

23rd April 2010

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

Attn: Mr. Iain Lonsdale

RE: Planning Proposal, Boyd's Bay Garden World 'Business Park', Tweed Heads

Dear Iain,

We refer to the above and advise that we have been engaged by Maro Developments P/L and Leisure Brothers P/L (our clients) to act on their behalf with respect to the commencement of the rezoning process of their site, commonly referred to as the Boyd's Bay Garden World site.

On behalf of our client's and pursuant to Division 4 of the EP&A Act, 1979 we hereby lodge a Planning Proposal that sets out the justification for pursuing an amendment to the Tweed Local Environmental Plan 2000 (TLEP 2000) in respect of the subject site to allow for such uses consistent with a Business Park land use and to reflect the intent of Council's Tweed Urban & Employment Lands Strategy 2009 (TUELS 2009).

It is our client's intention to work closely with the Council and relevant authorities and stakeholders to ensure that the process regarding rezoning and ultimately the future development of the land occur in an efficient and timely manner.

We thank you in anticipation of your consideration of this matter and ask that you do not hesitate to contact the undersigned should you have any queries.

Regards

Adam Smith
Director
PLANIT Consulting

Planning Proposal

Proposed 'Business Park'

BOYD'S BAY GARDEN WORLD SITE

Tweed Heads

Prepared by



April 2010

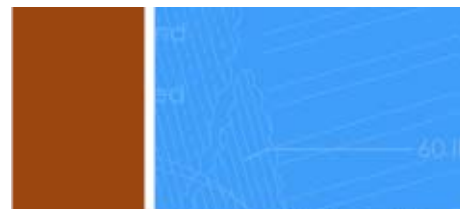


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Part 1.0 - Introduction & Context

1.1 The Proponent

The site is under the control, with respect to future development, of Maro Developments and Leisure Brothers P/L.

Maro Developments is an established UK land developer. The Maro Developments Limited website (www.marodev.co.uk) provides information on the company.

Leisure Brothers Pty Ltd website (www.leisurebrothers.com.au) provides information on the company.

1.2 The Subject Site

Our client's hold a controlling interest in Lot 10 in DP 1084319, being that land that presently accommodates the existing Boyd's Bay Garden World. Adjoining sites consist of the Council owned Sewage Treatment Plant (STP) being Lot 1 in DP 607299, residential properties to the south, an existing Industrial zoned parcel with approval to develop and lands immediately to the north of our clients land being Crown Reserve parcels and the existing Tugun Bypass (forming part of the Pacific Motorway).

The site and its surrounds are depicted in detail at Appendix A.

The site is approximately 5ha in area and possesses direct frontage to the Pacific Motorway and Parkes Drive to the north. The latter represents a designated access facility linking the subject lands to the adjacent Motorway. Parkes Drive, by virtue of agreements between Council and the landowner of those lands zoned industrial to the rear, will also provide access to the Motorway for these lands. Access to the subject lands is also available via Kennedy Drive and Rose Street to the east and south.

The site has been extensively disturbed over a long period and was utilised for a Drive in cinema prior to the current use (ceased operating in 1993). The current use represents one of the largest Retail nurseries in Australia, along with building materials sales and storage and bulk landscape supply facilities. There is little of the site in its current state that is not being utilised or undisturbed by prior physical works.

1.3 Site Constraints in the context of future development

The existing development exists on the land with few constraints. However, it is acknowledged that any future intensification of development on the land, for any purpose, would result in the need to address several key areas of potential constraint / conflict.

These constraints are such that the detail required to properly address how they will be managed is best served when assessed concurrent with a detailed development plan.

This will allow both a timely and integrated assessment for the proponent, whilst also allowing council to ensure that development constraints and restrictions associated with identified ameliorative measures are properly linked to a development plan, as opposed to an overly complex and restrictive planning scheme amendment.

So as to assist, a base constraints table has been prepared and is outlined below together with comments regarding the detail considered necessary to properly address same within any future combined rezoning / development application submission.

Table 1: Constraints Table

Constraints Table	Applicable
Flooding Impacts	Low Hazard Flooding applicable with existing levels of between 1.0m AHD and 3.0m AHD across the site. Development of the site will require filling with the design flood level being nominated as 3.0m AHD. Impacts to be addressed in the context of the following:- 1. NSW Floodplain Management Manual 2005 2. Tweed Development Control Plan Section A3 3. Tweed Valley Floodplain Risk Management Plan 2005 Action Required: Detailed Flood Impact Assessment to accompany the rezoning proposal.
Servicing Constraints	The site is considered able to be serviced with respect of water, sewer and stormwater facilities based on preliminary assessment to date. A detailed Engineering & Infrastructure Assessment will be prepared and will accompany any future submission.
STP Buffer & Odour Assessment	The site sits adjacent to Tweed Shire Council owned lands that were previously utilised for the purposes of a STP. This facility has since been closed down (not decommissioned). In 2009, council granted approval (under Part V of the Act) for a new STP on the land. Construction hasn't commenced and as we understand it, no timing has been committed to in respect of same. It will be contingent upon the proponents to liaise with council in order to ensure that the form of any future development does not act in

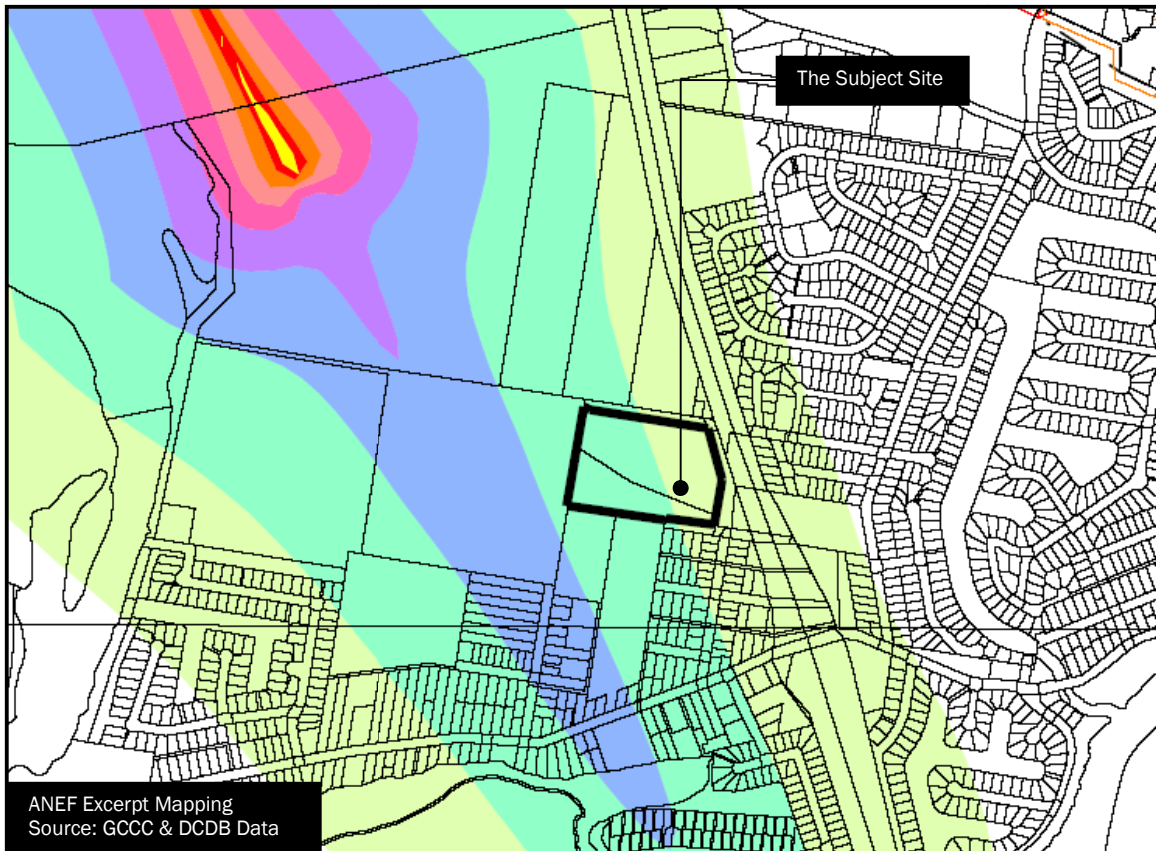
	a deleterious manner with respect to this approval and that future employees on the subject land are not compromised by the operations of the STP itself. Detailed air quality assessment will be required in accordance with the provisions of NSW DEC, Approved Methods and Guidance for Modelling and Assessment of Air Pollutants in New South Wales, 2001 and NSW DEC, Draft Policy, Assessment and Management of Odour from Stationary Sources in New South Wales, January 2001.
Ecology	The site presents little in the way of ecological constraints. Existing waterbodies on site are deemed to be operational drains and show little in the way of native vegetation. Detailed assessment will be undertaken in accord with the requirements of both Council and the DECC.
Access	Discussions have been had with the RTA in respect of formalizing access for the purposes of future development and whilst their advices have been qualified, they have indicated a willingness to consider managed forms of access during the rezoning stage. Detailed traffic impact assessment will need to be undertaken in accord with the provisions of the NSW RTA Guide to Traffic Generating Developments and include broad assessments incorporating Kennedy Drive, the adjacent Highway and relevant local linkages.
Aircraft Noise / Proximity to the Gold Coast International Airport	The property is affected by the 20-25 and 25-30 ANEF contour designations (refer diagram below). These contour designations permit a wide range of uses pursuant to the Australian Standard 2021 – Development in Vicinity of Aircraft Noise. A table outlining permissible uses is outlined below (refer table 2). Further management and consideration of matters relating to Obstacle Limitation Surface (height of structures), Lighting and Landscaping will also be required. This will include the identification of future height limits commensurate with the need to fill the site and

	achieve suitable protection in respect of the Gold Coast Airport OLS restrictions. Restrictions will also be relevant to the site in respect of acoustic treatments to future buildings given the presence on part of the site of the ANEF restriction 25 to 30 ANEF.
Contamination	Whilst preliminary analysis indicates that this will not prove to be a significant constraint, further detailed assessment will be required in accord with the provisions of State Environmental Planning Policy No.55 – Remediation of Contaminated Lands.
Socio Economic Impacts	The subject site represents an integral part of the adopted Tweed Employment Generating Lands Strategy. This strategy, whilst clearly nominating the lands, also stipulates that any development proposal must clearly assess and analyse potential indirect and direct impacts on existing commercial operators, the economic need and justification for development of lands and to clearly state and project the economic benefits of development. It is expected that any future development proposal will require the presentation of significant socio economic assessment material inclusive of potential adverse impacts on other existing or proposed business areas.

