

Draft LEP Amendment No. **96**

PLANNING PROPOSAL v.3

(Tweed City Shopping Centre)

TSC File: PP11/0004

October 2012

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Introduction

Purpose

Tweed Shire Council (Council) has received a request to prepare a Planning Proposal from Urbis Pty Ltd on behalf of DEXUS Property Group ("DEXUS"), the manager of the Tweed City Shopping Centre. The Tweed City Shopping Centre is the key destination that forms part of Tweed Heads South, the region's major district retail centre as recognised within Council's Retail Strategy.

DEXUS has recently acquired several adjoining properties with the view to expanding the existing centre to increase the range of services provided to align with a centre of 'Major Regional' status. The request seeks a rezoning of these properties, in effect rationalising the site's zoning and enabling a coordinated and preferred approach to the site's long term development.

Council resolved on 13 December 2011 to amend the Tweed Shire Local Environmental Plan 2000 (LEP 2000) as follows:

RESOLVED that:

1. *A planning proposal be prepared for PP11/0004 - Stage 1, Tweed City Shopping Centre at Lot 22 DP 23659; No. 24 Kirkwood Road; Lot 21 DP 23659; No. 26 Kirkwood Road; Lot 20 DP 23659; No. 28 Kirkwood Road; Lot 19 DP 23659; No. 30 Kirkwood Road; Lot 6 DP 1119624; No. 38 Minjungbal Drive; Lot 13 DP 23659; No. 42 Kirkwood Road; Lot 12 DP 23659; No. 44 Kirkwood Road; Lot 11 DP 23659; No. 46 Kirkwood Road; Lot 2 DP 804871; No. 48-50 Kirkwood Road; Lot 8 DP 23659; No. 52 Kirkwood Road; Lot 1 DP 781517; No. 58 Minjungbal Drive; Lot 2 DP 781518; No. 60 Minjungbal Drive; Lot 1 DP 524806; No. 62 Minjungbal Drive; Lot 2 DP 524806; No. 64 Minjungbal Drive - TWEED HEADS SOUTH, subject to the prior execution of a Costs and Expenses Agreement being executed*

Refer Attachment 1 – Copy of Council Resolution 13 December 2011, and Attachment 2 – Copy of Council Report 13 December 2011.

Council also resolved on 17 April 2012 to incorporate an additional lot into the planning proposal as follows:

RESOLVED that Council endorses Lot 5 in DP 830973, No. 24A Kirkwood Road, Tweed Heads South, to be incorporated into the current planning proposal PP11/0004, Draft Tweed Local Environmental Plan 2000 Amendment No. 96, subject to the prior written landowners consent of that property being provided.

Refer Attachment 3 – Copy of Council Resolution 17 April 2012, and Attachment 4 – Copy of Council Report 17 April 2012.

The Planning Proposal was submitted to the Department of Planning and Infrastructure (DPI) for determination on 29 May 2012. DPI issued a Gateway Determination Notice on 28 June 2012, under Section 56 of the Environmental Planning and Assessment Act 1979. Consultation was conducted with the Office of Environment and Heritage (OEH), and Roads and Maritime Services (RMS), initiated via letters dated 23 July 2012.

The letter which accompanied the Gateway Determination Notice from DPI included a recommendation to incorporate two additional lots into the Planning Proposal. These lots are identified as Lots 6 and 7 in DP23659 (54-56 Kirkwood Road). A submission made by the owners of Lots 6 and 7 in DP23659 during the exhibition period also requested incorporation of this land into the Planning Proposal.

Consequently, internal consultation has determined to revise the Planning Proposal to include these two additional lots.

Part 1 Objectives and Intended Outcomes

Objectives

- Facilitate a change in zoning from 2(b) Medium Density Residential, 3(c) Commerce and Trade and 6(b) Private Recreation to 3(b) General Business.
- Enable the orderly expansion of the existing Tweed City Shopping Centre.

Intended outcome

The proposal explains the intent and documents the justification for a LEP amendment enabling the expansion of the existing Tweed City Shopping Centre.

It is also noted that Council has formally exhibited the Draft Local Environmental Plan 2010 (Draft LEP 2010), consistent with the requirements and format of the Standard LEP Template. Under the Draft LEP 2010, this proposal would translate to the draft B3 Commercial Core zone.

Given the current zoning of the site, to consolidate the Tweed Heads South Business Centre, the rezoning of the residential, commerce and trade and recreation lots is required. This will allow for the regularisation of the commercial zone in Tweed Heads South, providing greater opportunity for future expansion of the Tweed City Shopping Centre.

Property details

The site contains the following parcels of land: *Lot 22 DP 23659, No. 24 Kirkwood Road; Lot 5 DP 830973, No. 24A Kirkwood Road; Lot 21 DP 23659, No. 26 Kirkwood Road; Lot 20 DP 23659, No. 28 Kirkwood Road; Lot 19 DP 23659, No. 30 Kirkwood Road; Lot 6 DP 1119624, No. 38 Minjungbal Drive; Lot 13 DP 23659, No. 42 Kirkwood Road; Lot 12 DP 23659, No. 44 Kirkwood Road; Lot 11 DP 23659, No. 46 Kirkwood Road; Lot 2 DP 804871, No. 48-50 Kirkwood Road; Lot 8 DP 23659, No. 52 Kirkwood Road; Lot 7 DP 23659, 54 Kirkwood Road; Lot 6 DP 23659, 56 Kirkwood Road; Lot 1 DP 781517, No. 58 Minjungbal Drive; Lot 2 DP 781518, No. 60 Minjungbal; Lot 1 DP 524806, No. 62 Minjungbal Drive; Lot 2 DP 524806, No. 64 Minjungbal Drive - TWEED HEADS SOUTH.*

The site has an area of approximately 13.4ha, and fronts Minjungbal Drive and Kirkwood Road. The site currently contains:

- the Tweed City Shopping Centre complex (Lot 6 DP1119624). The shopping centre is predominantly one level, with the exception of a multi-storey car park and cinema complex in the site's south western vicinity, and is the primary retail centre in Council's hierarchy. Underground car parking is also provided underneath the shopping centre;
- a vacant site previously used as a service station (Lot 1 DP524806);
- three vacant sites previously used for residential purposes (Lots 20 to 22 DP23659);
- residential dwellings (Lot 5 DP830973, Lots 8, 11 to 13 and 19 DP23659, and Lot 2 DP804871);
- a denture clinic (Lot 7 DP23659); and
- a home business within a residential dwelling (Lot 6 DP23659).

Site context and setting

The site is located in Tweed Heads South, identified in Council's Retail Strategy as the region's major district retail centre, with access afforded to the site from both the north and south along Minjungbal Drive. Minjungbal Drive also provides access to the Pacific Highway, approximately one kilometre south of the site. Kirkwood Road access will also be provided upon the completion of a project extending it to the Pacific Highway, scheduled for completion in June 2013.

The site's topography is virtually flat, with no discernible changes in grade over the site.

Surrounding the site, fronting Minjungbal Drive, to the north, south and west are a number of motor vehicle premises, bulky goods premises and service industry businesses. There is a fragmented cluster of retail uses west of Minjungbal Drive to the Pacific Highway, and also bulky goods premises on the western side of the Pacific Highway.

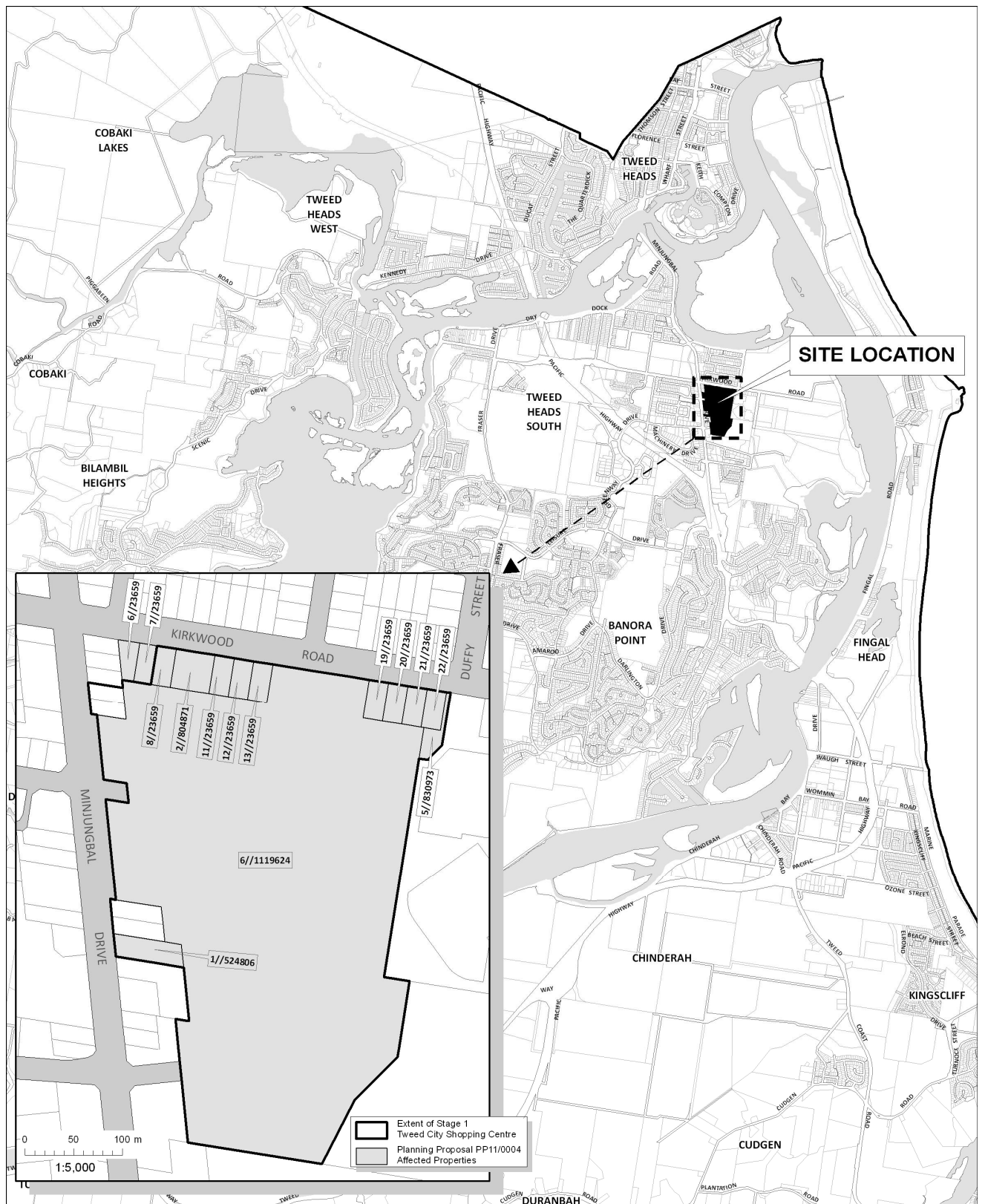
Residential neighbourhoods, generally consisting of single storey detached dwellings, are situated within walking distance of the site and are located to the site's:

- north, between Kirkwood Road and Water Street;
- south, between Soorley Street and Darlington Drive; and,
- west, between Minjungbal Drive and the Pacific Highway.

Tweed River High School is located to the north west of the site from the intersection of Minjungbal Drive and Kirkwood Road.

Open space generally dominates the land use landscape east of the site. Key uses east of the site comprise the Coolangatta-Tweed Heads Golf Club and associated holiday resort, and Ukerebagh Nature Reserve. The Minjungbal Aboriginal Museum is also situated in the south western corner of the Nature Reserve.

Figure 1 illustrates the location of the site with regard to the surrounding area, whilst Figure 2 illustrates the existing areas of each lot that comprises the site.



Locality Plan

Figure 1

Planning Proposal PP11/0004 -- Stage 1 - Tweed City Shopping Centre
 No.24-52 Kirkwood Road, Tweed Heads South (Lots 11-13 DP 23659, Lot 2 DP 804871, Lots 6-8 DP 23659, Lots 19-22 DP 23659, Lot 5 DP830973)
 No.38 Minjungbal Drive, Tweed Heads South (Lot 6 DP 1119624) and No.62 Minjungbal Drive, Tweed Heads South (Lot 1 DP 524806)

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Figure 1 Subject site locality plan



Figure 2 Subject site properties and land areas

Zone Based Planning Controls

Tweed Local Environmental Plan 2000

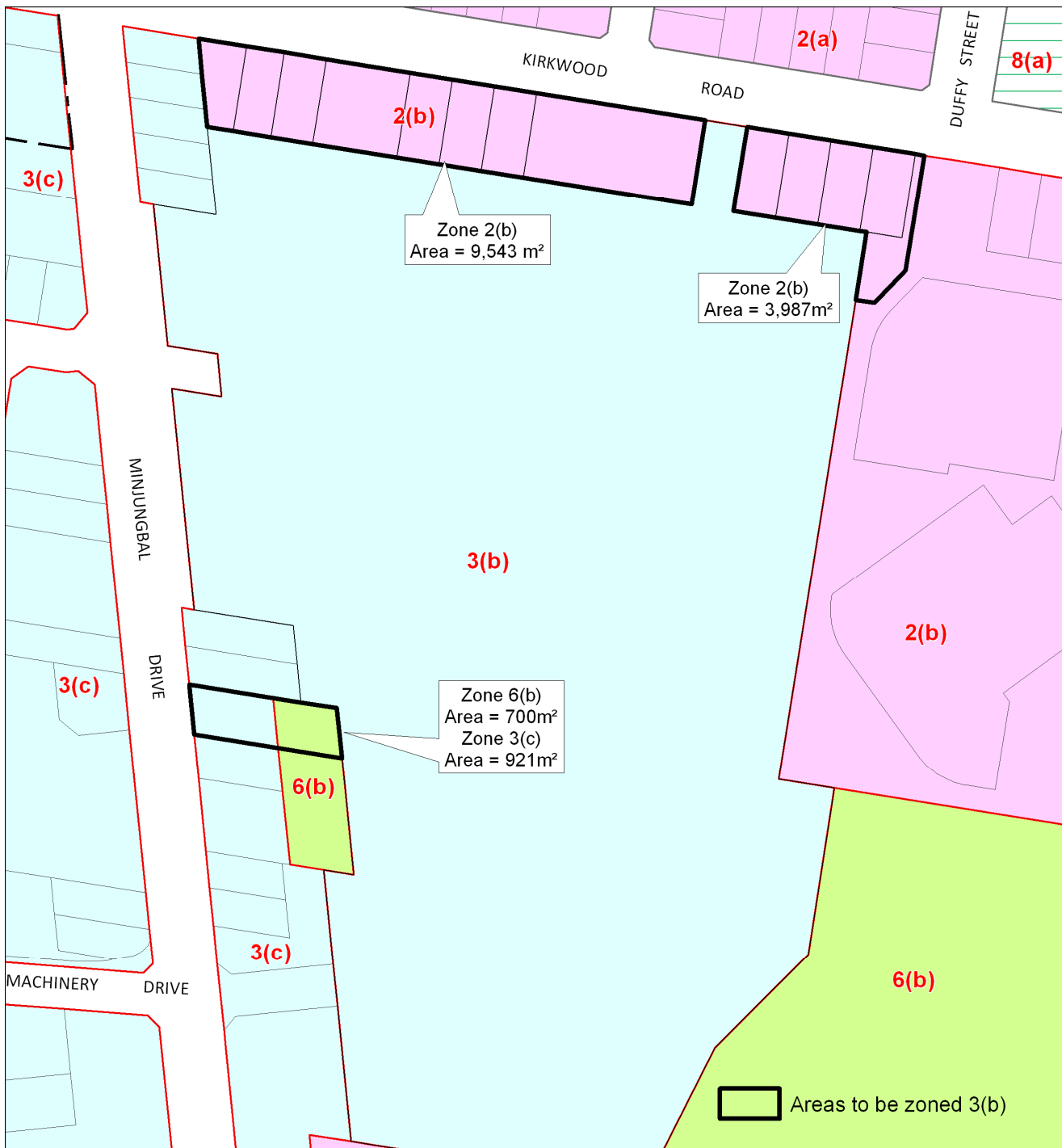
Under the LEP 2000, the site is currently zoned:

- 3(b) General Business.
- 3(c) Commerce and Trade.
- 2(b) Medium Density Residential.
- 6(b) Recreation.

A comparison of the key LEP controls between the LEP 2000 and the Standard Instrument (local environmental plans) Order 2006 (Standard Template LEP) is contained in Table 1. Figure 3 illustrates the current zoning of the site within the LEP 2000, whilst Figure 4 illustrates the zoning when translated to the Standard Template LEP.

Table 1 Comparison between current LEP and Template LEP

3(b) General Business			
LEP 2000		Standard Template LEP	
Lot size	N/A	Lot size	N/A
Building height	3 storeys	Building height	13.6m
Floor space ratio	N/A	Floor space ratio	2:1
2(b) Medium Density Residential			
LEP 2000		Standard Template LEP	
Lot size	N/A	Lot size	N/A
Building height	3 storeys	Building height	13.6m
Floor space ratio	N/A	Floor space ratio	2:1
6(b) Private Recreation			
LEP 2000		Standard Template LEP	
Lot size	N/A	Lot size	N/A
Building height	3 storeys	Building height	13.6m
Floor space ratio	N/A	Floor space ratio	2:1
3(c) Commerce and Trade			
LEP 2000		Standard Template LEP	
Lot size	N/A	Lot size	N/A
Building height	3 storeys	Building height	13.6m
Floor space ratio	N/A	Floor space ratio	2:1



Tweed Local Environmental Plan 2000

Figure 3

Planning Proposal PP11/0004 - - Stage 1 - Tweed City Shopping Centre
No.24-52 Kirkwood Road, Tweed Heads South (Lots 11-13 DP 23659, Lot 2 DP 804871, Lots 6-8 DP 23659, Lots 19-22 DP 23659, Lot 5 DP830973)
No.38 Minjungbal Drive, Tweed Heads South (Lot 6 DP 1119624) and No.62 Minjungbal Drive, Tweed Heads South (Lot 1 DP 524806)

