

Draft LEP Amendment **No 93**

September 2011

## PLANNING PROPOSAL

PUBLIC EXHIBITION

v.1

TWEED HEADS WEST  
(Boyd's Bay Garden World Site)

File PP10/0001

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Public Exhibition Version

## Introduction

### Purpose

This proposal supports a request from Planit Consulting for Council to prepare a Planning Proposal for the rezoning of Lot 10 DP 1084319, currently zoned 1(a) Rural, to 3(c) Commerce and Trade under the Tweed LEP 2000, to be translated into B7 Business Park in accordance with the Standard Instrument (Local Environmental Plans) Order 2006, as proposed in the Draft Tweed LEP 2011.

### Council resolutions

This site has been reported to Council on a number of occasions as the resolutions below indicate:

On 15 December 2009 Council resolved that:

1. Council endorses the proposed amendment Table 9-1 of the Tweed Urban and Employment Land Release Strategy (TEULRS) 2009 relating to the staged release of a nominated employment investigation area from medium (10-20 years) to short term (0-10 years), as outlined in the submission received by Council from Planit Consulting on 9 September 2009, relating to the Boyds Bay Garden World site, Lot 10, DP 1084319, Tweed Heads.
2. Approval of Point 1 above will be subject to the proponents providing a more detailed response to the main outstanding issues identified in this report, including further prior consultation occurring with the key relevant authorities, Tweed Shire Council, Gold Coast Airport and the Roads and Traffic Authority, as part of any future Planning Proposal application to rezone this site.

The full report can be seen in Attachment 1.

On 20 July 2010 Council resolved that:

1. Planning Proposal PP10/0001 for a change of land-use zone classification from Rural 1(a) to 3(c) Commerce and Trade rezoning be supported in principle on Lot 10 DP 1084319 Parkes Drive, Tweed Heads West and that the proposal be referred to the Department of Planning for a gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979*.
2. The applicant of planning proposal PP10/0001 be advised that the actual rezoning classification of the land, if supported by Council, will be determined following assessment of any detailed site studies required after receipt of the initial gateway determination to proceed.

The full report can be seen in Attachment 2.

On 20 September 2011 Council resolved that:

**ADD COUNCIL RESOLUTION HERE after endorsement of recommendations to report**

The full report can be seen in Attachment 3.

## Part 1 Objectives and intended outcomes

### Objective

This planning proposal seeks to facilitate the rezoning of Lot 10 DP 1084319, Parkes Drive, Tweed Heads West for the purpose of employment generation: commercial activities, industrial, bulky goods retail landuses, in a business park setting as defined in the Tweed Urban and Employment Land Release Strategy 2009.

### Intended outcome

The reclassification of Lot 10 DP 1084319, Parkes Drive, Tweed Heads West from 1(a) Rural to 3(c) Commerce and Trade under the Tweed Shire LEP 2000 (B7 Business Park under the Standard Instrument Template and as proposed in Draft Tweed LEP 2011), which is in accord with the strategic intention of the site, and the opportunities afforded and constraints affecting the site, and as reported in this proposal.

### Site context and setting

The site is known as Lot 10 DP 1084319, Parkes Drive, Tweed Heads West, lies immediately to the west of the Pacific Highway (Tugun Bypass), 2.4 kilometres west of Tweed Heads town centre, and approximately 940 metres south of the southern extent of the Gold Coast Airport (Coolangatta) runway, as seen in Figure 1 – Locality Plan. Figure 2 is an aerial view of the site showing general features and relationship to surrounding infrastructure.

With an overall area of 5.15 hectares, the site adjoins Council-owner land to the west utilised as a waste water treatment plant.

The existing landuse is retail plant nursery but was formerly the site of the Tweed Drive-in Picture Theatre.

The site is flat or almost flat with a majority of the area, formerly utilised as parking for the picture theatre, still bitumen sealed.

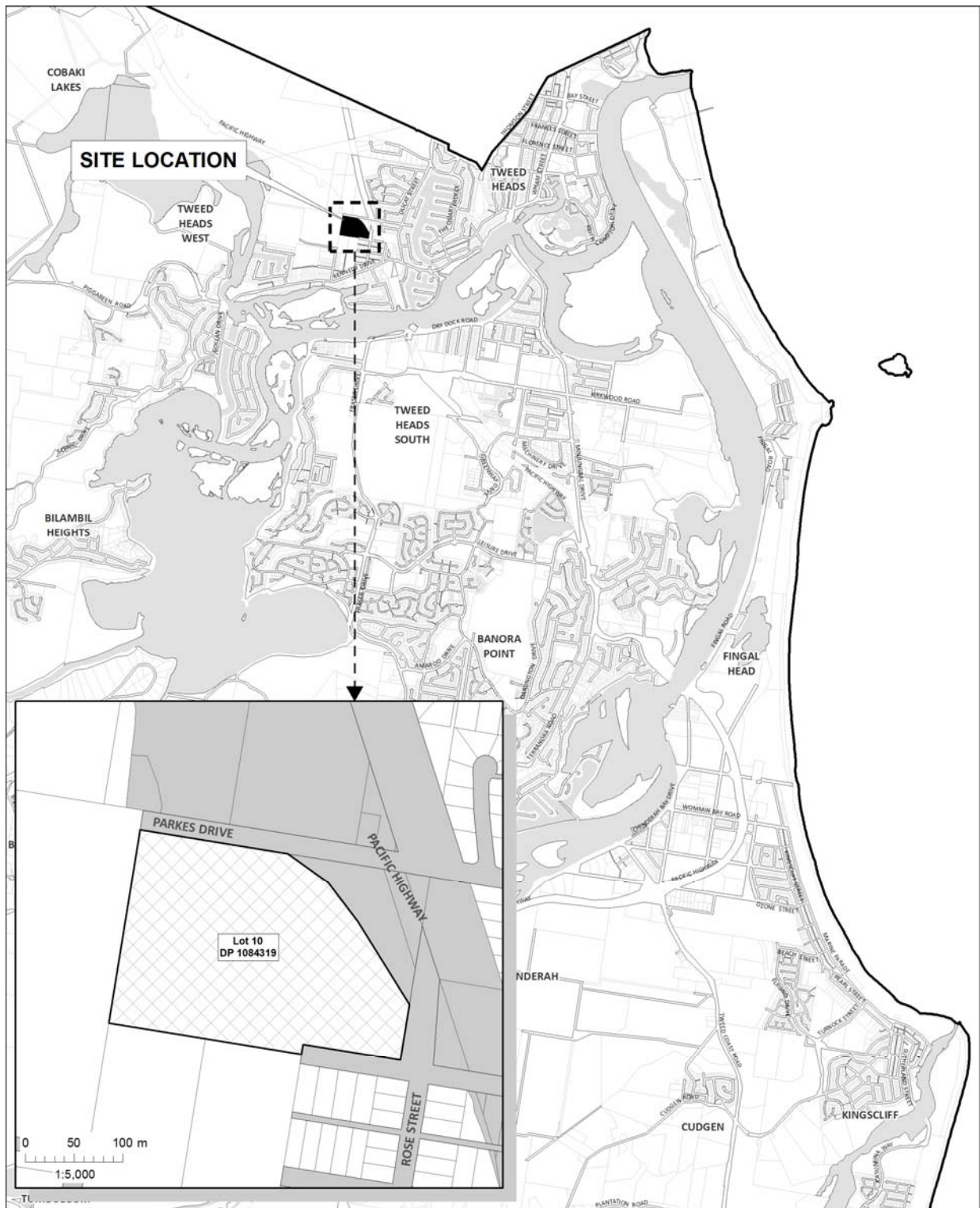
The Pacific Highway (Tugun Bypass) runs along the eastern and northern boundaries, with residential development and vacant land to the south. The Tweed Heads West Waste Water Treatment Plant lies along the western boundary of the site.

The site is not readily visible from the Pacific Highway due to the presence of an acoustic and visual barrier along the western boundary of the adjoining Pacific Highway.

The site has been identified in the Far North Coast Regional Strategy 2006 – 2031 (FNCRS) as lying within the Town and Village Growth Boundary, and has been identified as part of a Potential Employment Lands release area known as 'Area 2' in Council's Tweed Urban and Employment Land Release Strategy 2009 (TUELRS).

Part of the site is low lying and affected by the 1 in 100 year flood event, and the majority of the site lies within the 25-30 ANEF zone and a range of other constraints imposed by its close proximity to the Gold Coast Airport.

Ensure that the proposed development will not adversely impact upon the local and regional road network and other absolute constraints affecting the site has required special consideration as discussed below.



## Locality Plan

Planning Proposal PP\_2010\_TWEED\_001\_00 -- Lot 10 DP 1084319  
Parkes Drive, Tweed Heads West

Figure 1

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SOURCE: Aerial imagery taken  
October 2009 by  
Fugro Spatial Pty Ltd

Aerial photography can be purchased  
online from Fugro Spatial Pty Ltd. at:  
<http://www2.fugroworld.com/>

**Aerial Photo - taken October 2009**  
Planning Proposal PP\_2010\_TWEED\_001\_00 -- Lot 10 DP 1084319  
Parkes Drive, Tweed Heads West

**Figure 2**

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### **Planning controls – Present zoning**

The site is currently zoned 1(a) Rural as seen in Figure 4: Tweed LEP 2000 – Zoning.

The zoning of adjoining land ranges from 1(a) Rural to the north, to Special Uses for the waste water treatment site on the western boundary, to further 1(a) Rural, 6(b) Recreation and 2(a) Low Density Residential on the southern boundary, and unzoned land to the east occupied by the Pacific Highway.

### **Planning controls – Draft Tweed LEP 2010 zoning as exhibited**

In accordance with the Standard Instrument (Local Environmental Plans) Order 2006, the 1(a) Rural zoning of the site was translated to RU2 Rural Landscape and placed on public exhibition during the period 27 January 2010 to 30 April 2010, as shown in Figure 5 Draft Tweed LEP 2010 – Zoning.

### **Planning controls – Tweed LEP 2000 Proposed amendment**

This proposal seeks to rezone the site to 3(c) Commerce and Trade, as proposed in the Gateway Determination, supported by an amendment to the Tweed LEP 2000 facilitating the insertion of an additional sub-clause to clause 53 Development of Specific Sites to be known as clause 53G Boyds Bay Business Park ensuring that a Development Control Plan is prepared for the site, in which site specific considerations are detailed, and that retail development is not the predominant landuse on the site.

The need to manage the relative mix of landuses on the site arises from the classification of the site within the TUELRs, which defines employment lands as “any land that is predominantly used for commercial activities resulting in employment (specifically excluding land predominantly used for retail uses)” and goes on to include industrial-based activities and business park settings. As such, the site cannot be developed with retail as the predominant landuse, even though retail is not prohibited under the existing 3(c) Commerce and Trade zone under Tweed LEP 2000.

### **Planning controls – Draft LEP 2011 proposed zoning**

As discussed above, it has been the intention of the TUELRs to see the site developed for employment opportunities with a range of landuses including commercial, light industry, and bulky goods, consistent with the objectives of the B7 Business Park under the Standard Instrument Template.

While Council in its exhibited Draft LEP 2010 did not at that time show a B7 Business Park Zone, it is none-the-less considered a highly useful zone consistent with the intentions of Council's TUELRs and the FNCRS, and an important zone for the future development of key sites such as the Boyds Bay Garden World Site. As such it is now proposed that the B7 Business Park Zone be added to Council's revised Draft Tweed LEP 2011 to facilitate the outcomes mentioned above.

## **Background**

The site is heavily constrained and has required significant investigation to ensure that any proposal for development of the site takes into consideration the limitations to development presented by the site's close proximity and alignment with the airstrip at the Gold Coast Airport, abutment with Council's West Tweed Heads Waste Water Treatment Plant and Pacific Highway, and other constraints.

Previous reports to Council have highlighted the constraints affecting the site, which included:

- Potential impact on operations of the Gold Coast Airport;
- Proximity to the adjoin Council-owned waste water treatment plant;
- Capacity of road network and access to the adjoining Pacific Highway;
- Flooding;
- Aircraft noise, and
- Contamination.

Of those constraints identified, the most significant constraints affecting the site, that must be resolved prior to forwarding of the final planning proposal to the Department of Planning and Infrastructure (DoPI) for making of the plan, issues raised by the Roads and Traffic Authority (RTA) and Council's Aboriginal cultural heritage peer review consultant remain unresolved. Additional information in response to these concerns has been sought and provided by the proponent, but has not been fully reviewed these organisations for inclusion with the proposal at this stage, but will be addressed during public exhibition of the draft proposal.

## **Gateway determination**

Following receipt of the Gateway determination, dated 6 September 2011, Council prepared a Memorandum of Understanding for the completion of studies identified in the Determination and as required by Council. These studies were completed in accordance with define terms of reference, scope of works and in accord with the objectives established for each study.

Studies required by the Determination included:

1. Traffic Impact Study;
2. Airport Operation Impact Study, and
3. Offsite Impacts, including odour analysis and buffering requirements related to the adjacent Sewerage Treatment Plant.

Additional studies undertaken included:

1. Stormwater Management;
2. Aircraft Noise;
3. Contaminated Land;
4. Aboriginal Cultural Heritage Due Diligence;
5. Economic Impact Assessment, and
6. Strategic Planning Justification.

The Determination also required consultation with the Roads and Traffic Authority

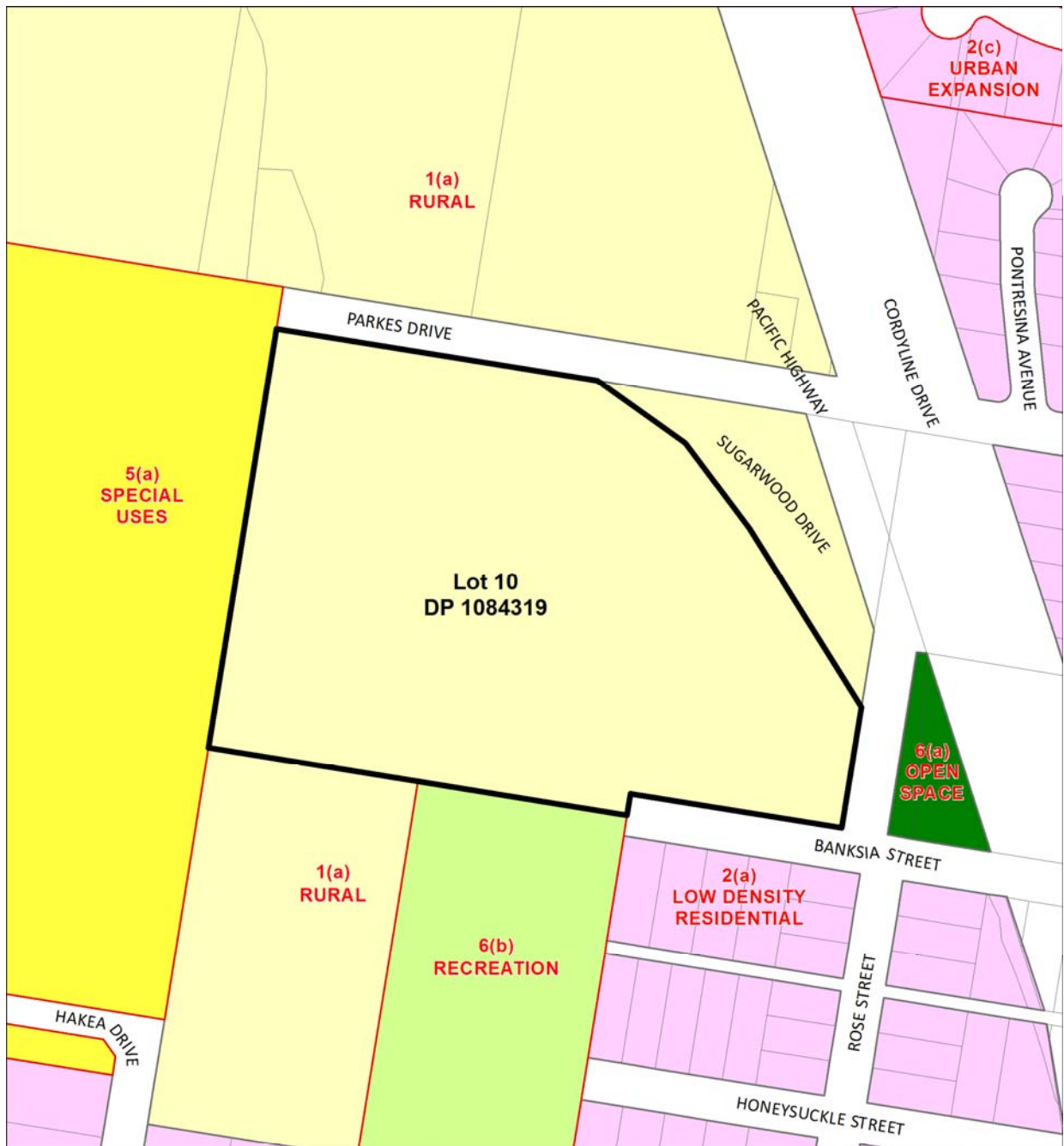
As the report to the Council meeting of 20 September 2011 identifies, these studies have been completed to the satisfaction of the RTA and Council making it now possible to place the final draft planning proposal on pubic exhibition.



