of public submissions, several minor amendments have been pursued in order to clarify objectives and controls, as well as improve document legibility and use. These amendments are included within Attachment 1 and are not considered to necessitate re-exhibition of the draft DCP.

### Future Amendment

The recently made LEP 2014 has resulted in a wider selection of business and industrial zonings applicable to the Tweed. In light of the wider spectrum of zones used, a review of Section A17 has been undertaken to determine the appropriateness of its area of application. This review concluded that the draft DCP remains appropriate to the B5, B6 and B7 zones as made.

In addition to the existing applicable zones, officers identified that the IN1 General Industrial zone is likely to include many of the development types envisaged within the draft DCP, and as such its application could be expanded. By way of background, the IN1 General Industrial zone includes the following objectives:

- *To provide a wide range of industrial and warehouse land uses.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of industry on other land uses.*
- *To support and protect industrial land for industrial uses.*
- *To enable land uses that provide facilities or services to meet the day to day needs of workers in the area.*

The provisions of the draft DCP as they relate to Site Design, Building Envelope, Building Design, Landscaping and Ancillary Buildings and Structures, are considered to be of high relevance to development within this zone. As is considered best practice, the appropriateness of the objectives and controls within the draft DCP should be verified through public exhibition, affording landowners and developers within the IN1 zone the opportunity to review and provide comment prior to further consideration by Council.

As discussed throughout this report, the need for the draft DCP originates from an LEP requirement to provide appropriate site planning to realise the potential of the Boyds Bay Business Park. There is an imperative need to conclude these strategic investigations so that a comprehensive planning framework is provided to facilitate the Boyds Bay Business Park. In this regard, it is considered appropriate that no further amendments that necessitate the re-exhibition of the draft DCP be pursued unless essential. Accordingly, this report concludes that the draft DCP should be adopted and that post adoption, an amendment be prepared to expand the land to which the DCP applies to include the IN1 General Industrial zone. This amendment would then be separately publically exhibited and submissions received reported to the Council at a future stage.

### **OPTIONS:**

That Council:

1. Approves the draft DCP as provided within Attachment 1 of this report, or
2. Defers the matter for a workshop.

Council officers recommend Option 1.

### **CONCLUSION:**

A key component of unlocking the development potential of the Boyds Bay Business Park is the adoption of the draft DCP.

Public exhibition of the draft DCP attracted a number of submissions (37), however the issues as discussed within this report are not considered significant or prohibitive.

The revised draft DCP is provided as Attachment 1 to this report and is recommended for adoption. The adoption of the draft DCP will enable the development of the Boyds Bay Business Park, facilitating an outcome that is consistent with vision that has been embedded since reviewing the zoning of the site in 2010.

Post adoption of the draft DCP it is considered appropriate to facilitate an amendment and public exhibition to expand the extent of application to include development within the IN1 General Industrial zone. The expansion of land affected by the DCP would guide industrial development outside of the B5, B6 and B7 zones and assist establishing a comprehensive planning framework.

### **COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable.

**b. Budget/Long Term Financial Plan:**

Not Applicable.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

**Consult-**We will listen to you, consider your ideas and concerns and keep you informed.

### **UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1. Tweed Development Control Plan - Section A17 (ECM 3341381)

Attachment 2. Council report of Thursday 12 December 2013 (ECM 3340875)

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