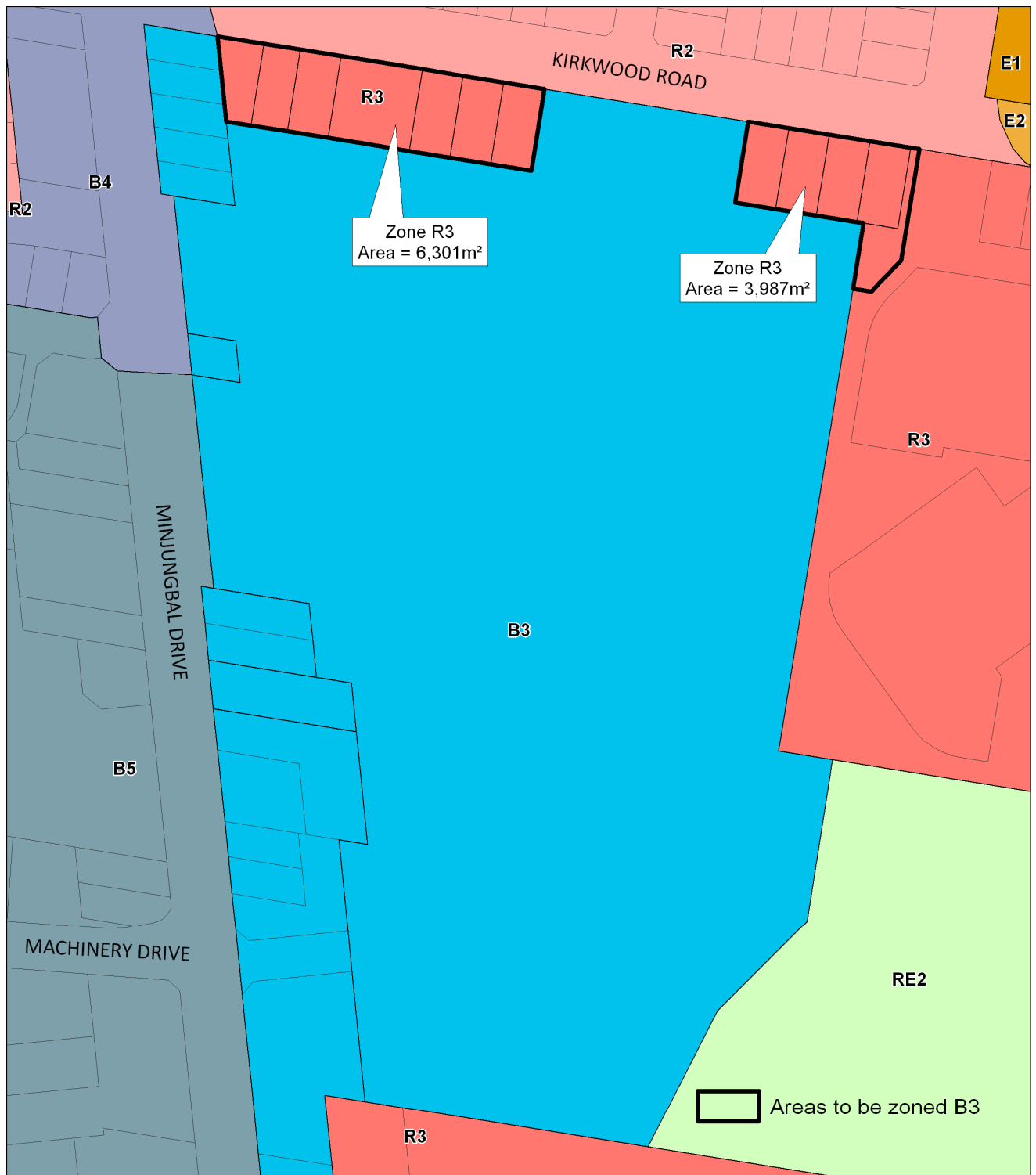
ZONING		RESIDENTIAL		BUSINESS		INDUSTRIAL		ENVIRONMENTAL PROTECTION		NATIONAL PARKS & NATURE RESERVES	
RURAL	 1(a) Rural	 2(a) Low Density Residential	 3(a) Sub-Regional Business	 4(a) Industrial	 7(a) Environmental Protection (Wetlands and Littoral Rainforest)	☐ 8(a) National Parks and Nature Reserves					
	 1(c) Rural living	 2(b) Medium Density Residential	 3(b) General Business	SPECIAL USES	 7(d) Environmental Protection (Scenic / Escarpment)	DEFER					
	 1(b1) Agricultural Protection	 2(c) Urban Expansion	 3(c) Commerce & Trade	 5(a) Special Uses	 7(f) Environmental Protection (Coastal Lands)	☐ defer					
	 1(b2) Agricultural Protection	 2(d) Village	 3(d) Waterfront Enterprise	OPEN SPACE	 7(i) Environmental Protection (Habitat)						
		 2(e) Residential Tourist	 3(e) Special Tourist (Jack Evans Boat Harbour)	 6(a) Open Space							
			 6(b) Recreation								
ADDITIONAL CONTROLS											
 Clause 37 (Transmission Line Corridor)		 Clause 41 (Heritage Conservation Area)		 Clause 52 (Minimum Lot Sizes)		 Clause 53 (Schedule 3 Item)					
 Clause 38 (Future Roads)		 Clause 52 (Existing and Future Dam Areas)		 Clause 52 (Stormwater and Fill)		 Clause 52 (Pottsville)					
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Figure 3 Current Tweed LEP 2000 Zoning



Draft Tweed Local Environmental Plan 2010

Figure 4

Planning Proposal PP11/0004 -- Stage 1 - Tweed City Shopping Centre

No.24-52 Kirkwood Road, Tweed Heads South (Lots 11-13 DP 23659, Lot 2 DP 804871, Lots 6-8 DP 23659, Lot 5 DP830973)

No.38 Minjungbal Drive, Tweed Heads South (Lot 6 DP 1119624) and No.62 Minjungbal Drive, Tweed Heads South (Lot 1 DP 524806)

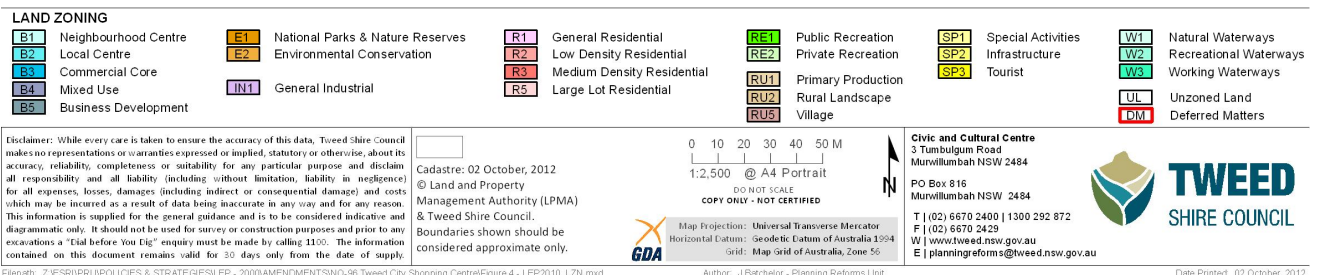


Figure 4 Current Tweed LEP 2000 Zoning Translation to the Standard LEP Template Zoning

Part 2 Explanation of Provisions

The intended outcome is to be achieved by an Amendment to the current LEP 2000 by rezoning the following lots listed in Table 2, to 3(b) General Business.

Table 2 Lots affected by the Planning Proposal

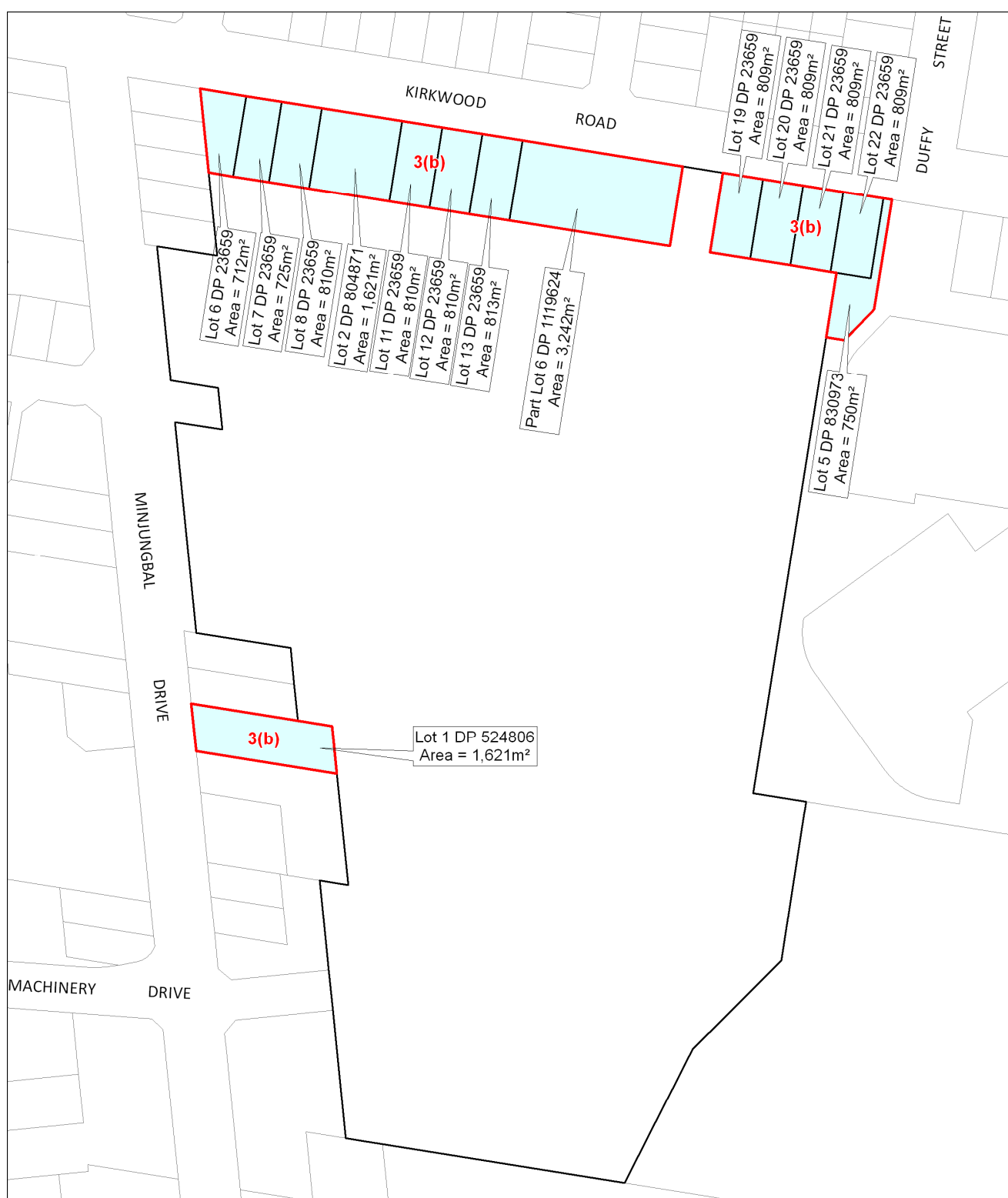
Site	Address	Current Zoning	Proposed Zoning
Lot 5 DP830973	24A Kirkwood Road	2(b) Medium Density Residential	3(b) General Business
Lot 22 DP23659	24 Kirkwood Road	2(b) Medium Density Residential	3(b) General Business
Lot 21 DP23659	26 Kirkwood Road	2(b) Medium Density Residential	3(b) General Business
Lot 20 DP23659	28 Kirkwood Road	2(b) Medium Density Residential	3(b) General Business
Lot 19 DP23659	30 Kirkwood Road	2(b) Medium Density Residential	3(b) General Business
Lot 6 DP1119624	38 Kirkwood Road	(part) 2(b) Medium Density Residential (part) 3(b) General Business	3(b) General Business
Lot 12 DP23659	42-44 Kirkwood Road	2(b) Medium Density Residential	3(b) General Business
Lot 13 DP23659	42-44 Kirkwood Road	2(b) Medium Density Residential	3(b) General Business
Lot 11 DP23659	46 Kirkwood Road	2(b) Medium Density Residential	3(b) General Business
Lot 2 DP804871	48-50 Kirkwood Road	2(b) Medium Density Residential	3(b) General Business
Lot 8 DP23659	52 Kirkwood Road	2(b) Medium Density Residential	3(b) General Business
Lot 7 DP23659	54 Kirkwood Road	2(b) Medium Density Residential	3(b) General Business
Lot 6 DP23659	56 Kirkwood Road	2(b) Medium Density Residential	3(b) General Business
Lot 1 DP 524806	58-62 Minjungbal Drive	(part) 3(c) Commerce and Trade (part) 6(b) Recreation	3(b) General Business

Zoning maps reflecting this approach are provided in Figure 5 – Proposed amendment to the LEP 2000, and Figure 6 – Proposed translation to the Standard LEP Template.

In total, 12,008m² of land outside of the existing boundary of the shopping centre is to be rezoned to 3(b) General Business. A portion of Lot 6 DP1119624 (the shopping centre) is currently zoned as 2(b) Medium Density Residential, with this area of 3,242m² to be rezoned to 3(b) General Business, consistent with the remainder of the shopping centre. A total of 13,629m² of residential zoned land will be lost. Combined, the amount of land to be rezoned to 3(b) General Business is 15,250m². Excluding the 3,242m² of land which is currently part of the existing shopping centre footprint, the increase in commercially zoned land equates to approximately 9% of the existing site area of the shopping centre.

Due to the progress of this Planning Proposal with respect to the timing of the Standard Template LEP, the current LEP 2000 will be amended. However, it is considered beneficial

to include the proposed translations to the Standard Template LEP to demonstrate how the Standard Template LEP zoning relates to the current LEP 2000 zonings within this Planning Proposal.



Tweed Local Environmental Plan 2000 - PROPOSED AMENDMENT

Figure 5

Planning Proposal PP11/0004 -- Stage 1 - Tweed City Shopping Centre
 No.24-52 Kirkwood Road, Tweed Heads South (Lots 11-13 DP 23659, Lot 2 DP 804871, Lots 6-8 DP 23659, Lots 19-22 DP 23659, Lot 5 DP830973)
 No.38 Minjungbal Drive, Tweed Heads South (Lot 6 DP 1119624) and No.62 Minjungbal Drive, Tweed Heads South (Lot 1 DP 524806)



Affected Properties



3(b) General Business

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Figure 5 Proposed amendment to the Tweed LEP 2000

Part 3 Justification

Section A Need for the Planning Proposal

The Planning Proposal is justified as the future expansion of the Tweed City Shopping Centre, while possible given its current land holdings, requires the rezoning of the non 3(b) General Business land within the site to allow for a more 'regularly configured' site boundary, subsequently ensuring more suitable expansion.

The Tweed City Shopping Centre is recognised as the main retail centre within the region, and the Planning Proposal will assist in achieving the vision articulated in the Draft LEP 2010. The Draft Development Control Plan 2008 (Draft DCP 2008) that accompanies the Draft LEP 2010 seeks to create opportunities for Minjungbal Drive to be revitalised into a "dynamic street with a mixture of new retail, showcases and articulated facades" as identified under the Draft DCP 2008, Section B2 - Tweed City Centres, (adopted 13 December 2011 but not yet effective).

Is the Planning Proposal a result of any strategic study or report?

Yes, at a regional level, the site is contained within the Far North Coast Regional Strategy (Regional Strategy) Town and Village Growth Boundary.

In addition, at a local level the site is also identified in the Draft DCP 2008, Section B2 - Tweed City Centres, as a designated development site, as depicted in Figure 7.

The location of the site for high order retail functions, and expansion of the existing shopping centre is also consistent with the objectives of the Council's Retail Strategy 2005.



Figure 7 Extract from Tweed City Centre Draft DCP 2008, Section B2.

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes, while the majority of Lot 6 DP1119625 is appropriately zoned for the shopping centre use (with an area of approximately 12.2ha), the other lots are not. Accordingly, changes to the current urban zonings are required to enable the coordinated expansion of the shopping centre, and the consolidation of the Tweed Heads South business centre to occur.

While an enabling clause could be used as an alternative, it would bring no additional benefit and would only add to the ambiguity in the zoning schedule. Although a valid option in some cases, it is not seen to be the preferred approach in this instance given the desirability of securing the long-term identification and use of the site for commercial purposes.

A change in zoning will further rationalise the urban zones in this locality, is consistent with Council's strategic policy, and therefore is considered to be the most appropriate means of enabling the development of the land.

Is there a net community benefit?

To establish net community benefit the Department of Planning Guidelines (July 2009) includes the following advice in relation to the net community benefit assessment:

- *The Assessment should only evaluate the external costs and benefits of the proposal (ie. the externalities).*
- *Consideration must be given to changes that reflect a higher community benefit.*
- *The proposal should be assessed against the matters specified in the justification. The Assessment should evaluate the proposal against a base case or base cases including retaining the existing zoning on the land.*
- *The Draft Centres Policy includes guidance on conducting a Net Community Benefit Test that should be followed when assessing the net community benefit of a Planning Proposal. This guidance has been reproduced in the Department of Planning's Guidelines but adapted to suit all types of Planning Proposals.*
- *Because of the difficulty in assigning values to certain costs and benefits associated with Planning Proposals, the Net Community Benefit Test will not be a purely quantitative test.*

Table 3 identifies the key external costs and benefits of the Planning Proposal.

Table 3 External costs and benefits

External Costs and Benefits		
Element	Cost	Benefit
Change of land use and zoning	Part of the site to be rezoned contains residential development in the form of single and double storey dwellings, including various community-style residences ('Legacy Lodge'), situated adjacent to Kirkwood Road. The commercial business development of the site will result in the loss of approximately 10,387m ² of residential land not contained within the existing site area of the shopping centre (total of 13,629m ²) which is currently zoned for residential purposes.	The proposed change to the commercial zoning will enable a coordinated expansion of the Tweed City Shopping Centre, consolidate the Tweed Heads South Business Centre, and reinforce Tweed Heads as a Major Regional Centre for the Far North Coast. Given the residential lots are physically isolated from other residential areas in Tweed Heads South as a result of Kirkwood Road and the shopping centre, the change to commercial is not anticipated to set a precedent, and will enable uses more compatible with the overarching commercial character of the locality.
Infrastructure	The current land use utilises existing urban infrastructure.	The proposal will result in the more efficient use of existing urban infrastructure, and act as a catalyst for the provision of additional infrastructure if necessary (e.g. upgrade of local road network or public transport services) as a result of the expansion of the Tweed City Shopping Centre. The proposal will also allow for Draft DCP 2008, B2 – Tweed City Centres to be implemented, such as the potential provision of a public plaza adjacent to Minjungbal Drive. The expansion will enable the shopping centre to grow into a Major Regional Centre, generating additional economic activity within the Tweed Heads South area, providing additional services and comparison shopping opportunities, resulting in a greater quality of life for residents.
Access	The commercial development of the site will result in the loss of approximately 10,387m ² of 2(b) Medium Density Residential land not contained within the shopping centre site area. This residential land is located directly adjacent to the commercially zoned Tweed City Shopping Centre, and is separated from neighbouring residential land by Kirkwood Road.	The proposed change to the commercial zoning will enable a coordinated expansion of the Tweed City Shopping Centre, and will result in the consolidation of the Tweed Heads South Business Centre. The upgrade to Kirkwood Road west of Minjungbal Drive will result in easier access to and from the shopping centre complex, improving access from the west and enabling economic growth.

Assessment of Net Community Benefit as guided by the Department of Planning and Infrastructure's *Guide to Preparing Planning Proposals* (July 2009) and found in the NSW Government's publication *Draft Centres Policy – Planning for Retail and Commercial Development* is addressed in Table 4, following:

Table 4 Assessment of Net Community Benefit

Criteria	Response
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800 metres of a transit node)?	The site seeks to amend the LEP 2000 to allow appropriate development of the land. The draft Centres Policy, while not Government Policy, identifies as Principal 1 that retail and commercial activity should be located in centres to ensure the most efficient use of transport and other infrastructure, proximity to labour markets, and to improve the amenity and liveability of those centres. The proposal for expansion of the shopping centre will facilitate the consolidation of the area's retail and commercial activities, and reinforce Tweed Heads as a Major Regional Centre. Minjungbal Drive allows for north-south access, and provides access to the Pacific Highway in the south. Minjungbal Drive also serves as the main route for public transport services that connect with the southern Gold Coast, ensuring a wide catchment for the business area. A bus interchange is located adjacent to the shopping centre's northern entrance and functions as a transit node.
Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy?	The site is situated within Tweed Heads South, part of the Tweed Heads Major Regional Centre as identified in the Regional Strategy.
Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?	The Planning Proposal is unlikely to create a precedent, as the area to be rezoned is owned by the shopping centre and will be used for the expansion of this retail and commercial hub. As discussed in Table 3 with respect to the element 'change of land use and zoning', the expansion is a logical outcome considering the additional lots are not contiguous to a residential neighbourhood and will not compromise the character of the residential area north of Kirkwood Road.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	No effects of spot rezoning's within the locality have been considered, or are considered appropriate as the site is already designated within the Draft LEP 2010 for commercial activities (refer Part 3, Section A of the Planning Proposal).
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	The Planning Proposal will facilitate the expansion of the Tweed City Shopping Centre, a major employer within the area.
Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?	While the Planning Proposal removes residential land, the number of lots proposed to be rezoned from residential to commercial is minimal, and it is considered suitable for these to be replaced in more appropriate areas within future planning decisions.