Figure 3a: View looking east from south-western corner



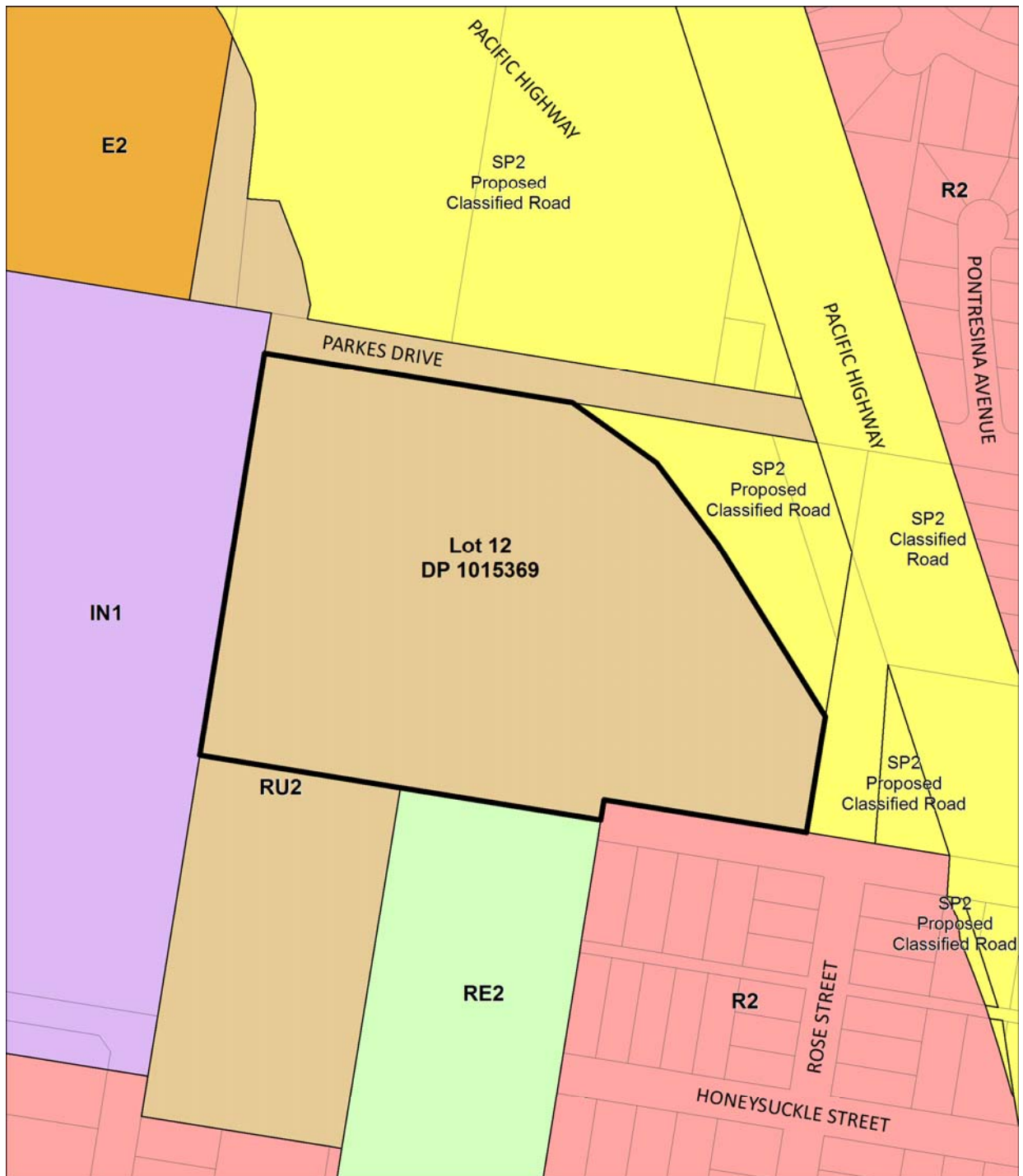




**Tweed Local Environmental Plan 2000**  
 Planning Proposal PP\_2010\_TWEEED\_001\_00 -- Lot 10 DP 1084319  
 Parkes Drive, Tweed Heads West

**Figure 4**

<b>ZONING</b> <b>RURAL</b> <div><div></div>1(a) Rural</div> <div><div></div>1(c) Rural living</div> <div><div></div>1(b1) Agricultural Protection</div> <div><div></div>1(b2) Agricultural Protection</div>	<b>RESIDENTIAL</b> <div><div></div>2(a) Low Density Residential</div> <div><div></div>2(b) Medium Density Residential</div> <div><div></div>2(f) Tourism</div> <div><div></div>2(c) Urban Expansion</div> <div><div></div>2(d) Village</div> <div><div></div>2(e) Residential Tourist</div>	<b>BUSINESS</b> <div><div></div>3(a) Sub-Regional Business</div> <div><div></div>3(b) General Business</div> <div><div></div>3(c) Commerce &amp; Trade</div> <div><div></div>3(d) Waterfront Enterprise</div> <div><div></div>3(e) Special Tourist (Jack Evans Boat Harbour)</div>	<b>INDUSTRIAL</b> <div><div></div>4(a) Industrial</div> <div><b>SPECIAL USES</b> <div><div></div>5(a) Special Uses</div></div> <div><b>OPEN SPACE</b> <div><div></div>6(a) Open Space</div><div><div></div>6(b) Recreation</div></div>	<b>ENVIRONMENTAL PROTECTION</b> <div><div></div>7(a) Environmental Protection (Wetlands and Littoral Rainforest)</div> <div><div></div>7(d) Environmental Protection (Scenic / Escarpment)</div> <div><div></div>7(f) Environmental Protection (Coastal Lands)</div> <div><div></div>7(j) Environmental Protection (Habitat)</div>	<b>NATIONAL PARKS &amp; NATURE RESERVES</b> <div><div></div>8(a) National Parks and Nature Reserves</div> <div><b>DEFER</b> <div><div></div>defer</div></div>
<b>ADDITIONAL CONTROLS</b> <div><div><div></div>Clause 37 (Transmission Line Corridor)</div><div><div></div>Clause 38 (Future Roads)</div></div> <div><div><div></div>Clause 41 (Heritage Conservation Area)</div><div><div></div>Clause 52 (Existing and Future Dam Areas)</div></div> <div><div><div></div>Clause 52 (Minimum Lot Sizes)</div><div><div></div>Clause 52 (Stormwater and Fill)</div></div> <div><div><div></div>Clause 53 (Schedule 3 Item)</div><div><div></div>Clause 52 (Pottsville)</div></div>					
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**Draft Tweed Local Environmental Plan 2010**  
 Planning Proposal PP\_2010\_TWEED\_001\_00 -- Lot 10 DP 1084319  
 Parkes Drive, Tweed Heads West

**Figure 5**

<b>LAND ZONING</b> <table border="0"> <tr> <td><b>E1</b> Neighbourhood Centre</td> <td><b>E2</b> National Parks &amp; Nature Reserves</td> <td><b>R1</b> General Residential</td> <td><b>RE1</b> Public Recreation</td> <td><b>SP1</b> Special Activities</td> <td><b>LW1</b> Natural Waterways</td> </tr> <tr> <td><b>E3</b> Local Centre</td> <td><b>E3</b> Environmental Conservation</td> <td><b>R2</b> Low Density Residential</td> <td><b>RE2</b> Private Recreation</td> <td><b>SP2</b> Infrastructure</td> <td><b>LW2</b> Recreational Waterways</td> </tr> <tr> <td><b>E4</b> Commercial Core</td> <td></td> <td><b>R3</b> Medium Density Residential</td> <td><b>RU1</b> Primary Production</td> <td><b>SP3</b> Tourist</td> <td><b>LW3</b> Working Waterways</td> </tr> <tr> <td><b>E5</b> Mixed Use</td> <td></td> <td><b>R4</b> Rural Landscape</td> <td><b>RU2</b> Village</td> <td></td> <td><b>UL</b> Unzoned Land</td> </tr> <tr> <td><b>E6</b> Business Development</td> <td><b>IN1</b> General Industrial</td> <td><b>R5</b> Large Lot Residential</td> <td></td> <td></td> <td><b>DM</b> Deferred Matters</td> </tr> </table>				<b>E1</b> Neighbourhood Centre	<b>E2</b> National Parks & Nature Reserves	<b>R1</b> General Residential	<b>RE1</b> Public Recreation	<b>SP1</b> Special Activities	<b>LW1</b> Natural Waterways	<b>E3</b> Local Centre	<b>E3</b> Environmental Conservation	<b>R2</b> Low Density Residential	<b>RE2</b> Private Recreation	<b>SP2</b> Infrastructure	<b>LW2</b> Recreational Waterways	<b>E4</b> Commercial Core		<b>R3</b> Medium Density Residential	<b>RU1</b> Primary Production	<b>SP3</b> Tourist	<b>LW3</b> Working Waterways	<b>E5</b> Mixed Use		<b>R4</b> Rural Landscape	<b>RU2</b> Village		<b>UL</b> Unzoned Land	<b>E6</b> Business Development	<b>IN1</b> General Industrial	<b>R5</b> Large Lot Residential			<b>DM</b> Deferred Matters
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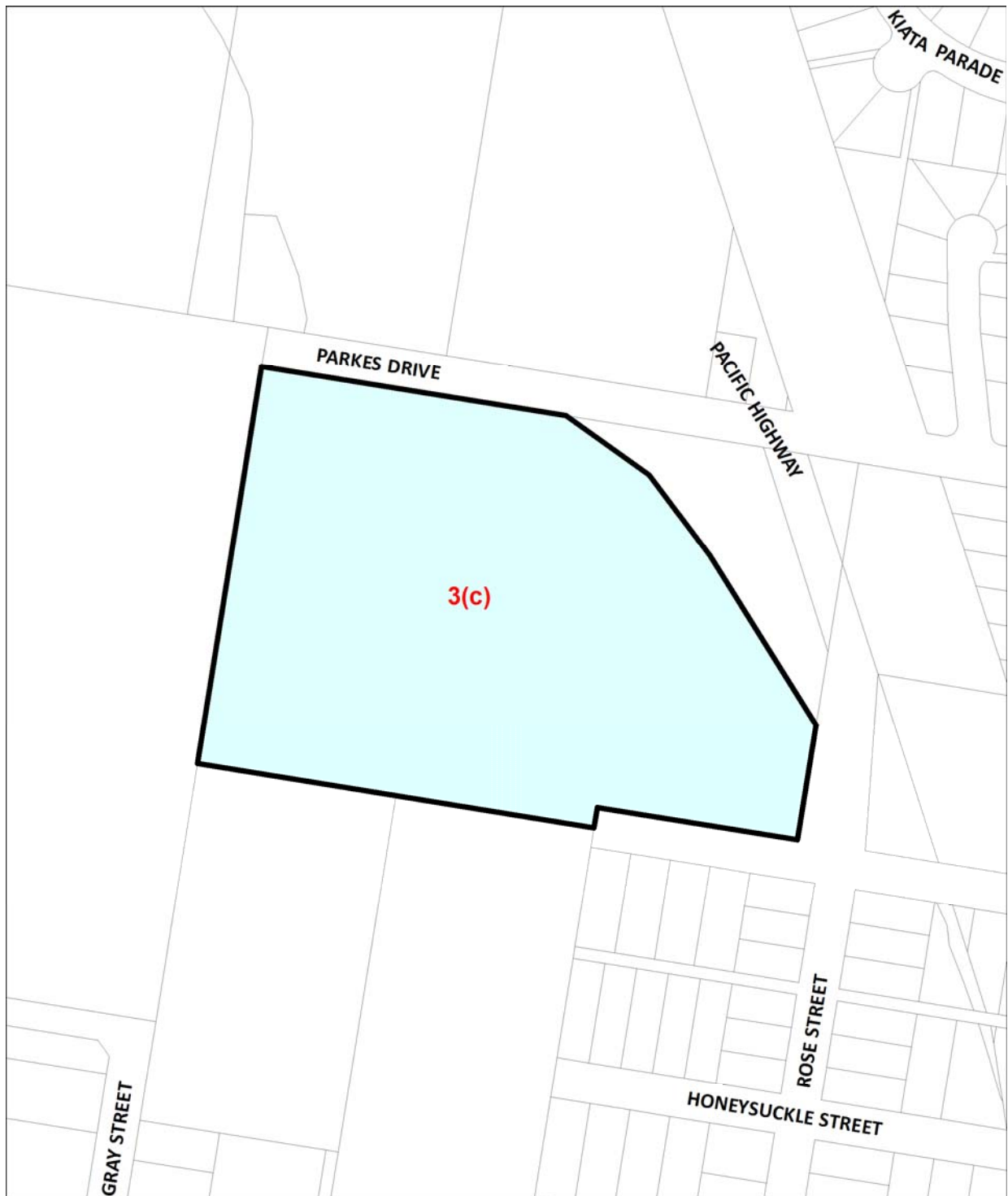
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 Date Printed: 26 August, 2011




## Tweed Local Environmental Plan 2000 - PROPOSED AMENDMENT

Planning Proposal PP\_2010\_TWEED\_001\_00 - Lot 10 DP 1084319

Parkes Drive, Tweed Heads West

**Figure 6**

 Affected Property  
Lot 10 DP1084319

 3(c) Commerce & Trade

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## Part 2 Explanation of provisions

This planning proposal seeks an amendment of the Tweed Local Environmental Plan 2000 Land Zoning Map in accordance with the proposed zoning map shown in Figure 6, and Attachment 5.

## Part 3 Justification

The site has been identified in the Far North Coast Regional Strategy 2006 as lying within the Town and Village Growth boundary, and within the Tweed Urban and Employment Land Release Strategy 2009 as potential employment land.

A change in landuse zoning from 1(a) Rural to 3(c) Commerce and Trade for the site is consistent with the intent of local and regional planning strategies, and the desire for employment generating opportunities.

### Section A Need for the planning proposal

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

The site is included in the Far North Coast Regional Strategy 2006 (FNCRS), and mapped as lying within the Town and Village Growth boundary.

The site has also been identified in the Tweed Urban and Employment Land Release Strategy 2009(TUELRS) as part of Area 2 Airport Precinct.

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

Rezoning is considered to be the most appropriate means of allowing industrial development on the land as the proposed landuses are not permissible under the current 1(A) Rural zoning of the site.

The Primary Objective of the 3(c) Commerce and Trade Zone is “to provide for commercial, bulky goods retailing, light industrial and trade activities which do not jeopardise the viability or function of the sub-regional or business centres.”

Use of the site for commercial, light industrial, and bulky goods retail landuses is considered consistent with the sited objectives of the 3(c) Commerce and Trade Zone under the Tweed LEP 2000.

#### 3 Is there a net community benefit?

In accordance with the criteria established for the assessment of Net Community Benefit in the Draft Centres Policy, The Right Place for Business and Services, and PS 06-005 and 015, an assessment of net community benefit has been undertaken against these criteria and is presented in Table 1 below. Please note that only criteria relevant to this proposal have been included.