Table 2: ANEF Permissible Uses – Australian Standard 2021

Building Type	Acceptable	Conditional	Unacceptable
House, home unit, flat, caravan park	Less than 20 ANEF	20 to 25 ANEF	Greater than 25 ANEF
Hotel, motel, hostel	Less than 25 ANEF	25 to 30 ANEF	Greater than 30 ANEF
School, university	Less than 20 ANEF	20 to 25 ANEF	Greater than 25 ANEF
Hospital, nursing home	Less than 20 ANEF	20 to 25 ANEF	Greater than 25 ANEF
Public building	Less than 20 ANEF	20 to 30 ANEF	Greater than 30 ANEF

Commercial building	Less than 25 ANEF	25 to 35 ANEF	Greater than 35 ANEF
Light industrial	Less than 30 ANEF	30 to 40 ANEF	Greater than 40 ANEF
Other industrial	All ANEF zones	All ANEF zones	All ANEF zones



In order to properly assist with the management of the matters raised above, both detailed assessments (as identified) and the preparation of a pertinent Development Code (concurrent with the rezoning proposal) will be required.

1.4 Our Client's Approach & Vision

Our client seeks to facilitate the rezoning of the subject lands from 1(a) Rural (Tweed LEP 2000) to 5B Business Development pursuant to the Standard LEP Template and the exhibited Draft Tweed Local Environmental Plan 2010. By way of reference and given that the gazettal of the new LEP may be some time away, the equivalent rezoning proposal relative to the Tweed LEP 2000 would entail the rezoning of the subject lands to a 3(c) Commerce & Trade Zone.

Our client has liaised with Council over a considerable period with a view to rezoning the lands and wishes to pursue a vision for a Business Park development that takes advantage of the sites proximity to key infrastructure and the Gold Coast Airport.

The site is considered an ideal base for Business Park uses, with the historic concept of the head office being located in a CBD and separate warehouse/manufacturing facilities being remote in industrial estates contrary to the changing face of management practices that seek operational consolidation as outlined above. Accordingly, a blend of commercial and industrial uses is envisaged upon the site. This vision will rely upon the flexibility afforded by the B5 zone, which is strongly advocated in the Draft Centre's Policy prepared by the Department of Planning. Importantly, and by way of example, the Sydney Metro Strategy recognises the flexibility required in providing for businesses accommodation needs and refers to employment lands, and does not differentiate between industrial space and business park space. In this regard the strategy notes "that many industrial activities now have higher office components with increased white collar workers. This means that more jobs can be located in employment lands".

The site, at a local and regional level provides an opportunity for Tweed to also engage in the forming trends of Business Park development and to facilitate continued employment and economic growth for the benefit of its residents.

1.4.1 Associated Land Uses

Our client has considered recent key changes to the industrial/business market that have influenced changing land use requirements. In addition to this there have been a number of other commercial and demographic changes reflecting broader worker needs that have influenced requirements for more diverse land uses in employment areas. These relate to business and employee needs for retail services, accommodation, recreational facilities, and social services. There is also an important need for planning authorities to incorporate degree of flexibility to facilitate the inclusion of these associated land uses only where appropriate in the context of the full range of planning considerations.

Discussions to date indicate that Council understands the changing nature of industrial business parks.

We also note that whilst multi dwelling housing is a permissible use within the B5 zone, this form of development is not preferred by the proponent, nor is it permissible in most of the site by virtue of the Aircraft Noise restrictions relevant to the site. Further to the latter, the proximity to the current Highway alignment of those lands that aren't impacted by the 25 to 30 ANEF line would provide a sever limitation to residential forms of development on the subject land. We note that multi dwelling housing is a prohibited use in the 3(c) Commerce & Trade Zone.

1.4.2 Retail Needs

A criticism of the early business and industrial parks was the lack of facilities for workers. It was necessary to get in a car to meet food and beverage and other daily retail needs. In modern business parks, retail services range from a minimum of one or two food outlets to cafes, restaurants, convenience stores, and in some instances major retail centres. Basic food outlets are recognised as an integral requirement of industrial and business parks early on. However, changing shopping patterns where consumers are making more frequent but smaller purchases, have seen the rise of convenience stores, express supermarkets, and increasing numbers of neighborhood shopping centres. Thus it is not surprising to see diverse retail offerings within industrial and business parks. The Norwest business park in Baulkham Hills in Sydney incorporates a Coles supermarket and 35 specialty stores. The Newington business park precinct incorporates a Woolworth's supermarket with associated specialty stores. The Optus Centre at North Ryde will incorporate a food court along with a range of other non-office or industrial uses. The Rhodes Business Park in Sydney has a café and convenience store.

In Queensland developments such as the Homemaker Centre in Townsville which is located in a Business and Industry zoning (Including Bunnings and Harvey Norman), the two (2) cafes in the Brisbane Technology Park, and the Bistro in Metroplex at Gateway are reflective of the retail requirements of contemporary businesses and their employees. At Southgate Corporate Park, the retail precinct provides a McDonalds, a Tavern and the Southgate convenience centre which incorporates a Zone fresh, Coffee Club and others. It is likely therefore that some ancillary retail / food service facilities will form part of the proposed development as a means of complimenting the overall vision.

Whilst the above are representations of business parks in existence around Australia, it is in no way our client's intention to pursue supermarket uses as this is contrary to Council's Retail Strategy.

Part 2.0 Justification for Proposal (Gateway Assessment)

2.1 Objectives of the Planning Proposal

The objective of this 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.

2.2 Explanation of Provisions

The current zoning of the land is 1(a) Rural pursuant to the Tweed Local Environmental Plan 2000 (TLEP 2000). Uses associated with our client's intent are effectively prohibited within the 1(a) zone and hence an LEP amendment is required in order to facilitate the vision of the TUELS 2009 and the development capacity of the land.

The zoning extract from the Tweed LEP 2000, relative to the 1(a) rural zone (existing zone) is provided below:

Zone 1 (a) Rural

Zone objectives

Primary objectives

- to enable the ecologically sustainable development of land that is suitable primarily for agricultural or natural resource utilisation purposes and associated development.
- to protect rural character and amenity.

Secondary objectives

- to enable other types of development that rely on the rural or natural values of the land such as agri- and eco-tourism.
- to provide for development that is not suitable in or near urban areas.
- to prevent the unnecessary fragmentation or development of land which may be needed for long-term urban expansion.
- to provide non-urban breaks between settlements to give a physical and community identity to each settlement.

Development within the zone

In Zone 1 (a) development for the purpose of the following is:

Item 1 allowed without consent:

- agriculture
- environmental facilities
- forestry

Item 2 allowed only with consent:

- bed and breakfast
- dwelling houses if each is on an allotment of at least 40 hectares or on an allotment referred to in clause 57
- multi-dwelling housing if:

- (a) not more than two dwellings are involved, and
- (b) they are attached, and
- (c) they are on an allotment of at least 40 hectares or an allotment referred to in clause 57
- any other buildings, works, places or land uses not included in Item 1, 3 or 4

Item 3 allowed only with consent and must satisfy the provisions of clause 8 (2)

- | | |
|--|---|
| <ul style="list-style-type: none"> • boat repair and servicing facilities • boating facilities • car parks • caravan parks (other than camping grounds) if connected to a reticulated sewerage system • child care centres • clubs • educational establishments • helipads • heliports • hospitals • hotels • housing for older people or people with disabilities | <ul style="list-style-type: none"> • institutions • junkyards • light industries • marinas • markets • motels • offensive or hazardous industries • places of assembly • places of public worship • public buildings • service stations • storage units • transport terminals (other than airline terminals) |
|--|---|

Item 4 prohibited:

- airline terminals
- boarding-houses
- boat showrooms
- brothels
- bulky goods retailing
- car repair stations
- caravan parks (other than camping grounds) if not connected to a reticulated sewerage system
- commercial premises
- display homes
- dwelling houses not included in Item 2
- industries (other than home industries, light industries, offensive or hazardous industries, rural industries or industries directly associated with or dependent on extractive industries)
- integrated housing
- manufactured home estates
- motor showrooms
- multi-dwelling housing not included in Item 2
- professional consulting rooms
- restricted premises
- roadside stalls if requiring direct access to an RTA classified road
- shops (other than general stores)

The zoning extract above demonstrates that commercial and industrial uses commensurate with a Business Park are prohibited in the 1(a) zone pursuant to the Tweed LEP 2000.