Criteria	Response
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?	The site contains the Tweed City Shopping Centre complex, located within a busy urban commercial, retail and bulky goods retailing area of the Shire. Surfside Buslines routes 601, 602, 603, 604, 605, 606, 607 and 608 provide regular north and south travelling public transport services to and from the site. A bus interchange is located immediately adjacent to the northern entrance to the shopping centre while bus stops are located on Minjungbal Drive. The north-south connection offered by Minjungbal Drive and the nearby Pacific Highway ensures access to the wider region. Upon completion of the Pacific Highway Upgrade through Banora Point to the south and the Minjungbal Drive interchange in late 2012, access to the Tweed Heads South area will be improved. In addition, the future upgrade of Kirkwood Road and Pacific Highway interchange will assist in strengthening access links to Tweed Heads South. Pedestrian footpaths are located along Minjungbal Drive and Kirkwood Road. The rezoning of the site will further consolidate the land on which the Tweed City Shopping Centre is located, allowing for further potential investment and expansion of the retail hub which the Centre provides. Any further expansion to the shopping centre will be subject to the required Development Application process. The proposal is unlikely to raise any negative impacts on the performance of road capacity or public transport. Any future expansion plans for the shopping centre may have an impact on the surrounding road network due to an increase in the number of car movements in the area, and may require traffic and parking impact assessments to be undertaken as part of a development application.
Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?	The Planning Proposal is likely to result in a reduction in distances travelled by potential customers within the shopping centre's catchment. The increased range of services and goods available at a larger shopping centre results in a greater likelihood of meeting potential customer requirements for comparison shopping (which is currently only available at Robina Town Centre, or Pacific Fair, both of which are located at the Gold Coast)
Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?	The current upgrade to the Pacific Highway just south of the site and Kirkwood Road interchange with the Pacific Highway west of the site will enable easier and safer access to and from Tweed Heads South including the shopping complex. Given the extent of these infrastructure projects, the benefit to Tweed Heads South area will be positive, and will assist in creating a centre of Major Regional status.
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?	The Planning Proposal does not impact on land which is identified by State Government as being required to be protected. The majority of the land to be rezoned is residential, with minimal environmental values.

Criteria	Response
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?	Given the proposal seeks to rezone residential, commerce and trade, and recreation lots to general business land; it is considered the consolidated zoning will be compatible with the surrounding land uses. As the site is located within an established commercial precinct, the rezoning will enable the consolidation of the shopping centre complex. This will allow for the improvement of the public domain, as identified in Part 3, Section A of the Planning Proposal, with the potential for the future development of a public plaza.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?	The proposal will allow for the future expansion of the Tweed City Shopping Centre, providing the opportunity to increase the centre's gross floor area and the number of retailers within the complex. This will allow for a greater amount of competition between retailers, and provide the community with a wider range of choice for shopping.
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	Not applicable. The site is located within the Tweed Heads South Business Centre.
What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?	The extension of the 3(b) General Business zoning into adjoining areas equates to about a 13% increase in the supply of land zoned 3(b) General Business. This increase will enable the centre to expand and be consistent with the purpose of a "Major Regional" Centre, This will enable greater competition within the business centre due to an increase in the number of retailers and service providers, and will subsequently generate between 1,100-1,500 direct and 800-1,000 indirect jobs within the shopping complex.

Section B Relationship to 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)?

The Far North Coast Regional Strategy 2006-2031 (Regional Strategy) is the overarching framework that manages growth within the Far North Coast area, including the Tweed local government area.

The Regional Strategy identifies and promotes a settlement pattern that protects environmental values and natural resources while utilising and developing the existing network of major urban centres, reinforcing village character and requiring efficient use of existing services and major transport routes.

Among other things, the Regional Strategy aims to manage the region's projected population growth sustainably and protect the region's unique environmental assets, cultural values and natural resources. This is planned to occur through responsive future development that retains the regional identity and local character of the area and fosters opportunities for greater economic activity and diversification.

Within the Regional Strategy, the site is located in the identified Town and Village Growth Boundary of the Tweed region, within the existing urban footprint.

Rezoning the site for general business uses and the subsequent expansion of the Tweed City Shopping Centre would assist in achieving the aims of the Regional Strategy, in particular through:

- Assisting in the revitalisation of the Tweed CBD and surrounding areas, enabling it to provide a high level of services and employment.
- Assisting in the development of Tweed Heads as a major centre for tourism through the provision of a variety of retail services.
- Strengthening economic activity in the region, and the expansion of a major shopping centre complex will create the opportunity for population growth and therefore additional investment.

The rezoning of the site will allow for the consolidation of the Tweed Heads South Business Centre, as identified within the current LEP 2000.

Appendix A1 of the Regional Strategy contains Sustainability Criteria, which represent a clear, transparent list of matters that any new Planning Proposal is assessed against. Table 5 documents the Sustainability Criteria and how the Planning Proposal complies with the Criteria.

Table 5 Assessment against Regional Strategy Sustainability Criteria

Criteria	Measurable explanation of criteria	Response
1. Infrastructure Provision Mechanisms in place to ensure utilities, transport, open space and communication are provided in a timely and efficient way	- Development is consistent with the outcomes of the Far North Coast Regional Strategy, any subregional strategy, regional infrastructure plan and relevant section 117 direction/s. - The provision of infrastructure (utilities, transport, open space, and communications) is costed and economically feasible based on Government methodology for determining infrastructure development contributions. - Preparedness to enter into development agreement.	The proposal is consistent with the outcomes for infrastructure provision, with no additional State infrastructure provisions arising from this proposal; The site, being located within the urban area of Tweed Heads South, benefits from access to existing services, including sewer, water, telecommunications, public transport and road infrastructure. Applicable section 94 contributions will be levied in accordance with Council's s94 plans at any development application stage.
2. Access Accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation to be existing or provided	- Accessibility of the area by public transport and/or appropriate road access in terms of: - Location/land use – to existing networks and related activity centres. - Network – the area's potential to be serviced by economically efficient transport services. - Catchment – the area's ability to contain, or form part of the larger urban area which contains adequate transport services. Capacity for land use/ transport patterns to make a positive contribution to achievement of travel and vehicle use goals. - No net negative impact on performance of existing subregional road, bus, rail, ferry and freight network.	The site contains the Tweed City Shopping Centre complex, located within a busy urban commercial, retail and bulky goods retailing area of the Tweed Shire. Surfside Buslines routes 601, 602, 603, 604, 605, 606, 607 and 608 provide regular north and south-travelling public transport services to and from the site. The north-south connection offered by Minjungbal Drive and the nearby Pacific Highway ensures convenient access to the wider region. Upon completion of the Pacific Highway Upgrade through Banora Point to the south and the Minjungbal Drive interchange in late 2012, access to the Tweed Heads South area will be improved. In addition, the future upgrade of Kirkwood Road and Pacific Highway interchange will assist in strengthening access links to Tweed Heads South. The rezoning of the site will further consolidate the land on which the Tweed City Shopping Centre is located, allowing for the provision of regional-level retail and service activities that service a wide catchment. Any further expansion to the shopping centre will be subject to the required Development Application process. The proposal is unlikely to raise any negative impacts on the performance of road capacity or public transport. Any future expansion plans for the shopping centre may have an impact on the surrounding road network due to an increase in the number of car movements in the area, and may require traffic and parking impact assessments to be undertaken as part of a Development Application.
3. Housing Diversity Provide a range of housing choices to ensure a broad	Contributes to the geographic market spread of housing supply, including any government targets established for aged, disabled or affordable housing.	The proposal provides the opportunity for future retail development and does not include any foreseeable residential land uses or objectives. As described in Section A of the Planning Proposal, the location is considered more suitable for retail uses, an outcome consistent with the Draft DCP 2008 and the expected role of Tweed Heads as articulated through the Regional Strategy.

Criteria	Measurable explanation of criteria	Response
population can be housed		
4. Employment Lands Provide regional/local employment opportunities to support the Far North Coast's expanding role in the wider regional and NSW economies	- Maintain or improve the existing level of sub-regional employment self-containment. - Meets subregional employment projections. - Employment-related land is provided in appropriately zoned areas.	The proposal will (upon future potential expansion of the Tweed City Shopping Centre) improve on the current level of sub-regional employment. Given the importance of the links between the Tweed and South East Queensland regions, the proposal will strengthen the economic activity within the Tweed area particularly.
5. Avoidance of Risk Land use conflicts, and risk to human health and life, avoided	- No residential development within 1:100 floodplain. - Avoidance of physically constrained land, e.g. - High slope - Highly erodible. - Avoidance of land use conflicts with adjacent existing or future land use as planned under relevant subregional or regional strategy. - Where relevant available safe evacuation route (flood and bushfire).	As the proposal seeks to rezone 2(b) Residential to 3(b) General Business, it is assumed no future residential development will occur on the site. As noted in Part 1 the site is generally flat and therefore the potential for erosion can be appropriately managed through subsequent construction activities. Land use conflicts will largely be avoided due to Kirkwood Road physically separating 3(b) General Business land from 2(a) Residential. The Kirkwood Road reserve width (approximately 30 metres) also assists in this respect. The rezoning will result in Residential 2(b) land adjacent to the site. However the potential impacts of a shopping centre use upon Residential 2(b) land can be effectively managed by considering issues in the Development Application process such as: - Applying building heights in accordance with the LEP and building setbacks in accordance with the existing Development Control Plan (DCP 2008) and Draft Tweed City Centre DCP adopted 13 December 2011. - Implementing fencing that provides appropriate privacy to residential land, and attenuates acoustic emissions from the shopping centre - Ensuring hours of operation and lighting is appropriately managed to ensure a reasonable level of residential amenity. Flooding Council's DCP 2008, Section A3 indicates that the majority of the site is identified as being outside the inundated area of an ARI 100 year flood, however has the potential to be affected by a probable maximum flood under current conditions. Council's Climate Change Maps (Section A3 of DCP 2008) indicate a flood level contour across the north-western corner of the site of 2.6-2.7 metres AHD. The south-eastern corner has a flood level contour of 2.8 metres AHD. It is considered the risk of flooding can be adequately assessed during the Development

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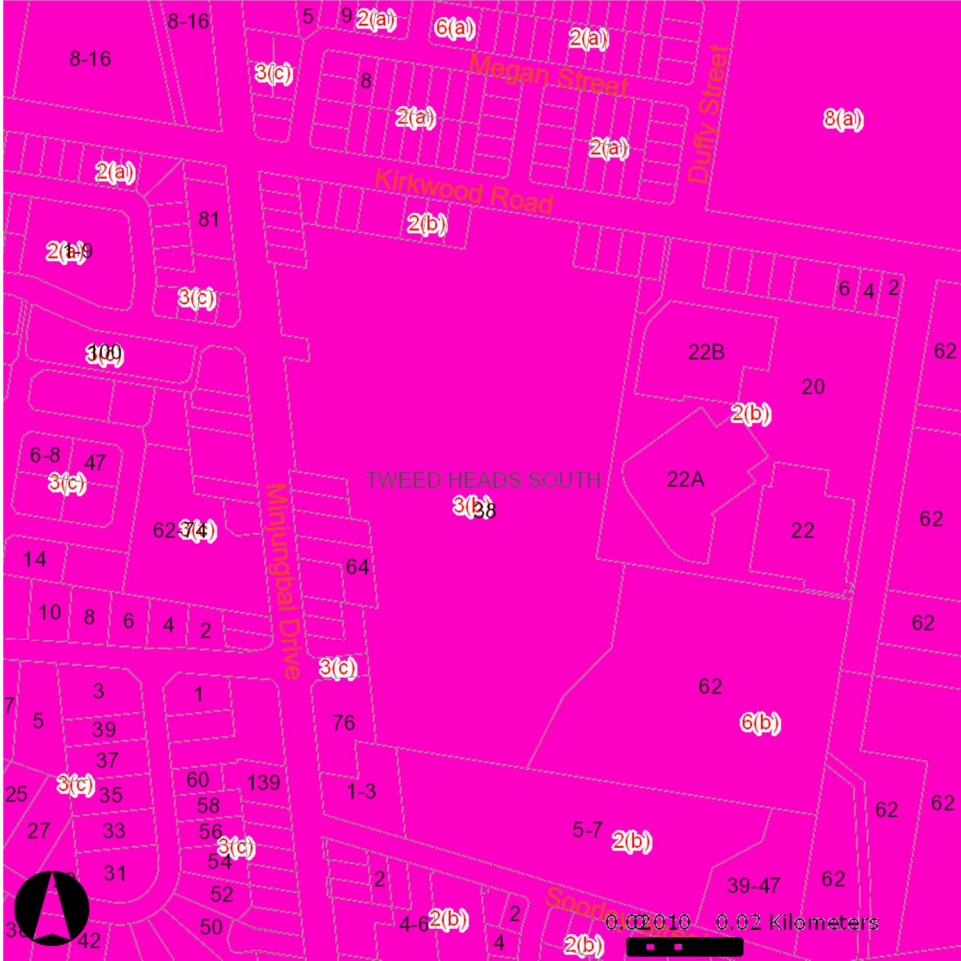
Criteria	Measurable explanation of criteria	Response
	Property Boundaries Suburbs Surrounding Shires Flood level contour (Metres AHD) Inundation Areas 0.5 to 3.0 3.0 to 3.5 3.5 to 4.0	Inundation Areas (continued) 4.0 to 4.5 4.5 to 5.0 5.0 to 5.5 5.5 to 6.0 6.0 to 6.5 6.5 to 7.0 7.0 to 7.5 7.5 to 8.0 8.0 to 8.5 Inundation Areas (continued) 8.5 to 9.0 9.0 to 9.5 > 9.5 Additional Areas Under PMF Additional areas inundated by PMF Major Waterways

Bushfire hazard assessment

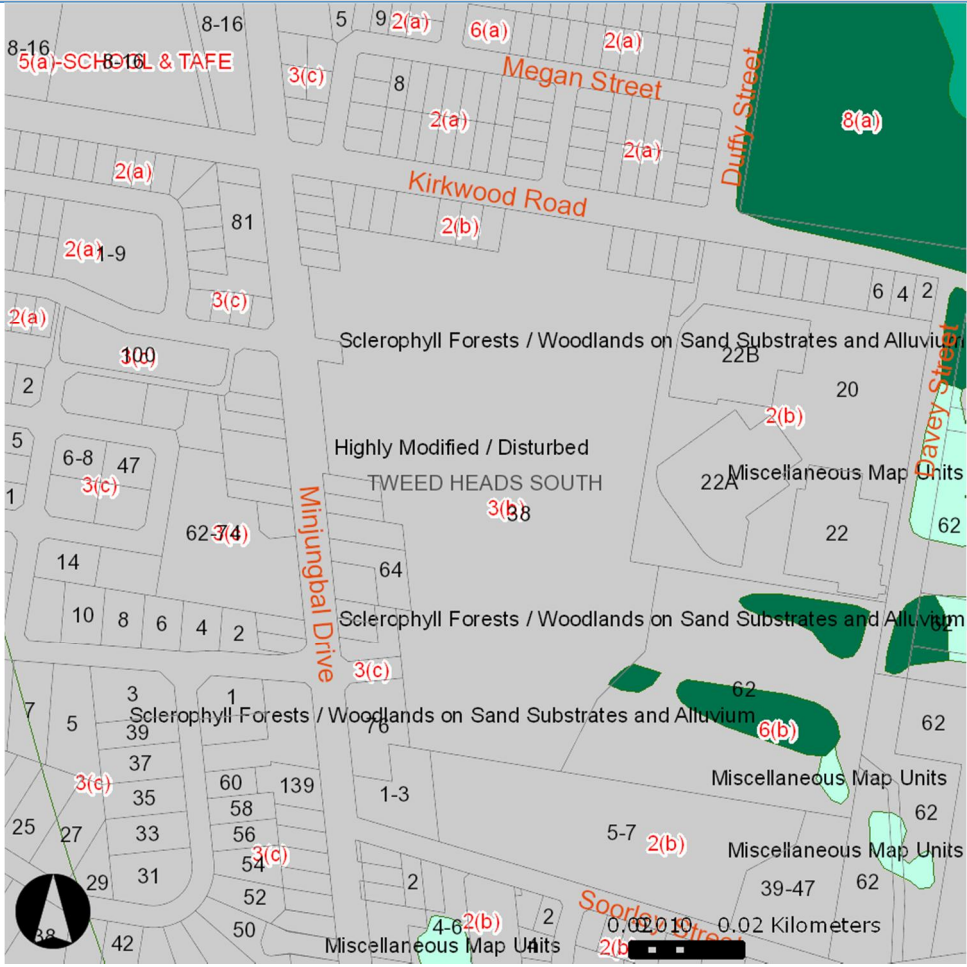
A small area of the north-eastern corner of the site is within the 100 metre buffer zone as defined by Council's Bushfire Prone Land map; however bushfire hazard is not considered to be a prohibitive issue for this proposal. In the event of a bushfire from the north-eastern direction the site can be evacuated to the north and south via Minjungbal Drive, away from the identified area of risk.

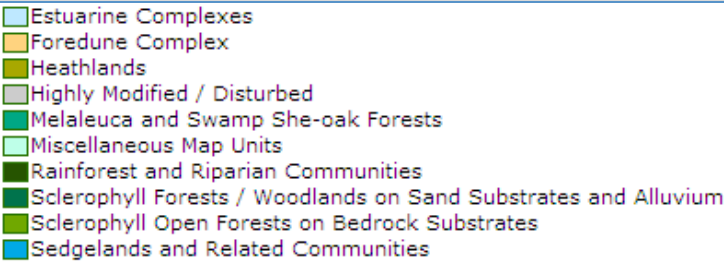


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Criteria	Measurable explanation of criteria	Response
6. Natural	Demand for water within infrastructure capacity	which will occur below the surface. The site is also identified as having high ground water vulnerability. However, acid sulphate soils are not considered to be a prohibitive issue for this proposal.  Class 1 Any Works Class 2 Works below the ground surface Class 3 Works beyond 1 metre below the natural ground surface Class 4 Works beyond 2 metres below the natural ground surface Class 5 Works within 500 metres of adjacent class 1, 2, 3 or 4 land which are likely to lower the watertable below 1 metre AHD in class 1, 2, 3 or 4 land.

Criteria	Measurable explanation of criteria	Response
Resources Natural resource limits not exceeded / environmental footprint minimised	to supply water and does not place unacceptable pressure - Demonstrates most efficient / suitable use of land - Avoids identified significant agricultural land - Avoids productive resource lands – extractive industries, coal, gas and other mining, and quarrying. - Demand for energy does not place unacceptable pressure on infrastructure capacity to supply energy-requires demonstration of efficient and sustainable supply solution.	The site is currently serviced by sewer and reticulated water, however the impact of the potential future expansion of the Tweed City Shopping Centre is yet to be quantified. Further studies should be done during the Development Assessment phase to ensure that the extension of these services can occur without unacceptable pressure on infrastructure capacity. Agricultural Land The site is located within a highly urbanised area, with no agricultural land in the vicinity. Resource lands The site does not contain any known productive resources. Energy The site is unlikely to result in an unacceptable impact of energy capacity/supply as it represents an expansion of the adjoining commercial and general business land uses. The required utilities and services should be easily augmented to service the additional lots.
7. Environmental Protection Protect and enhance biodiversity, air quality, heritage, and waterway health	- Consistent with government-approved Regional Conservation Plan (if available). - Maintains or improves areas of regionally significant terrestrial and aquatic biodiversity (as mapped and agreed by DEC). This includes regionally significant vegetation communities, critical habitat, threatened species, populations, ecological communities and their habitats. - Maintain or improve existing environmental condition for water quality: - Consistent with community water quality objectives for recreational water use and river health (DEC and CMA). - Consistent with catchment and stormwater management planning (Catchment Management Authority and council). - Protects areas of Aboriginal cultural heritage value (as agreed by DEC).	Flora and fauna The site is currently a highly urbanised built-up area, and there is no flora or fauna habitats situated within the proposal boundaries. The south-eastern boundary does abut a small area of Sclerophyll Forests/Woodlands on Sand Substrate and Alluvium.