**Table 1: Assessment of Net Community Benefit**

Criteria	Compliance with Criteria
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800 metres of a transit node)?	<p>Complies</p> <p>The proposal addresses land which has been identified as lying within the Town and Village Growth boundary within the Far North Coast Regional Strategy 2006 (FNCRS).</p> <p>The site has also been identified as part of an area of potential employment land release area known as 'Area 2 Airport Precinct' within the Tweed Urban and Employment Land Release Strategy 2009 (TUELRs).</p> <p>The site is also recognised as a potential employment land parcel capable of servicing at least in part the needs of residents of the Tweed who may otherwise travel into South East Queensland to gain employment.</p>
Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?	<p>No</p> <p>The site has been identified within the Far North Coast Regional Strategy 2006, and the adopted Tweed Urban and Employment Land Release Strategy 2009 and has been reported to Council on a number of occasions. The development of the site has been recognised by the community for some time will not create a precedent.</p>
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	<p>Yes</p> <p>It has been highlighted that the site must comply with the stated objectives of the TUELRs and not compete with existing retail centres, and must not be developed predominantly for retail purposes. This outcome will be enforced through an amendment to the Tweed LEP 2000 which facilitates the preparation of a Development Control Plan (DCP) which details the mix of landuses on the site.</p> <p>The site is not large, at 5.15 hectares, and is relatively isolated and as such is not considered, with support of the amended LEP and DCP, to generate development which will be inconsistent with local and regional strategies or generate any adverse cumulative effects.</p>
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	<p>This proposal is for the creation of employment generating landuses compatible with the locational advantages, physical and environmental constraints of the site.</p> <p>The site, within the West Tweed Heads locality, has been identified as an important part of the Shire suitable for expansion of employment generating activities on a limited basis to meet demand for local employment close to home are provided from an increasing Tweed Heads population.</p>

Criteria	Compliance with Criteria
<p>Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?</p>	<p>It is proposed to zone the site for commercial, light industrial and trade purposes, landuses intended to support the employment generating intent of the Far North Coast Regional Strategy 2006, and the adopted Tweed Urban and Employment Land Release Strategy 2009.</p> <p>Once developed, the site will provide employment opportunities for existing residents and new residents taking up occupation within proposed development in west Tweed Heads.</p>
<p>Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?</p>	<p>The Roads and Traffic Authority have raised concerns on a number of grounds, relating to the location as a gate way site, traffic generating rates, susceptibility of the local road network to small changes in traffic volume, distribution to the adjoining network, access to the adjoining the Pacific Highway, apart from other matters.</p> <p>These concerns and other transport related matters raised by Council will be addressed to the satisfaction of the RTA prior to the planning proposal being placed on public exhibition.</p> <p>The site adjoins Council's West Tweed Heads Waste Water Treatment Plant with access to Council's reticulated waste water system not considered to be an issue.</p>
<p>Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?</p>	<p>The site has been almost totally cleared of native vegetation as can be seen in the aerial image in Figure 2.</p> <p>Prior to commencement of any works on the site, Council's normal assessment and approval requirements will be applied with regard to containment of surface runoff and discharge from the site.</p>

Criteria	Compliance with Criteria
<p>Will the LEP be compatible / complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?</p>	<p>The site currently lies within a rural landuse zone, bounded on the east by the Pacific Highway, to the north by rural land utilised by a local pony club, to the west by Council's waste water treatment facility, and to the south by residential land, caravan park, and undeveloped land.</p> <p>As such, the potential for this site to negatively impact the amenity of the area is considered negligible.</p> <p>Issues relating to buffers from adjoining residential land, and Council-owned land and potential impacts of local amenity will be fully addressed within the development application assessment and consent processes.</p>
<p>Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?</p>	<p>The site has been identified for potential employment generating purposes and the creation of high quality business park; as such will facilitate a greater variety of employment opportunities through establishment of new commercial, light industrial and trade enterprises in what is a relatively isolated site capable of increasing opportunities for local residents which will to a lesser extent increase competition with existing services provided in the elsewhere in the Tweed.</p>
<p>If a stand-alone proposal and not a centre does the proposal have the potential to develop into a centre in the future?</p>	<p>At this time, the site will be developed in isolation to any potential future developments; however, as previously mentioned, the site is part of a precinct known as the Airport Precinct, which while small in footprint has the potential to generate some local convenience shopping for surrounding residents, but will not become a 'centre' in its own right.</p>
<p>What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?</p>	<p>The site has been identified as appropriate for the proposed landuse within regional and local strategies, thereby reinforcing expectations of the community for greater opportunities to live and work in the locally.</p> <p>Failure to proceed may have flow-on effects on the small area of adjoining land to the south also proposed as employment lands.</p>
<p>The degree to which the policy and its objectives can be satisfied.</p>	<p>The subject site seeks to amend the Tweed LEP 2000 in accordance with the established and proposed local and regional planning strategies, and identified site constraints.</p>
<p>The proposed level of accessibility to the catchment of the development by public transport, walking and cycling.</p>	<p>The locality is currently isolated from the nearby Tweed Heads town centre, and is likely to remain isolated; however the site is linked to the Pacific Highway and it is proposed that the DCP for the site will address local connectivity and access to public transport.</p>

Criteria	Compliance with Criteria
<p>The likely effect on trip patterns, travel demand and car use.</p>	<p>The site lies on the critical link connecting the Tweed to South East Queensland, as such; the ability of the site to generate employment opportunities in competition with current destinations in SE Queensland is considered a benefit of this proposal.</p> <p>In meeting the employment needs of local residents it is expected that this will reduce the travel distances of local residents who currently travel as far as the Gold Coast to meet their employment needs, substantially reducing travel times, improving quality of life and supporting local businesses and industry.</p> <p>By increasing the population density in an area identified for employment growth, the proposal will assist in triggering improved public transport within the locality.</p>
<p>The likely impact on the economic performance and viability of existing centres (including the confidence of future investment in centres and the likely effects of any oversupply in commercial or office space on centres.</p>	<p>The matter of potential for this site to adversely impact the economic performance of other established retail centres within the Tweed has been considered against the cited objectives of Council's TUELRs and Retail Principles as well as the FNCRS, the Draft Centres Policy, and the North Coast SEPP.</p> <p>In support of these local, regional and State strategies an amendment to the Tweed LEP 2000 is proposed which will require a DCP to be prepared which addresses all significant site constraints affecting the site, and the mix of landuses to be developed, ensuring that retailing is not a predominant use of the site.</p> <p>The increase in population proposed in the urban release areas already identified in the Far North Coast Regional Strategy 2006 and the employment lands and potential urban lands proposed for the current review of the Strategy will see a significant increase in population which it is expected will offset any potential adverse impacts of competition for services provided elsewhere in the Tweed.</p>
<p>The amount of use of public infrastructure and facilities in centres, and the direct and indirect cost of the proposal to the public sector.</p>	<p>This proposal represents a catalytic development of currently under-utilised rural land, part of an increase in employment generating development in the locality.</p> <p>Servicing of the site is currently achieved using the local road network. The extent of any improvement works has yet to be fully defined, but will be addressed with Council's Engineering Services division and the RTA during the public exhibition period.</p> <p>The provision of waste water treatment and disposal should not present any difficulties to development of the site.</p>

Criteria	Compliance with Criteria
The practicality of alternative locations, which may better achieve the outcomes, the policy is seeking.	<p>The site is a small parcel of land already identified in local and regional strategies and proposed as part of a somewhat larger area of development in the future as discussed above.</p> <p>Rezoning of the site for commercial, light industrial and trade purposes is the most effective means of ensuring progress in the more extensive development of the locality.</p>
The ability of the proposal to adapt its format or design to more likely secure a site within or adjoining a centre or in a better location.	This proposal is for the development of an isolated site apart from any existing centre, but is proposed as part of a increase in employment generating lands adjoining the site.

This planning proposal represents the opportunity to both catalyse development and to improve opportunities for both lifestyle and employment related activities in a location identified as a potential future employment precinct within the Tweed Shire.

## **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)?**

The site has been identified within the Far North Coast Regional Strategy 2006 (FNCRS) and forms part of a larger potential employment land release area known as 'Area 2 Airport Precinct' within the Tweed Urban and Employment Land Release Strategy 2009 (TUELRS).

Rezoning the site for commercial, light industrial, and trade purposes is consistent with the aims of these strategies; in particular:

- Facilitate development of identified Employment Lands;
- Provide local employment opportunities for the region's employment target of an additional 32,500 new jobs from an additional 19,100 new dwellings by 2031;
- Enabling development of a site which has undergone detailed assessment and identification of critical constraints;
- Support an agreed landuse outcome agreed between Council and the proponent;
- Reduce travel times by providing local employment opportunities currently provided across the border in South East Queensland;
- Encourage development of adjoining land identified for further employment generating purposes, thereby supporting employment opportunities for local residents and providing a greater diversity of services and facilities for a priority location within the Shire.

Assessment against the Far North Coast Regional Strategy 2006 is provided in Table 2 below.

Table 2: Assessment against the Far North Coast Regional Strategy 2006 (selected extracts only)

Outcome	Response
Economic development and employment growth will be facilitated by identifying suitable business and investment opportunities and providing employment lands to support these opportunities.	<p>Complies</p> <p>The proposal is consistent with a range of economic development strategies as identified by Council and the Tweed Economic Development Corporation in the adopted 2006 Ready for Business strategy, the Tweed Urban and Employment Land Release Strategy 2009, and the Far North Coast Regional Strategy 2006 as discussed above.</p>
Other commercial development, which relates to the scale of the adjoining urban areas, will be located within the boundaries of towns and villages, utilising existing commercial centres where possible, and integrated with the initial planning of new release areas.	<p>The development of this land is not likely to detract from the function or amenity of existing Tweed town centre or South Tweed retail centre and will provide an employment generator for current and future residents in West Tweed Heads.</p> <p>The separation of the site from any nearby centres will minimise any potentially adverse impact on existing retail, industrial or commercial developments within the locality.</p>
Councils should plan for future industrial needs within existing urban areas and take into account economic markets, South East Queensland pressures for employment lands, lifestyle opportunities, and transport improvements within and from the Region.	<p>The development of this land will support the projected significant population increase likely within the Tweed.</p> <p>In proposing this site, Council has considered the long term development of the West Tweed Heads locality, with this land parcel providing employment opportunities for what will be a significant increase in population and consequent need for local employment opportunities in this locality.</p>
Certain industries will need to be located away from existing urban centres due to their type, scale and nature. Councils will address this need through their Local Growth Management Strategies.	<p>The development is considered consistent with this planning outcome in that the land is considered suitable for commercial, light industrial and limited retail development given its close proximity to the Pacific Highway and the spatial separation afforded the site from other retail precincts and centres.</p>



Outcome	Response
Local environmental plans will ensure that sufficient lands which are zoned employment and currently vacant are protected to accommodate the new jobs required for each local government area until 2031.	This proposal is consistent with the employment objectives outlined in the FNCRS and the Tweed Urban and Employment Land Release Strategy 2009.
Use of existing vacant industrial land should be considered prior to the release of any major new industrial areas.	While approximately 62 hectares of undeveloped industrial zoned has been identified in the TUELRs as being land available for uptake, the location of this site and its linkage with adjoining land proposed for employment generating purposes makes the site an important first step in the realisation of the broader strategic planning and development of the locality as discussed elsewhere in this proposal.
Planning for commercial and industrial land uses must be integrated with the supply of relevant infrastructure and transport.	The site requires further investigation with respect to issues raised by the Roads and Traffic Authority.  The site can be connected to Council's reticulated waste water system.

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

The Tweed Community Strategic Plan 2011/2021 (CSP) creates a framework to implement Council's four-year Delivery Program and annual Operational Plan, which will align the community's aspirations with the development and implementation of necessary planning and resourcing required to achieve the long term vision and deliver the outcomes.

Under the theme of Strengthening the Economy, the CSP aims to strengthen and diversify the region's economic base in a way that complements the environmental and social values of the Tweed. In part, Council has agreed to implement policy and decisions which balance development and environmental protection; fund and work with 'Destination Tweed' to attract business, and grow employment and create tourism opportunities that take advantage of the Tweed's natural environment and assets.

Under the theme of Caring for the Environment, the CSP aims to see Council and the community value, respect and actively participate in the care and management of our natural environment for current and future generations, through, amongst other actions Increase its focus on protecting, regulating and maintaining the natural and built environment.

This proposal represents a direct response consistent with the direction and intent of the Tweed Community Strategic Plan.

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

This site is not subject to the application of *SEPP 14 Coastal Wetlands*, or *SEPP 26 Littoral Rainforest*.

The planning proposal is of a scale and nature that should not trigger the application of *SEPP (Major Development) 2007*.

The following SEPPs do apply to the subject site:

#### ***SEPP (Infrastructure) 2007***

The planning proposal is of a scale and nature that will trigger the application of *Schedule 3 Traffic generating development to be referred to the RTA of SEPP (Infrastructure) 2007*.

The Roads and Traffic Authority have been consulted regarding this proposal and have raised a number of concerns as discussed above. A copy of the RTA letter in response, dated 7 July 2011 can be viewed in Attachment 4.

#### ***SEPP 55 – Remediation of Land***

This SEPP introduces planning controls for the remediation of contaminated land. The policy states that land must not be developed if contamination renders it unsuitable for a proposed use. If the land is unsuitable, remediation must take place before the land is developed.

A preliminary site contamination assessment has been undertaken which indicates that the site has the potential to be contaminated. Based on this analysis, a detailed site assessment will be required as with any application for development of the site and should any contamination be detected, appropriate remediation works undertaken in accordance with the requirements of SEPP 55 – Remediation of Land and Council.

#### ***SEPP (North Coast Regional Environmental Plan) 1988***

Clause 7 – Prime Crop or Pasture Land: The site is zoned 1(a) Rural although the site is clearly not capable of being used for any traditional rural landuse activity, being the site of a previous drive-in picture theatre and now used as a retail and wholesale plant nursery.

Clause 14 – Wetlands or Fisheries Habitat: There are no mapped wetlands in close proximity; however, any application for development of the site will require contemporary surface water management practices and facilities to ensure that runoff entering the local drainage network is of a high quality.

Part 3 Conservation of the environment: The site is almost totally disturbed containing little vegetation, as can be seen in the aerial image in Figure 2.

Division 3 Heritage: the matter of Aboriginal cultural heritage has been considered but not concluded, with the proponent asked to provide additional information on issues raised by Council's Aboriginal cultural heritage consultant during peer review of the original documentation presented to Council. This matter will be concluded during the public exhibition period.

Clause 38 Plan preparation – urban land release strategy: The site has been identified within the Far North Coast Regional Strategy, 2006 – 2031 as lying within the Town and Village Growth Boundary. Compliance with requirements of the Far North Coast Regional Strategy is addressed in Section B 1 above.

Clause 40 Plan preparation - principles for urban zones: The Planning Proposal will adopt the existing 3(c) Commerce and Trade zone within the Tweed Local Environmental Plan 2000.



Clause 45 Plan preparation – hazards: All relevant hazards are addressed in Section 4.0 of this Planning Proposal. There are a number of hazards with potential to impact the development potential of the site. These relate to absolute constraints imposed due to the close proximity of the site to the Gold Coast Airport, and the Council-owned waste water treatment plant which abuts the western boundary of the site.

Clause 47 Plan preparation and development control – principles for commercial and industrial development: The site is isolated and while conveniently located adjoining the Pacific Highway, will remain relatively isolated. The site has been identified as part of a larger employment land release area within the Tweed Urban and Employment Land Release Strategy 2009. This site is the first stage in the realisation of the broad strategic focus of these strategies.

Clause 48 Plan preparation – maintenance of industrial development zonings: As per Clause 47. This site expands the area of potential commercial, light industrial, and trade related land and supports employment generating development which will adjoin further employment lands identified in the Tweed Urban and Employment Land Release Strategy.

Part 5 Regional infrastructure: Council and the Roads and Traffic Authority have a number of concerns relating to the impact on the adjoining local and regional road network, which includes the Pacific Highway. A copy of the RTA response to the initial proposal can be seen in Attachment 4.

Clause 58 Plan preparation – servicing urban area: The site can be connected to Council's reticulated waste water disposal system and does not represent a major constraint to the development of the site.

#### ***SEPP (Rural Lands) 2008***

As indicated above, the site is of negligible agricultural value, not suitable for grazing or native vegetation. The site does not contain state significant or regionally significant farmland.

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

Consistency with the relevant section 117 Ministerial Directions is assessed in Table 3 below:

**Table 3:** Consistency with section 117(2) Ministerial Directions (Only a summary of key provisions have been included)

<i>Application</i>	Relevance to this planning proposal
<b>1. Employment and Resources</b>	
<b><u>1.1 Business and Industrial Zones</u></b>	
Applies 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>Consistent</p> <p>The proposal is for an expansion of industrial land consistent with both regional and local planning strategies (the Far North Coast Regional Strategy 2006 and the Tweed Urban and Employment Land Release Strategy 2009)</p>
<b><u>1.2 Rural Zones</u></b>	
<p>Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary)</p> <p>Under this direction a planning proposal must:</p> <p>(a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</p> <p>(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).</p>	<p>This proposal is consistent with the direction by way of justification based upon compliance with the Far North Coast Regional Strategy 2006</p>
<b><u>1.3 Mining, Petroleum Production and Extractive Industries</u></b>	
<p>Applies when a relevant planning authority prepares a planning proposal that would have the effect of:</p> <p>(a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or</p> <p>(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.</p>	<p>The 3(c) Commerce and Trade Zone within the current Tweed LEP 2000 prohibits extractive industries and mines.</p>

## 1.5 Rural Lands

applies when:

- (a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or ....

While the site is currently zoned 1(a) Rural, the site is of almost no agricultural value and has been identified in the TUELRs as potential employment land.

A planning proposal to which clauses (a) and (b) apply must be consistent with the Rural Planning Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

## 2. Environment and Heritage

### 2.1 Environment Protection Zones

A Draft LEP shall include provisions that facilitate the protection and conservation of environmentally sensitive areas and shall not reduce the environmental protection standards that apply to the land.

The site is almost totally void of native vegetation. See Figure 2.

### 2.3 Heritage Conservation

A planning proposal must contain provisions that facilitate the conservation of items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area

Matters relating to the heritage value of the site are currently being investigated and will be concluded prior to public exhibition.

### 3. Housing, Infrastructure and Urban Development

#### 3.4 Integrating Land Use and Transport

In summary, this Direction provides that a Draft LEP shall locate zones for urban purposes and include provisions that give effect to or are consistent with the aims, objectives and principles of Improving Transport Choice – Guidelines for Planning and Development (DUAP 2001) and The Right Place for Business and Services – Planning Policy (DUAP 2001). The Direction also provides that a Draft LEP may be consistent with the Direction if the land has been identified in the Strategy prepared by Council and approved by the Director General or, the rezoning is justified by an Environmental Study or the rezoning is in accordance with the relevant regional strategy.

Traffic related issues have been considered and the Roads and Traffic Authority approached for their response to the proposal as seen in Attachment 3.

The RTA response has raised issues relating to the traffic generation rates for the proposed development, the capacity and sensitivity of the local road network and a range of issues associated with its juxtaposition with the Pacific Highway. A copy of the RTA initial response can be viewed in Attachment 4.. These matters will need to be fully addressed as part of the final planning proposal.

### 4. Hazard and Risk

#### 4.4 Planning for Bushfire Protection

Applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.