As such, it is intended to seek the introduction of the B5 Business Development zone over the land in accord with the provisions of the Draft Tweed Local Environmental Plan 2010 (and LEP standard template), which is currently on exhibition.

This zone is consistent with the intent of the proposed rezoning of the site.

The relevant extract (taken from the Draft Tweed LEP 2010) relating to the B5 Business Development Zone is shown below:

Zone B5 Business Development

1 Objectives of zone

- To enable a mix of business and warehouse uses, and specialised retail uses that require a large floor area, in locations that are close to, and that support the viability of, centres.
- To provide for retailing activities that are not suited to, or desirable in, the other business zones or that serve the needs of the other businesses in the zone.
- To allow for other compatible development.

2 Permitted without consent

Environmental facilities; Environmental protection works; Roads

3 Permitted with consent

Child care centres; Light Industries; Medical Centres; Passenger transport facilities; Self Storage Facilities; Take-Away Food and Drink Premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Amusement centres; Brothels; Caravan Parks; Cemeteries; Charter and tourism boating facilities; Community facilities; Correctional centres; Crematorium; Educational establishments; Entertainment facilities; Exhibition homes; Exhibition villages; Farm Buildings; Food and drink premises; Forestry; Freight transport facilities; Function centres; Health services facilities; Highway service centres; Home-based child care; Home businesses; Home industries; Home occupations; Home occupation (sex services); Industries; Information and education facilities; Marinas; Markets; Moorings; Movable Dwellings; Port facilities; Recreation facilities (major); Recreation facilities (outdoor); Residential accommodation; Restricted premises; Roadside stalls; Rural industries; Rural supplies; Sex services premises; Storage premises; Tourist and visitor accommodation; Water recreation structures; Wholesale supplies

NB. Consideration was also given to the use of the IN1 Industrial Zone, however this zone expressly prohibits office development, which is at odds with the Business Park intent.

Draft proposed zoning plans (relative to both the DRAFT LEP 2010 and the current Tweed LEP 2000 is contained at Appendix A to this proposal.

In order to address key elements of potential constraint, detailed considerations with respect to the provision of access to the adjacent motorway, it is proposed to pursue the rezoning of the land concurrent with the preparation of a Development Code or DCP that addresses all relevant matters with a focus on future development forms.

2.3 Justification for the Planning Proposal

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

Yes, the planning proposal has been encouraged by the contents of both the Far North Coast Strategy 2007 and the Tweed Urban and Employment Lands Strategy 2009.

The Far North Coast Regional Strategy, adopted in January 2007, is intended to manage the region's high growth rate in a sustainable manner. The Regional Strategy promotes a settlement pattern that protects environmental values and natural resources while utilising and developing the existing network of major urban centers, reinforcing village character and requiring efficient use of existing services and major transport routes.

Rezoning of this site is considered consistent with the provisions of the Far North Coast Regional Strategy. In this regard, the subject lands are within the mapped 'existing urban footprint' within the strategy and hence there is an expectation that development will or should occur on those lands so mapped, at least within a broad strategic context.

The following are statements from the FNCRS that provide relevant planning directives that the proposal seeks to achieve/demonstrate consistency with.

Employment Lands

Outcomes	Comments
Economic development and employment growth will be facilitated by identifying suitable business and investment opportunities and providing employment lands to support these opportunities.	The proposal will support a wide range of economic development strategies particularly those identified by the Council and TEDC in the adopted 2006 Ready for Business Strategy and the recently adopted Tweed Urban & Employment Lands Strategy 2009.
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.	The proposed development will see the use of existing employment generating lands albeit in a more sustained and targeted way. It is important that the development of this land is done so in a manner that does not adversely impact adjoining residential areas or established commercial areas within the Tweed LGA.
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	The development of this land will likely benefit from the proximity of the site to South East Queensland and the clear transport linkages that service the land.

Region.	
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.	The development is considered consistent with this planning outcome in that the land is ideally suited to commercial usage given the constraints of adjacent Airport operations and the proximity of key infrastructure. It is nonetheless important to ensure that the amenity of adjoining residential properties and the efficiency of neighbouring infrastructure is not impacted upon by the development of this land.
The Regional Strategy supports the utilisation of existing vacant commercial and industrial land, where appropriate to the proposed use, prior to the release of further lands. The Pacific Highway corridor is an exception, requiring well located highway service centres (with limited defined uses).	The development will provide for the use of semi commercial lands for a more defined and sustained form commercial and industrial land use. The land is therefore considered appropriate with respect to the alternative of developing existing greenfield sites for similar uses.
Actions	Comments
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.	The proposed rezoning for the development as amendment to the LEP will seek to assist in the attainment of employment objectives outlined in the FNCRS and the Tweed Urban & Employment Lands Strategy 2009. Furthermore, whilst the lands are currently zoned Rural, the existing use and the sites proximity to substantial transport infrastructure aids in providing the site with an existing character that could be best described as semi commercial.
Use of existing vacant industrial land should be considered prior to the release of any major new industrial areas.	Existing useable (developable) industrial land within the shire is relatively limited to around 62 ha and this will be taken up within the next 3-5 years. The rezoning will ensure that sufficient supply of land is provided beyond this time frame. It is also considered pertinent to note that with respect to the Tweed market (to which this land applies as opposed to the Murwillumbah Market), there is only very limited opportunities associated with existing zoned lands. Indeed, the existing Industrial zoned lands to the west of the site (one

	property removed) can only be developed by way of developing infrastructure immediately adjoining this site. Accordingly, there are clear infrastructure efficiencies in having this land developed in a short term timeframe.
Councils will identify opportunities for bulky goods style retailing in appropriate locations in commercial centres and restrict this form of retailing in employment and industrial zones as set out in the Government policy ' Right Place for Business '.	Whilst some bulky good retail premises are located in industrial areas, this form of usage will not be encouraged within the development of this land by way of adopting the B5 land use zone. This land use designation permits only those forms of bulky goods retail that cannot for one reason or another be comfortably located in a more typical commercial zone.
Planning for commercial and industrial land uses must be integrated with the supply of relevant infrastructure and transport. Highway service centres may be located beside the Pacific Highway at Chinderah and Ballina.	No Highway Service Centre is proposed, however the use of existing substantial transport infrastructure is. It is important that whilst this intent is clear, detailed assessment will be required in respect of the capacity of this infrastructure and the need for any relevant augmentation prior to development proceeding.
The Regional Industry and Economic Plan for the Northern Rivers prepared by the Northern Rivers Regional Development Board will provide guidance and support for the development of a sustainable and robust regional economy, which capitalizes on existing and emerging opportunities that are specific to the Northern Rivers. The Regional Strategy requires that councils identify sufficient new commercial and industrial land to match the needs of the growing economy.	The proposed development will contribute towards identified economic reforms outlined in the various economic strategies for the shire.

Continues next page.....

The site has also been identified within the adopted Tweed Employment Generating Lands Strategy 2009. This strategy represents a shire wide consideration of future employment lands needs. The site is identified as suitable for Medium term consideration (refer Table 9-1).

The following mapping extract from the Tweed Urban & Employment Lands Strategy identifies the subject lands under the designation of Precinct No.2 - Airport Precinct.

Refer to the excerpt plan to the right.

A request was made to the Council in 2009 for an amendment to the strategy in order to identify the site as a short term development opportunity. This request was reported to the Council on the 15th December 2009. The resolution of the Council reads as follows:-



12 [PR-CM] Proposal to Amend the Rezoning Timeframe of the Tweed Urban and Employment Land Release Strategy 2009 for the Boyd's Bay Garden World Site, Tweed Heads

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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 Boyd's 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.

This resolution gives support to the amendment of the Tweed Urban and Employment Generating Lands Strategy 2009, subject to the carrying out of further detailed consultation with key authorities being the Tweed Shire Council, the RTA and the Gold Coast Airport.

The proponents wish to make a clear commitment to undertaking extensive consultation with all parties as a condition precedent of any Gateway determination pursuant to Section 56(2) of the Environmental Planning & Assessment Act, 1979.

The consultation stipulated within the resolution of Council will, as expected to be made clear in the conditions associated with any Gateway determination, be carried out as a condition precedent pursuant to the provisions of Section 56(2)(d) of the EP&A Act 1979.

Notwithstanding the latter, consultation has already occurred with respect to the authorities identified in Council's resolution, whilst this planning proposal itself is to be considered a request to consult with the Council in respect of the future rezoning of the subject lands. This consultation could also of course be formally structured as a conditional requirement within any Gateway determination issued. It is expected that key matters to be addressed in detail, relative to Council's interests, will include the interaction of the proposal with Council owned lands to the west (inclusive of the possibility that this land will be used for a STP in the future), interaction with adjoining residential properties and the need for a detailed development code (DCP) to accompany the combined rezoning / DA.

Discussions with the Gold Coast Airport have resulted in their request to refer back to the correspondence submitted by the Gold Coast Airport to the Tweed Shire Council dated 18th November 2009. This correspondence (refer Appendix B) clearly sets out the requirements of the Gold Coast Airport in addition to highlighting the key considerations pertinent to any future development of this land. These considerations will of course be considered and addressed in detail within the proposed future combined rezoning and development application identified within this planning proposal. As the likely future development of the land will in the first instance be limited to subdivision, it is also proposed to prepare and submit a development code concurrent with the rezoning proposal so as to guide the future development of the land in a manner that is consistent with the site constraints (inc. proximity to Gold Coast Airport).