Criteria	Measurable explanation of criteria	Response
		

Criteria	Measurable explanation of criteria	Response
		 Aboriginal Cultural Heritage An Aboriginal Cultural Heritage Due Diligence Assessment was undertaken by Everick Heritage Consultants, March 2012 and provided in Attachment 7. The assessment assessed all sites excluding the two additional lots which have resulted in this revised planning proposal (Lots 6 and 7 DP23659). Advice issued by OEH confirmed that an Aboriginal Cultural Heritage Assessment of these additional sites could occur at the development application stage, as the sites <i>“adjoin a major shopping complex and have been highly developed for residential purposes”</i>. This assessment finds: - No known Aboriginal objects or places were identified within the project area. - The likelihood of significant Aboriginal cultural heritage being located within the site is low as a result of previous ground disturbance; however the site is situated within an immediate cultural landscape of high significance to the local Aboriginal people. - Appropriate recommendations can be implemented to ensure all items of Aboriginal cultural heritage significance are identified and preserved, should those items be uncovered as part of subsequent construction activities. Subject to this approach Council's Aboriginal Advisory Committee makes no objection to the proposed rezoning
8. Quality and Equity in Services Quality health, education, legal, recreational, cultural and community development and other government services are accessible	- Available and accessible services. - Do adequate services exist? - Are they at capacity or is some capacity available? - Has Government planned and budgeted for further service provision? - Developer funding for required service upgrade/access is available.	The development of the site to allow for future expansion of the Tweed City Shopping Centre will create further employment opportunities within the area. The site currently has adequate services, with planned and currently occurring expansions of these services underway, notably the Pacific Motorway upgrade approximately one kilometre away.

The Regional Strategy provides a range of aims, outcomes and actions which guide development within the Tweed. The consistency of the proposal against the Regional Strategy aims, outcomes and actions when preparing an LEP is contained in Table 6:

Table 6 Assessment against Far North Coast Regional Strategy aims and actions

Assessment against the Far North Coast Regional Strategy Aims and Actions relating to the preparation of a local environmental plan	
Action	Assessment
Environment and Natural Resources	
Local environmental plans will protect and zone land with State or regional environmental, agricultural, vegetation, habitat, waterway, wetland or coastline values.	The site is located in a pre-existing developed area, and will not affect any land with State or regional environmental, agricultural, vegetation, habitat, waterway, wetland or coastline values.
Local environmental plans will not zone land within the Environmental Assets and Rural Land area to permit urban purposes, other than rural residential development. Existing and future rural residential development will be located in this area, but not where it conflicts or coincides with the attributes or values listed above.	The site is not located within the Environmental Assets and Rural Land area.
Local environmental plans will identify and zone land of landscape value (including scenic and cultural landscapes) to protect those values.	The site does not have any significant landscape values.
Local environmental plans will protect land identified as having extractive resources of regional significance (see Attachment 2).	The site does not contain areas of known extractive resources.
New development adjoining or adjacent to farmland, extractive resources, waterways, wetlands, and areas of high biodiversity value will incorporate buffers to avoid land use conflict.	The site is not adjacent to farmland, extractive resources, waterways, wetlands or areas of high biodiversity. The nearby Ukerebagh Nature Reserve will not be affected by the proposal, as Kirkwood Road and residential properties separate the reserve and the site.
Local environmental plans will: - include minimum subdivision standards for rural and environment protection zones - include provisions to limit dwellings in the rural and environmental zones - not include provisions to permit concessional allotments.	The proposal does not seek to alter any rural or environmental protection zones.
Local environmental plans will include provisions to encourage habitat and corridor establishment in future zoning of Environmental Assets and Rural Land area.	The proposal does not seek to alter any rural or environmental protection zones.
Local environmental plans will include provisions to limit the creation of additional water rights on land fronting watercourses.	The proposal does not created additional water rights.
Local environmental plans will not rezone land within town water supply catchments and significant groundwater areas if this has the potential to reduce the quality and quantity of these assets.	The site does not fall within the town water supply catchment.

Assessment against the Far North Coast Regional Strategy Aims and Actions relating to the preparation of a local environmental plan

Action	Assessment
Rezoning of land for future development within the catchments of coastal lakes (as defined in Schedule 1 of State Environmental Planning Policy No. 71—Coastal Protection) will consider the recommendation of any Coastal Lake Sustainability Assessment which has been prepared.	The site does not fall within a coastal lake catchment and is not restricted by SEPP 71 in this instance.
Subdivision and dwelling standard provisions in local environmental plans will reflect the objectives of the relevant zone and the Regional Strategy.	Existing standards in Tweed Local Environmental Plan 2000 and Draft Tweed Local Environmental Plan 2010 will apply.
Cultural Heritage	
Councils are to ensure that Aboriginal cultural and community values are considered in the future planning and management of their local government area.	As identified in Table 3, an Aboriginal Due Diligence Assessment has been undertaken for the majority of the subject site (excluding Lots 6 and 7 DP23659). This assessment finds that the site has been highly modified as a result of urban activities, and therefore there is a low likelihood of encountering significant Aboriginal cultural heritage values on the site. The report makes recommendations for actions should any item or object be uncovered during works.
Councils and the Department of Planning will review the scope and quality of the existing statutory lists of heritage items and ensure that all places of significance are included in the heritage schedules of local environmental plans.	There are no listed heritage items on the site.
The cultural heritage values of major regional centres and major towns that are to be the focus of urban renewal projects will be reviewed, with the aim of protecting cultural heritage.	There are no heritage listed items of local, regional or state significance on the site.
Natural Hazards	
In order to manage the risks associated with climate change, councils will undertake investigations of lands with the potential to be affected by sea level rise and inundation to ensure that risks to public and private assets are minimised.	Council Flood Maps indicate that flooding is not a constraint to rezoning, with the majority of the site being outside the modelled inundation area of an ARI 100 year flood. The site does however have the potential to be affected by a probable maximum flood under current conditions.
Local environmental plans will make provision for adequate setbacks in areas at risk from coastal erosion and/or ocean based inundation in accordance with Coastal Zone Management Plans. Until these plans are made by the Minister for Natural Resources, councils cannot zone land or approve new development or redevelopment in potential hazard areas, unless assessed within a risk assessment framework adopted by the council.	Not applicable as the site is not subject to coastal erosion.
Local environmental plans will zone waterways to reflect their environmental, recreational or cultural values.	Not applicable, as no waterway are located within or adjacent to the site.
Local environmental plans will zone areas subject to high hazard to reflect the capabilities of the land.	Not applicable, as there are no areas of high hazard over the site.

Assessment against the Far North Coast Regional Strategy Aims and Actions relating to the preparation of a local environmental plan

Action	Assessment
Settlement and Housing	
Local environmental plans, local growth management strategies and other statutory planning controls will align with the Regional Strategy's settlement network (as shown on the Housing Map) to contain the spread of urban development, efficiently utilise existing services and infrastructure, and protect areas of high conservation value.	Not applicable. This proposal does not propose housing.
Local environmental plans will ensure that all new development reinforces existing urban and rural centres, towns and villages.	The site is conveniently located in the centre of the Tweed Heads South business area, and will reinforce Tweed Heads as a Major Regional Centre.
A land release staging program will be developed to ensure the orderly release of new housing.	Not applicable. No housing is proposed, nor can be proposed for the site once the land is rezoned 3(b) General Business.
Where development or a rezoning increases the need for State infrastructure, the Minister for Planning may require a contribution towards the provision of such infrastructure.	The State Infrastructure Strategy for NSW 2008-2018 (NSW Treasury) contains several investments for the Tweed area, including an upgraded electricity distribution centre, and the Banora Point Pacific Highway Interchange project, which is located directly south of the site. The rezoning is unlikely to increase the need for State infrastructure, over and above that already servicing the site.
Councils will plan for a range of housing types of appropriate densities, location and suitability that are capable of adapting and responding to the ageing of the population.	Not applicable. No housing is proposed, nor can be proposed for the site once the land is rezoned 3(b) General Business.
Local government will consider a range of affordable housing strategies, including forms of low cost housing, suitable zonings and development controls to improve housing choice, and specific schemes. These strategies must be consistent with relevant State policies.	Not specific to this proposal.
Local environmental plans generally should locate major health and educational facilities in urban areas.	Not applicable. Health and educational facilities are not proposed as part of this proposal.
Local environmental plans cannot use the Transition Zone in the Standard Instrument (Local Environmental Plans) Order 2006 to identify land for future urban investigation purposes.	The proposal does not use any transition zone for future urban investigation.
Local environmental plans will maintain interurban breaks between existing and new settlements.	Not applicable to this proposal.
Town and Village Growth Boundary	
The Town and Village Growth Boundary is defined by the Town and Village Growth Boundary Map	The proposal does not result in the modification of the Town and Village Growth Boundary, as defined under the Regional Strategy.
No land in the Coastal Area will be released other than land identified within the Town and Village Growth Boundary or within an approved rural residential release strategy.	Not applicable. The site is already developed and results in a change of zoning to allow for the consolidation of the 3(b) General Business zone within the Tweed Heads South business area.

Assessment against the Far North Coast Regional Strategy Aims and Actions relating to the preparation of a local environmental plan

Action	Assessment
Councils will prepare a Local Growth Management Strategy prior to zoning further land for urban, commercial and industrial uses in accordance with the Settlement Planning Guidelines.	The Tweed Urban and Employment Land Release Strategy was adopted in 2009, however tends to focus more on greenfield land release, rather than infill development. Given the nature of this Planning Proposal, it is considered that this Strategy does not affect the rezoning to 3(b) General Business at the site.
Councils will demonstrate through the Local Growth Management Strategy how dwelling targets (Table 1) for each local government area will be met in local environmental plans.	The Tweed Urban and Employment Land Release Strategy was adopted in 2009, however tends to focus more on greenfield land release, rather than infill development. Given the nature of this Planning Proposal, it is considered that this Strategy does not affect the rezoning to 3(b) General Business at the site.
Planning for urban land must be integrated with the supply of relevant infrastructure and transport provision.	Not applicable. The site is located within an established urban area.
Any development proposed for greenfield sites in the non-coastal area that is located outside of the Town and Village Growth Boundary will be subject to satisfying the Sustainability Criteria (Attachment 1).	Not applicable. The site is not a greenfield site.
Settlement Character and Design	
Councils should prepare desired character statements for their localities that include provisions (through a development control plan) to ensure that new development enhances the desired character.	Council has adopted the Tweed City Centres DCP, which applies to this area, and the proposal is consistent with the Plan's aims and objectives for this site.
New development should be designed to respond to the subtropical climate of the Region through best practice in water and energy efficient design, and use of landscaping and building materials.	Any future development on the site will be subject to assessment under the Development Assessment process. Sufficient ability exists for the development to suit climatic conditions and complement the local character of the area.
New development should be designed to reflect and enhance the natural, cultural, visual and built character and values of the local and regional landscape.	Any future development on the site will be subject to the Development Assessment process. Sufficient ability exists for the development to complement the built character of the area.
New and changing urban areas should provide access to natural features such as coastal foreshore and riparian land in a manner that is consistent with the maintenance of their ecological values.	Not applicable. The site is not located within a coastal foreshore or riparian land area.
New and changing settlement areas should incorporate open space that is accessible to the public, which provides opportunities for recreation, nature conservation, social interaction, and for visual enhancement and amenity.	Not applicable. The site is located within an existing settled area.
Local environmental plans will set building heights in urban areas that reflect the landscape character, function and hierarchy of the future settlement and visual and cultural amenity of its location.	Building height controls will be consistent with the current LEP 2000 and Draft LEP 2010.
Local environmental plans for areas subject to the NSW Coastal Policy (NSW Government 1997) will incorporate provisions to achieve the outcomes of the Coastal Policy in respect to overshadowing. Generally, development on urban land in Tweed	The site is located within the coastal zone, however by virtue of the site's setback from the coastal foreshore, and the height of the buildings being consistent with the LEP 2000, overshadowing of the coastal foreshore is will not

Assessment against the Far North Coast Regional Strategy Aims and Actions relating to the preparation of a local environmental plan

Action	Assessment
Heads, Kingscliff, Byron Bay and Ballina will not result in the beach or adjoining open space being overshadowed before 3.00 p.m. midwinter (standard time) or 6.30 p.m. midsummer (daylight savings time). For other beaches or waterfront open space in the Region, development will not result in overshadowing before 4.00 p.m. midwinter or 7.00 p.m. midsummer (daylight saving time).	occur.
Local environmental plans and development control plans (and subsequent land release development) will be consistent with the Settlement Planning Guidelines, and the Government's <i>Coastal Design Guidelines for NSW</i> (2003) as applicable.	Capacity exists for the redeveloped shopping centre to be consistent with the Coastal Design Guidelines, and it is recommended this be assessed as part of the Development Application process.

Water and Energy Resources

Councils are to complete Integrated Water Cycle Management Plans.	Council completed an Integrated Water Cycle Management Strategy in 2006, and is currently reviewing its Integrated Water Cycle Management Strategy in 2012 in accordance with the State Government's Office of Water requirements.
Local environmental plans will recognise and protect the regional water supply system through appropriate planning provisions.	The proposal is not within the catchment of the water supply; therefore, this action is not relevant to this proposal.
In preparing local environmental plans councils will liaise with water and energy providers and make provision for any regional gas, water and electricity infrastructure corridors that may be required.	Appropriate consultation with other services will be undertaken with service providers during the consultation phase of the Planning Proposal. There are no known capacity constraints considering the majority of the site is already developed for a shopping centre purpose.
All future development is to apply water sensitive urban design principles, including the use of dual use reticulation systems in releases of adequate scale, and meet storm water management targets that support the environmental values of the catchments.	Water Sensitive Urban Design Principles will apply to any future development on the land to which this Planning Proposal applies.

Regional Transport

Local environmental plans will provide for passenger interchanges in all major regional centres, major towns and towns. These interchanges will be well connected to pedestrian and cycle ways	A public transport interchange is located adjacent to the northern entrance of the shopping centre, and in addition bus stops are located on Kirkwood Road opposite the centre.
Land use and transport planning must be integrated to minimise the need to travel, and to encourage energy and resource efficiency.	Surfside Buslines provide regular north and south travelling public transport services to and from the site. As noted above, a public transport interchange within the centre and bus stops on Kirkwood Road provide the ability for trips to and from the centre to be taken via public transport.
Local environmental plans are to recognise and protect the regional transport network through appropriate planning provisions.	The proposal will not impact on the regional transport networks.

Implementation

This Regional Strategy will be implemented primarily through local environmental plans, development control plans, the State Infrastructure Strategy and funds collected as development contributions.	This Planning Proposal is broadly consistent with the Regional Strategy and will be implemented through a LEP amendment.
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Assessment against the Far North Coast Regional Strategy Aims and Actions relating to the preparation of a local environmental plan

Action	Assessment
The State Infrastructure Strategy 2006–07 to 2015–16 identifies infrastructure projects in the short to medium-term that (among other things) support population growth and demographic change in the Far North Coast. A list of projects from this Strategy is contained in Attachment 3 of the FNCRS.	The Planning Proposal does not compromise the projects for the Tweed Heads area identified in section 6.4 of the State Infrastructure Strategy 2008-18.
The Regional Strategy sets out the agreed position of the NSW Government on the future of the Far North Coast Region. The Regional Strategy is recognised by the State Infrastructure Strategy as a long term planning strategy to be used by State agencies and public trading enterprises to understand the future infrastructure needs of the Region.	The proposal is considered to be consistent with the relevant provisions of the Regional Strategy as demonstrated in this table.
Where development or rezoning increases the need for state infrastructure, the Minister for Planning may require a contribution towards the provision of such infrastructure.	Not applicable. The rezoning does not create, or increase an existing need for state infrastructure

Is the Planning Proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

The Tweed Community Strategic Plan 2011-21 was adopted by Council on 14 December 2010. The plan is based on 4 key themes, Civic Leadership, Supporting Community Life, Strengthening the Economy, and Caring for the Environment.

This plan, prepared with extensive community consultation, provides the overarching framework and vision for the Tweed for the next 10 years.

The relevant objectives of the plan include:

Objective 2.5 Provide vibrant and accessible town, community and business centres.

Objective 3.1 Expand employment, tourism and education opportunities.

Objective 3.4 Provide land and infrastructure to underpin economic development and employment.

The proposal results in the consolidation of the Tweed Heads South Business Centre, allowing for the expansion of the Tweed City Shopping Centre. It is consistent with the Community Strategic Plan as:

- The shopping centre is accessible via private and public means of transport.
- The rezoning of the site and consolidation of additional lots into the shopping centre will enable greater development potential. The area will provide the opportunity to implement the Tweed City Centre vision and the relevant principles within the Draft DCP 2008, such a public plaza to be developed on the site in accordance with the Draft DCP 2008, Section B2.
- It results in temporary and permanent employment outcomes through the expansion and operation of a redeveloped shopping centre.
- It enables tourism opportunities, in providing a wider range of comparison shopping opportunities and services that enables the shopping centre to become a destination in its own right.

Is the Planning Proposal consistent with the applicable State Environmental Planning Policies (SEPPs)?

This site is not subject to the application of *SEPP 14 Coastal Wetlands*, *SEPP 26 Littoral Rainforest* or *SEPP 71 Coastal Protection*.

The Planning Proposal is of a scale and nature that will not trigger the application of *SEPP (Major Development) 2007*.

The SEPPs, discussed in the following Table 7, apply to the site:

The Planning Proposal is of a scale and nature that will trigger the application of *Schedule 3 Traffic generating development to be referred to the RMS of the SEPP (Infrastructure) 2007*, as stated below.

Table 7 Assessment against State Environmental Planning Policy

State Environmental Planning Policy Assessment	
State Environmental Planning Policy	Comments / Assessment
State Environmental Planning Policy (North Coast Regional Environmental Plan) 1988	This Policy applies to the site and the following clauses are particularly relevant to this Planning Proposal:
Clause 32A – Coastal Lands	The site is subject to the NSW Coastal Policy 1997; however the site is not located on a dune, beach or headland.
Clause 38 – Urban Release Strategy	The site is within the Regional Strategy's urban growth area. Consistency with the Regional Strategy's sustainability criteria is addressed above.
Clause 39 – Retail, Commercial or Business Activities	The Planning Proposal is for the rezoning of land directly adjacent to the Tweed Heads South Business Centre (currently zoned 3(b) Business, which contains the Tweed City Shopping Centre).
Clause 40 – Principles for Urban Zones	The Planning Proposal will adopt the existing commercial zones within the LEP 2000.
Clause 45 – Hazards	Of the listed hazards, the site has the potential for acid sulphate soils. Although the site is already largely developed, an assessment of these soils should occur at the Development Assessment stage. It is considered unlikely acid sulphate soils will present a critical constraint to development as part of the site already contains underground car parking, and it is likely this hazard would have been addressed as part of the previous development of the shopping centre.
Clause 45A – Flood Liable Land	As noted in Table 3, DCP 2008 indicates the majority of the site is identified as being outside of the inundated area of the ARI 100 year flood, however has the potential to be affected by a probable maximum flood under current conditions. It is considered the risk of flooding can be adequately assessed during the Development Application stage. In the event of flooding inundation the site can be evacuated to the south via Minjungbal Drive, away from the identified area of risk.
Clause 47 – Principles for Commercial and Industrial Development	The Planning Proposal seeks to rezone residential land directly adjacent to the existing commercial land identified as the Tweed Heads South Business Centre under the Tweed City Centres DCP as adopted 13 December 2011.
Clause 50 – Height Controls	The Planning Proposal will result in commercial and business development of a similar height to the surrounding commercial and business areas.