In summary, this Direction provides that in the preparation of a Draft LEP a Council shall consult with the Commissioner of the Rural Fire Service and take into account any comments made. In addition, the Draft LEP is required to have regard to Planning for Bushfire Protection, 2001 among other things.

The proposal contains some areas of land identified as being part of bushfire setback areas which will need to be addressed with any application for development of the site.

### 5. Regional Planning

#### 5. Implementation of Regional Strategies

Planning proposals must be consistent with a regional strategy released by the Minister for Planning.

The site has been identified as lying within the Town and Village Growth boundary in the Far North Coast Regional Strategy 2006.

#### **5.4 Commercial and Retail Development along the Pacific Highway, North Coast**

Applies 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.

The site adjoins the Pacific Highway and as such has been referred to the Roads and Traffic Authority for their consideration, a copy of their response can be seen in Attachment 4. Matters relating to the requirements of the RTA have not been concluded but will be resolved to the satisfaction of the RTA prior to placing the planning proposal on public exhibition.

### **6. Local Plan Making**

#### **6.1 Approval and Referral Requirements**

In summary, this Direction provides that a Draft LEP shall minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or Public Authority, not contain these provisions unless Council has obtained approval from the relevant Authority and not identify development as designated development unless certain prerequisites can be met.

The draft planning proposal does not include provisions that require; the concurrence, consultation or referral of development applications to a Minister or public authority.

#### **6.2 Reserving Land for Public Purposes**

A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).

The planning proposal does not create, alter or reduce land reserved for a public purpose.

There has been no request from the Minister or public authority to reserve land for a public purpose at this stage.

### 6.3 Site Specific Provisions

A Draft LEP that amends another Environmental Planning Instrument in order to allow a particular development proposal shall either allow that land use to be carried out in the zone that the land is situated on or 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 existing or allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal Planning Instrument being amended.

The planning proposal seeks to zone the land appropriate to the land uses proposed and does not seek to include additional uses beyond what is permitted with the land use table.

The proposal is consistent with the existing landuse zones under the Tweed LEP 2000 and the Direction.

## 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 has been extensively disturbed as part of previous landuses and consists of extensive areas of bitumen sealed surface.

Council's vegetation mapping shows that the site does not contain vegetation of recognised communities and is not shown to have either ecological status or vulnerability.

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

Due to the extensively disturbed nature of the site it is considered unlikely that the development of the site will result in any adverse impacts beyond those already imposed by previous development of the site.

Any application for development of the site will be assessed in accordance with Council's existing procedures, and any approval will likewise require appropriate consideration of potential adverse environmental impacts on the site or adjoining land and water bodies.

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

The proponent has provided details as to the potential benefits of the proposal in response to a specific request from Council to address the potential impacts of the proposed development on existing centres and retail precincts in accordance with existing local, regional and State strategies which emphasise the need to support existing centres and not detract from existing retail precincts.

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

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

#### **Roads**

The potential for development of the site for the purposes proposed to impact on the Pacific Highway and the local road network has not been fully addressed; however, the RTA has been approached and correspondence is continuing to ensure that all matters of relevance to this authority are addressed in the final planning proposal.

Initial correspondence prepared by Bitzios Consulting was forwarded to the Roads and Traffic Authority (RTA) for their consideration. Their response can be seen in Attachment 4, which concluded that further information was required addressing amongst other matters; traffic generation rates, impact on the Parkes Drive access, service vehicle provision, onsite parking provision and layout and capacity restrictions on the current network.

These comments were forwarded to the consultant who has prepared a response which will be concluded to the satisfaction of the RTA and Council prior to placement of the final draft planning proposal on public exhibition period.

#### **Waste water**

As mentioned above, connection to Council's reticulated waste water treatment system should be possible and is not considered a constraint to development of the site.

Council's Water Unit has provided the following additional advice: The sewer main serving the site is a 150mm diameter main in the catchment of SPS 2006 Morley St Pump Station which injects its discharge via a 150 diameter sewer rising main into a 300mm diameter rising main from SPS 2005 to the STP site at the intersection of Rose Street and Banksia St.

The 300mm diameter main traverses the subject site in an easement 5.03m wide to drain sewage adjoining the southern boundary of the site west of the Banksia Street road reserve.

Analysis would be required to determine the best way to connect the site to the system given the higher intensity use and greater rainfall derived infiltration and inflow potential. The terrain of the site may be that the proposed development may not be able to be drained to this location by gravity.

Options for servicing the site include connection to the existing gravity using gravity sewers and pump station if necessary, and connection via a pump station servicing the site and possibly some adjoining land directly to the STP site. The former case may require an upgrade of the existing SPS2006 Morley Street pump station. In either case, Council's proposed upgrade of sewage treatment capacity in the Tweed Heads and Banora Point catchments will permit development of this site.

The report's estimates of flow from the proposed development are consistent with the estimate for ultimate development used in the Tweed Heads STP Sewer Strategy Study prepared by Council in 2003.

Further advice acknowledges that as there is a viable alternative to the sewerage scheme proposed in the Engineering Infrastructure Assessment, sewerage is not considered to be a constraint that would preclude this proposed development.

#### **Odour**

The proponent has commissioned a detailed odour assessment by SKM. The odour report has recommended the following measures so as to minimise impacts:

- Planting a (visual) tree screen along the boundary between the treatment plant and the development site. Visual screens often have an effect of reducing potential complaints, as there is less sensitivity to activities or emission sources that cannot be seen.
- Adopting a development design that recognises the presence of the adjacent wastewater treatment. For example, locating air conditioner intakes on the eastern side of business park buildings.
- Maximising the distance between the nearest existing and proposed sensitive receptors and the key odour sources.

Advice from Council's Water Unit acknowledges that the odour study has been carried out with reasonable consultation and generally in accordance with Council's MoU requirements, and has adopted the 3OU (odour unit) contour as a limiting area and has based its analysis on an assumed design for a future wastewater treatment plant that is considered realistic.

This suggests that an area in the northwest corner of the site may be affected and this has been reflected in the Concept Plan in Attachment A of the Planning Proposal prepared by Planit Consulting.

The study has listed mitigation measures for the site that are generally consistent with the provisions of Council's DCP in relation to sewage treatment plant buffer zones but applies it to the area within the 3OU contour rather than the distances nominated in the DCP. It is considered that this is a reasonable approach given the results of the modelling and the mitigation measures that would be required of a new waste water treatment plant to be constructed on the site of the old plant.

Whilst the Concept Plan has reflected the results of this study in that a road and car parking areas have been placed in the areas most likely to be affected by odour and the vegetation buffer is featured, it does not indicate that entrances and air-conditioning and ventilation inlets are to be oriented towards the east (facing away from the potential odour source). This particularly applies to the buildings labelled T1, T2 & T3. It is in all party's interests to ensure that there is no ambiguity in the Concept Plan in relation to implementation of the recommendations of the Odour Study so that the requirements will flow through to future development applications.

The final design of the development and location and orientation of buildings and public spaces will be integrated into a Development Control Plan for the site, and be assessed in detail upon receipt of any development application for the site.

### **Earthworks and flooding**

The existing ground generally has a slight crest in the middle of the site from the north eastern corner down to the south western corner of the site. This splits the site into two catchments, one grading to the south east corner at the end of Rose Street, and the other grading to the northwest into Parkes Drive.

The extensive paved area, originally utilised for the drive in theatre, has an undulating surface formation but generally grades consistent with the catchments described above.

Two surface water storage ponds on the site currently utilised for irrigation of the nursery will be filled, the fill to be certified under Level 1 geotechnical supervision.

The existing site levels are generally between RL1.0 AHD and RL3.0 AHD, with the Q100 flood level being in the order RL2.50m AHD. The majority of the site varies between RL2.0m and RL3.0, with the storage ponds at a lower level.



The proposed development is likely to involve filling below the flood level to provide flood free platforms which will be required to meet Council's requirements for development on floodplains.

### **Water**

The water main to this location is a 100mm diameter main from Kennedy Drive. This size main is not satisfactory for fire flow design requirements for the proposed business park usage and requires upgrade to connect to the distribution mains that exist and are proposed in Kennedy Drive. Council's Design Specification D11 requires a minimum 150mm diameter main to service commercial and industrial precincts. It is considered that pressure available at Kennedy Drive would be adequate to supply the proposed development provided this main is upgraded appropriately.

### **Electricity and Telecommunications**

Electricity and Telecommunications services are available to the site, and located in Rose Street. If augmentation works to the network is required, this will be undertaken as part of the development.

### **Stormwater**

A suitable stormwater drainage system will be required for the site. The system will need to convey runoff from the following catchments:

- The northern catchment of the site, which will grade towards Parkes Drive, and
- The southern catchment of the site, which will grade towards Rose Street

All stormwater from the site will need to be treated in accordance with Council's requirements, which apart from other requirements; will require no net increase in the amount of stormwater runoff from the site post development.

The water quality treatment train is likely to comprise gross pollutant traps and bio-retention areas. This infrastructure will typically be located adjacent to car parking areas at the low points of the site.

While the Engineering Infrastructure Assessment report prepared by OPUS concludes that stormwater can be adequately dealt with consistent with council's standards, a detailed stormwater management plan will be required with any development application lodged for the site.

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

While consultation with the Roads and Traffic Authority and Gold Coast airport Limited has already occurred, further consultation with relevant State and Commonwealth Public Authorities as identified in the Gateway determination is expected.

## **Part 4 Community consultation**

In accordance with the Gateway Determination, dated 6 September 2010, this planning proposal will be exhibited for a period of at least 28 days.

## Summary and conclusions

This proposal supports a request from Planit Consulting for Council to prepare a Planning Proposal for the rezoning of Lot 10 DP 1084319, currently zoned 1(a) Rural, to 3(c) Commerce and Trade under the Tweed LEP 2000, to be translated into B7 Business Park in accordance with the Standard Instrument (Local Environmental Plans) Order 2006, as proposed in the Draft Tweed LEP 2011.

This planning proposal seeks to maintain a consistent and compliant approach to both the Far North Coast Regional Strategy 2009 and the Tweed Urban and Employment Lands Release Strategy 2009, each of which include this site.

The site has been the subject of extensive investigations, which will be available for scrutiny during the public exhibition period.

While matters relating to the site's close proximity to the Gold Coast Airport and Council's waste water treatment plant have been dealt with in sufficient detail to satisfy requirements at this stage in the planning process, details will need to be defined within a Development Control Plan (DCP) facilitated through the Tweed LEP 2000 (Amendment No 93), addressing all site specific development standards and planning objectives.

Concerns raised by the RTA and Council's Aboriginal cultural heritage peer review consultant will need to be addressed to the satisfaction of Council prior to placing the proposal on public exhibition.

Public Exhibition V13

## ATTACHMENTS

**Attachment 1:** - Council Report of 15 December 2009

**Attachment 2:** - Council Report of 20 July 2010

**Attachment 3:** - Council Report of 20 September 2011

**Attachment 4:** - Letter from the Roads and Traffic Authority (7 July 2011)

**Attachment 5:** - Letter from Gold Coast Airport Limited (18 November 2009)

**Attachment 6:** -Draft Tweed Local Environmental Plan 2000 (Amendment No 93)

**Attachment 7:** - Gateway Determination

Public Exhibition Version

**Attachment 1 - Council Report of 15 December 2009**

Public Exhibition Version

**TWEED SHIRE COUNCIL  
MEETING TASK SHEET**

**User Instructions**

If necessary to view the original Report, double-click on the 'Agenda Report' blue hyperlink above.

**Action Item - COUNCIL MEETING Tuesday, 15 December 2009**

Action is required for Item **12** as per the Council Resolution outlined below.

---

**TITLE: [PR-CM] Proposal to Amend the Rezoning Timeframe of the Tweed Urban and Employment Land Release Strategy 2009 for the Boyds Bay Garden World Site, Tweed Heads**

**Cr K Skinner**

**Cr J van Lieshout**

**RESOLVED that:-**

1. Council endorses the proposed amendment Table 9-1 of the Tweed Urban and Employment Land Release Strategy (TEULRS) 2009 relating to the staged release of a nominated employment investigation area from medium (10-20 years) to short term (0-10 years), as outlined in the submission received by Council from Planit Consulting on 9 September 2009, relating to the Boyds Bay Garden World site, Lot 10, DP 1084319, Tweed Heads.
2. Approval of Point 1 above will be subject to the proponents providing a more detailed response to the main outstanding issues identified in this report, including further prior consultation occurring with the key relevant authorities, Tweed Shire Council, Gold Coast Airport and the Roads and Traffic Authority, as part of any future Planning Proposal application to rezone this site.

**AMENDMENT**

**Cr K Milne**

**Cr D Holdom**

**PROPOSED** that:-

1. Council endorses the proposed amendment Table 9-1 of the Tweed Urban and Employment Land Release Strategy (TEULRS) 2009 relating to the staged release of a nominated employment investigation area from medium (10-20 years) to short term (0-10 years), as outlined in the submission received by Council from Planit Consulting on 9 September 2009, relating to the Boyds Bay Garden World site, Lot 10, DP 1084319, Tweed Heads.
2. Approval of Point 1 above will be subject to the proponents providing a more detailed response to the main outstanding issues identified in this report, including further prior consultation occurring with the key relevant authorities, Tweed Shire Council, Gold Coast Airport and the Roads and Traffic Authority, as part of any future Planning Proposal application to rezone this site.
3. The proponent demonstrate a commitment to an enhanced sustainability outcome for any future redevelopment of the site, including elements of the construction and building design, future operational performance and the full life cycle of the development, through the submission of an appropriate sustainable assessment of a development design concept in the form of a draft Development Control Plan (DCP) with any rezoning application, demonstrating proposed measures such as thermal, energy, water, waste, innovation, to the satisfaction of Council.

The Amendment was **Lost**

**FOR VOTE - Cr D Holdom, Cr B Longland, Cr K Milne**

**AGAINST VOTE - Cr P Youngblutt, Cr K Skinner, Cr J van Lieshout, Cr W Polglase**

The Motion was **Carried** (Minute No 462 refers)

**FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr B Longland, Cr J van Lieshout, Cr W Polglase**

**AGAINST VOTE - Cr K Milne**

**TITLE:** [PR-CM] Proposal to Amend the Rezoning Timeframe of the Tweed Urban and Employment Land Release Strategy 2009 for the Boyds Bay Garden World Site, Tweed Heads

**ORIGIN:**

**Planning Reforms**

**SUMMARY OF REPORT:**

A submission seeking a request to amend Table 9-1 of the Tweed Urban and Employment Land Release Strategy (TEULRS) 2009 relating to the staged release of a nominated employment investigation area from medium (10-20 years) to short term (0-10 years) relating to the Boyds Bay Garden World site was received by Council from Planit Consulting on 9 September 2009. The submission identifies that, should Council support an amendment to the Strategy, the proponents will advance an application to rezone the site from the current 1(a) Rural zone under Tweed Local Environmental Plan 2000 to a zone which will facilitate an employment generating, business park redevelopment, to include such uses as aviation servicing, bio tech, logistics/warehouses and food related industries.

This report addresses the strategic implications and planning merit issues relating to both the Strategy amendment proposal, and the general nature of the proposed business park use, for which Council will need to be satisfied that such a proposal is an economically viable use for this site.

From the officer's assessment of the proponents' submission, despite the current Strategy's identification that there is currently approximately 102 hectares of available, potentially useable zoned employment land within Tweed Shire, it was acknowledged that there are a number of favourable and strategic aspects relating to the location of the subject site and its proposed employment generating potential. However, the assessment also identified a number of site constraints, such as the impacts of Gold Coast Airport operations, regional and local road access, and proximity to Council's new Tweed Heads sewerage treatment plant, which require further investigation, prior to there being assurance that a future business park redevelopment is feasible for the site.

In any support of the proponents' proposed amendment of the TEULRS, Council needs to be provided with some certainty that the subject business park redevelopment proposal can resolve the major site constraint and planning issues identified above. One option is for Council to require a Development Application (DA) to be submitted concurrent to any rezoning application for the site. However, given the recent legislative changes to the State Government's plan making processes, whereby the submission requirements for the new "Planning Proposal" and "Gateway" system are much less onerous for any initial rezoning application, it may therefore be seen as an unreasonable imposition on the proponents in this instance to require the details of a full DA with their rezoning proposal. The option for a combined application under s 72J of the Act is nevertheless there should the proponent decide to proceed on that basis.

As an alternative approach to gaining greater certainty in establishing the viability of the proposed redevelopment of the Boyds Bay Garden World site, it is recommended that the proponents provided a detailed response to the main outstanding issues of their Strategy amendment submission in any Planning Proposal documentation, and that further prior consultation occur with the key relevant authorities, Tweed Shire Council, Gold Coast Airport and the Roads and Traffic Authority.

On the basis of this approach, it is considered that there are sufficient grounds for Council to support the proponents' request to amend Table 9-1 of the Tweed Urban and Employment Land Release Strategy (TEULRS) 2009 relating to the staged release of a nominated employment investigation area from medium (10-20 years) to short term (0-10 years) relating to the Boyds Bay Garden World site, subject to further consultation with relevant authorities, and resolution of the key planning and site constraint issues identified in this report.