Discussions with the Roads & Traffic Authority (pers. Comm. Michael Baldwin RTA 18.03.2010) has identified a need to clearly identify the projected future traffic generation relative to the future development of the lands, any required upgrade requirements of existing infrastructure, acoustic impacts of the ex. highway operations (inc. of projected increased usage), signage requirements and the impacts of the proposal on the operation of key RTA infrastructure including the adjoining intersection and the highway.

It was also raised that detailed traffic generation modeling and impacts analysis will be required with respect to the surrounding network, most noticeably Kennedy Drive (both east and west of the bridge).

The matters identified by the RTA will be addressed in detail within the proposed combined rezoning and development application the subject of this proposal.

With respect to the particular provisions of the Tweed Urban & Employment Lands Strategy, a set of planning principles has been identified (Page 90) which acknowledges the Tweed's potential competitive strengths when determining future employment lands. The principles are as follows (not in order of importance) and the relevancy of these to the proposed development is commented upon below.

Principle	Comment
1. The Tweed economy is fundamentally linked to the economy of South East Queensland and the employment strategy needs to reflect this.	The proposed development will provide economic development opportunities with direct access to the Pacific Highway that links SEQ. This has been improved by the opening of the Tugun by-pass, which provides direct access to the Gold Coast Airport.
2. Tweed acknowledges the changing nature of employment and technology and the need to promote mixed use developments in proximity to urban areas that allow innovation and sustainable employment. In order to reduce the likelihood of supply shortage it is appropriate to have a 25 year supply of industrial land and a similar supply of potential office space to satisfy reasonable demand estimates.	The proposed development will position Tweed Shire to regain significant economic losses to other regional areas. The development of employment and industrial land at Pottsville in this location is vital to ensure a range of identified economic opportunities to be implemented. Furthermore this development (Stages 1-3) will form an overall integrated development for the remaining area of the West Pottsville employment area to ultimately see a range of innovative mixed use developments to support the industrial activity, such as residential, supporting community services and retail centre longer term.
3. Employment land needs to be available in a range of locations in order to create choice in the market. Climate change needs to be recognised as both a constraint and an opportunity in the economy of Tweed Shire and the region.	West Pottsville Employment Lands represents one of the relatively few identified areas for future industrial area, excluding around 62 ha of current zoned undeveloped useable industrial land, the
4. Precinct based planning principles for new or redeveloped employment lands areas needs to be incorporated into Council planning controls and planning policy to encourage co-location of similar	Indicative planning and development controls have been prepared for the proposed development. The development of preferred land use precinct to reflect the overall master plan has been prepared to encourage a wide range of desired

employment generators or industries.	employment and related land use activities.
5. Diversity in lot size in industrial and mixed use areas will be required to promote the attraction of specific tenants that fit the competitive strengths of the Tweed.	The proposal provides for a variety of allotment sizes to suit a diverse range of industrial activities and requirements.
6. Focus the attention of new employment areas on the potential for export industries and employers without neglecting the service industry needs of the Tweed community.	The proposal will provide opportunities to attract suitable businesses and industrial activities that have a high added value to the local economy such as export industries and knowledge and/or research based industrial businesses due to the areas relatively close proximity to the Gold Coast Airport.
7. Consider new or expanded employment areas with existing or potential access to regional transport links such as the Gold Coast airport, Pacific Motorway and the future extension of the railway system from South East Queensland into northern NSW.	The site has been identified as extremely suitable due to its direct access to the Pacific Highway and direct link to the Gold Coast Airport.
8. Make provision for local service industries and employment areas in suitable locations relevant to existing and future urban areas. Acknowledge the current and future roles of urban centres in the urban hierarchy of Tweed Shire and how these fit with existing and future employment areas.	The proposed development will provide for the ultimate development of future employment lands to provide a diver range of employment opportunities for the growing coastal urban areas.
9. Home based employment opportunities need to be maintained and if practical expanded in future planning controls and planning policy to recognise the contribution this option can make to sustainable employment and changing technology.	N/a
10. Encourage co-location of similar employment generators to create synergies.	The proposed development will encourage synergies between co-location of employment land uses.

11. Capitalise on the availability of water and sewerage infrastructure to encourage movement of significant employment generators into the Tweed.	The area is serviced by water and sewerage, with proposed external augmentation to be provided to support the proposed development.
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The **Tweed Shire Economic Growth Management Strategy 2007-2010 (Ready for Business 2006)** was adopted in December 2006 by Council as a joint initiative by Tweed Shire Council and the *Tweed Economic Development Corporation (TEDC)*. This document identified a wide range of proactive strategies to diversify and strengthen the local economy, particularly identify areas of improvement in terms of attracting specific industries and adequate supply of appropriate land.

This strategy identifies two (2) different types of employment land:

1. Light industry, light commercial, bulky goods and retail outlets - these types of estates are service provider estates driven by population growth.
2. Large lot enterprise/industrial areas - these estates provide for growth of larger, job-creating industries, which include manufacturing, food processing, warehousing and distribution centres, as well as transport service centres.

The Tweed is currently well served by a mixture of light industry/commercial land. The TEDC has identified however, the need for large-lot enterprise land development as a matter of urgency to capitalise on the opportunity to further diversify the Tweed economy through industry growth and attraction. The rezoning of this land as proposed will assist in achieving consistency with this Strategy.

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

The proposed LEP amendment is the most appropriate method to ensure that the lands highest and best use is achieved. To ensure that this occurs in a timely fashion the gateway process is clearly the most appropriate planning mechanism.

An option would be to await Tweed Councils Shire wide planning review however this review is not realistically going to be undertaken within the next two (2) years and nor is there any realistic possibility that rezoning of this nature will be undertaken within this process.

The rezoning of the proposal will assist in attaining the employment generating objectives contained within the Tweed Urban and Employment Lands Strategy 2009.

2.3.3 Is there a net community benefit?

For rezoning proposals for retail and commercial developments, the following key criteria should be examined when assessing the merits (in the context of net community benefit) of the proposal against the base case:

- *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)?*

Comment:

The proposed LEP amendment will facilitate State and regional development direction as the intended use of the land is in line with this direction. Specifically the rezoning of the proposal will assist in attaining the employment generating objectives contained within State and regional strategic planning legislation. The proposal is deemed to comply with the agreed strategic direction for the area and is appropriately sited in respect of transport linkages and infrastructure usage.

- *Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?*

Comment:

It is deemed that the LEP will not create a precedent due to the fact that the proposal is considered as an appropriate candidate for a re-zoning, along with adjoining properties. For example the site has been identified within the adopted Tweed Urban & Employment Lands Strategy 2009. There are few other sites that possess such appropriate rezoning attributes, therefore it is deemed that the proposal will not create a precedent.

- *Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?*

Comment:

After consideration of the cumulative effects of other spot rezoning proposal within close proximity to the subject land it is considered that as suitable land that is able to be acted upon has been clearly identified, there would be little chance of anything but a small and sustainable number of spot rezoning being proposed. Accordingly, it was considered that the cumulative effects were more of a positive nature rather than negative as the rezoning of such lands would facilitate the very clear intent of the Tweed Urban & Employment Lands Strategy 2009.

- *Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?*

Comment:

Due to the intent of the proposal, that being to create a business park upon the site, the proposal will not only facilitate but also secure a permanent employment generating activity. This key intent of the proposal will see the secure employment of many residents within the area. Compared to the alternative of retaining the existing

use, which has a job generation in the order of 25 positions, the proposed rezoning will facilitate in the order of 500 positions.

- *Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?*

Comment:

It is deemed that the proposal will not impact upon the supply of residential land as the existing and proposed zones do not permit residential uses upon the subject site, in turn the proposal does not directly nor indirectly affect housing supply and affordability.

- *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?*

Comment:

The proximity of the subject site to the Pacific Highway and South East Queensland enable the site to be easily accessed by road and public transport services. The existing infrastructure also exhibits capacity to support future increased public transport and/or road services. There is also the possibility that the site could benefit from rail services identified to extend to the neighbouring Gold Coast Airport.

- *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?*

Comment:

Based on preliminary assessment (desktop and walkover) to date, the subject site does not encompass land with high biodiversity values therefore the impact upon protected land will be nil or minimal. In terms of flooding, the existing site levels are generally between RL1.0 AHD and RL3.0 AHD, with the Q100 flood level being in the order RL2.60m AHD. The majority of the site varies between RL2.0m and RL3.0, with the storage ponds only at a lower level. The proposed development may involve filling below the flood level to provide flood free platforms.

Preliminary advice from Tweed Shire Council's Flooding Officer indicates that minor filling proposed below the flood level should not adversely affect the surrounding flood levels of neighbouring sites, however this will need to be justified by way of Flood Modeling.

- *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?*

Comment:

Due to the locality of the proposal it is envisaged that the public domain would improve if a business park or the like were to be developed upon the subject site as

this would afford the opportunity to implement relevant buffering and amenity treatments to adjoining properties along with providing local employment opportunities. It is also likely that the development of the land for the purposes identified will result in an improved aesthetic incorporating extensive landscaping and improved signage considered the impact on the amenity of the location would be positive in terms of land use and aesthetics.

- *Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?*

Comment:

It is considered that the proposal will result in a clear increase in commercial services, however aside from ancillary retail, no additional retail services are proposed.