State Environmental Planning Policy Assessment	
State Environmental Planning Policy	Comments / Assessment
Clause 58 – Servicing Urban Area	All necessary urban infrastructure is available in the immediate area, and will be at the cost of the developer dependent upon future expansion plans within the site boundaries.
State Environmental Planning Policy No. 44 – Koala Habitat	This SEPP aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas. It requires the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat. The site does not contain any mapped primary or secondary Koala habitat areas.
State Environmental Planning Policy No. 55 – Remediation of Land	Lots 1 and 2 DP524806, Lot 2 DP781518 and Lot 1 DP81517 (58-62 Minjungbal Drive) have previously been used as the site for a service station. Subsequently, remediation is required to occur before the shopping centre expansion is carried out on these lots, in accordance with Part 7 of this SEPP. Council has been issued with written notification from the proponent advising that on-site environmental testing and works have commenced, and a Phase I site assessment is being prepared. This notification is contained in Attachment 8. (The results of the Phase I assessment may require additional assessments prior to development). As the expansion of the shopping centre will require a Development Application under the DCP 2008, this mechanism allows Council the opportunity to review and include relevant provisions dealing with the remediation of land in any subsequent approval.
State Environmental Planning Policy (Major Development) 2005	The Major Development SEPP applies to State significant projects and those to which Part 3A (now repealed) applied. The site is not affected by any Major Development criteria nor does the development proposed trigger any state significance.
State Environmental Planning Policy (Infrastructure) 2007 – Schedule 3	The SEPP for Infrastructure allows for greater flexibility in the location of infrastructure and service facilities along with providing consultation with the relevant public authorities during the assessment process. Under Part 104, a Development Application for any development listed in Schedule 3 which involves (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity, requires a referral to the Roads and Maritime Services for traffic generation. Schedule 3 identifies 'shops' greater than 2000m² and 'shops and commercial premises' greater than 4000m² when connecting to an unclassified road (any road), as requiring referral to the Roads and Maritime Services due to the traffic generating development type. A future Development Application will therefore need to address the SEPP for Infrastructure and subsequently undertake the relevant referral.

State Environmental Planning Policy Assessment	
State Environmental Planning Policy	Comments / Assessment
State Environmental Planning Policy No. 71 – Coastal Protection	The site is located within the Coastal Zone. Clause 8 of the SEPP sets out the relevant matters that should be considered in the preparation of a draft LEP. The matters relevant to the Planning Proposal are: The suitability of the development given its type, location and design and its relationship with the surrounding area. The site is suitable for general business purposes as a result of the predominant use of the site for retail purposes, and the limited environmental values of the site Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals. Table 3 includes a discussion of Aboriginal Cultural Heritage and lists appropriate recommendations for the identification and preservation of items of significance. The means to encourage compact towns and cities. The Planning Proposal is located within an existing centre designated for commercial development, and is well serviced by transport and infrastructure services.
State Environmental Planning Policy No. 60 – Exempt and Complying Development	This Policy does not apply to the Tweed local government area as listed in Schedule 1.
State Environmental Planning Policy No. 22 – Shops and Commercial Premises	This SEPP allows for the change of use from one kind of shop to another or one kind of commercial business to another, even if the change of use is prohibited under the local environmental planning instrument. The site and proposal are not affected by this SEPP, as there are no plans to change any shops or commercial businesses to other types which are prohibited under the Tweed LEP.
State Environmental Planning Policy (Temporary Structures) 2007	This SEPP provides for the erection of temporary structures, and the use of places for public entertainment while protecting public safety. The site and Planning Proposal are not affected by this SEPP, as no temporary structures are proposed, and any future temporary structures will be subject to the development assessment process.

Is the Planning Proposal consistent with applicable Ministerial Directions (s117 Directions)?

Consistency with the s117 Directions (as per the update of 1 February 2012) is assessed in Table 8.

Table 8 Consistency with s117(2) Ministerial Directions

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
1. Employment and Resources			
1.1 Business and Industrial Zones	Applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	This proposal seeks to expand the area of the Tweed Heads South Business Centre by rezoning Residential 2(b), Commerce and Trade 3(c) and Recreation 6(b) land, to 3(b) General Business. This will provide the potential to increase the total potential floor space for employment and related public uses (by the future expansion of the Tweed City Shopping Centre), without removing land already designated for business purposes. In addition, the site is located within the Major Regional Centre designation of the State's Regional Strategy.	Consistent
1.2 Rural Zones	Applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). Under this direction a Planning Proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).	This Planning Proposal does not affect any rural zones.	N/A
1.3 Mining, Petroleum Production and Extractive Industries	Applies when a relevant planning authority prepares a Planning Proposal that would have the effect of: (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is	The provisions of the Residential 2(b), Commerce and Trade 3(c) and Recreation 6(b) zonings currently prohibit mining, petroleum and other extractive activities. By rezoning the lots to the 3(b) General Business zone of the LEP 2000, it does not take away any additional rights for mining, petroleum or other extractive	Consistent.

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
	likely to be incompatible with such development.	activities that were originally there (as these activities are also prohibited under the prohibitions outlined above). Mining is subject to the controls of the SEPP Mining, Petroleum Production and Extractive Industries 2007.	
1.4 Oyster Aquaculture	Applies when a relevant planning authority prepares any Planning Proposal that proposes a change in land use which could result in: (a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”; or (b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate” and other land uses.	This Planning Proposal does not impact on a Priority Oyster Aquaculture Area.	N/A
1.5 Rural Lands	Applies when: (a) a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or (b) a relevant planning authority prepares a Planning Proposal that changes the existing minimum lot size on land within a rural or environment protection zone. A Planning Proposal to which clauses (a) and (b) apply must be consistent with the Rural Planning Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i> . A Planning Proposal to which clause (b) applies must be consistent with the Rural Subdivision Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i> .	This proposal does not affect any rural zoned land.	N/A

2. Environment and Heritage

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
2.1 Environment Protection Zones	(4) A Planning Proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. (5) A Planning Proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 <i>"Rural Lands"</i>.	The Planning Proposal does not impact on environmental protection zones or land identified for environmental protection purposes.	N/A
2.2 Coastal Protection	Direction applies when a relevant planning authority prepares a Planning Proposal that applies to land in the coastal zone.	The site is located within the coastal zone. Compliance with coastal protection objectives are contained elsewhere in the Planning Proposal.	Consistent
2.3 Heritage Conservation	A Planning Proposal must contain provisions that facilitate the conservation of: (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.	The site contains no identified heritage items under the LEP 2000 or Draft LEP 2010. The proposal is supported by an Aboriginal Cultural Heritage Due Diligence report, provided in Attachment 7. This report finds: - No known Aboriginal objects or places were identified within the project area - Council's Aboriginal Advisory Committee makes no objection to the proposed rezoning; - the likelihood of significant Aboriginal cultural heritage being located within the site is low as a result of previous ground disturbance, however the site is situated within an immediate cultural landscape of high significance to the local Aboriginal people;	Consistent

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
		- there are no historic (non-indigenous) listed cultural heritage places within the site; and - The report provides recommendations to ensure all items of Aboriginal cultural heritage significance are identified and preserved, should those items be uncovered as part of subsequent construction activities. It should be noted that the report does not investigate the two additional blocks which have resulted in this revised planning proposal (Lots 6 and 7 DP23659). Advice received from OEH confirmed that an Aboriginal Cultural Heritage Assessment of these sites could occur at the later development application stage.	
2.4 Recreation Vehicle Areas	A Planning Proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>): (a) where the land is within an environmental protection zone, (b) where the land comprises a beach or a dune adjacent to or adjoining a beach, (c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration: (i) the provisions of the guidelines entitled <i>Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985</i>, and (ii) the provisions of the guidelines entitled <i>Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985</i>.	The site is not located within an environmental protection zone, or does not comprise beach or dune adjacent to or adjoining a beach.	N/A

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	(3) This direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within: (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted. (4) A Planning Proposal must include provisions that encourage the provision of housing that will: (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design. (5) A Planning Proposal must, in relation to land to which this direction applies: (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land.	This Planning Proposal seeks to expand the area of the Tweed Heads South Business Centre by rezoning 2(b) Residential, 3(c) Commerce and Trade and Recreation 6(b) land, to 3(b) General Business. The inconsistency with Direction 3.1 is justified as: • The Draft LEP 2010 identifies the lots within a commercial zoning • The Regional Strategy identifies Tweed Heads as a Major Regional Centre. The expansion of the centre onto the additional lots allows the shopping centre to further develop and provide a higher level of services and comparison shopping to accommodate a wider catchment. • The consolidation of the commercial zones within the Tweed Heads South area.	Inconsistent, but justified by study prepared in support of Planning Proposal (part (b)) and the Regional Strategy (part c).
3.2 Caravan Parks and Manufactured Home Estates	Applies when a relevant planning authority prepares a Planning Proposal. (1) In identifying suitable zones, locations and provisions for caravan parks in a Planning Proposal, the relevant planning authority must: (a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and	This proposal does not impact upon any land that permits development for the purposes of a caravan park or manufactured home estates. The site is not used for caravan park purposes.	N/A

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
	(b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park. (2) In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a Planning Proposal, the relevant planning authority must: (a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located, (b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and (c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the <i>Community Land Development Act 1989</i> be permissible with consent.		
3.3 Home Occupations	Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.	This proposal does not result in dwelling houses, nor does it alter the ability for home occupations to be carried out in other parts of Council's area.	N/A
3.4 Integrating Land Use and Transport	Applies when a relevant planning authority prepares a Planning Proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. (3) A Planning Proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of: (a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and (b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).	Adequate services exist within the locality. In particular, Tweed Heads South provides a wide range of education, health, recreational and community services which would be sufficient to service the site. The shopping centre generates frequent trips via private and public transport. The site is serviced by frequent bus routes provided by Surfside Buslines, a public transport provider, and the integration of public transport with the centre is assisted by a bus interchange adjacent to the building and bus stops on	Consistent

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
		Minjungbal Drive. The Planning Proposal does not propose any traffic generating business, as this will be assessed at the development application stage. Under SEPP (Infrastructure) 2007 any proposal is required to be referred to the RMS if it meets the requirements under Schedule 3.	
3.5 Development Near Licensed Aerodrome	Applies when a relevant planning authority prepares a Planning Proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.	This proposal does not create, alter or remove a zone or provision relating to land in the vicinity of a licensed aerodrome.	N/A
3.6 Shooting ranges	This direction applies when a relevant planning authority prepares a Planning Proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.	This proposal does not create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.	N/A
4. Hazard and Risk			
4.1 Acid Sulphate Soils	Applies when a relevant planning authority prepares a Planning Proposal that will apply to land having a probability of containing acid sulphate soils as shown on the Acid Sulphate Soils Planning Maps. (4) The relevant planning authority must consider the Acid Sulphate Soils Planning Guidelines adopted by the Director-General of the Department of Planning (5) When a relevant planning authority is preparing a Planning Proposal to introduce provisions to regulate works in acid sulphate soils, those provisions must be consistent with: (a) the Acid Sulphate Soils Model LEP in the Acid Sulphate Soils Planning Guidelines adopted by the Director-General, or (b) such other provisions provided by the Director-General of the Department of Planning that are consistent with the Acid Sulphate Soils Planning Guidelines.	The site is identified on the Draft LEP 2010 Acid Sulphate Soils map as containing class 2 acid sulphate soils. The current LEP 2000 and the Draft LEP 2010 contain provisions to regulate the works undertaken on and in proximity to acid sulphate soils. Subsurface excavation may be required as part of the development (for instance underground car parking), however the exact location of any additional excavation is unknown. Given that acid sulphate soils can occur in areas lying below 5m AHD and parts of this site are below 5m AHD, it is recommended a Development Application provide further investigations once the location of excavation areas are known. Further investigation may be	Consistent

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
	(6) A relevant planning authority must not prepare a Planning Proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulphate soils on the Acid Sulphate Soils Planning Maps unless the relevant planning authority has considered an acid sulphate soils study assessing the appropriateness of the change of land use given the presence of acid sulphate soils. The relevant planning authority must provide a copy of any such study to the Director-General prior to undertaking community consultation in satisfaction of section 57 of the Act. (7) Where provisions referred to under paragraph (5) of this direction have not been introduced and the relevant planning authority is preparing a Planning Proposal that proposes an intensification of land uses on land identified as having a probability of acid sulphate soils on the Acid Sulphate Soils Planning Maps, the Planning Proposal must contain provisions consistent with paragraph (5).	required at development stage, at which time the acid sulphate soils may be managed in accordance with the Manual. It is noted underground car parking is already located within the site, and therefore it is likely that if additional excavation is required for a similar use, the works can be satisfactorily be conducted in accordance with statutory requirements.	
4.2 Mine Subsidence and Unstable Land	Applies when a relevant planning authority prepares a Planning Proposal that permits development on land that: (a) is within a mine subsidence district, or (b) has been identified as unstable in a study, strategy or other assessment undertaken: (i) by or on behalf of the relevant planning authority, or (ii) by or on behalf of a public authority and provided to the relevant planning authority.	This proposal does not impact on any mine subsidence area.	N/A
4.3 Flood Prone Land	Applies when a relevant planning authority prepares a Planning Proposal that creates, removes or alters a zone or a provision that affects flood prone land. (4) A Planning Proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>).	The site for this planning proposal is identified as being outside the inundated area of an ARI 100 year flood, however has the potential to be affected by a probable maximum flood, under current conditions. Council's Climate Change Maps (Section A3) indicate a flood level contour across the north-western corner of the site of 2.6-2.7 metres AHD. The south-eastern corner	Consistent

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
	(5) A Planning Proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone. (6) A Planning Proposal must not contain provisions that apply to the flood planning areas which: (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the development of that land, (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development. (7) A Planning Proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General). (8) For the purposes of a Planning Proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).	has a flood level contour of 2.8 metres AHD. The lot currently zoned 3(c) Commerce and Trade, and 6(b) Recreation is not affected by an ARI 100 year flood. Given the site is already highly developed any potential future flooding issues can be dealt with under the development assessment process.	

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
4.4 Planning for Bushfire Protection	Applies when a relevant planning authority prepares a Planning Proposal that will affect, or is in proximity to land mapped as bushfire prone land. (4) In the preparation of a Planning Proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made, (5) A Planning Proposal must: (a) have regard to <i>Planning for Bushfire Protection 2006</i>, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. (6) A Planning Proposal must, where development is proposed, comply with the following provisions, as appropriate: (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the Planning Proposal permit Special Fire Protection Purposes (as defined under section 100B of the <i>Rural Fires Act 1997</i>), the APZ	A small proportion of the site (its north-eastern corner) is situated within the 100 metre bushfire buffer zone to the nearby nature reserve. Given the site is located within a pre-established highly dense urban area, it is considered suitable for the Planning Proposal to allow for the rezoning of residential to commercial.	Consistent

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
	provisions must be complied with, (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks, (d) contain provisions for adequate water supply for firefighting purposes, (e) minimise the perimeter of the area of land interfacing the hazard which may be developed, (f) introduce controls on the placement of combustible materials in the Inner Protection Area.		
5. Regional Planning			
5.1 Implementation of Regional Strategies	Planning proposals must be consistent with a regional strategy released by the Minister for Planning.	The site is contained within the Town and Village Growth Boundary of the FNCRS. This Planning Proposal includes an assessment against the Regional Strategy's sustainability criteria (refer Part 3, Section B of the Planning Proposal). In summary the Planning Proposal is consistent with the Regional Strategy.	Consistent
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a Planning Proposal that applies to the hydrological catchment.	The proposal is not within the Sydney drinking water catchment.	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Applies (to Tweed) when a relevant planning authority prepares a Planning Proposal for land mapped as: (a) State significant farmland, or (b) regionally significant farmland, or (c) significant non-contiguous farmland, on the set of four maps held in the Department of Planning and marked "Northern Rivers Farmland Protection Project, Final Map 2005 (Section 117(2) Direction)". A Planning Proposal must not: (a) rezone land identified as "State Significant Farmland" for	The site is contained within the Town and Village Growth Boundary within the Regional Strategy.	N/A

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
	urban or rural residential purposes. (b) rezone land identified as “Regionally Significant Farmland” for urban or rural residential purposes. (c) rezone land identified as “significant non-contiguous farmland” for urban or rural residential purposes.		
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Applies when a relevant planning authority prepares a Planning Proposal for land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.	This proposal is not within the alignment of the Pacific Highway, nor does it propose a highway service centre.	N/A
5.8 Second Sydney Airport: Badgerys Creek	Planning proposals must not contain provisions that enable the carrying out of development, either with or without development consent, which at the date of this direction, could hinder the potential for development of a Second Sydney Airport.	Not relevant to this proposal.	N/A
6. Local Plan Making			
6.1 Approval and Referral Requirements	A Planning Proposal must: (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and (c) not identify development as designated development unless the relevant planning authority:	The Planning Proposal does not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.	Consistent

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
	(i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and (ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.		
6.2 Reserving Land for Public Purposes	(4) A Planning Proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).	The Planning Proposal does not create, alter or reduce land reserved for a public purpose. There has been no request from the Minister or public authority to reserve land for a public purpose.	Consistent
6.3 Site Specific Provisions	Applies when a relevant planning authority prepares a Planning Proposal that will allow a particular development to be carried out. (4) A Planning Proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either: (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. (5) A Planning Proposal must not contain or refer to drawings that show details of the development proposal.	The Planning Proposal seeks to zone the site consistent with the requirements of the 3(b) General Business Zone as defined in the LEP. It does not seek to include additional uses beyond what is permitted with the land use table. The Planning Proposal does not contain or refer to schematic drawings.	Consistent

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
7. Metropolitan Planning			
7.1 Implementation of the Metropolitan Strategy	This direction applies to Sydney metropolitan Councils only.	Not relevant to this proposal.	N/A

Section C 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?

Council's Vegetation Management Plan Mapping identifies the site as mainly highly modified and disturbed. Subsequently it is highly unlikely that the Planning Proposal will impact on critical habitat or threatened species.

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

Flooding may impact a proportion of the site, as identified within Council's flood mapping. However as shown in Table 3, flooding risk generally applies to the residential lots fronting Kirkwood Road, but not the shopping centre itself. This is likely a product of the earthworks that have previously occurred in the development of the shopping centre, and the lack of previous development of the residential lots that would necessitate earthworks.

Acid sulphate soils may exist over the site, as a consequence of the existing levels over the site. However it is noted the shopping centre already contains an underground car park, and therefore it is assumed the risk of acid sulphate soils would have been assessed prior to the construction of this car park.

The former service station site on Minjungbal Drive will likely require remediation to enable the development to proceed. It is noted that testing and remediation have already commenced, and a Development Application provides the opportunity to assess contamination issues (along with flooding and acid sulphate soils) in further detail.

How has the Planning Proposal adequately addressed any social and economic effects?

As discussed elsewhere in this Report, the rezoning will result in the loss of approximately 13,629m² of residential land. However because of the isolation of this land to other residential areas, and the land's location in association with the adjacent shopping complex, the benefits of the rezoning outweigh the costs.

Social, economic and environment issues are addressed in the Net Community Benefit Analysis contained in Part 3, Section A. In summary, the Planning Proposal will have positive social and economic benefits in that it will provide a greater range of retail choice within the Tweed Heads South business centre, and provide employment opportunities during construction and operation.;

Section D State and Commonwealth Interests

Is there adequate public infrastructure for the Planning Proposal?

Transport

As discussed elsewhere in this Report, Kirkwood Road is currently being upgraded between Minjungbal Drive and the Pacific Highway to relieve pressure on Minjungbal Drive. The upgrade, along with a new Pacific Highway interchange at Kirkwood Road will ensure that additional capacity exists within the transport network. Surfside Bus Lines operate various bus services from the subject site which provide public transport access throughout the Tweed and Gold Coast.

Water Supply

Any future development on the site will have the ability to connect with the existing water network available within an established urban area, subject to the provisions of the local planning requirements. Where required, any redundant water supply connections can be removed.

Sewer

Any future development on the site will have the ability to connect with the existing sewer network available within an established urban area, subject to the provisions of the local planning requirements.

Power

The site is located within an established urban area and therefore electricity connections are readily available. Sufficient ability exists for the existing electricity supply to be augmented to accommodate additional lots that will be used for commercial purposes.

Telephone

The site is located within an established urban area and therefore telecommunications connections are readily available. Sufficient ability exists for the existing telecommunications supply to be augmented to accommodate the additional lots that will be used for commercial purposes.

In summary, given the location of the additional lots with respect to the existing shopping centre use, it is considered that all existing public infrastructure has adequate capacity to meet the additional demands generated by the Planning Proposal.

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

Consultation has been undertaken with OEH and RMS. Both public authorities have provided comments on the Planning Proposal. The additional lots resulting in this Planning Proposal are considered unlikely to modify the recommendations made by either public authority.

If additional consultation is required with State or Commonwealth public authorities, it will be subject to any requirements stated within a Gateway Determination notice.