#### **RECOMMENDATION:**

**That:-**

- 1. Council endorses the proposed amendment Table 9-1 of the Tweed Urban and Employment Land Release Strategy (TEULRS) 2009 relating to the staged release of a nominated employment investigation area from medium (10-20 years) to short term (0-10 years), as outlined in the submission received by Council from Planit Consulting on 9 September 2009, relating to the Boyds Bay Garden World site, Lot 10, DP 1084319, Tweed Heads.**
- 2. Approval of Point 1 above will be subject to the proponents providing a more detailed response to the main outstanding issues identified in this report, including further prior consultation occurring with the key relevant authorities, Tweed Shire Council, Gold Coast Airport and the Roads and Traffic Authority, as part of any future Planning Proposal application to rezone this site.**



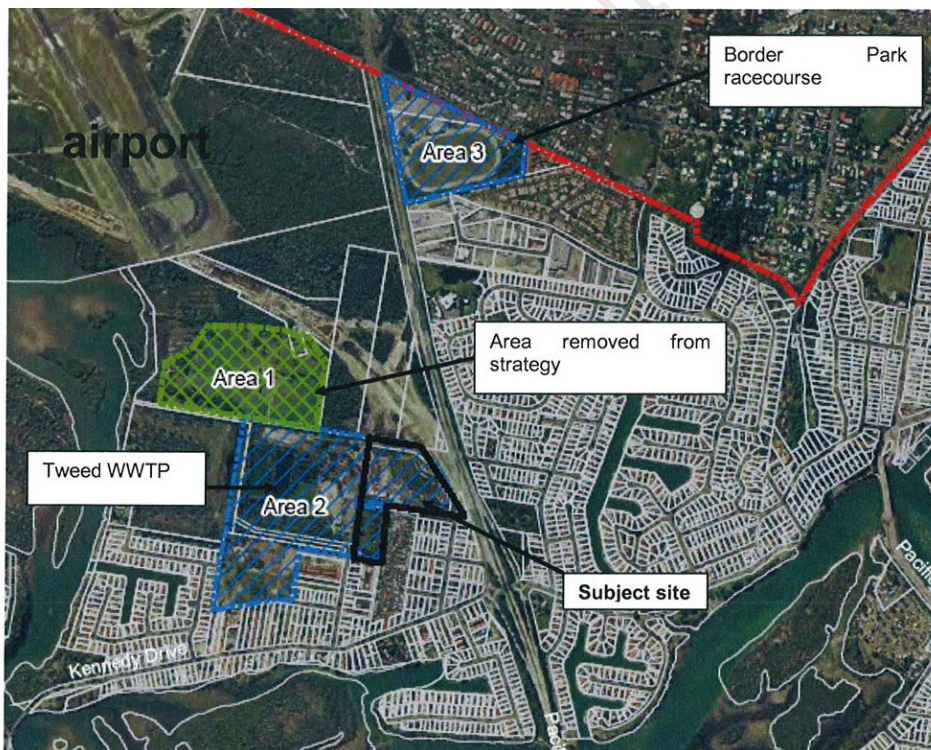
## REPORT:

### Background

Following an earlier presentation to a Councillors Workshop, and subsequent meetings with Councillors and Council staff, a request to amend the Tweed Urban and Employment Land Strategy (TUELRS) 2009 relating to the Boyds Bay Garden World site was submitted by Planit Consulting Pty Ltd, on behalf of Leisure Brothers, on 9 September 2009. Please refer to Attachment 1 of this report for a copy of this submission.

The submission identifies that, should Council support an amendment to the Strategy, the proponents will advance an application to rezone the site from the current 1(a) Rural zone under Tweed Local Environmental Plan 2000 to a zone which will facilitate an employment generating, business park redevelopment, to include such uses as aviation servicing, bio tech, logistics/warehouses and food related industries.

The basis for the request is to amend the TUELRS strategy in respect of the nominated staged release of the subject land (refer Figure 1 below), which is identified as 'Airport Precinct' Area 2, and which is shown in Table 9-1 (refer Figure 2 below) of the TUELRS as a 'medium' term proposal. Under the definition provided in the strategy medium designation refers to a staged release timing of 10-20 years, meaning that the staged release of Area 2 was envisaged to commence in 2019 at the earliest.



**Figure 1 – Area 2 (Airport Precinct) – Figure 14 Tweed Urban and Employment Land Strategy 2009**

**Table 9-1 Tweed Shire Employment Land Release Program**

Potential Employment Locality	Gross Area (ha)	Net Area (ha)	Approximate Years supply (@ 10 ha per yr Shire wide demand)	Timing for commencement of rezoning	Comment
Airport precinct (Area 1)	14	11	1.1	Medium Term	<i>Note that Area 1 is recommended for deletion from the Employment Lands Strategy and is not included in the supply calculations.</i>
Airport precinct (Area 2)	29	23	2.3	Medium Term	Assumes 80% of land will yield lots.
Border Race Track (Area 3)	11	9	0.9	Short Term	Assumes 80% of land will yield lots.
Chinderah East (Area 4)	37	26	2.6	Short Term	Assumes 70% of land will yield lots due to vegetation buffers.
Wardrop Valley West (Area 5)	63	44	4.4	Long Term	Assumes only 70% of land will yield lots due to vegetation buffers and agricultural buffers
Wardrop Valley East (Area 6)	60	48	4.8	Short Term	Assumes 80% of land will yield lots
West Pottsville (Area 7)	144	86	8.6	Short /Medium Term	Assumes only 60% of land will yield lots due to rural residential and riparian buffers

**Figure 2 - Table 9-1 – Tweed Urban and Employment Land Strategy 2009**

## Relevant Council Resolution

At the Council Meeting of 20 October 2009 when considering a progress report on the Planning Reforms Unit work program, Council resolved to bring forward the assessment of the request as a priority consideration within the works program, by way of the following resolution:

***“RESOLVED*** that the Planning Reform Unit Work Program be amended to enable Council to consider Boyds Bay Garden World site as a short term priority.”

## Assessment of the Site Suitability of a Rezoning and Future Business Park Use

The proponents' submission required referral to external agencies as well as to other Divisions within Council. The most notable areas requiring consideration can be summarised as; roads, sewer and water, flooding, and aircraft noise. Each of these critical areas provide guidance on the suitability of the land's potential for development under current conditions and assists with assessing the need to amend the Table 9-1 of the TUELRS strategy.

Preliminary assessment and verbal advice from the Roads and Traffic Authority has indicated that the road network, although requiring additional road works as part of any future development, is not likely to pose any insurmountable impediment to the development of the land. However, at the time of finalising this report, written confirmation of the RTA's verbal advice had not been received. Further, Council's Infrastructure Engineers' had likewise indicated that traffic issues would likely be manageable and would be best assessed in detail within a development application (DA). This advice applies equally to stormwater management which would also need to be addressed within a future DA. Flooding does not present a significant issue for the subject site particularly as the majority of the site will be above the design flood level of RL 2.6m AHD and given that the site is not subject to high flow or emergency response provisions.

Council's Water Unit has raised the issue of the subject site being within the 400m operational buffer zone to the Tweed Heads Waste Water Treatment Plant (WWTP), which requires a consideration of the location and use of the buildings within the site.

Another important issue requiring similar consideration about the ultimate use of the site is raised in a response from Gold Coast Airport (GCA) dated 18 November 2009 (refer Attachment 2). In particular, GCA has raised the need to consider; public health and safety, noise, lighting and materials, and height limitations.

The issues raised above require careful consideration of the ultimate uses upon the site and their location within the site. The Planit report addresses the perceived opportunities associated with the development of the site including raising the employment generation from traditional industrial land uses supporting about 40 workers per hectare to something more in the order of 60-70 workers per hectare.

Under more suitable conditions increasing the employment generation within new employment lands is highly desirable and would be consistent with the aims of the TUELRs. However, this approach is seemingly at odds with the limitations presented by the sites proximity to the airport and to a lesser extent because of its location within the 400m buffer zone to the WWTP.

Consequently, out of the uses identified as potentially suitable the lower employment generating warehouse and distribution uses may present the better option in the face of the constraints and issues raised. That said, further consideration is needed when taking into account those uses as they often require taller buildings, operate 24hrs per day and are of prefabricated materials, raising potential issues with the operational height limitation that seemingly will restrict building height to about 10metres, issues with lighting and reflectivity. Issues arising in relation to the WWTP buffer zone will be lessened with lower employment generating land and will fall more to the siting, location and design of building and car parks.

The above issues have been discussed with the proponents, who have since submitted some additional justification for their rezoning proposal, and expressing their commitment to undertake further detailed assessment should the ability to pursue a rezoning of the land arise.

#### **TABLE 9-1 OF TWEED URBAN AND EMPLOYMENT LAND STRATEGY 2009**

The Planit request is based on the need to amend Table 9-1 (Figure 2 above) to enable a rezoning to occur in a shorter time than the 10-20 years currently nominated.

The purpose of Table 9-1 comes from the aims of the TUELRs which to summarise is to ensure a replenishing 25 year supply of land to meet the employment needs of the Tweed in a coordinated and planned way.

There is a projected demand for between 110 and 250ha of employment over the next 25 years. Tweed has 231ha of zoned 'industrial' land of which about 138ha (about 102ha when discounted) is vacant undeveloped land and this represents about 10 years supply. The TUELRs objective is to identify suitable sites for future investigation with the aim of releasing land for rezoning to match demand; this is often referred to as the supply and demand nexus. This 'nexus' can be very useful in guiding the better utilisation of land, which is a naturally occurring practice in an environment of scarcity, opposed to underdeveloped and consumption which can occur when land is supply is plentiful and prices are comparatively low. This ideology underpins the operation and intent of the TUELRs.

The question that arises for consideration is whether, under the circumstances of the case presented in their submission, the applicant's request to amend Table 9-1 to bring forward the timing of the subject land should be supported?

Fundamentally this question is answered in the strategy in as much that it identifies a substantial amount of land already zoned but not developed, so much so, that is about 10 years supply. On analysis of the aims of the TUELRs it can be seen that the operational structure of the plan is to ensure that an oversupply of zoned land is not made available partly, in order to discourage underdevelopment and historic trends of land banking.

Despite the current Strategy's identification that there is currently approximately 102 hectares of available, potentially useable zoned employment land within Tweed Shire, it is the officers' opinion that there are a number of favourable and strategic aspects relating to the location of the subject site and its proposed employment generating potential, which warrant the support of a shorter term release of the Boyds Bay Garden World site.

## **CONCLUSION**

From the officer's assessment of the proponents' submission, despite the current Strategy's identification that there is currently approximately 102 hectares of available, potentially useable zoned employment land within Tweed Shire, it was acknowledged that there are a number of favourable and strategic aspects relating to the location of the subject site and its proposed employment generating potential. However, the assessment also identified a number of site constraints, such as the impacts of Gold Coast Airport operations, regional and local road access, and proximity to Council's new Tweed Heads sewerage treatment plant, which require further investigation, prior to there being assurance that a future business park redevelopment is feasible for the site.

In any support of the proponents' proposed amendment of the TEULRS, Council needs to be provided with some certainty that the subject business park redevelopment proposal can resolve the major site constraint and planning issues identified above. One option is for Council to require a Development Application (DA) to be submitted concurrent to any rezoning application for the site. However, given the recent legislative changes to the State Government's plan making processes, whereby the submission requirements for the new "Planning Proposal" and "Gateway" system are much less onerous for any initial rezoning application, it may therefore be seen to be unnecessary or unreasonable to require the proponents in this instance to provide a full DA with their rezoning proposal.

As an alternative approach to gaining greater certainty in establishing the viability of the proposed redevelopment of the Boyds Bay Garden World site, it is recommended that the proponents provide a detailed response to the main outstanding issues of their Strategy amendment submission in any Planning Proposal documentation, and that further prior consultation occur with the key relevant authorities, Tweed Shire Council, Gold Coast Airport and the Roads and Traffic Authority.

On the basis of this approach, it is considered that there are sufficient grounds for Council to support the proponents' request to amend Table 9-1 of the Tweed Urban and Employment Land Release Strategy (TEULRS) 2009 relating to the staged release of a nominated employment investigation area from medium (10-20 years) to short term (0-10 years) relating to the Boyds Bay Garden World site, subject to further consultation with relevant

authorities, and resolution of the key planning and site constraint issues identified in this report.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

The recommendation of this report is to support an amendment to the Tweed Urban and Employment Land Strategy 2009 facilitating a change in policy relating to a specific site.

**UNDER SEPARATE COVER:**

*To view any "**non confidential**" attachments listed below, access the meetings link on Council's website [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au) or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

1. A copy of the submission of Planit Consulting dated 7 September 2009 (ECM 9692800)
  2. Advice from Gold Coast Airport dated 18 November 2009 (ECM 9692813)
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**Attachment 2 - Council Report of 20 July 2010**

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**TWEED SHIRE COUNCIL  
MEETING TASK SHEET**

**User Instructions**

If necessary to view the original Report, double-click on the 'Agenda Report' blue hyperlink above.

**Action Item - COUNCIL MEETING Tuesday, 20 July 2010**

Action is required for Item **9** as per the Council Resolution outlined below.

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**TITLE:** [PR-CM] Planning Proposal PP10/0001 - Lot 10 DP 1084319 Boyds Bay  
Garden World Site

**Cr D Holdom**

**Cr P Youngblutt**

**RESOLVED** that:

1. Planning Proposal PP10/0001 for a change of land-use zone classification from Rural 1(a) to 3(c) Commerce and Trade rezoning be supported in principle on Lot 10 DP 1084319 Parkes Drive, Tweed Heads West and that the proposal be referred to the Department of Planning for a gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979*.
2. The applicant of planning proposal PP10/0001 be advised that the actual rezoning classification of the land, if supported by Council, will be determined following assessment of any detailed site studies required after receipt of the initial gateway determination to proceed.

The Motion was **Carried**

**FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr B Longland, Cr J van Lieshout, Cr W Polglase**

**AGAINST VOTE - Cr K Milne**



**TITLE:** [PR-CM] Planning Proposal PP10/0001 - Lot 10 DP 1084319 Boyds Bay Garden World Site

**ORIGIN:**  
Planning Reforms

**FILE NO:** PP10/0001

**SUMMARY OF REPORT:**

This report seeks Council's consideration of a planning proposal for rezoning of Lot 10 DP 1084319 – "Boyd's Bay Garden World Site", Tweed Heads West, and a recommendation endorsing referral of the proposal to the Department of Planning for a "Gateway" Determination.

The Boyds Bay Garden World Site lies immediately to the west of the Pacific Highway Tweed Heads West, and has been identified as potential employment lands in the Tweed Urban and Employment Land Release Strategy 2009 (TUELRs) with timing for commencement of rezoning of medium term; 10 to 20 years.

At its meeting of 15 December 2009 Council resolved to bring forward the timing of commencement of rezoning of the site from medium term (10 – 20 years) to short term, 0 – 10 years, following consideration of a request from Planit Consulting Pty Ltd.

The report identifies several challenges to the development of the site and in particular in the determination of the ultimate use and zoning of the land. In concluding it is clear that there is a need for greater detail and assessment of the constraints and limitation of the site to cater for the capacity of the development and ultimately the zoning sought. The report also highlights the necessity for greenfield sites to be master-planned prior to planning proposals (rezoning) occurring. This latter point will form the basis of a future report to Council.

**RECOMMENDATION:**

**That:**

- 1. Planning Proposal PP10/0001 for a change of land-use zone classification from Rural 1(a) to 3(c) Commerce and Trade rezoning be supported in principle on Lot 10 DP 1084319 Parkes Drive, Tweed Heads West and that the proposal be referred to the Department of Planning for a gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979*.**
- 2. The applicant of planning proposal PP10/0001 be advised that the actual rezoning classification of the land, if supported by Council, will be**

**determined following assessment of any detailed site studies required after receipt of the initial gateway determination to proceed.**

Public Exhibition Version

## REPORT:

### BACKGROUND

On 1 July 2009 the Environmental Planning and Assessment Amendment Act 2008 and Environmental Planning and Assessment Amendment (Plan Making) Regulation 2009 implemented procedural changes to the way local environmental plans are prepared and among other things broadened the Minister's power to delegate plan making functions to authorities other than councils.

A detailed report on the legislative (Plan Making) amendments was reported to the Council Meeting of 21 July 2009. For the purposes of this report the following definitions are provided for assistance:

***Planning Proposal*** - refers to the document that explains the intended effect of a proposed LEP.

***Gateway*** – refers to the process whereby the Minister considers a planning proposal; whether it should proceed or not, and provides a determination on the process, including level of public consultation required, type and scope of specialist studies, and referrals to other public authorities.

The amendments fundamentally do not change the level of assessment required, but rather the timing of when reports should be prepared and assessment required. The new system is designed to speed-up the time it takes for a Council to resolve to amend the LEP, and reduces the level of detailed investigation (and cost) required for that initial determination, also referred to as "Stage 1". Like the superseded system, there are three main steps in the process, as summarised below:

**Stage 1** *Submission and Preliminary Assessment:* Council resolves to prepare a draft LEP Amendment – based on assessment of essential information, not necessarily detailed studies and reports, sufficient to demonstrate; A) a strategic justification, and; B) a relative degree of certainty that the proposal will likely proceed.