- *If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?*

Comment:

The proposal is effectively a stand-alone proposal, however it is on a scale that has the potential to develop into a defined industrial, service industrial and commercial centre in the future. This is particularly so given that the Council proposes to rezone its lands adjacent and the approved industrial estate to the west will likely be implemented in coming years.

In addition to test criteria above, the property, relative to its current land use (Boyd's Bay Garden World), will continue to provide for a community benefit through the provision of employment for approximately 25 horticultural and retail staff. This benefit will be limited however as the site is unable to provide, due to size constraints, for the continued growth of the existing operations which require a larger area and or a splitting of the current operations such that the propagation division moves off site to rural lands, whilst the retail facility moves elsewhere. It is this dilemma that resulted in the sale of the land, under option, to our client.

In the event that the land is not rezoned, it is highly likely that the existing business will cease operations and that a smaller site will be found to focus the retail component. Accordingly, there will be a loss of approximately 20 jobs if this occurs as the alternative land uses under the current 1(a) rural zoning are limited in their employment generating potential.

The rezoning of the subject lands for the purposes nominated will likely result in the generation of between 75 to 100 positions per hectare (considered to be consistent with business park facilities), or a total employment generating potential in the order of between 385 to 500 full time equivalent operational positions post development.

In summary, the primary community benefits likely to arise from the rezoning and subsequent development of the land, include as follows:-

- a. Increased local employment opportunities and economic prosperity through the creation of jobs, the importation of new professional positions, families and skilled individuals to the area;
- b. The efficient utilisation of existing costly infrastructure, therefore ensuring that community investment is well rewarded; and
- c. Increased provision of varied services and commercial opportunities.

In terms of potential negative impacts, there is the possibility that the development of this land will result in the loss of equivalent trade from surrounding areas. This outcome is considered unlikely however given that the Tweed area and indeed the Southern Gold Coast does not provide for any similar forms of Business Park uses consistent with that proposed here.

Detailed socio economic analysis (inc. cost benefit analysis) of the proposal will be undertaken as part of the rezoning process (post Gateway determination) in order to justify the rezoning of the land.

2.3.4 What is the Planning Proposal's relationship to the strategic planning framework?

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)?

Far North Coast Regional Strategy

The Far North Coast Regional Strategy was adopted by the Minister for Planning in January 2007. The purpose of the Regional Strategy is to manage the region's expected high growth rate in a sustainable manner. The Regional Strategy aims protect the unique environmental assets, cultural values and natural resources of the region while ensuring the future planning maintains the character of the region and provides for economic opportunities. The strategy seeks to ensure adequate land is available and appropriately located to sustainably accommodate the projected housing, employment and environmental needs of the region's population over the next 25 years

The sites proposed inclusion within the B5 zone is not inconsistent with the Far North Coast Regional Strategy, which depicts the site within the existing urban footprint (see sheet 1 of the adopted strategy). Furthermore, the fundamental intent of the proposal is to provide for an efficient use of existing infrastructure and to promote employment generation, both of which are consistent with the objectives of the Far North Coast Strategy.

North Coast Regional Environmental Plan 1988

NB. As of 1 July 2009, regional environmental plans (REPs) are no longer part of the hierarchy of environmental planning instruments in NSW. The removal of the REP layer was intended to simplify the State's planning system. The North Coast Regional Environmental Plan is now deemed to be a SEPP. Notwithstanding, given the title remains, the contents of the NCREP 1988 (in the context of this proposal) are addressed below.

Clause 7 requires consideration of the impacts upon farming lands to be considered in the context of any proposal to rezone the land to an alternative use (from rural) in instances where the land is identified as prime crop or pasture land. In this regard, the subject lands are not identified as prime crop or pasture lands.

Clause 12 states that council shall not consent to an application to carry out development on rural land unless it has first considered the likely impact of the proposed development on the use of adjoining or adjacent agricultural land and whether or not the development will cause a loss of prime crop or pasture land. A key issue in the development of the concept plan was the sites relationship with adjoining land uses. It is not anticipated that there will be any substantial land use conflicts or detrimental impacts on adjoining agricultural operations given the disconnect between the current rural zoning and the existing land uses on the site and surrounding areas.

It is noted nonetheless that final buffers will be determined following finalization of a rigorous constraints analysis which will premise the final concept plan.

Clause 32A requires the consideration, in the context any proposal to rezone coastal lands, of the NSW Coastal Policy 1997.

Clause 38 requires that any Draft Local Environmental Plan be consistent with any adopted urban land release strategy. The TUELS 2009 is considered to be an adopted strategy consistent with the intent of this clause. The proposal is consistent with this strategy.

Clause 39 requires that where proposed commercial, retail or industrial lands do not adjoin existing retail, commercial or industrial lands, then the proposal to rezone the land must be consistent with the terms of an adopted strategy. The proposal is considered to be consistent with the contents of the adopted TUELS 2009.

Clause 40 requires the preparation of Development Control Plan to accompany any proposal to rezone lands for Commercial, Industrial or Retail purposes so as to guide the principles of future development. A detailed Development Control Plan will be prepared as part of any application to rezone the land, with the DCP giving guidance in respect of land use controls, building controls and the like.

Clause 47 relates to the need to encourage commercial centres and to implement flexibility within planning controls so as to assist in ensuring that commercial areas are able to respond to varying market conditions.

Clause 56 relates to the undertaking of plan amendments in proximity to existing Airport facilities. In this regard, the site is close proximity to the Gold Coast Airport and their concerns have been noted and will be addressed. In particular, and in accord with this clause, a Development Control Plan will be prepared and submitted with any future rezoning proposal that will include provisions to control the height of buildings to avoid obstructions and potential hazards to air navigation and include provisions to minimise the risk of obstacles to aircraft, such as bird strike, by requiring consent for development in the vicinity of any such aerodromes which may increase such risk.

Clause 58 requires consideration, within the context of any proposal to make a Draft LEP, to consider the efficient usage and or augmentation requirements of services including water, sewer, public transport, pedestrian facilities and cycleways. It is considered that the intent of this clause will be clearly considered and met within the detail contained within any future rezoning submission / development application.

The request to rezone the subject lands is considered able to be undertaken in a manner consistent with the North Coast Regional Environmental Plan 1988.

2.3.5 Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

On the 17th March 2009, Council resolved to adopt the Tweed Urban and Employment Lands Strategy 2009. The proposal is considered to be consistent with this plan.

Furthermore, the adopted 4/24 Strategy replaces and updates the Tweed Shire 2000+ Strategic Plan. It sets broad directions for the next two decades and provides a framework for more detailed plans and policies. It applies to the whole Tweed Shire. The purpose of Tweed 4/24 is to:

- To update the Tweed 2000+ Strategic Plan and strengthen arrangements for implementation;
- To guide sustainable growth and change;
- To safeguard the Tweed's quality of life and environment;
- To enable all key players (Council, other government agencies, businesses and community organizations) to work together in achieving shared goals; and
- To assist Council in setting priorities in its Management Plan and budget.

The proposal seeks to rezone lands in a manner consistent with the 4/24 Strategy.

2.3.6 Is the planning proposal consistent with applicable state environmental planning policies?

State Environmental Planning Policies – SEPPs

The following SEPPs are applicable to this proposal:

SEPP 55 Remediation of Land

SEPP 55 provides a statewide planning approach to the remediation of contaminated land. This policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Contaminated land is constrained for certain types of development.

In accordance with this SEPP a Land Contamination assessment report will be undertaken to ensure that there are no issues relating to contamination. Preliminary testing has confirmed that the risk of contamination is very low.

SEPP 71 Coastal Protection

This policy seeks to ensure that development in the NSW Coastal Zone is appropriate and suitably located, to ensure that there is a consistent and strategic approach to coastal planning and management and to ensure that there is a clear development assessment framework for the coastal zone. The proposal, which although upon lands within the Coastal Zone, is not relative to lands identified as environmentally significant (pursuant to the policy).

Preliminary comments in respect of the proposal's consistency with the considerations under Clause 8 of the policy, are provided below.

SEPP 71 – Coastal Policy	
Clause 8 Provision	Comment
(a) the aims of this Policy set out in clause 2,	The proposal complies with the overall aims of the policy
(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,	The site does not have any access to the coastal foreshore or creek systems or the like.
(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,	N/A
(d) the suitability of development given its type, location and design and its relationship with the surrounding area,	This issue will be dealt with in detail at the development consent stage however the preliminary concept plan illustrates that development of the type envisaged is suitable.
(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,	The proposal will have no detrimental impacts on the foreshore.
(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,	Appropriate design measures shall be included to ensure visual qualities of the area are respected.
(g) measures to conserve animals (within the meaning of the <i>Threatened Species Conservation Act 1995</i>) and plants (within the meaning of that Act), and their	Preliminary flora and fauna analysis indicates that there will be no substantial impacts.

habitats,	
(h) measures to conserve fish (within the meaning of Part 7A of the <i>Fisheries Management Act 1994</i>) and marine vegetation (within the meaning of that Part), and their habitats	n/a
(i) existing wildlife corridors and the impact of development on these corridors,	Preliminary flora and fauna analysis indicates that there will be no substantial impacts.
(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,	The proposal will have no detrimental impacts on coastal processes.
(k) measures to reduce the potential for conflict between land-based and water-based coastal activities,	n/a
(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,	Cultural heritage will be addressed in detailed after initial gateway determination.
(m) likely impacts of development on the water quality of coastal waterbodies,	Appropriate stormwater measures will be put in place so as to ensure no negative effects.
(n) the conservation and preservation of items of heritage, archaeological or historic significance,	No known items exist on the site however further analysis shall be undertaken after initial gateway determination.
(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,	n/a
(p) only in cases in which a development application in relation to proposed development is determined: (i) the cumulative impacts of the proposed development on the environment, and (ii) measures to ensure that water and energy usage by the proposed development is efficient.	The proposal should have no significant negative cumulative impacts. In addition it is anticipated that contemporary sustainable and energy efficient practices will be employed.