Part 4 Community Consultation

Assessment of Consultation Requirement

The Gateway Determination considered the Planning Proposal Low Impact and required a 14 day exhibition period. The original Planning Proposal was exhibited during August 2012 for a period of 17 days, during which two public submissions were received and a further three submissions from State agencies. As a result of advice received from DPI and submissions received, the Planning Proposal has been amended post public exhibition to include 54 & 56 Kirkwood Road, Tweed Heads South.

Accordingly this comprises a revised Planning Proposal and is subject to the judgement of the Minister as to whether additional community consultation is required. Any consultation required by the Minister is tailored to specific proposals generally on the basis of a 14 day exhibition period for low impact Planning Proposals and a 28 day exhibition period for all other Planning Proposals. Having regard to the definition of Low Impact Planning Proposals in that it is consistent with the established land use pattern, the strategic direction for Tweed Heads as articulated through regional and local strategic documents, it is considered reasonable that the Planning Proposal remain defined as a Low Impact Planning Proposal.

Having regard to the changes to the Planning Proposal, by virtue of the addition of 54 & 56 Kirkwood Road, are considered unlikely to cause an entity to make a submission objecting to the proposed change, if the circumstances allowed.

Summary and Conclusions

The Planning Proposal involves an expansion of the existing Tweed City Shopping Centre into adjacent areas currently zoned for residential, commerce and trade, or recreation purposes, forming an expanded 'site'. The expansion results in an increase of the shopping centre's site area of approximately 9%, to 13.4 ha.

The site is located within Tweed Heads South, which forms part of the Major Regional Centre designated in the Regional Strategy. At a local level, the site is designated for commercial development through the Draft LEP 2010. It is well-serviced by public transport and is accessed via Minjungbal Drive and Kirkwood Road, the former of which interchanges with the Pacific Highway.

The Planning Proposal complies with the high level strategic provisions, and through the provision of detailed documentation at the Development Application stage, will have the ability to comply with detailed provisions pertaining to the site.

It is considered the Planning Proposal is consistent with the definition of a 'Low Impact Planning Proposal' which requires a 14 day exhibition period, however this is subject to the decision of the Minister, due to this being a revised Planning Proposal with minor changes from the original which was exhibited during August 2012.

The Planning Proposal will assist in enabling Tweed Heads functions as the Far North Coast's Major Regional Centre and as such an amendment to the LEP is recommended.

Attachment 1 – Copy of Council Resolution 13 December 2011

[Agenda Report](#)

TWEED SHIRE COUNCIL MEETING TASK SHEET

User Instructions

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

Action Item - COUNCIL MEETING Tuesday, 13 December 2011

Action is required for Item 13 as per the Council Resolution outlined below.

TITLE: [PR-CM] Planning Proposal PP11/0004 - Stage 1 of Planning Proposal for Tweed City Shopping Centre at Lot 22 DP 23659; No. 24 Kirkwood Road; Lot 21 DP 23659; No. 26 Kirkwood Road; Lot 20 DP 23659; No. 28 Kirkwood Road; Lot 19 DP 23659; No. 30 Kirkwood Road; Lot 6 DP 1119624; No. 38 Minjungbal Drive; Lot 13 DP 23659; No. 42 Kirkwood Road; Lot 12 DP 23659; No. 44 Kirkwood Road; Lot 11 DP 23659; No. 46 Kirkwood Road; Lot 2 DP 804871; No. 48-50 Kirkwood Road; Lot 8 DP 23659; No. 52 Kirkwood Road; Lot 1 DP 781517; No. 58 Minjungbal Drive; Lot 2 DP 781518; No. 60 Minjungbal; Lot 1 DP 524806; No. 62 Minjungbal Drive; Lot 2 DP 524806; No. 64 Minjungbal Drive - TWEED HEADS SOUTH, and Planning Proposal PP11/0005 – Stage 1, Club Banora Redevelopment, Lot 2 DP 1040576, Leisure Drive, Banora Point

Cr W Polglase
Cr K Skinner

RESOLVED that:

1. A planning proposal be prepared for PP11/0004 - Stage 1, Tweed City Shopping Centre at Lot 22 DP 23659; No. 24 Kirkwood Road; Lot 21 DP 23659; No. 26 Kirkwood Road; Lot 20 DP 23659; No. 28 Kirkwood Road; Lot 19 DP 23659; No. 30 Kirkwood Road; Lot 6 DP 1119624; No. 38 Minjungbal Drive; Lot 13 DP 23659; No. 42 Kirkwood Road; Lot 12 DP 23659; No. 44 Kirkwood Road; Lot 11 DP 23659; No. 46 Kirkwood Road; Lot 2 DP 804871; No. 48-50 Kirkwood Road; Lot 8 DP 23659; No. 52 Kirkwood Road; Lot 1 DP 781517; No. 58 Minjungbal Drive; Lot 2 DP 781518; No. 60 Minjungbal; Lot 1 DP 524806; No. 62 Minjungbal Drive; Lot 2 DP 524806; No. 64 Minjungbal Drive - TWEED HEADS SOUTH, subject to the prior execution of a Costs and Expenses Agreement being executed, and

2. A planning proposal be prepared for PP11/0005 – Stage 1 Club Banora Redevelopment, Lot 2 DP 1040576, Leisure Drive, Banora Point, subject to the prior execution of a Costs and Expenses Agreement being executed.

AMENDMENT

Cr J van Lieshout
Cr K Milne

PROPOSED that this item be deferred to allow a Workshop to be scheduled.

TEMPORARY ABSENCE FROM MEETING

Cr K Skinner left the meeting at 05:01 PM

RETURN TO MEETING

Cr K Skinner has returned from temporary absence at 05:01 PM

The Amendment was **Lost**

FOR VOTE - Cr K Milne, Cr J van Lieshout

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr D Holdom, Cr K Skinner, Cr B Longland

The Motion was **Carried** (Minute No 739 refers)

FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr D Holdom, Cr K Skinner, Cr B Longland

AGAINST VOTE - Cr K Milne, Cr J van Lieshout

Attachment 2 – Copy of Council Report 13 December 2011

TITLE: [PR-CM] Planning Proposal PP11/0004 - Stage 1 of Planning Proposal for Tweed City Shopping Centre at Lot 22 DP 23659; No. 24 Kirkwood **Road**; Lot 21 DP 23659; No. 26 Kirkwood Road; Lot 20 DP 23659; No. 28 Kirkwood Road; Lot 19 DP 23659; No. 30 Kirkwood Road; Lot 6 DP 1119624; No. 38 Minjungbal Drive; Lot 13 DP 23659; No. 42 Kirkwood Road; Lot 12 DP 23659; No. 44 Kirkwood Road; Lot 11 DP 23659; No. 46 Kirkwood Road; Lot 2 DP 804871; No. 48-50 Kirkwood Road; Lot 8 DP 23659; No. 52 Kirkwood Road; Lot 1 DP 781517; No. 58 Minjungbal Drive; Lot 2 DP 781518; No. 60 Minjungbal; Lot 1 DP 524806; No. 62 Minjungbal Drive; Lot 2 DP 524806; No. 64 Minjungbal Drive - TWEED HEADS SOUTH, and Planning Proposal PP11/0005 – Stage 1, Club Banora Redevelopment, Lot 2 DP 1040576, Leisure Drive, Banora Point

ORIGIN:

Planning Reforms

FILE NO: PP11/0004 and PP11/0005

SUMMARY OF REPORT:

This report seeks Council's endorsement to prepare two strategically important Draft Local Environmental Plan Amendments, which are to be prepared by the Planning Reform Unit utilising external professional (town planning) service providers.

Council had endorsed a prior fees and charges structure in 2010 that enables the Planning Reforms Unit to utilise external consultancies in the preparation and assessment of planning proposals, at the proponent's cost. Costs and Expenses Agreements have been sent out to three proponents, the first of which is for the Mooball planning proposal and which the proponent has executed.

In addition, two further planning proposal requests have been received seeking rezoning to enable redevelopment, comprising; Tweed City Shopping Centre (TCSC) and Club Banora ("the Club"). Both proponents have indicated their willingness to fund the planning proposals through a Cost and Expenses Agreement with Dexux Property Group (TCSC) having affirmed their commitment by execution of an agreement, and the Club's Solicitor reviewing theirs and pending execution.

The Tweed City Centre proposal was reported to the Council meeting of 19 July 2011, with the report highlighting the strategic importance of the redevelopment however, its progress was limited by existing resource commitments. The Club Banora proposal on the other hand has been the subject of several meetings between the proponent and Council staff since late 2009, and because of the like resourcing limitation the proponent was advised in early 2010 to make a Part 3A Major Project Application as this was seen to be the more expedient option, which is paramount for the Club given their prevailing difficult financial position.

Following repeal of the Part 3A process by the Minister for Planning and Infrastructure midway through 2011 the Club's application was not accepted because it had not reached the threshold test of public exhibition. The Club had nonetheless invested substantially in the preparation of application documentation and studies.

The circumstances giving rise to these two requests may be quite different but the strategic objectives are fundamentally the same; to improve public access to and choice of services available in the Tweed and at the same time rationalising the land-use zoning.

Both requests are suitable candidates for utilising the external resourcing and funding procedures that were developed to ensure that strategically justified planning proposal's progress in a timely manner and to ensure the economic vitality of urban land is not lost or delayed.

This report recommends that a planning proposal be prepared for each proposal following the prior execution of Costs and Expenses Agreements.

RECOMMENDATION:

That:

- 1. A planning proposal be prepared for PP11/0004 - Stage 1, Tweed City Shopping Centre at Lot 22 DP 23659; No. 24 Kirkwood Road; Lot 21 DP 23659; No. 26 Kirkwood Road; Lot 20 DP 23659; No. 28 Kirkwood Road; Lot 19 DP 23659; No. 30 Kirkwood Road; Lot 6 DP 1119624; No. 38 Minjungbal Drive; Lot 13 DP 23659; No. 42 Kirkwood Road; Lot 12 DP 23659; No. 44 Kirkwood Road; Lot 11 DP 23659; No. 46 Kirkwood Road; Lot 2 DP 804871; No. 48-50 Kirkwood Road; Lot 8 DP 23659; No. 52 Kirkwood Road; Lot 1 DP 781517; No. 58 Minjungbal Drive; Lot 2 DP 781518; No. 60 Minjungbal; Lot 1 DP 524806; No. 62 Minjungbal Drive; Lot 2 DP 524806; No. 64 Minjungbal Drive - TWEED HEADS SOUTH, subject to the prior execution of a Costs and Expenses Agreement being executed, and**
- 2. A planning proposal be prepared for PP11/0005 – Stage 1 Club Banora Redevelopment, Lot 2 DP 1040576, Leisure Drive, Banora Point, subject to the prior execution of a Costs and Expenses Agreement being executed.**

REPORT:***Tweed City Shopping Centre***

A request to prepare a planning proposal has been received from Urbis Pty Ltd on behalf of Dexus Property Group (“the Group”), who is the site Manager of the Tweed City Shopping Centre.

The Group has acquired several adjoining properties in recent times with the view to expanding the services of the centre to match the demand of the growing population. The properties are however inappropriately zoned to accommodate their intended future purpose and arguably their full potential. Several properties are zoned for residential housing whereas there are also part commercial, business and open space zonings over other parcels.

A desktop strategic (planning) analysis indicates that the expansion of the site incorporating their recent property acquisitions and their use for expanding on the existing centre is a logical one and represents a coordinated response to the consolidation and rationalisation of the properties and their zoning. It would assist in reinforcing the precinct’s primary objective as a major commercial retail hub consistent with the Draft Tweed City Centres Development Control Plan, which also applies to this locality.

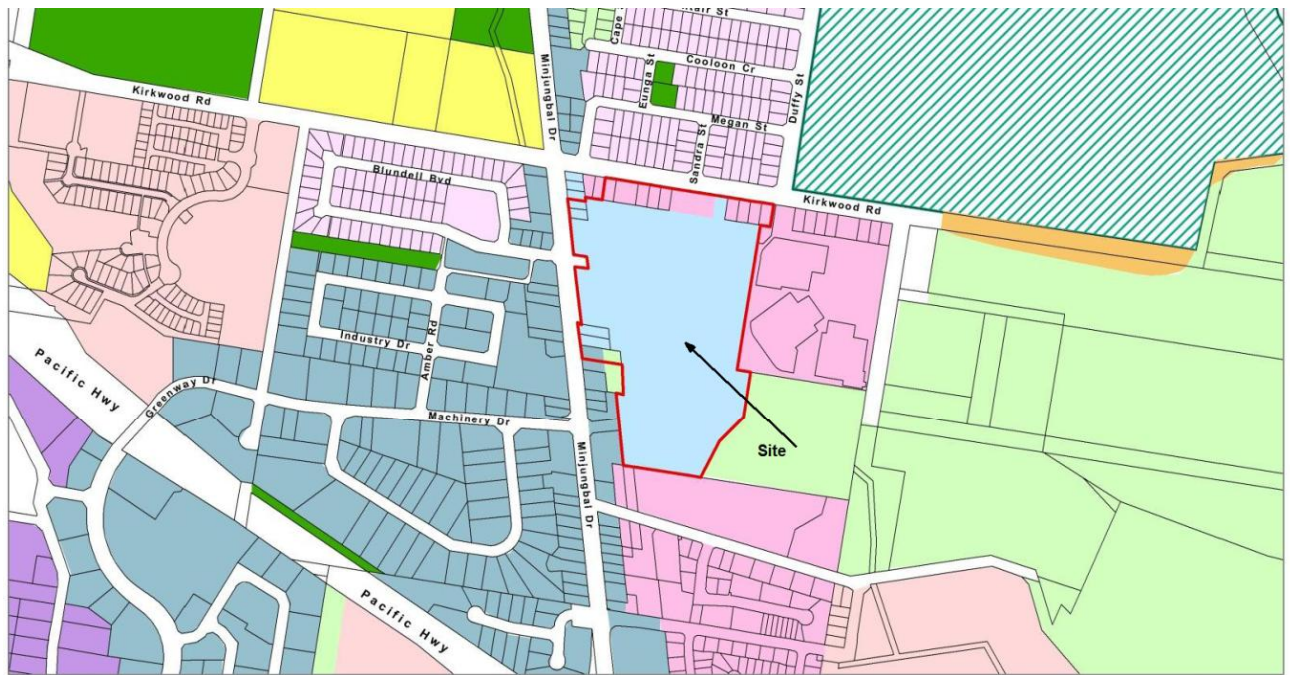
Whether the technical (largely traffic) and policy aspects of the proposal likewise support the proposal is unclear at this stage and will be investigated in detail prior to any public exhibition. The proposal is identified in the Planning Reform Unit’s work program as adopted in April 2011 as pending resource availability; this report seeks to change that status to fully resourced, utilising a professional service provider.

Given that the proposal provides a direct benefit through the provision of a diverse range of services and employment, which would increase with an expansion of the centre, and given that the proposal could demonstrate a strong community net benefit, which is used as one test for determining the level of priority that should be given to a particular project, it is concluded that the request should proceed into a planning proposal.

Planning Controls (Zoning)

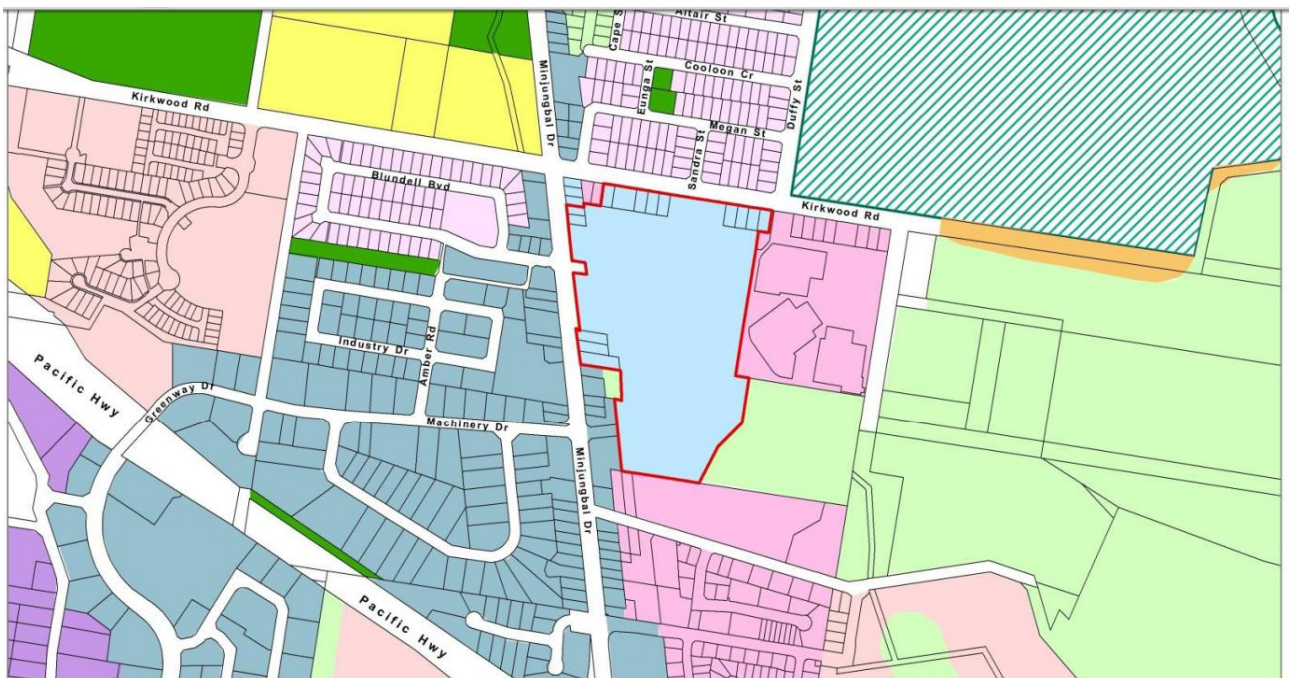
The site is currently zoned 3(b) General Business, 3(c) Commerce and Trade, 6(b) Private Recreation and 2(b) Medium Density Residential.

The request seeks a reclassification to enable the rezoning of all non 3(b) General Business zones to that zone.



- Existing Zoning**
- Subject Site Boundary
 - Cadastre
 - 2(a) - Low Density Residential
 - 2(b) - Medium Density Residential
 - 2(c) - Urban Expansion
 - 3(b) - General Business
 - 3(c) - Commercial & Trade
 - 4(a) - Industrial
 - 5(a) - Special Uses
 - 6(a) - Open Space
 - 6(b) - Recreation
 - 7(a) - Environmental Protection (Wetlands & Littoral Rainforests)
 - 7(i) - Environmental Protection (Habitat)
 - 8(a) - National Parks & Nature Reserves

EXISTING ZONING
TWEED HEADS



- Proposed Zoning**
- Subject Site Boundary
 - Cadastre
 - 2(a) - Low Density Residential
 - 2(b) - Medium Density Residential
 - 2(c) - Urban Expansion
 - 3(b) - General Business
 - 3(c) - Commercial & Trade
 - 4(a) - Industrial
 - 5(a) - Special Uses
 - 6(a) - Open Space
 - 6(b) - Recreation
 - 7(a) - Environmental Protection (Wetlands & Littoral Rainforests)
 - 7(i) - Environmental Protection (Habitat)
 - 8(a) - National Parks & Nature Reserves

PROPOSED ZONING
TWEED HEADS



Club Banora

Club Banora was constructed in the early 1980s and comprises an 18 hole golf course, licensed club with a GFA of approximately 7000m², bowling greens, tennis courts, heated Olympic pool and wading pool and approximately 700 onsite car parks. The Club occupies a site of approximately 60.1 hectares which is located in Leisure Drive at Banora Point.

Because of significant changes in the 'club' industry relating to poker machines, indoor smoking and increased taxation, the continued operation of Club Banora as a viable standalone entity in the Twin Towns Group (Twin Towns Services Club also owns Twin Towns Juniors at Tweed Heads South and Twin Towns Services Club at Tweed Heads) has come under considerable pressure and is no longer able to continue operating in the current format.

Twin Towns at Tweed Heads no longer has the ability to continue to subsidise the Club Banora operation and address the planned structural changes to the Wharf Street premises that are needed to maintain its relevance.