**Stage 2** *Report, Further Assessment and Community Consultation:* The completion of detailed investigations and / or preparation of studies by the proponent; assessment by Council staff, and public exhibition. It is the work undertaken in this Stage, with the exception of public exhibition, that previously occurred 'up-front' prior to a Council resolution to amend the LEP. The purpose of the change in process is to avoid unnecessary expense and time on proposals that have little chance of securing a recommendation in support of the proposed amendment.

**Stage 3** *Final Planning Proposal to be Made:* This is largely an administrative and short duration component of the process. By this stage all assessment, public consultation and reporting has been finalised. The remaining tasks include the

gazettal of the Plan by the Minister through the NSW Government Gazette, and internal administrative tasks updating the LEP and section 149 processes.

The Planning Reforms Unit has adopted a new approach to the management and processing of planning proposals which takes into account, and is consistent with the legislative amendments to Part 3 (Plan Making) of the *Environmental Planning and Assessment Act 1979*.

This new process is essentially aimed at streamlining LEP amendments with the intent of reducing the time and costs involved. This is achieved in several ways most notably by the requirement to limit the information pertinent to the specific proposal at lodgement, and the deferral of expensive investigations and detailed studies, where appropriate, to Stage 2, which follows on from a resolution of the Council to amend the LEP. The following diagram illustrates the Stage 1 Planning Proposal process adopted by the Planning Reforms Unit.

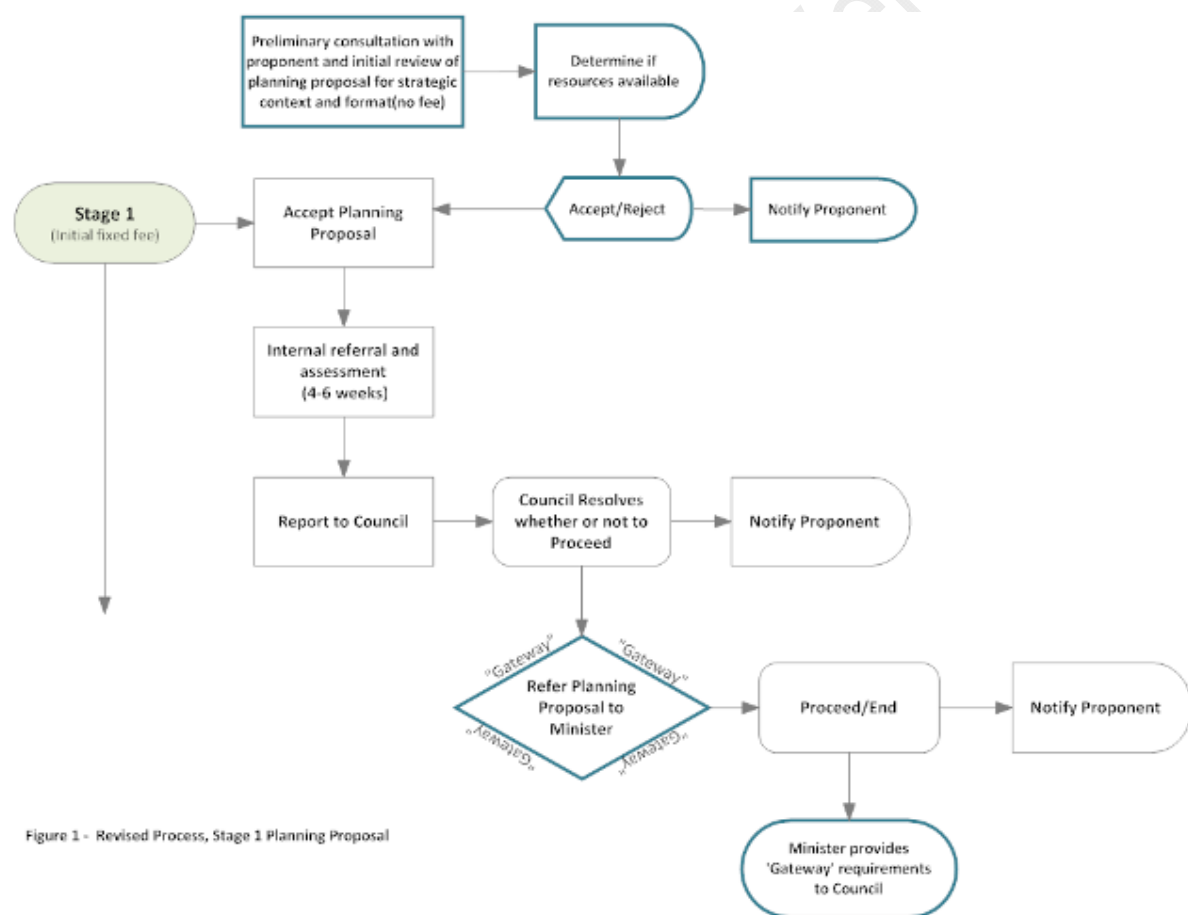


Figure 1 - Revised Process, Stage 1 Planning Proposal

Planning proposals are meant to be a concise statement of the intended effect of a proposal and set out the justification for making that plan without the need to prepare the full range of technical reports up-front. This does not mean however that they need not be technically competent, but unlike the superseded process, planning proposals will have greater

proposed LEP, in line with the Department of Planning's Guidelines on preparing planning proposals.

This and future Council reports on Planning Proposals will follow the format and use the headings provided by the legislation and DOP guidelines.

## **SITE AND PLANNING HISTORY - BOYDS BAY GARDEN WORLD**

This application represents one of the first planning proposals to be lodged with Council since the implementation of the 'Gateway' process.

The Boyds Bay Garden World Site lies immediately to the west of the Pacific Highway Tweed Heads West, and has been identified as potential employment lands in the Tweed Urban and Employment Land Release Strategy 2009 (TUELRs) with timing for commencement of rezoning of medium term; 10 to 20 years.

The site is identified within the 'Town and Village Growth Boundary' of the Far North Coast Regional Strategy 2006 (FNCRS) although not specifically identified as employment land. The Department of Planning (DoP) has stringently enforced no variations to settlement patterns proposed east of the Pacific Highway however, the Strategy does make provision for development proposals to the west of the Highway under certain circumstances.

At the Council meeting of 15 December 2009 Planit Consulting on behalf of Maro Developments and Leisure Brothers were successful in seeking a revision of the timing of commencement of rezoning of the site from medium term (10 – 20 years) to short term, 0 – 10 years. The Council's resolution stated:

1. *Council endorses the proposed amendment Table 9-1 of the Tweed Urban and Employment Land Release Strategy (TEULRS) 2009 relating to the staged release of a nominated employment investigation area from medium (10-20 years) to short term (0-10 years), as outlined in the submission received by Council from Planit Consulting on 9 September 2009, relating to the Boyds Bay Garden World site, Lot 10, DP 1084319, Tweed Heads.*
2. *Approval of Point 1 above will be subject to the proponents providing a more detailed response to the main outstanding issues identified in this report, including further prior consultation occurring with the key relevant authorities, Tweed Shire Council, Gold Coast Airport and the Roads and Traffic Authority, as part of any future Planning Proposal application to rezone this site.*

The site has a number of significant constraints relating mainly to its close proximity to the Gold Coast Airport and immediately adjoining the Tweed Waste Water Treatment Plant and the Pacific Highway.

The potential of the site for 'business park' development will be heavily impacted by constraints mentioned above, and will require particular attention to ensure that the layout of the site, and landuses proposed fully address these constraints to the satisfaction of Council post receipt of a gateway determination to proceed.

## THE PLANNING PROPOSAL

On 5 May 2010 Planit Consulting lodged a Planning Proposal for the site seeking to have the site rezoned from Rural 1(a) to B5 Business Development under draft Tweed LEP 2010, or 3(c) Commerce and Trade under Tweed LEP 2000.

The site, formerly a 'drive-in' picture theatre is currently utilised as a retail and wholesale plant nursery known as the Boyds Bay Garden World (See Figures 1 and 2 below). The site is heavily disturbed and adjoins Council's Tweed Heads Waste Water Treatment Plant and is located at the southern end of the Gold Coast Airport and within the 25-30 ANEF aircraft noise zones.

A concept plan has been prepared for the site as seen in Figure 3; however this concept does not at this stage represent the final concept which will more than likely be modified once detailed studies are undertaken as suggested in the planning proposal and this report.

**FIGURE 1: SUBJECT SITE AND LOCAL CONTEXT ADJOINING COUNCIL'S WASTE WATER TREATMENT PLANT AND PROXIMITY TO GOLD COAST AIRPORT**





[illegible]

Council has advised all proponents that the format for all planning proposals are to be set out using the same headings and language / terms provided the legislation and the Department of Planning's guidelines, as indicated below:

- **Part 1:** Objectives or Intended Outcomes,
- **Part 2:** Explanation of Provisions,
- **Part 3:** Justification,
- **Part 4:** Community Consultation.

The DOP guidelines clearly identify the requirements of each section, which Council will utilise in determining completeness of the initial proposal. All information relevant to this proposal should be presented under one of these 4 parts, and where appropriate supported by relevant attachments.

## **PART 1: OBJECTIVES OR INTENDED OUTCOMES**

This is intended to be a concise statement of what is planned to be achieved, and will eventually form the basis for the drafting of the LEP.

The planning proposal for the site seeking to have the site rezoned from Rural 1(a) to B5 Business Development under draft LEP 2010, or 3(c) Commerce and Trade under Tweed LEP 2000.

At this stage, the proposal has not provided sufficient information to determine the most suitable zoning for the site; however, the substantial nature of constraints affecting the site will make it difficult for the site to be developed fully for commercial and trade purposes.

Detailed studies and preparation of site plans identifying the composition and location of proposed land-uses will be essential in satisfying Council that site constraints have been fully and adequately addressed, and the zoning sought is the most appropriate zoning for the site.

## **PART 2: EXPLANATION OF PROVISIONS**

This is intended to be a full and clearly expressed statement of how the objectives or intended outcomes are to be achieved by means of new controls on development imposed by the LEP.

Commercial and industrial uses commensurate with a Business Park are not permissible in the 1(a) zone under Tweed LEP 2000. As such the proponent is seeking the introduction of the B5 Business Development zone under Draft Tweed LEP 2010.



The IN1 industrial zone under Draft Tweed LEP 2010 has been considered by the proponent but determined to be not acceptable because office development typical in Business Parks is prohibited. However, given the constraints of the site, and the lack of sufficient detail regarding the types of 'business' proposed it is difficult at this stage to determine whether B5 Business Development, or IN1 General Industrial, or a combination of both would be more appropriate.

### **Need for a Masterplan**

Given the complex nature of constraints on the site, the potential for these constraints to have a defining influence on the nature of development possible on the site, and the diversity of adjoining land-uses, including as yet un-determined uses on other land in the Airport Precinct Area 2, there is a greater need for the preparation of a masterplan for the Airport Precinct. The Tweed Urban and Employment Land Release Strategy 2009 (TUELRS) states that Council is supportive of master-planned business and employment parks. Development of a masterplan for the Airport Precinct Area 2 will be an essential component in the final justification of the proposal, and will be a requirement of post-gateway determination in Stage 2.

Where rezoning for additional commercial development is proposed, the TUELRS requires consideration of the Tweed Retail Strategy as well as the Employment Lands Strategy; given that retail and office development are typically both permitted in commercial or business zones. A retail economic analysis will be required providing an assessment of the impact of any further commercial development on other established commercial centres in the Tweed.

The following table lists a sample of the land-uses permissible or prohibited within B5 and IN1 zones under Draft LEP 2010 which may be considered under the current proposal.

**Table 1: Comparison of a sample of 'permissible with consent' and 'prohibited' development within proposed B5 and IN1 zones under Draft Tweed LEP 2010.**

<b>Draft LEP 2010</b>		
<b>B5 Business Development</b>	<b>Zone</b>	<b>IN1 General Industrial</b>
Light industries; Passenger transport facilities, Self storage facilities, Take-away food and drink premises, and Warehouse or distribution centres.	Permissible with consent	Industries, Kiosks, Light industries, Storage premises, Take-away food and drink premises, and Warehouse or distribution centres.
Air transport facilities, food and drink premises, Freight transport facilities, Storage premises, and Wholesale supplies.	Prohibited	Bulky goods premises, business premises, Office premises, Passenger transport facilities, Retail premises, and Self storage units.

Given the mixed-use nature of business parks, the proponent will need to demonstrate how a range of landuses such as those suggested above will be accommodated in the final concept plan and planning proposal.

The proponent is seeking to pursue rezoning of the land concurrent with the preparation of a Development Control Plan (DCP) that addresses all relevant matters with a focus on future development forms however there has been no agreement reached on the scope of a draft DCP or as to who will be drafting the Plan.

### **PART 3: JUSTIFICATION FOR THE PLANNING PROPOSAL**

The justification, as required by the *Environmental Planning and Assessment Act 1979*, sets out the case for changing the zone and development controls on the land affected by the proposed LEP. While it is not envisaged, in the majority of cases, that technical studies will be undertaken prior to the gateway determination, it is however essential that major site constraints be identified and where necessary studies and investigations undertaken to justify different aspects of the planning proposal. The four key components to justifying the proposal in accordance with the legislation are:

- i. Need for the planning proposal;
- ii. Relationship to strategic planning framework;
- iii. Environmental, social and economic impact, and
- iv. State and Commonwealth interests.

#### **i. Need for the Planning Proposal**

The objective of the planning proposal is *“to permit the redevelopment of the Boyd’s Bay Garden World Site for the purposes of a Business Park that satisfactorily addresses matters relating to residential amenity, airport operations and conflicts and the needs of adjoining owners.”*

Alternative uses for the site and adjoining land within Airport Precinct (Areas 1 and 2) have previously been investigated, as reported in the TUELRs which noted that the TEDC had commissioned a report in 2001 which specifically assessed the options for land in Airport Precinct (Areas 1 and 2), in a local and regional context and concluded that the site had potential for development and particularly for boat building, food and beverage manufacturing, storage and distribution, herbal industries, airport parts and manufacturing, and turf farming. The proposal is generally consistent with the potential future uses identified for the site, however, the potential for development of a business park incorporating commercial uses cognisant of site constraints will require further substantiation.

## **ii. Relationship to strategic planning framework**

While no specific study has been completed addressing this site, the site is within the Town and Village Growth Boundary for Tweed Heads as identified within the FNCRS, and has been identified as potential employment lands in the TUELRs as mentioned above.

Under both LEP 2000 the 3 (c) Commerce and Trade zone, and Draft LEP 2010 B5 Business Development, light industry development is permissible, but may not be the most appropriate use of the site given the nature of constraints affecting the site.

The proposal has not adequately addressed the local and regional significance of the site and will need to undertake further studies and report on the ability of the site to fit in with existing strategies and not compete with other established commercial and retail centres in the Tweed.

## **iii. Environmental, social and economic impact**

While a number of significant constraints have been identified affecting the site, the justification on environmental grounds is sufficient to recommend referral to the Department of Planning for an initial gateway determination.

Of those constraints identified during initial consultation within Council and externally with the Gold Coast Airport Limited, and the Roads and Traffic Authority, the following issues have been identified as having potential significant impacts upon the site:

### **1. Proximity to Council's Tweed Heads Waste Water treatment Plant:**

The site adjoins the eastern boundary of Council's Tweed Heads Waste Water Treatment Plant (WWTP). Council's DCP A5 Subdivisions Manual has a general recommendation for the size of a buffer zone surrounding a sewage treatment plant. It provides for a buffer of 400m from primary and secondary process units for housing, tourism and community facilities and an absolute buffer of 200m in which no development should be allowed other than open air uses like car parking and open storage yards. Buildings between 200m and 400m associated with industrial, commerce or trade must be designed with ventilation facing away from the sewage treatment plant and office or retail components should be air conditioned.

Virtually the whole of the subject site is within the 400m buffer of the old treatment plant's process units and about half of the site is within the 200m buffer. On this criterion, the western end of the site does not appear to be suitable for development except for open air uses requiring only limited occupation of any work stations in that area. The eastern end of the site could be suitable for appropriately designed buildings with suitable treatment of office and retail areas. The site may not be suitable for food preparation businesses.

The DOP's Draft NSW Best Practice Odour Guideline (April 2010), for treatment of odour from sewage systems has changed the way in which the impact of WWTPs is assessed, and rather than placing a buffer, a setback around the plant, now seeks to have odour controlled on site and indicates that the design of the treatment plant should be such that the odour level at the boundary of the containing industrial zone should be no more than 2 Odour Units. If the treatment plant boundary is the edge of the industrial zone as proposed, the level of treatment required may be prohibitive.

On the basis of DoP Guidelines, it would seem that an industrial zoning such as IN1 would be more appropriate than the proposed B5 Business Development zoning.

While the proponent's report and concept plan show potential road linkages into Council's WWTP, suggesting a change in use of Council's land in the future, it has the WWTP is scheduled to be recommissioned and retained as a waste water treatment plant.

## **2. Proximity to Gold Coast Airport:**

Correspondence from GCAL, provided with the proposal, states that in view of the extremely close proximity of the airport runway and flight path to the subject land, there are several mandatory restrictions (defined as "controlled activity") which would necessitate securing approval from the Secretary of the Department of Infrastructure, Transport, Regional Development and Local Government, with any such application being subject to assessment by GCAPL, CASA and Airservices Australia. Given the proximity of the site to the runway, no relaxation could realistically be anticipated in this instance. GCAL conclude that the site is severely constrained, and raise the following issues:

**Heights:** Preliminary height limits (including any structures) within the airport's operational airspace on the site's western boundary cannot exceed 14.46 metres AHD (for Air Navigation Services – Airport Operations), and 13.75 metres AHD (for Obstacle Limitation Surface). Filling of the site will have potential impact upon the type of buildings ultimately developed.