State Environmental Planning Policy (Infrastructure) 2007

This policy applies, given the sites proximity to the Pacific Highway and the scale of development proposed. Whilst the proposal incorporates the future rezoning of the subject lands, the methodology proposed, by which the rezoning will be sought concurrent with a development application, requires the provisions of the SEPP to be adhered to. This adherence will require the referral of the proposal to the RTA in accord with Schedule of 3 of the policy.

NB. Please note that the proposal, in its conceptual form shown at Appendix A, is unlikely to be considered Major Development in accord with the provisions of the State Environmental Planning Policy (Major Development) 2005.

2.3.7 Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The proposal is consistent with all relevant section 117 directions. This is addressed in the table below:

117(2) Direction	Objective of Direction	Is proposal consistent?	Comments
1.1 Business and Industrial Zones	The objectives of this direction are to encourage employment growth in suitable locations & protect employment land in business and industrial zones, & support the viability of identified strategic centres.	Yes	The proposal does not result in the loss of business or industrial land, rather it will seek to make efficient use of existing employment lands so as to maximise their employment generating potential.
1.2 – Rural Zones	The objective of this direction is to ensure that the integrity of existing rural zoned lands.	Yes	The proposal seeks to rezone existing rural zoned lands, which are largely, by virtue of past land use decisions, commercial in nature. Detailed consideration of the agricultural value of the land will be undertaken after the gateway process.
1.3 – Mining Petroleum and Extractive Industries	The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	Yes	The proposal does not preclude future extractive activities
1.4 Oyster Aquaculture	The objective of this direction is to ensure that the value of the State's oyster producing areas is not compromised by development decisions or actions elsewhere.	Yes	Detailed engineering and environmental analysis will be undertaken to ensure that no adverse off site impacts occur as a result of the development of the land.
2.1 Environment Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	Yes	The proposal does not result in the disturbance of any environmentally

			sensitive lands.
2.2 Coastal Protection	The objective of this direction is to implement the principles in the NSW Coastal Policy.	Yes	The proposal in no way compromises the objectives of the NSW Coastal Policy.
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Yes	There are no apparent items of heritage on the site and further studies shall be completed to ensure compliance with heritage obligations.
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the certain planning objectives relating to access, transport and the like.	Yes	The site is well located to transport infrastructure, inclusive of the adjacent National Motorway and the Gold Coast International Airport. Furthermore, the site is well integrated with adjacent residential areas so as to maximise accessibility for future employees and the like.
3.5 – Development near Licensed Aerodromes	This direction seeks to ensure that the operations of neighbouring aerodromes are not compromised by the development of land.	Yes	The proposal will be subject to detailed consultation with the Gold Coast International Airport, with additional assessment required in respect of the impacts of the proposal on the Airports operations (Noise, Lighting, Landscaping and Pest Attraction).
4.4 - Planning for Bushfire Protection	The objectives of this direction are to protect life, property and the environment from bush fire hazards,	Yes	Only a small section of the property is identified as being susceptible to

	by discouraging the establishment of incompatible land uses in bush fire prone areas, and to encourage sound management of bush fire prone areas.		bushfire. A detailed bushfire report demonstrating compliance with the relevant bushfire provisions will be prepared.
5.1- Implementation of Regional Strategies	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies – in this instance the Far North Coast Regional Strategy.	Yes	The proposal is considered entirely consistent with the Far North Coast Regional Strategy.
5.4 – Commercial and Retail Development along the Pacific Highway, North Coast	The objectives for managing commercial and retail development along the Pacific Highway are: (a) to protect the Pacific Highway's function, that is to operate as the North Coast's primary inter - and intra-regional road traffic route; (b) to prevent inappropriate development fronting the highway (c) to protect public expenditure invested in the Pacific Highway, (d) to protect and improve highway safety and highway efficiency, (e) to provide for the food, vehicle service and rest needs of travellers on the highway, and (f) to reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.	Yes	The terms of this Direction are clear in the responsibilities of the proponent in ensuring that the site (out of town) does not compromise the efficiency of the Pacific Motorway or feeder access components. Detailed consultation with the RTA will be required in the context of traffic safety, design, impacts associated with signage and visual imposition.

2.3.8 Environmental, social and economic impact.

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?

Initial site investigations reveal that the site does not appear to have any significant ecological value. The site has been heavily disturbed via past land uses and there is little native vegetation present.

It is acknowledged that a detailed flora and fauna analysis will be required to be undertaken following the initial gateway determination.

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

It is acknowledged that detailed environmental studies shall need to be completed however based on initial analysis there does not appear to be any insurmountable environmental issues that suggest that the project should not proceed to the next stage.

In particular consideration will need to be given to the following matters:-

- a. Airport Operations – Acoustic, Landscaping, Lighting, Built Form
- b. Off site impacts – Odour Analysis (Adjacent STP), Buffering
- c. Traffic Impacts – Signage, Visual, Network Design and Upgrade
- d. Water Quality – stormwater quality, detention, re-use and treatment
- e. Flooding – impacts upon proposal, displacement, evacuation and built form
- f. Engineering – services and capacity
- g. Ecological – off site impacts and analysis of existing state

2.3.9 Local, State and Commonwealth Interests.

Is there adequate public infrastructure for the planning proposal?

It is acknowledged that the proposal will result in the use of existing public infrastructure and that some augmentation or upgrade may be required, pending further detailed liaison with Tweed Shire Council and the RTA.

There will also be a need to liaise with the Gold Coast Airport and Air Services Australia in respect of the impacts and interaction of the proposal with the Gold Coast Airport.

The more relevant items pertaining to infrastructure as addressed as follows:

Water Supply

An existing 100mm dia water main runs along the eastern edge of Rose Street. This changes into a 50mm dia water main and continues up the eastern edge of the site and west along Parkes Drive to the western edge of the site.

Connection into the existing Council main can be achieved via Rose Street or Parkes Drive. Detailed analysis of the pressure of the main will be required to ensure there is

sufficient pressure for firefighting purposes. Preliminary advice from Council is that the site will be serviced adequately by the existing pressure, although this is subject to pressure testing and detailed analysis of the demands from the site.

Based upon preliminary discussions with the Tweed Shire Council it is believed that the existing water network will have sufficient capacity to adequately service the development.

Sewer Reticulation

Council's existing Sewerage Treatment Plant is immediately west of the site. The plant is currently in use but will be decommissioned in the near future. The site however will remain in the ownership of the council and may be required for future similar use. Council has advised the design of any future treatment plant will need to take into consideration the existing residential development in close proximity to the treatment plant site. As a result Council will need to design the plant to limiting the odours potentially affecting the existing permanent dwellings

Council advised that a buffer of 400m buffer is required from the inlet of the treatment works to any "sensitive use". It is unclear whether the intended use for the subject site is considered sensitive by Council, and therefore what buffer is exactly required. Furthermore, the ability of this buffer to be reduced is dependent on a risk based assessment as per the Water Directorate of New South Wales' "STP Buffer Zone Land Use Guidelines" which includes a detailed analysis of data and surrounding conditions. The proposed use of the site for commercial purposes and its location upwind of the prevailing wind conditions favour the reduction of this buffer.

The extent of reduction will be dependent on many varied factors as well as council's considerations.

Some of the factors to enhance the ability to reduce the buffer include:

- Not proposing a sensitive use of the site.
- There are existing sensitive uses within the 400m buffer
- Existing odour controls would likely be in effect due to proximity of other sensitive sites to plant
- Odour filtration on buildings is possible
- Site is upwind of site
- General use of site is not during greatest impact from odour (early morning and night)

Council has advised that the final acceptable buffer would be dependent on a detailed odour and risk based assessment. It is noted nonetheless, for comparison, the neighbouring industrial site to the Banora Point Treatment Plant is approximately 80m from the plant boundary.

Gas Reticulation

Searches have been undertaken through the *Dial Before You Dig* service and it has been determined that the area is not supplied with underground reticulated gas. No gas reticulation is therefore proposed for the development. Bottled Gas may be supplied to the site at the discretion of the lot owners or body corporate.

Earthworks & 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 existing paved area, which was originally utilised for the drive in theatre, has an undulating formation but generally grades consistent with the description above. There are two storage ponds on the site which are utilised for irrigation of the nursery which will be required to be filled and 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 RL2.60m AHD. The majority of the site varies between RL2.0m and RL3.0, with the storage ponds only at a lower level. The proposed development may involve filling below the flood level to provide flood free platforms. Council will require that any filling below flood level does not impact on existing flood levels in the area. To accurately determine if there are any impacts we would need to complete a preliminary earthworks assessment of the proposed development based on detailed survey of the site. Also this filling would need to be included in Council's current flood model for the area to determine any impacts, and if there were any impacts they would need to be acceptable to Council.

Preliminary advice from Tweed Shire Council's Flooding Officer indicates that minor filling proposed below the flood level should not adversely affect the surrounding flood levels of neighbouring sites. This would need to be analysed further when the development proposal is confirmed.

Electricity and Telecommunications

Electricity and Telstra services are available to the site, and the existing services are located in Rose Street. If augmentation works to the network traversing the site are required these will be undertaken as part of the development.