The proponent's request details that following a review of the Club's operations by KPMG that there has been confirmation of the Club's financial predicament, and to ensure there is longer-term future for the club, and the public benefit it provides, it has decided to proceed with a redevelopment of the Club Banora site.

A key element of the redevelopment is the inclusion of a retail and aged persons component to generate the necessary cash flows to fund the redevelopment. As an interim step in response to the findings the Club, over the 2009/2010 Christmas period, closed the top floor of the club to reduce losses and temporarily stabilise the business, consolidating all operations into the ground floor with an area of approximately 3500m², being half the previous facility size.

According to the proponent, market research has indicated that major retailers have identified Banora Point as an area for expansion and it is their belief this would be best managed and investigated with an expansion of an existing centre.

Given current economic circumstances and a current interest by retail and retirement operators to increase services in this locality, there is a strategic need to investigate the possibility of a redevelopment, through a planning proposal, to avoid the need to close the club down indefinitely, with the resulting loss of a broad range of public service amenities and employment.

The key elements of the redevelopment master plan can be summarised as follows:

1. A smaller Club building partly suspended over the existing lake;
2. Relocation of the tennis courts;
3. Relocation of the bowling greens;
4. A retail development adjacent to Leisure Drive (supermarket and specialty shops with a GFA of approximately 5000m²);
5. A retirement facility (GFA approximately 11000m²);
6. Reconfiguration of the existing car parking and access arrangements.

The total project has a capital investment value of approximately \$107,235,000. The retail component of the master plan is seen as critical by the proponent to the overall project and the continued operation of Club Banora as it will provide the initial funding for the redevelopment of the remainder of the site. This will need to be further evaluated as part of

the planning proposal however; initial assessment indicates this would be consistent with the Council's adopted retail strategy and the State government's open competition policy.

The land is currently zoned 6(b) Recreation and redevelopment of the Club facilities is permitted with development consent however, the retirement and retail component require a rezoning.

In accordance with Council's Fees and Charges, Twin Towns Services Club Limited has expressed their willingness to meet the agreed costs of Council engaging external consultants to expedite processing of a planning proposal, and their Solicitor is currently reviewing the Costs and Expenses Agreement.

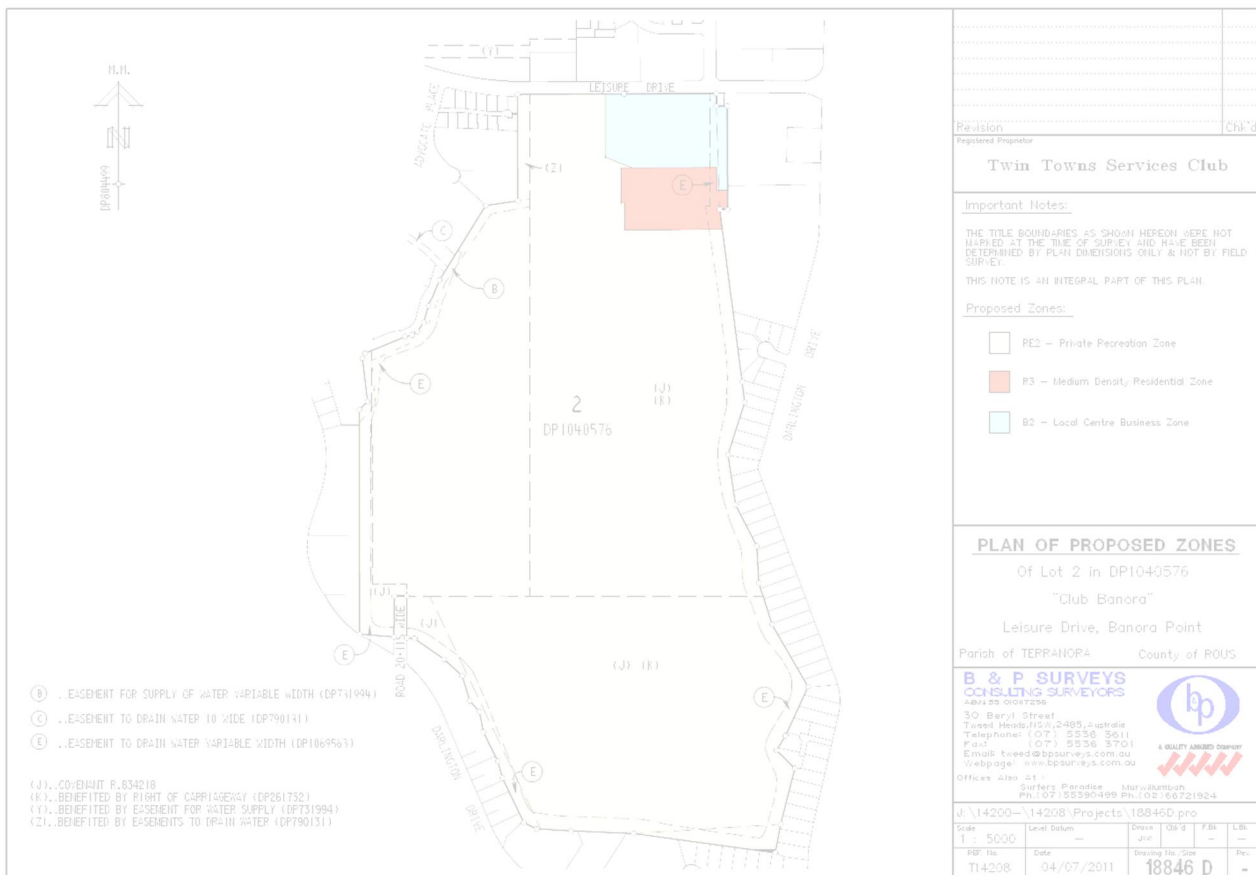
Overall, Club Banora currently employs 41 employees and the Club in total injects approximately \$9.35 million into the local community per annum by way of employment and supply of goods and services.

In addition, it is stated that redevelopment will achieve improved access arrangements to the Club and adjacent land by providing a four way, signalised intersection at Winders Place and Leisure Drive together with rationalisation and reduction of the existing access points onto Leisure Drive, including a reduction from the current three access points to two.

The revised access arrangements will also facilitate improved access to the existing shopping centre adjoining the site to the east and potentially allow for rationalisation of existing accesses to that site from Leisure Drive. Provision is also made in the master plan for widening of Leisure Drive for the frontage of the site as well as significant improvements to the built form and streetscape of the site.

Planning Controls (Zoning)

The site is currently zoned 6(b) Recreation and is proposed to be rezoned in part to include a residential and a commercial zoning. The precise zoning to be used will be determined as part of the planning proposal process.



CONCLUSION:

Council officers have been in the process of evaluating procurement processes and expressions of interest for the contracting out of town planning services. Expectations were that a small number of planning proposals could be contracted out on a supervised and managed basis, with the planning consultant filling a role as an 'extension officer' to the Planning Reform Unit.

In addition to meeting the costs and expenses of the planning component a proponent, through a legally enforceable Costs and Expenses Agreement, will be liable for the costs associated and incurred by any Division of Council in the preparation and assessment of the planning proposal. This has been designed and is being implemented on a forward funding arrangement, that is, the proponent makes a specified cash deposit and is required to maintain a minimum account balance, to ensure that the Council is neither paying the cost nor is left to pursue any outstanding debt.

This process may prove to be extremely beneficial but it is not without limitation. There is an associated resource implication which means that only a small number of the projects can be managed at any one time and consequently it should be reserved to the more strategically important projects.

In this instance, the two projects discussed above, for slightly different reasons, fall within the category of 'strategically important', on the one hand as there is a need to preserve the economic vitality of existing urban lands and, on the other the need to ensure that jobs and services keep pace with the Tweed's expanding community and its expectations.

For the reasons discussed above it is concluded that these two projects should be pursued as a matter of priority.

Should Council resolve to proceed with these projects, as it is recommended to do so, it should be noted that there will be a total of three projects utilising external resources and that this is likely to represent the current resourcing limit of the Planning Reform Unit for at least 6 months. This will however be re-evaluated as part of the review of the Unit's work program in 2012.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Undertaking the two planning proposals detailed in the report will be managed through a series of funding agreements and memorandum of understandings, which will ensure that there will be negligible financial impact on Council.

From a resourcing perspective it is likely that these additional projects will keep the Planning Reform Unit's resources at fully committed for a period of at least 6 months. There are no perceived legal implications arising.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

Attachment 3 – Copy of Council Resolution 17 April 2012

[Agenda Report](#)

TWEED SHIRE COUNCIL MEETING TASK SHEET

User Instructions

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

Action Item - **COUNCIL MEETING** Tuesday, 17 April 2012

Action is required for Item **10** as per the Council Resolution outlined below.

TITLE: [PR-CM] Planning Proposal PP11/0004
Draft Local Environmental Plan
Amendment No. 96 Tweed City Shopping
Centre

Cr D Holdom

Cr P Youngblutt

RESOLVED that Council endorses Lot 5 in DP 830973, No. 24A Kirkwood Road, Tweed Heads South, to be incorporated into the current planning proposal PP11/0004, Draft Tweed Local Environmental Plan 2000 Amendment No. 96, subject to the prior written landowners consent of that property being provided.

The Motion was **Carried**

FOR VOTE - Cr D Holdom, Cr W Polglase, Cr P Youngblutt, Cr K Skinner, Cr K Milne, Cr B Longland

AGAINST VOTE - Cr J van Lieshout

Attachment 4 – Copy of Council Report 17 April 2012

TITLE: [PR-CM] Planning Proposal PP11/0004
Draft Local Environmental Plan
Amendment No. 96 Tweed City Shopping
Centre

SUBMITTED BY: Planning Reforms

FILE REFERENCE: PP11/0004 Pt1



Civic Leadership

SUMMARY OF REPORT:

Council at its meeting of 13 December 2011 resolved to proceed with a planning proposal for Tweed City Shopping Centre, with the conditional requirement for a prior execution of a costs and expenses agreement which has since been satisfied.

A contract for services was also entered into with Council's consultant, Parsons Brinkerhoff Australia, to assist in preparing a planning proposal, which is well underway.

Since then the proponent has purchased an additional adjoining property and wishes to include it within the planning proposal.

This report concludes that incorporation of the new property acquisition will further assist in the zoning rationalisation of the local area and lead to a more coordinated re-development of the area.

RECOMMENDATION:

That Council endorse Lot 5 in DP 830973, No. 24A Kirkwood Road, Tweed Heads South, to be incorporated into the current planning proposal PP11/0004, Draft Tweed Local Environmental Plan 2000 Amendment No. 96, subject to the prior written landowners consent of that property being provided.

REPORT:

Council at its meeting of 13 December 2011 resolved to proceed with a planning proposal for Tweed City Shopping Centre. The conditional requirement for a prior execution of a costs and expenses agreement was satisfied with execution occurring on 12 December 2011.

A contract for services with Parsons Brinkerhoff Australia was entered into on 20 February 2012 for professional services to assist in the preparation of the planning proposal, which is now well underway.

The proponent subsequently advised on 19 March 2012 that they had acquired a further property (refer illustration below), also zoned 2(b) Medium Density Residential and requests a reclassification to enable the rezoning to 3(b) General Business zones consistent with and to enable the coordinated expansion of the shopping centre.

The 'new' property, being Lot 5 in DP 830793 is a battle-axe property with a frontage of about 4.3m to Kirkwood Road, located on the north-eastern corner of the shopping centre site. The property supports a single-dwelling house with access off an adjoining private driveway, which also services the adjoining medium-density residential developments.



Figure 1 – Aerial photograph showing Lot 5 in DP 830793

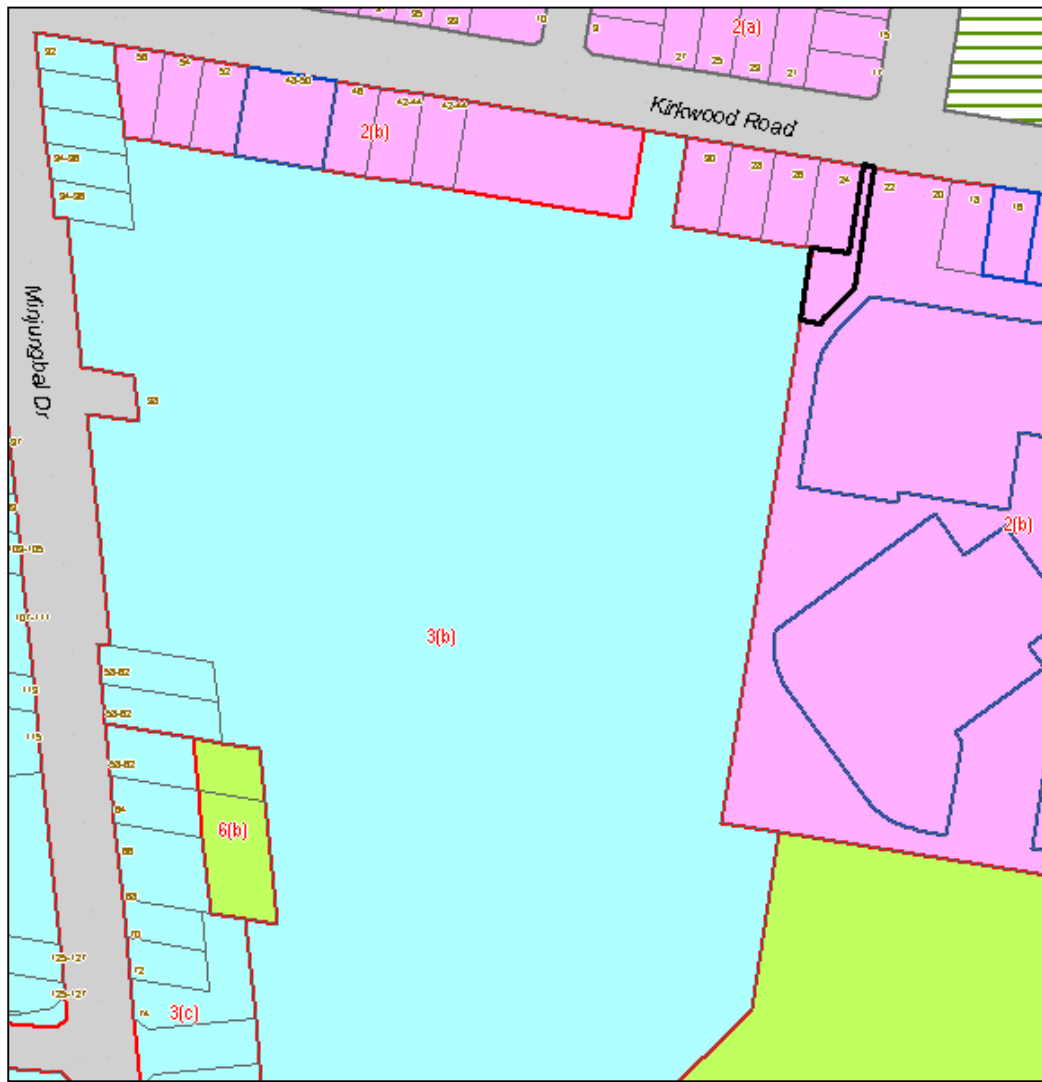
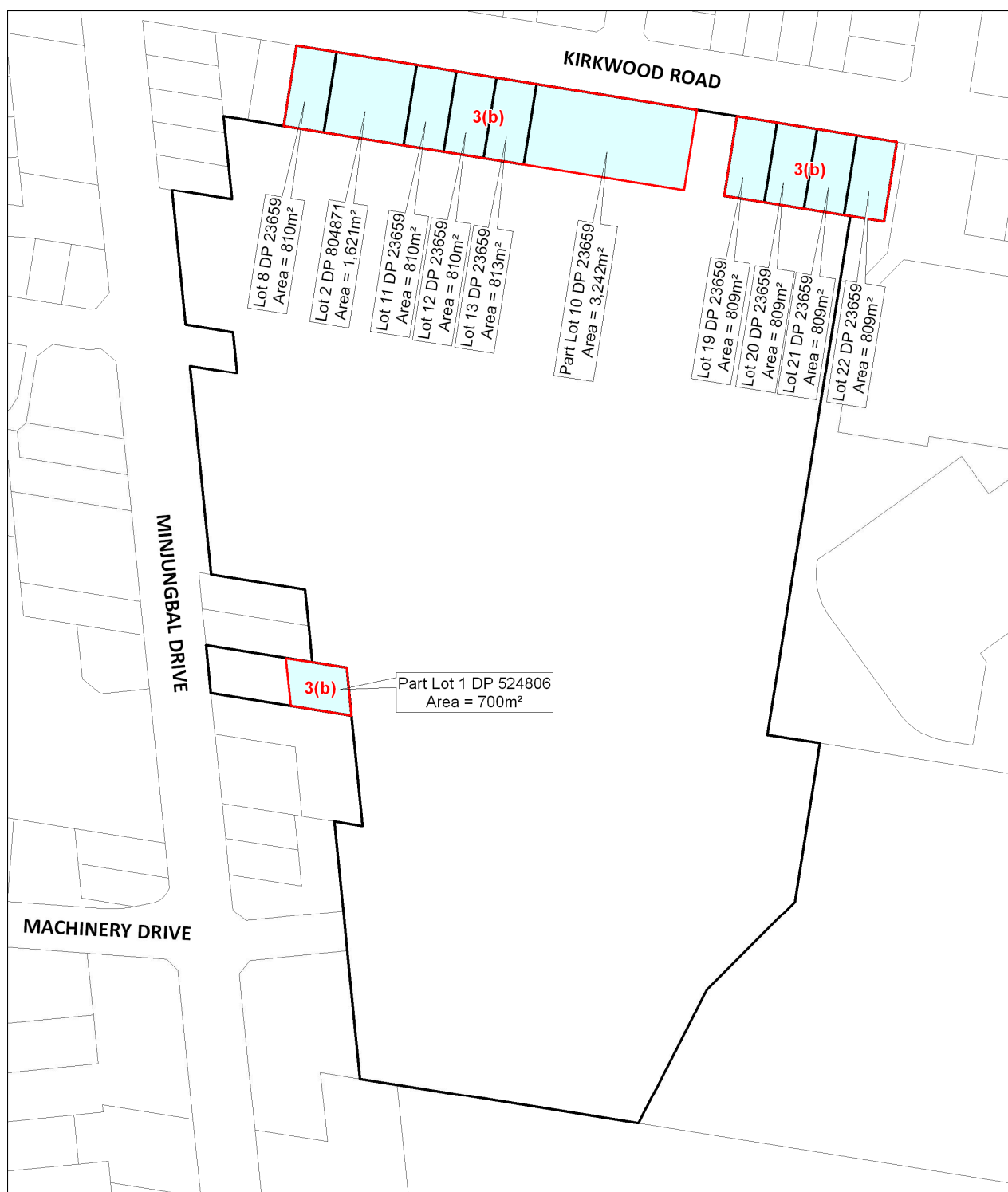


Figure 2 – location and zoning of Lot 5 in DP 830973.