**Light emissions:** Localities within the airport's prescribed airspace in close proximity to the runway are subject to mandatory and severe limitations on levels of illumination which are allowed to be emitted. Reflected sunlight can also constitute a controlled activity in the Lighting Zone area which will require all roofs of buildings and other elements that could adversely reflect sunlight to be entirely constructed of non-reflective materials, across the whole site.

**Emissions, Turbulence:** Activities which may result in air turbulence capable of affecting normal flight of aircraft (exceeding 4.3 metres per second), or emit smoke, dust or other particulate matter, or steam or other gas would not be permissible.

**Public safety:** A Public Safety Zone (PSZ) extends from the end of the runway for a distance of 1 kilometre will impact the site; the site is just 50 metres outside the southern

limit of the zone it has been suggested that restrictions relevant to the PSZ be borne in mind when considering development of the site. It would not be appropriate for land in this locality to be used for hazardous purposes, such as storage of fuel, explosives or chemicals etc. Activities which would attract large numbers of people, such as businesses with high workforce numbers or which attract substantial numbers of customers such as major retail facilities or places of assembly, sporting venues and the like should be discouraged.

**Aircraft noise:** the site is almost entirely within the ANEF 25-30 zone for aircraft noise. Within this zone the land use of “light industry” is acceptable, thus requiring no acoustic treatment. However, land-uses falling within the category of “commercial buildings” (e.g. Offices, retail) are defined as “conditionally acceptable”, indicating that measures should be taken in the design and construction to minimise indoor sound levels.

Reports addressing each of these issues will be required.

### **3. Traffic:**

The site adjoins the Tugun Bypass (Pacific Highway) and is expected to impact traffic movements associated with the intersection with the Pacific Highway and local road network.

The Roads and Traffic Authority has advised that the road network in the vicinity of the site is sensitive to increases in traffic generation and that a traffic study will be required addressing the surrounding traffic network and that the site is not considered in isolation.

### **4. Engineering and infrastructure:**

The provision of water, sewerage and drainage infrastructure is believed to be possible; however a detailed engineering and infrastructure assessment and report will be required post gateway determination.

### **5. Flooding:**

The site is typically 1.0 to 3.0 metres AHD and will require filling to the nominated height of approximately 3.0 metres AHD. The extent of fill will impact both adjoining land and potential building heights permissible on the site, as related to height limitations imposed by Gold Coast Airport Limited. A detailed flood impact assessment will be required.

### **6. Contamination:**

The site has been heavily disturbed and previously utilised as a drive-in picture theatre, but is now the site for an extensive gardening retail and wholesale centre. The potential for past land-uses to generate contamination of the soil has not been investigated. A site

contamination investigation and remediation strategy if appropriate will be required post gateway determination.

## **7. Ecological:**

The proponent reports that the site presents little in the way of ecological constraints given its previous history of use, however they have advised that a detailed ecological assessment will be undertaken in accord with the requirements of council and the Department of Environment, Climate Change and Water.

## **8. Social and economic impacts:**

While the site lies within the Town and Village Growth Boundary it was not specifically identified as Employment Lands in the Far North Coast Regional Strategy 2006. The proponent has acknowledged that a socio economic assessment will be undertaken.

As previously mentioned, a retail economic analysis will be required. Of particular concern is the strategic context of the site and potential impacts on established commercial or industrial centres in the Tweed Heads (West and South) area.

## **iv. State and Commonwealth interests**

Gold Coast Airport Limited has identified a number of agencies who will required notification, including The Department of Infrastructure, Transport, Regional Development and Local Government, Gold Coast Airport Limited, the Civil Aviation Safety Authority (CASA), and Airservices Australia. Any future proposal should also be referred to the Roads and Traffic Authority.

## **PART 4: COMMUNITY CONSULTATION**

The gateway determination by the Minister will specify the community consultation that must be undertaken on the planning proposal. The consultation will be tailored to the specific nature of the proposal; for low impact planning proposals which are consistent with the pattern of surrounding land use zones, strategic planning frameworks and present on issues with regard to infrastructure servicing the exhibition period will normally be 14 days.

This proposal does not fall within the broad definition of 'low impact' and is likely to incur an exhibition period of at least 28 days.

## CONCLUSION:

The site is heavily constrained with absolute restrictions which at this stage have not been fully considered in preparing the concept plan presented with this planning proposal. However, the site has been identified as being potentially suitable for a range of development activities ranging from low intensity turf farming to manufacturing, storage and distribution.

The potential of the site for development as a Business Park cannot be fully assessed and appropriate zoning determined until such time as detailed investigations, studies and reporting have considered how site constraints will be addressed in finalising the composition of development on the site. Proximity to Council's waste water treatment plant, Gold Coast Airport and the Pacific Highway will require particular attention and will need to be fully addressed to the satisfaction of Council post receipt of a gateway determination to proceed.

The planning proposal must undertake a range of studies as identified in this report and demonstrate an ability to accommodate constraints and opportunities within both local and regional contexts without adversely impacting existing commercial and retail centres within the Tweed.

It is recommended that Planning Proposal PP10/0001 be referred to the Department of Planning for a gateway determination.

## LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

If adopted, the recommendation contained within this report would result in a resource implication for the Planning Reforms Unit, however Council has a fees and charges structure to enable the application to be managed internally or through external consultants and ensures cost recovery.

## POLICY IMPLICATIONS:

Nil.

## UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any **"non confidential"** attachments listed below, access the meetings link on Council's website [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au) (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. Aerial photograph showing boundary of ANEF 2020 aircraft noise zones, and buffers from the Tweed Waste Water Treatment Plant (ECM 18881302)
  2. Letter from Gold Coast Airport Pty Ltd (ECM 18881303)
-

**Attachment 3 - Council Report of 20 September 2011**

Public Exhibition Version



**ADD COUNCIL REPORT HERE after endorsed by Council**

Public Exhibition Version

**Attachment 4 - Letter from the Roads and Traffic Authority (7 July 2011)**

Public Exhibition Version

File No. 438NTH 09/01691, 11/ 909  
Michael Baldwin



The General Manager  
Tweed Shire Council  
PO Box 816  
Murwillumbah 2484



Dear Sir

**Planning Proposal PP 10/0001: Boyd's Bay Garden World site. Review of Draft Planning Proposal.**

I refer to your letter of 10 June 2011, your reference PP 10/0001.

- 34320693.

The Roads and Traffic Authority (RTA) has reviewed the Transport Assessment report supporting the Planning Proposal for Boyd's Bay Garden World. At this time it is considered further information is required before an opinion regarding the proposal can be made. Being a gate way proposal, the Transport Assessment should assess the traffic impacts of the proposal as if the development of the site were to proceed. Therefore, a more detailed assessment is required at this time.

It would be appreciated if the following comments could be considered with regards the current assessment of traffic impacts. There is no discussion of traffic generation rates applied to the traffic attributable to development of the site. The traffic generation rate for the bulky goods component in particular needs to be examined in detail. This type of development has variable traffic generation rates depending on tenancy. The network in the vicinity is susceptible to small changes in traffic volumes, and consequently some sensitivity analysis maybe necessary for a range of site generation rates, particularly for the access to Parkes Drive. Justification and the traffic generation rates proposed, for the various components of the proposal should be provided. The assumptions for the development traffic assignment and distribution to the adjoining network should be explained. The Transport Assessment does not appear to address service vehicle provision and onsite parking provision and layout.

The assessment of the Parkes Drive access in 2013 indicates that the capacity of right turns into the site in the am peak is near or at capacity for this movement. The 2033 modelling of this proposal indicates significant queuing of right turning traffic into the development. The proposal also considers various strategic network changes by 2033. Given the capacity restrictions of the current network and the unknown timeframe for future network modifications, it is suggested that the network impacts for an intervening period should also be examined to determine any works are necessary to mitigate the traffic generation potential of the site. In this case the 10 year time frame is suggested.

Council needs to also consider the proposal for the approved industrial area west of Boyd's Bay Garden World to access the Pacific Highway CD road via Parkes Drive. Given the scale of traffic generation from the Garden World site, there is the potential that the industrial area traffic can not be accommodated by the Parkes Drive access. If this were the case industrial area traffic would be restricted to the Gray Street intersection with Kennedy Drive.

Roads and Traffic Authority

31 Victoria Street Grafton NSW 2460  
PO Box 576 Grafton NSW 2460 DX7610  
www.rta.nsw.gov.au | 02 66401300

LOT 10 DP 1084319 BANKSIA ST +  
LOT 1-2 DP 1011625 PARKES, HAKEA + GRAY ST.

- 2 -

If you have any further enquiries please contact Michael Baldwin on 6686 1832 or email [land\\_use\\_northern@ta.nsw.gov.au](mailto:land_use_northern@ta.nsw.gov.au).

Yours faithfully



- 7 JUL 2011

David Bell  
Regional Manager, Northern

**Attachment 5 - Letter from Gold Coast Airport Limited (18 November 2009)**

Public Exhibition Version

18 November 2009

The General Manager  
Tweed Shire Council  
PO Box 816  
**MURWILLUMBAH NSW 2484**

Dear Sir

**BOYDS BAY GARDEN WORLD - REQUEST FOR AMENDMENT OF THE URBAN  
AND EMPLOYMENT LAND STRATEGY**

We refer to the preliminary development proposal submitted to the Council by the intending developers of the Boyds Bay Garden World site, and to correspondence of 26 October 2009 between the Coordinator of the Council's Planning Reforms Unit and the planning consultant for Gold Coast Airport Pty Ltd (GCAPL). We appreciate the opportunity to comment on the subject proposal from the airport's perspective.

Reference is also made to our letter of 20 June 2008 in relation to the then draft Employment Lands Strategy, and to changes subsequently made to that draft strategy in this vicinity in the light of airport-related constraints to development in the locality, and environmental factors.

The current, tentative proposal for development of the subject land, which has been reviewed by our planning consultant, involves a mixed-use specialty industrial, logistics warehousing and commercial complex in a series of buildings. It has been requested by the proponents that the site be re-classified from medium term to short term in the implementation of the employment lands strategy.

It is advised that, in view of the extremely close proximity of the airport runway and flight path to the subject land, there are several mandatory constraints on the form of development which may be undertaken. These constraints are imposed pursuant to the Commonwealth Airports Act, and the related Airports (Protection of Airspace) Regulations.

Any proposed departure from the mandatory restrictions (defined as a "controlled activity") would necessitate securing approval from the Secretary of the Department of Infrastructure, Transport, Regional Development and Local Government, with any such application being subject to assessment by GCAPL, CASA and Airservices Australia. Given the proximity of the site to the runway, no relaxation could realistically be anticipated in this instance.

It is also noted that in due course the key restrictions on development within the prescribed airspace are also to be reinforced and implemented through the Council's new draft LEP.

The constraints affecting development of the subject property are discussed below.



## Gold Coast Airport

### Height Limits

The property is within the airport's operational airspace, and is affected by the Obstacle Limitation Surface (OLS) and Procedures for Air Navigation Services - Aircraft Operations (PANS-OPS). The latter surface cannot be penetrated by buildings or structures under any circumstances.

A preliminary assessment of height limits imposed under the OLS and PANS-OPS is shown in the attached diagram. At the "critical point" on the site's western boundary, the height limit under the OLS is 13.75 metres AHD, while under the PANS-OPS it is 14.46 metres AHD. Height limits under both surfaces will vary in other parts of the site.

These findings are preliminary only, and it is important to note that examination of very specific details about site conditions and the nature of buildings proposed will be necessary to achieve a final assessment.

It is also stressed that the limits are expressed in maximum height above AHD (ie not above ground level), and are measured to the highest point of a building, including any above-roof structures such as aerials, vents, architectural features, etc. In that regard, we note the apparent necessity for the site to be filled to a minimum level of 3.0 metres AHD to account for the land's flood liability.

### Lighting

Localities within the airport's prescribed airspace in close proximity to the runway are subject to mandatory and severe limitations on levels of illumination which are allowed to be emitted, so as to avoid effects on pilots of aircraft operating in the prescribed airspace.

As far as the subject land is concerned, it is advised that the westernmost section is included in the most restrictive Zone A in the Airport's Lighting Zone Map. (That zone is 600 metres wide and extends for a distance of 1 kilometre from the runway strip). In Zone A, allowable maximum intensity of lighting at 3° above the horizontal is 0 candella (ie no illumination).

The balance of the subject property is situated within Lighting Zone B, in which the maximum intensity of light sources at 3° above the horizontal is 50 candella.

Reflected sunlight can also constitute a controlled activity in the Lighting Zone area. For the whole of the subject land, there will be a requirement that roofs of buildings and other elements that could adversely reflect sunlight be entirely constructed of non-reflective materials.

### Emissions, Turbulence

The Act and Regulations also require the exclusion of activities which may result in air turbulence capable of affecting normal flight of aircraft (exceeding 4.3 metres per second), or emit smoke, dust or other particulate matter, or steam or other gas, such as could affect the ability to operate aircraft in the prescribed airspace.

In view of the proponent's description of the development intended for the subject land, it would appear that these restrictions are unlikely to be invoked.



## Other Issues

### Public Safety

Despite the extremely low risks associated with modern aviation, there is a longstanding and universally used mechanism for designating areas of potentially greatest risk, described as Public Safety Zones (PSZs). These zones describe the areas on the flight path for arriving and departing aircraft where activities should be avoided which could exacerbate a public safety risk in the unlikely event of an incident. As presently configured (as used for instance in Queensland), the zones are trapezoidal in shape and extend for a distance of 1 kilometre from the end of the runway.

It is noted that the subject land is not within the currently designated PSZ for the southern runway end, however it is situated directly adjacent to it (within about 50 metres at the nearest point), and while not prescriptive, it would probably therefore be prudent for the issues which are relevant to PSZs to be borne in mind when considering development of the subject land.

For instance, it would not be appropriate for land in this locality to be used for hazardous purposes, such as storage of fuel, explosives or chemicals, etc, especially being located nearby to residential areas. Clearly the subject proposal does not envisage inclusion of these types of activities.

It is also a principle of public safety zones that they should not allow activities that would attract large concentrations of people, such as businesses with high workforce numbers or which attract substantial customer numbers such as major retail facilities, or places of assembly, sporting venues and the like.

Reference was made above to the "present" configuration of PSZs. In this regard we would note that the Commonwealth Government is undertaking a review of various provisions of the Airports Act. Based on the contents of the Aviation Policy Green Paper issued in September 2008, it is likely that in future there will be mandatory statutory implementation of PSZs for all Australian airports; the ultimate shape, size and configuration of these zones are yet to be made known, and may vary from the current model.

### Aircraft Noise

While the subject of ensuring that buildings are appropriately constructed to reduce the adverse effects of aircraft noise is not a mandatory matter regulated under Commonwealth legislation, it is an issue that is relevant to land use planning and should be taken into account in establishing criteria for development of the property.

The subject land is predominantly within the 25-30 ANEF zone for aircraft noise. Pursuant to Table 2.1 of AS2021-2000, within that zone the land use of "light industry" is acceptable, thus requiring no acoustic treatment.

However, land uses falling into the category of "commercial buildings" (eg offices, retail) are defined as "conditionally acceptable", indicating that measures should be taken in the design and construction of buildings to achieve levels of aircraft noise reduction to meet the indoor design sound levels set out in Table 3.3 of AS2021-2000.



This is a matter to be considered in greater detail at the time of planning configuration and content of individual buildings on the site.

#### Conclusions

The site is severely constrained by mandatory restrictions by virtue of its proximity to the airport runway, and location within the area subject to the airport's prescribed airspace.

We trust that the information provided above will assist the Council and proponent in determining the appropriate form and timing of development on the subject land, and we would welcome the opportunity to continue to liaise with the Council during later stages of the design and approvals process. If further information is required, please contact the airport's planning consultants - Rigby Consulting Pty Ltd (T: 07-5536 5900; E: [irigby@bigpond.net.au](mailto:irigby@bigpond.net.au)).

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Paul Donovan', written over a horizontal line.

Paul Donovan  
Chief Operating Officer

**Attachment 6 - Draft Tweed Local Environmental Plan 2000 (Amendment No 93)**

Public Exhibition Version

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draft

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## Tweed Local Environmental Plan 2000 (Amendment No 93)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979* (.....)

Minister for Urban Affairs and Planning

\_\_\_\_\_

## Tweed Local Environmental Plan 2000 (Amendment No 93)

### 1. Name of plan

This plan is the *Tweed Local Environmental Plan 2000 (Amendment No93)*

### 2. Aims, objectives etc

This plan aims to:

- Zone certain land known as Boyds Bay Garden World Site 3(C) Commerce & Trade to reflect the land's identification for a Business Park.
- Amend provisions of Tweed Local Environmental Plan 2000 as they relate to the subject land to reflect changes and standards for urban design and environmental impact;
- Provide for efficient and consolidated urban growth;
- Protect urban development from environmental hazards.
- To limit the extent of retail development on the site.