- The Electrical Reticulation will be designed and constructed by a qualified Electrical Consultant.
- Telstra will provide Telecommunication services.

Roadwork's

The current site access is from Rose Street at the south east corner of the site and a further informal access from Parkes Drive at the north-west corner.

Parkes Drive would require to be upgraded to an industrial Access Street with a 13.0m wide pavement as per Tweed Shire Council's standards. Costs associated with this upgrade will need to be discussed with Tweed Shire Council at a future stage to determine the cost implications for the development.

The width of the Western Service Road cul-de-sac may need to be increased to allow for large articulated vehicles to exit the site. This would require RTA approval and associated costs would be included as part of the development,

The capacity of the existing interchange with the highway (adjacent to the land) will need to be carefully considered in the context of RTA requirements. Detailed traffic investigations, inclusive of conceptual design, will be required to be undertaken prior to the formal rezoning proposal.

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
- 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 Tweed Shire Council requirements. The water quality treatment train is likely to comprise gross pollutant traps and bio-retention areas. This infrastructure will consume part of the proposed development area, typically it is located adjacent to car parking areas at the low points of the site.

In addition, Council will require no net increase in the amount of stormwater runoff from the site post development; therefore, there will be the need to detain runoff on site prior to connecting to existing downstream networks. This detention will be achieved by conveying the runoff through the above mentioned water quality treatment train. The primary detention of stormwater will be achieved by the proposed bio-retention areas.

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

Following the initial determination of the gateway determination formal views of relevant authorities shall be sought and considered, with particular reference to the Roads & Traffic Authority, further detailed consultation with Tweed Shire Council, and whilst not a public authority, further consultation will also be undertaken with the Gold Coast International Airport.

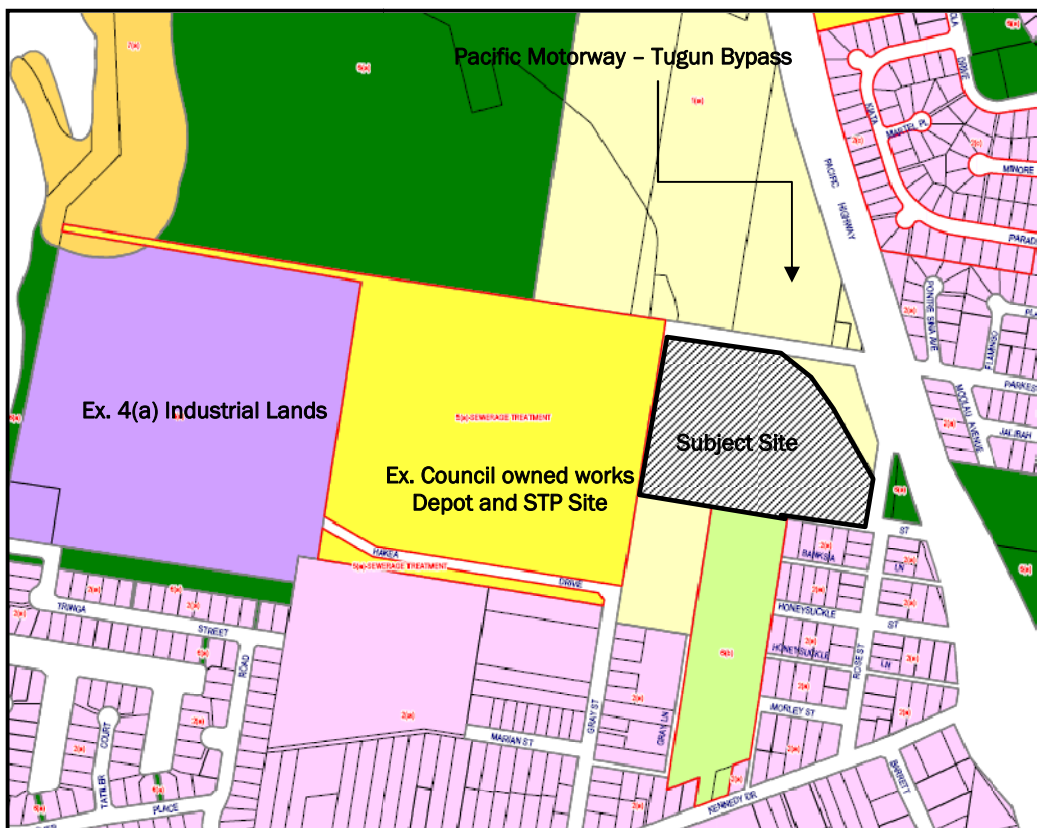
Part 3.0 Community Consultation

The planning proposal is considered to satisfy the test of a **“high impact planning proposal”** and will require public consultation for a period of 28 days. It is noted in this regard that the Planning Proposal (as submitted) demonstrates the following key characteristics, the most noticeable (in the context of determining likely consultation requirements) being the need to determine adequate access arrangements and the management of interactions with adjoining lands.

- **The proposal is consistent with the pattern of surrounding land use zones & land uses;**

In this regard, the context of the site by way of its current use is that of a large scale commercial operation. Furthermore, consideration has been given to the current 4(a) Industrial zoning (pursuant to the Tweed LEP 2000) to the west of the site and the ‘industrial scale and nature’ of the adjacent Council owned Sewerage Infrastructure & Council works Depot.

Refer to the extract below from the Tweed LEP 2000.



- **The proposal is generally consistent with the strategic planning framework;**

The proposal is consistent with both the Far North Coast Strategy and the Tweed Employment Generating Lands Strategy 2009.

- **The proposal does not represent any significant infrastructure issues; and**

In this regard it is acknowledged that the proposal will provide for complex infrastructure issues in so far as access to the site and the consideration of adjacent land uses (Council and Gold Coast Airport) are concerned. These issues will however be addressed in detail within the formal rezoning submission and it is envisaged within a concurrent development code.

- **The proposal does not involve reclassification of public land.**

The proposal does not incorporate the reclassification of public lands.

Part 4.0 Conclusion

This planning proposal represents a logical step in continuing the strategic vision of both the State and Local Governments with respect to the need to foster continued and targeted employment and economic growth in the Tweed region.

In this regard, the planning proposal seeks to maintain a consistent approach to both the Far North Coast Strategy and the Tweed Employment Generating lands Strategy 2009, each of which promote the 'smart development' of identified lands. The rezoning of the subject lands is considered to be consistent with this approach.

At a physical level, the site is acknowledged as possessing complex planning considerations with respect to the interaction of the site with adjoining land uses (including impacts on airport operations), access and servicing. These considerations will require detailed assessment with a view to providing all relevant stakeholders with comfort that the site can be developed in a manner that does not create any adverse impacts. In order to properly assess these considerations, at a level that gives sufficient comfort with respect to future development, it is proposed to pursue the rezoning of the land concurrent with the preparation of a development code or DCP that addresses all relevant matters in detail.

Should any further information be required or the Council would like to directly liaise in relation to the any of the issues raised, then we would be happy to do so.

Kind regards

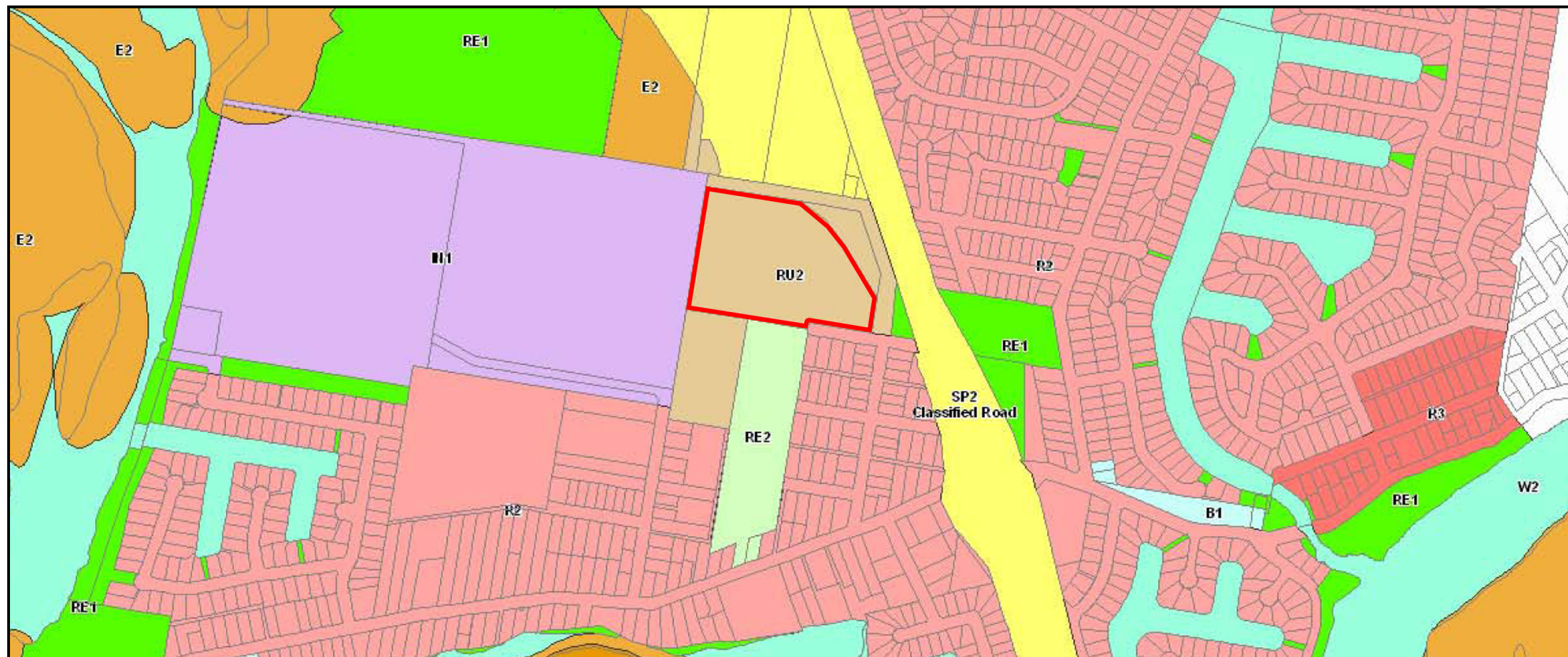
Adam Smith
Director
PLANIT CONSULTING

Attachment A

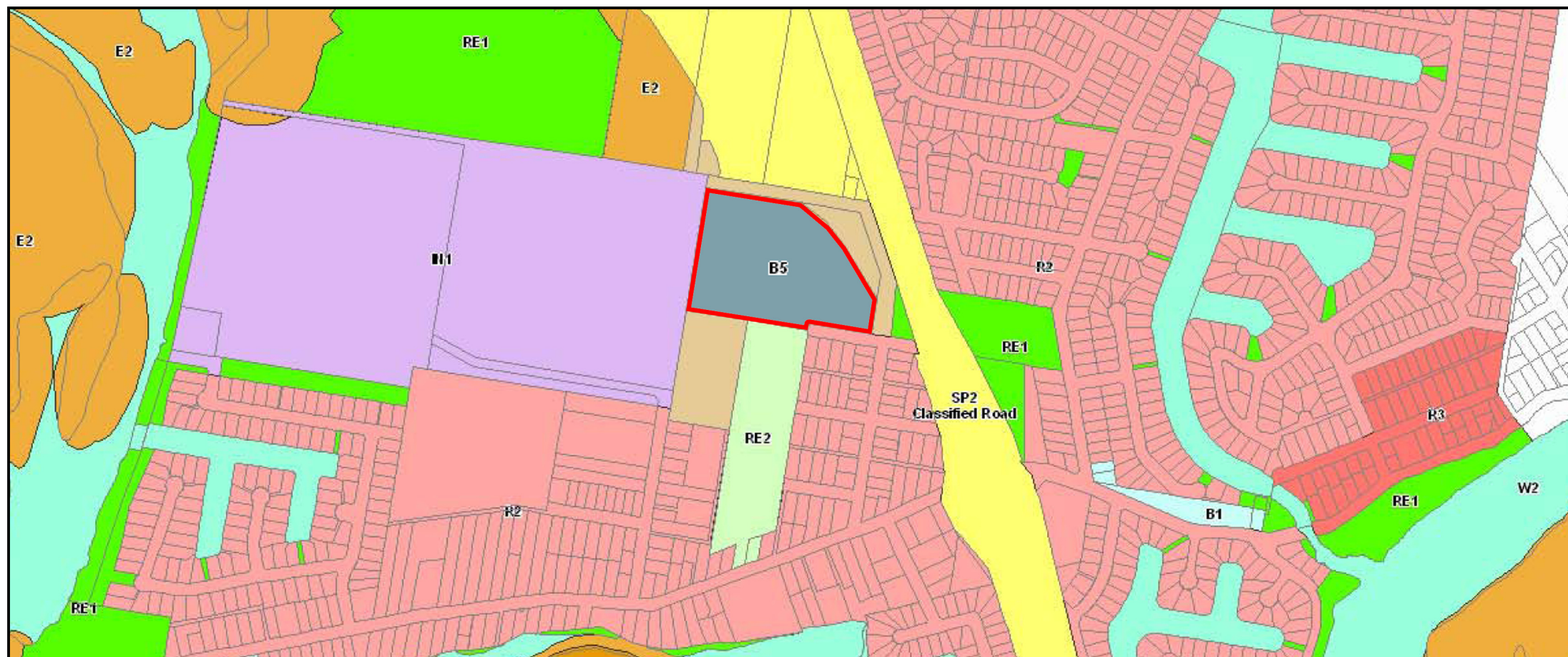
Proposed Zoning Diagram Development Concepts – Typical Configuration & Site Analysis

(Subject to additional rigorous constraints analysis)





DRAFT LEP 2010



PROPOSED LEP PLAN

Subject Site

Property Boundaries

Cadastre 13/01/2010

Land Zoning

B1 - Neighbourhood Centre

B2 - Local Centre

B3 - Commercial Core

B4 - Mixed Use

B5 - Business Development

E1 - National Parks and Nature Reserves

IN1 - General Industrial

R1 - General Residential

R2 - Low Density Residential

R3 - Medium Density Residential

R5 - Large Lot Residential

RE1 - Public Recreation

RE2 - Private Recreation

RU1 - Primary Production

RU5 - Village

SP1 - Special Activities

SP2 - Infrastructure

SP3 - Tourist

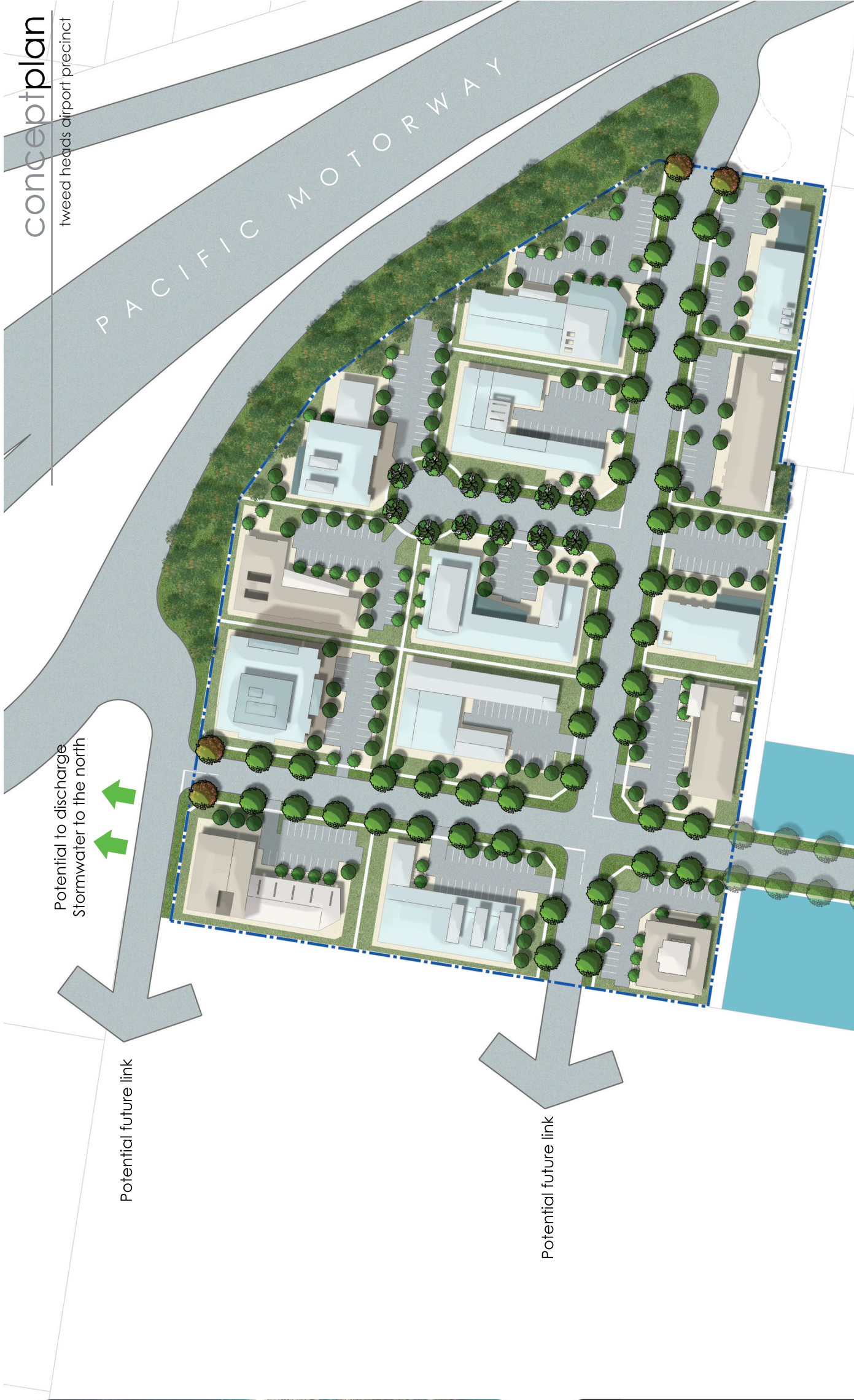
W1 - Natural Waterways

W2 - Recreational Waterways

W3 - Working Waterways

UL - Unzoned Land





Summary

Total Site Area: 5.026ha

Total number of Lots: 14

Average Lot Size: 2565m²

Total Lot Area: 3.59ha

Potential Stormwater Treatment: NIL

Road Reserve: 1.436ha (28.6%)



Attachment B

GOLD COAST AIRPORT CORRESPONDENCE

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.

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 and configuration and content of individual buildings on the site.

Conclusions

The site is severely constrained by mandatory restrictions by virtue of it's 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).

Yours sincerely,

Paul Donovan
Chief Operating Officer