### 3. Land to which plan applies

This clause applies to the land known as Boyds Bay Business Park, as shown edged heavy black and coloured on the map marked "Tweed Local Environmental Plan 2000 (Amendment No 93)" deposited in the office of Tweed Shire Council.

### 4. Amendment of Tweed Local Environmental Plan 2000

*Tweed Local Environmental Plan 2000* is amended by

- a) By inserting in appropriate order, in Part 2 of Schedule 6, the words: Tweed Local Environmental Plan 2000 (Amendment No. 93);
- b) By inserting after clause 53 the following clause:-

#### 53G Specific provisions for Boyds Bay Business Park

##### (1) Objectives of Part

The objectives of this Clause are:

- a) The objective of this clause is to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan including specific controls has been prepared for the land, and
- b) to ensure that an acceptable mix of landuses occurs on the site in accordance with the requirements of the Tweed Urban and Employment Land Release Strategy 2009, and
- c) to ensure that relevant environmental issues are considered before consent is granted for development of the land, and
- d) to ensure that issues relating to contaminated land are dealt with to a sufficient level to meet the requirements of *State Environmental Planning Policy No 55—Remediation of Land*, and Council, and
- e) to ensure that issues relating to operation of the Gold Coast Airport are addressed in accordance with *Commonwealth Airports Act*, *Airports (Protection of Airspace) Regulations*, and other relevant State and Federal legislation, and
- f) to ensure that issues relating to aircraft noise are dealt with to a sufficient level to meet the requirements of AS 2021 – 2000 Acoustics - Aircraft noise intrusion – Building siting and construction, and Council, and
- g) to ensure that the management of urban stormwater is consistent with the *Tweed Urban Stormwater Quality Management Plan* adopted by Council, and

- h) to ensure that concept planning and applications for development of the site address issues relating to the close proximity to the West Tweed Waste Water Treatment Plant

**(2) Relationship between Clause and remainder of Plan**

A provision of this clause prevails over any other provision of this Plan to the extent of any inconsistency.

**(3) Application of Clause**

This clause applies to the land known as Boyds Bay Business Park, as shown edged heavy black and coloured on the map marked "Tweed Local Environmental Plan 2000 (Amendment No 93)".

**(4) Public utility infrastructure**

- (1) Development consent must not be granted for development on land to which this clause applies unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.

**(5) Development control plan**

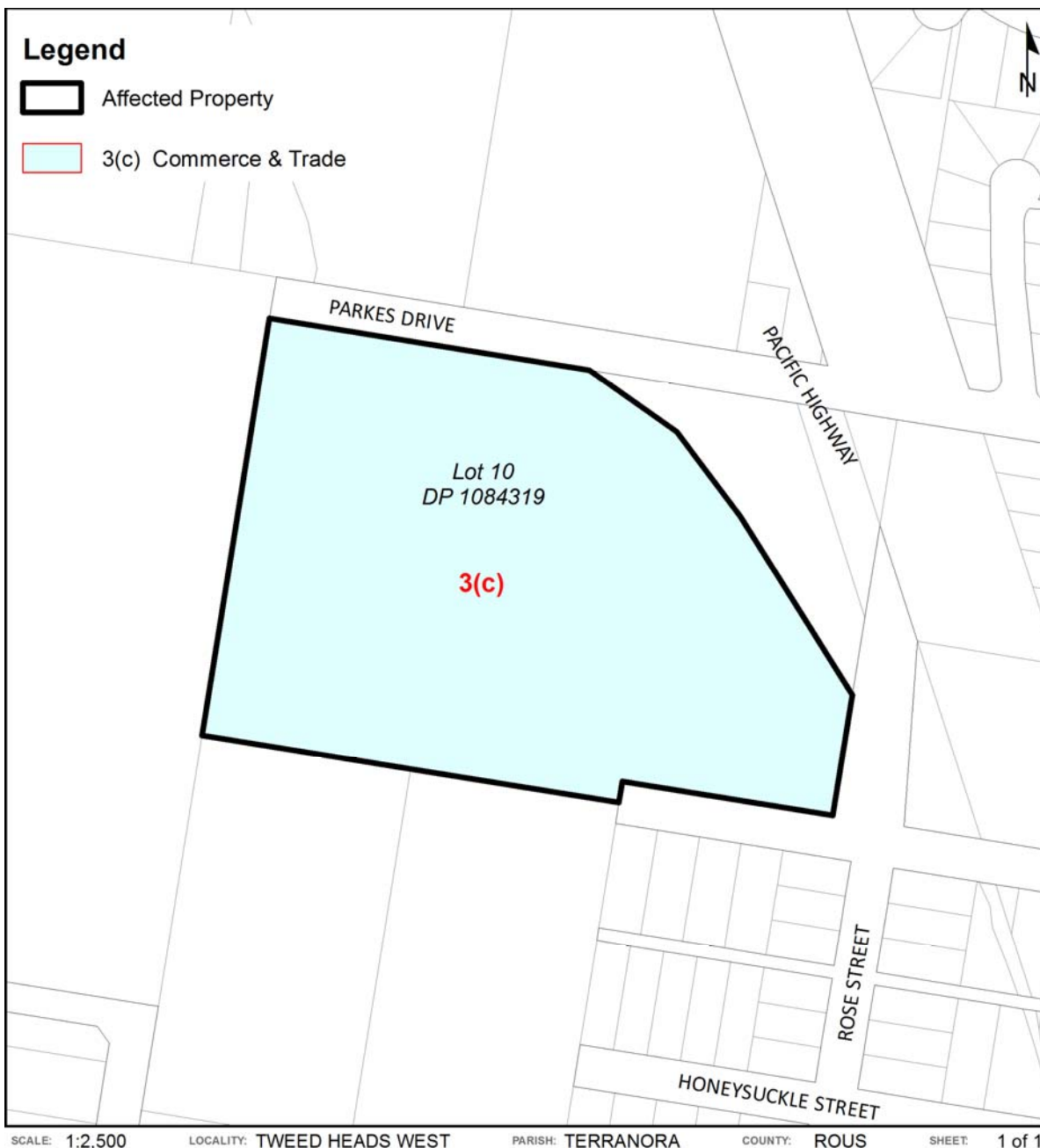
- (1) Development consent must not be granted for development on land to which this clause applies unless a development control plan that provides for the matters specified in subclause (2) has been prepared for the land.
- (2) The development control plan must provide for all of the following:
  - (a) a staging plan for the development of site,
  - (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
  - (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
  - (d) a network of passive and active recreational areas,
  - (e) stormwater and water quality management controls,
  - (f) amelioration of natural and environmental hazards, including bushfire, flooding and site contamination,
  - (g) detailed urban design controls for significant development sites,
  - (h) measures to encourage higher density living around transport, open space and service nodes,
  - (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,
  - (j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.
  - (k) appropriate provision for the removal and disposal of sewage.
- (3) Subclause (1) does not apply to any of the following development:
  - (a) a subdivision for the purpose of a realignment of boundaries that does not create additional lots,
  - (b) a subdivision of land if the lot that is proposed to be created is to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose,
  - (c) a subdivision of land in a zone in which the erection of structures is prohibited,
  - (d) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.

**6 Limitations on Retail Development**

- (1) This clause applies to the land shown on the on the map marked "Tweed Local Environmental Plan 2000 (Amendment No 93)" deposited in the office of Tweed Shire Council as "Boyds Bay Business Park".
- (2) The objectives of this clause are:
  - (a) to limit the scale of certain types of retail development in the Boyds Bay Business Park, and

- (b) to ensure that development does not conflict with the hierarchy of retail centres in the Tweed heads and South Tweed Heads area, and
  - (c) to maintain retail primacy of Tweed Heads and Tweed Heads South, particularly as it relates to:
    - (i) Bulky Goods Retailing, and
    - (ii) Retail shopping centres.
- (3) The Council must not consent to an application for the development of land to which this clause applies:
- (a) for the purposes of shops, neighbourhood shops or take away food and drink premises (but not including kiosks), if the approval would result in the gross floor area of all such uses on land in the Boyds Bay Business Park exceeding an area of 1000 square metres, or
  - (b) for the purposes of bulky goods premises if:
    - (i) The approval would result in the gross floor area of all bulky goods premises in the Boyds Bay Business Park exceeding 10,000 square metres, or
    - (ii) the gross floor area of the particular bulky goods premises has a floor area of less than 2500 square metres.





SCALE: 1:2,500

LOCALITY: TWEED HEADS WEST

PARISH: TERRANORA

COUNTY: ROUS

SHEET: 1 of 1

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

## TWEED

### LOCAL ENVIRONMENTAL PLAN 2000 (AMENDMENT No 93)

DRAWN BY: J.Batchelor DATE: 25/08/2011

SUPERVISING DRAFTER:

PLANNING OFFICER: S. RUSSELL

COUNCIL FILE No: PP10/0001

DEPT. FILE No: PP\_2010\_TWEED\_001\_00

PLAN PUBLISHED ON  
NSW LEGISLATION WEBSITE ON:

STATEMENT OF RELATIONSHIP WITH OTHER PLANS

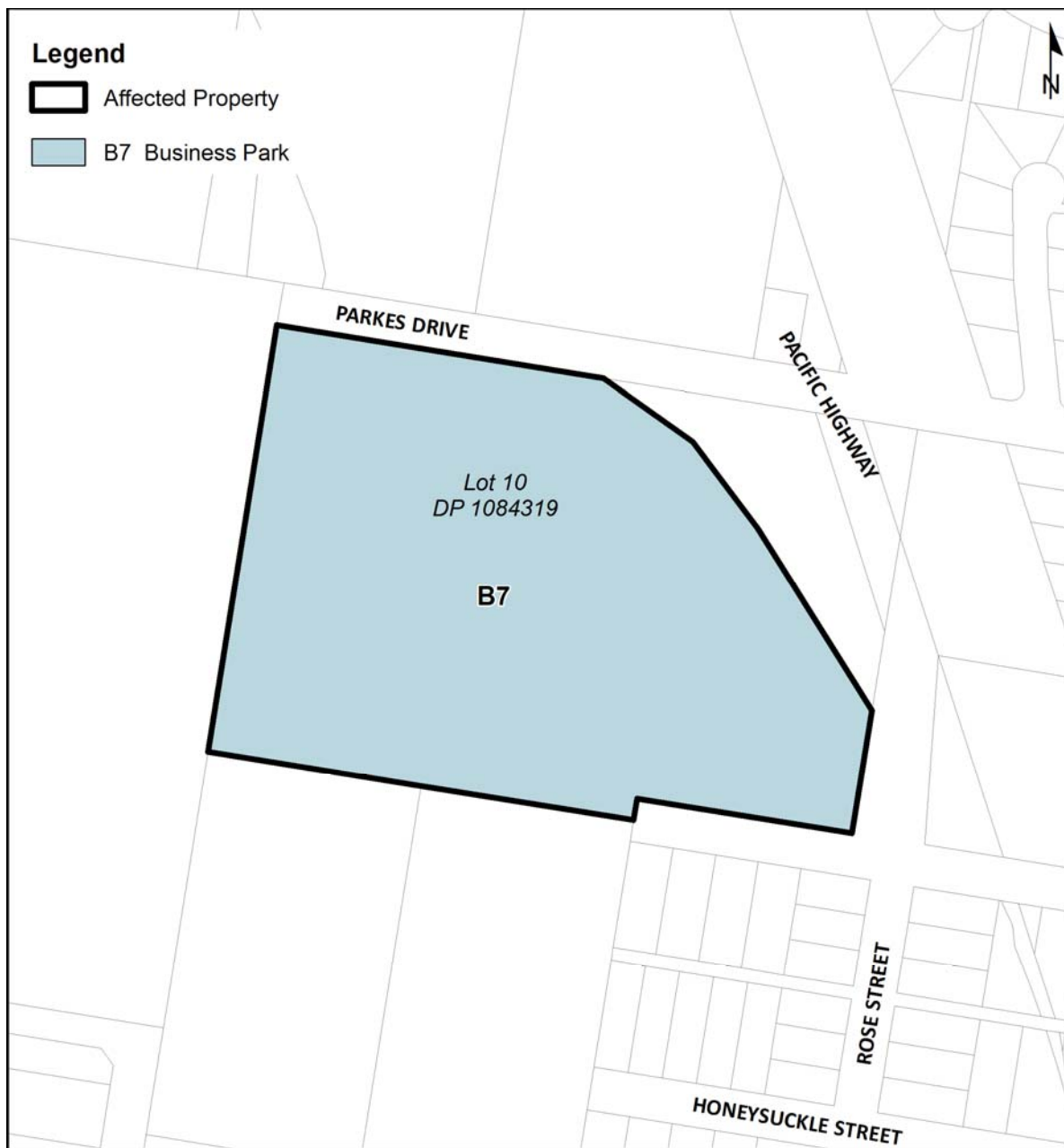
AMENDS: TWEED LOCAL ENVIRONMENTAL PLAN 2000

CERTIFIED IN ACCORDANCE WITH  
THE ENVIRONMENTAL PLANNING &  
ASSESSMENT ACT 1979 & REGULATIONS

XXX

GENERAL MANAGER

DATE



SCALE: 1:2,500      LOCALITY: TWEED HEADS WEST      PARISH: TERRANORA      COUNTY: ROUS      SHEET: 1 of 1

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

TWEED

**DRAFT LOCAL ENVIRONMENTAL PLAN 2000 AMENDMENT No.93  
IN ACCORDANCE WITH STANDARD INSTRUMENT ORDER 2006**

DRAWN BY: J.Batchelor	DATE: 25/08/2011	STATEMENT OF RELATIONSHIP WITH OTHER PLANS  AMENDS: DRAFT TWEED LOCAL ENVIRONMENTAL PLAN 2010
SUPERVISING DRAFTER:		
PLANNING OFFICER: S. RUSSELL		
COUNCIL FILE No: PP10/0001		
DEPT. FILE No: PP_2010_TWEED_001_00		CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 & REGULATIONS
GOVT. GAZETTE OF:		
		<div>XXX</div> <div>GENERAL MANAGER      DATE</div>

**Attachment 7 - Gateway Determination**

Public Exhibition Version



## Planning



qB153345  
10/18209

Department Generated Correspondence (Y)

Contact: Carlie Boyd  
Phone: (02) 6641 6600  
Fax: (02) 6641 6601  
Email: Carlie.Boyd@planning.nsw.gov.au  
Postal: Locked Bag 9022, Grafton NSW 2460

TUW BTPASS.

Our ref: PP\_2010\_TWEED\_001\_00 (10/15735)  
Your ref: PP10/0001

2000  
LEP - LOCAL ENVIRONMENTAL PLAN  
W. 71569, 25685

TWEED SHIRE COUNCIL	
FILE No:	PP10/0001 #1
DOC. No:	21273811
RECD:	10 SEP 2010
ASSIGNED TO:	RUSSELL S
HARD COPY	<input checked="" type="checkbox"/>
IMAGE	<input type="checkbox"/>

Mr Michael Rayner  
General Manager  
Tweed Shire Council  
PO Box 816  
MURWILLUMBAH NSW 2484

Dear Mr Rayner,

**Re: Planning Proposal to rezone land at Tweed Heads West**

I am writing in response to your Council's letter dated 23 July 2010 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Tweed Local Environmental Plan 2000 to rezone Lot 10 DP 1084319 Parkes Drive, Tweed Heads West from Rural 1(a) to 3(c) Commercial and Trade.

As delegate of the Minister for Planning, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

The Gateway Determination requires that the planning proposal be made publicly available for a period of 28 days. Under section 57(2) of the Act, I am satisfied that the planning proposal, when amended as required by the Gateway Determination, is in a form that can be made available for community consultation.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway Determination. Council should aim to commence the exhibition of the Planning Proposal within four (4) weeks from the week following this determination. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Carlie Boyd of the Regional Office of the Department on 02 6641 6600.

Yours sincerely,

  
Tom Gellibrand  
Deputy Director General  
Plan Making & Urban Renewal

LOT 10 DP 1084319 BANKSIA ST THW  
LOT 1 DP 607299 PARKES DR TH.



## Planning

### Gateway Determination

**Planning Proposal (Department Ref: PP\_2010\_TWEED\_001\_00):** to rezone Lot 10 DP 1084319 Parkes Drive, Tweed Heads West from Rural 1(a) to 3(c) Commercial and Trade.

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Tweed Local Environmental Plan 2000 to rezone Lot 10 DP 1084319 Parkes Drive, Tweed Heads West from Rural 1(a) to 3(c) Commercial and Trade should proceed subject to the following conditions:

1. The following studies must be completed by Council prior to exhibition:
  - (a) Traffic Impact Study;
  - (b) Airport Operation Impact Study; and
  - (c) Offsite Impacts, including odour analysis and buffering requirements related to the adjacent Sewage Treatment Plant.
2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
  - (a) the planning proposal must be made publicly available for **28 days**; and
  - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs* (Department of Planning 2009).
3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
  - Roads and Traffic Authority

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.
4. No public hearing is required to be held into the matter under section 56(2)(e) of the EP&A Act. This does not have any bearing on the need to conduct a public hearing under the provisions of any other legislation.
5. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 6<sup>th</sup> day of September 2010.

**Tom Gellibrand**  
Deputy Director General  
Plan Making & Urban Renewal  
Delegate of the Minister for Planning



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

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