Tweed Local Environmental Plan 2000 - PROPOSED AMENDMENT Figure 5

Planning Proposal PP11/0004 -- Stage 1 - Tweed City Shopping Centre

No.24-52 Kirkwood Road, Tweed Heads South (Lots 11-13 DP 23659, Lot 2 DP 804871, Lot 8 DP 23659, Lots 19-22 DP 23659)

No.38 Minjungbal Drive, Tweed Heads South (Lot 6 DP 1119624) and No.62 Minjungbal Drive, Tweed Heads South (Lot 1 DP 524806)



Affected Properties



3(b) General Business

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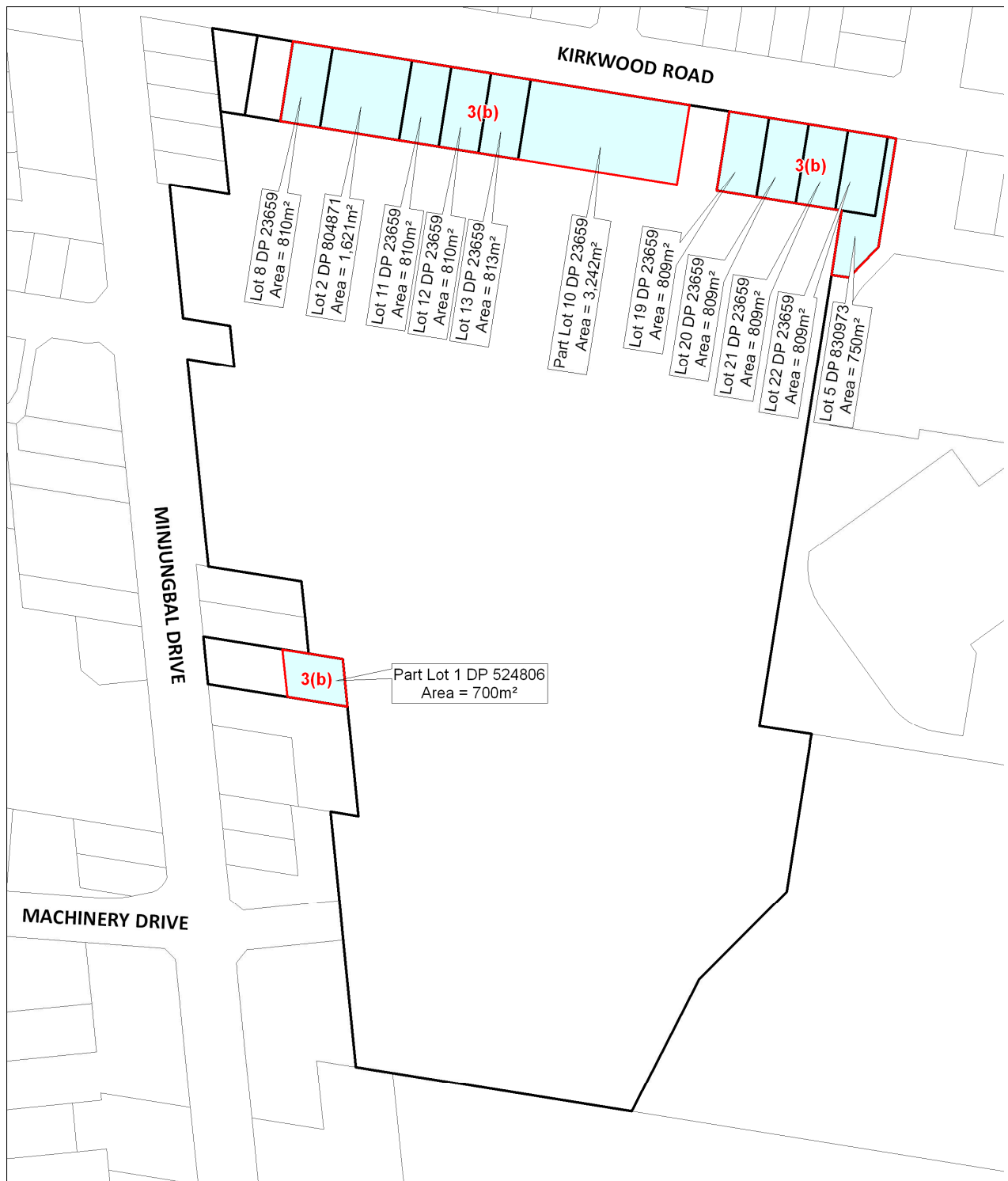
TWEED
SHIRE COUNCIL

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Author: JBatchelor - Planning Reforms Unit

Date Printed: 15 February, 2012

Figure 3 – Properties already in the planning proposal to be rezoned 3(b) General Business.



Tweed Local Environmental Plan 2000 - PROPOSED AMENDMENT Figure 5

Planning Proposal PP11/0004 -- Stage 1 - Tweed City Shopping Centre

No.24-52 Kirkwood Road, Tweed Heads South (Lots 11-13 DP 23659, Lot 2 DP 804871, Lot 8 DP 23659, Lots 19-22 DP 23659)

No.38 Minjungbal Drive, Tweed Heads South (Lot 6 DP 1119624) and No.62 Minjungbal Drive, Tweed Heads South (Lot 1 DP 524806)



Affected Properties



3(b) General Business

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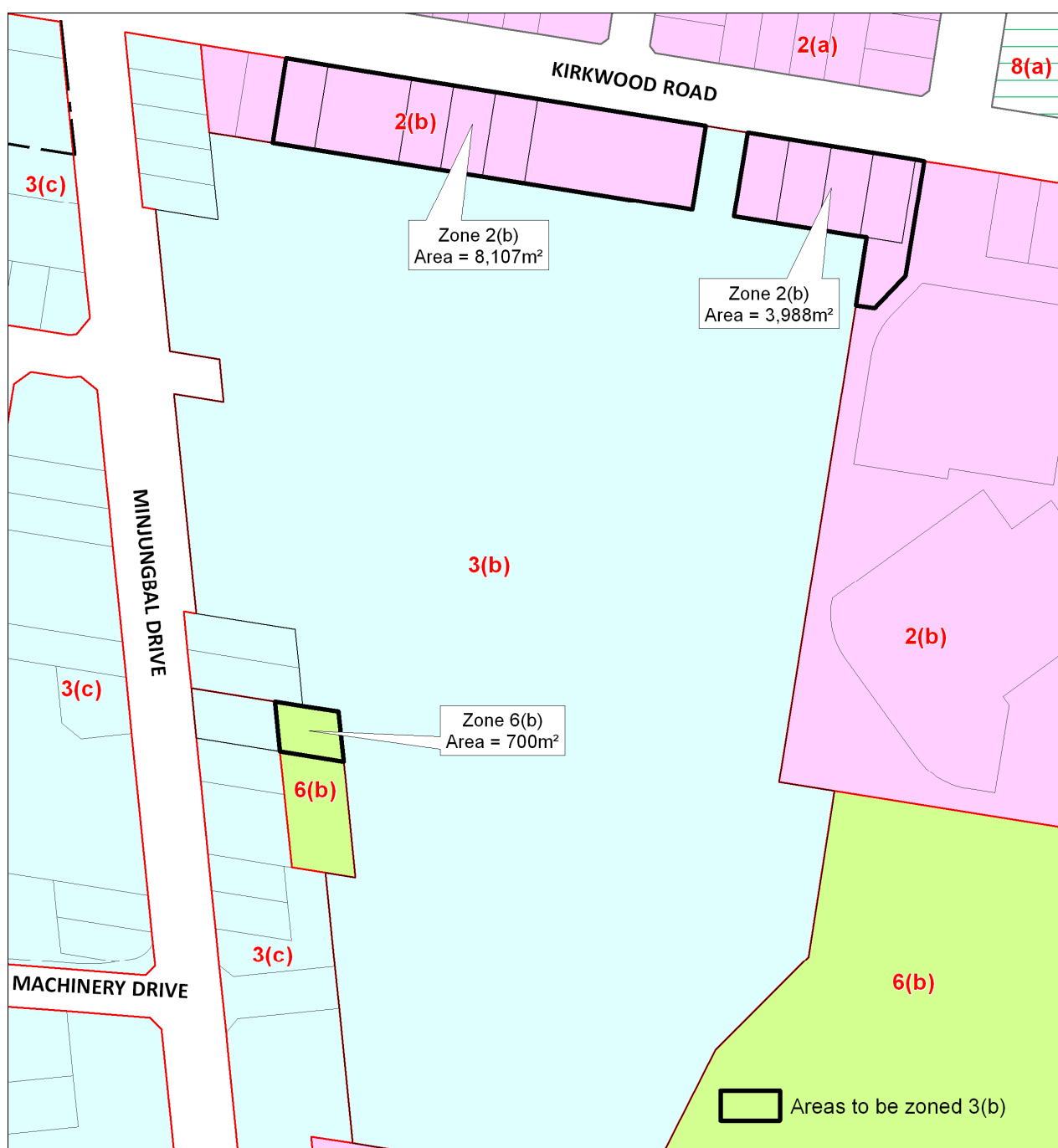


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Author: JBatchelor - Planning Reforms Unit

Date Printed: 03 April, 2012

Figure 4 – Amended plan showing all properties to be rezoned under the amended planning proposal.



Tweed Local Environmental Plan 2000

Figure 3

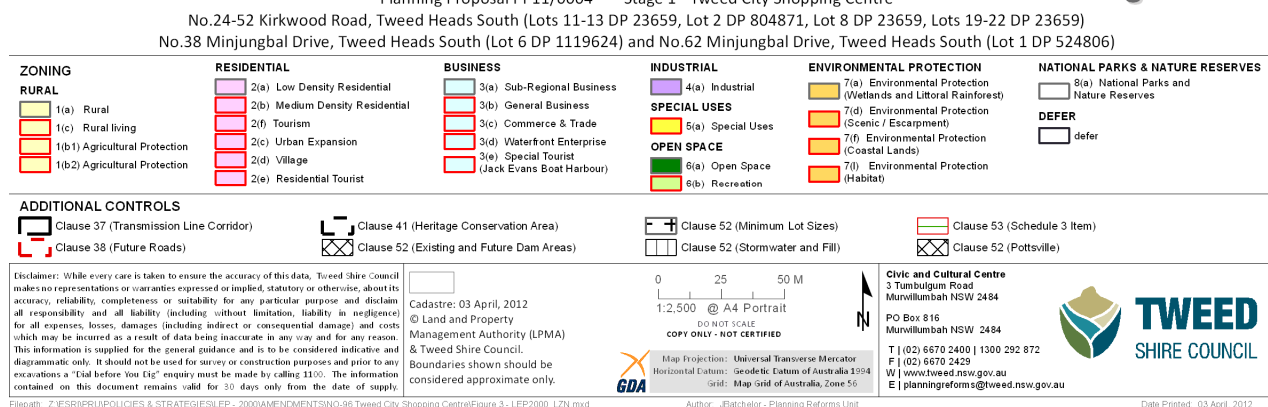


Figure 5 – Current LEP 2000 zoning map showing all properties in the planning proposal.

OPTIONS:

- A. Proceed with the planning proposal as it currently stands, not recommended.
- B. Include Lot 5 in DP 830973 in the planning proposal as it further rationalises the zoning in the area and will assist in with the redevelopment expansion of the shopping centre and is recommended.

CONCLUSION:

The incorporation of Lot 5 in DP 830973 further assists with the rationalisation of urban zonings in this area and provides a logical planning outcome.

Redevelopment and expansion of the existing shopping centre will increase access to a broader range of services, employment opportunities, and will further reinforce the area as the Tweed's principal commercial retail precinct.

In the long-term the expansion of the centre will likely lead to a reduction in car travel as Tweed residents will be able to more readily service their retail needs from within the Shire, avoiding the need to travel further afield to places like Robina Town Centre, Pacifica Fair and the like. This is considered to be a sound sustainable, social and environmental outcome.

COUNCIL IMPLICATIONS:**a.****Policy:**

Corporate Policy Not Applicable

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

Not Applicable

c. Legal:

Not Applicable.

d.**Communication/Engagement:**

Not Applicable.

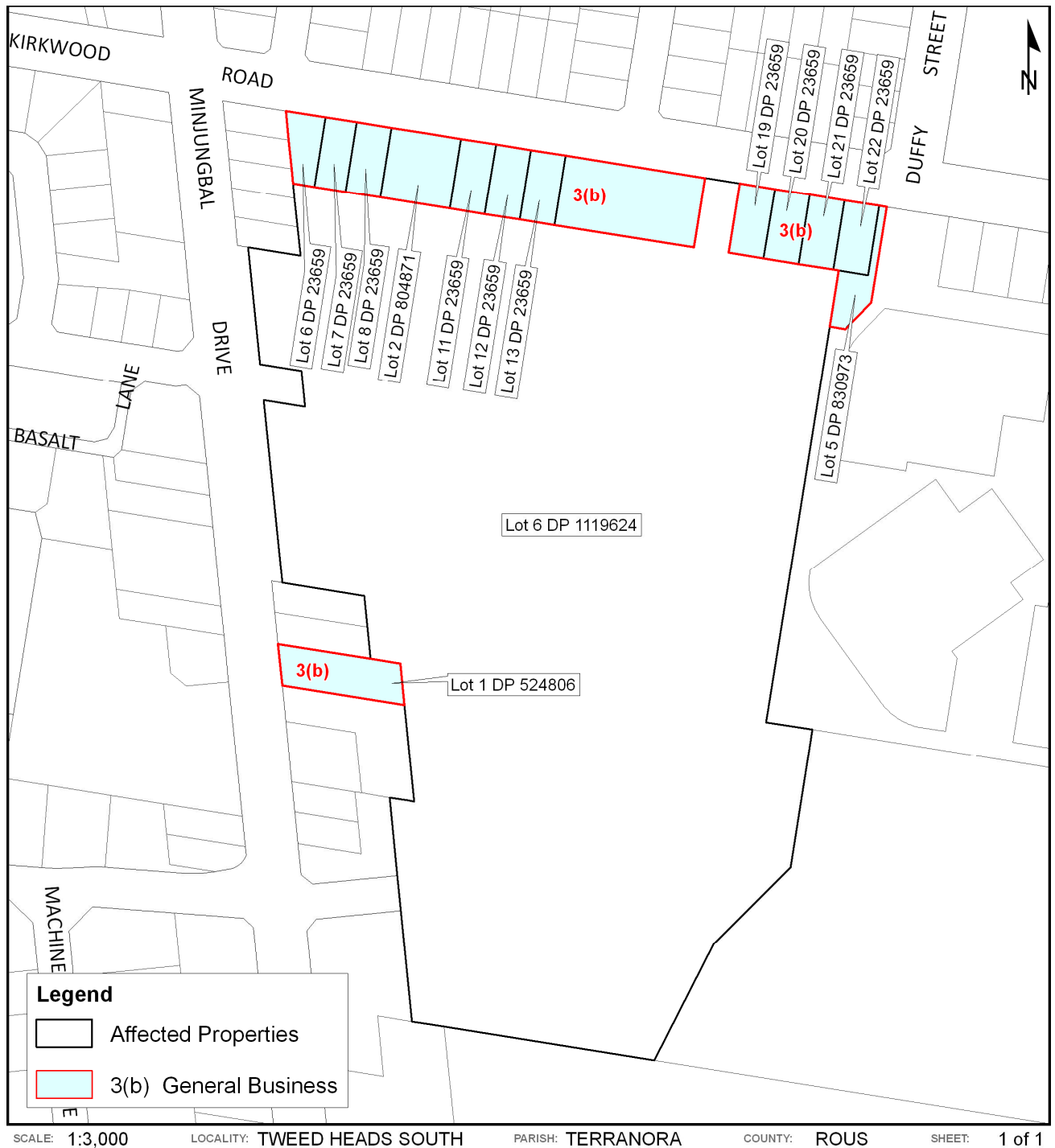
LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.5 Manage and plan for a balance between population growth, urban development and environmental protection and the retention of economical viable agriculture land
- 1.5.3 The Tweed Local Environmental Plan will be reviewed and updated as required to ensure it provides an effective statutory framework to meet the needs of the Tweed community
- 1.5.3.1 Effective updating of Tweed LEP

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil

Attachment 5 – Proposed amendment to the LEP 2000



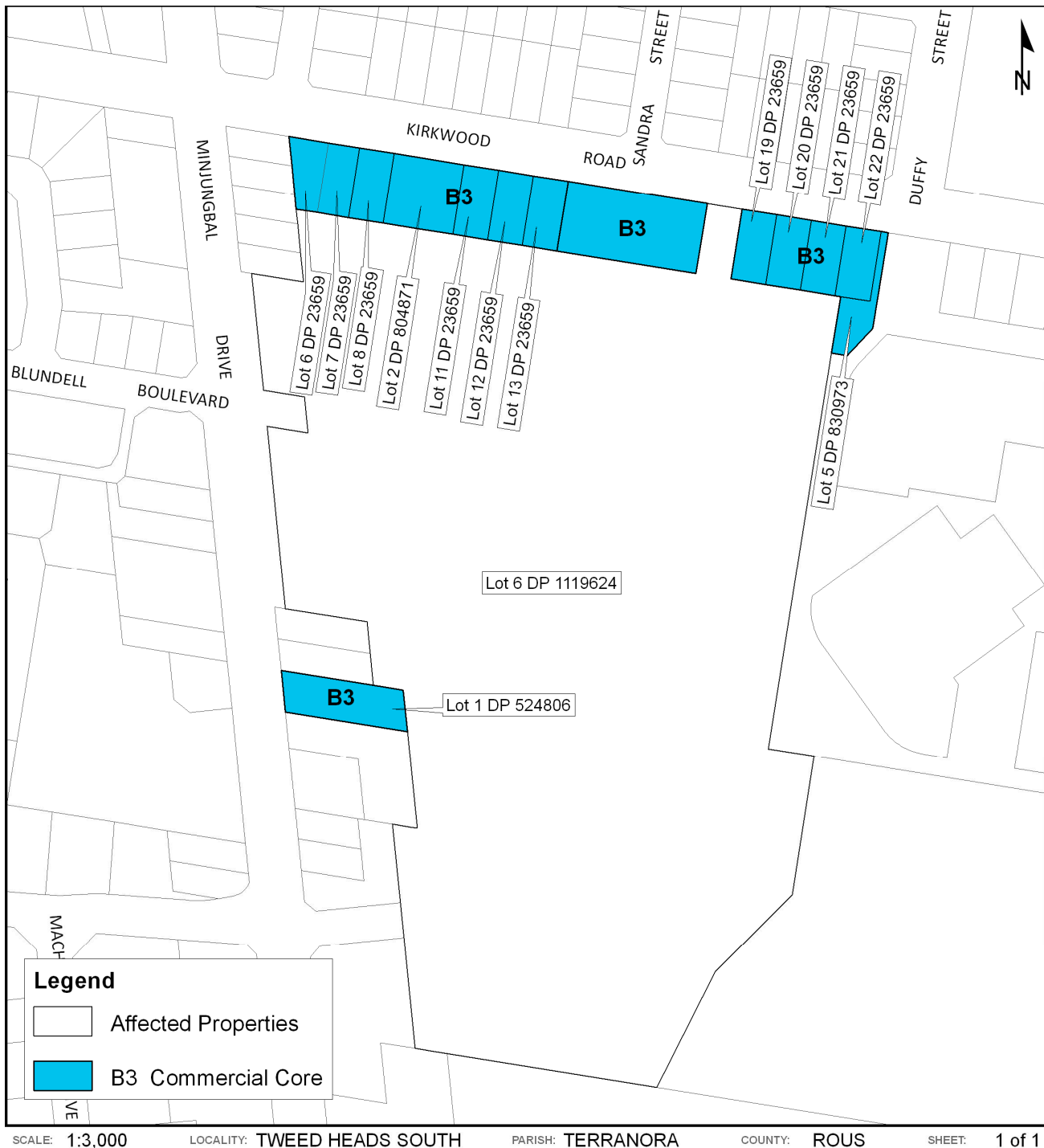
ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

TWEED

LOCAL ENVIRONMENTAL PLAN 2000 (AMENDMENT No 96)

DRAWN BY: J.Batchelor	DATE: 02/10/2012	STATEMENT OF RELATIONSHIP WITH OTHER PLANS AMENDS: TWEED LOCAL ENVIRONMENTAL PLAN 2000
SUPERVISING DRAFTER:		
PLANNING OFFICER: I. LONSDALE		
COUNCIL FILE No: PP11/0004		
DEPT. FILE No:		CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 & REGULATIONS
PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON:		
		GENERAL MANAGER
		DATE

Attachment 6 – Proposed translation to the Standard LEP Template



ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

TWEED

DRAFT LOCAL ENVIRONMENTAL PLAN 2000 AMENDMENT No.96 IN ACCORDANCE WITH STANDARD INSTRUMENT ORDER 2006

DRAWN BY: J.Batchelor DATE: 02/10/2012

SUPERVISING DRAFTER:

PLANNING OFFICER: I. LONSDALE

COUNCIL FILE No: PP11/0004

DEPT. FILE No:

GOVT. GAZETTE OF:

STATEMENT OF RELATIONSHIP WITH OTHER PLANS

AMENDS: DRAFT TWEED LOCAL ENVIRONMENTAL PLAN 2010

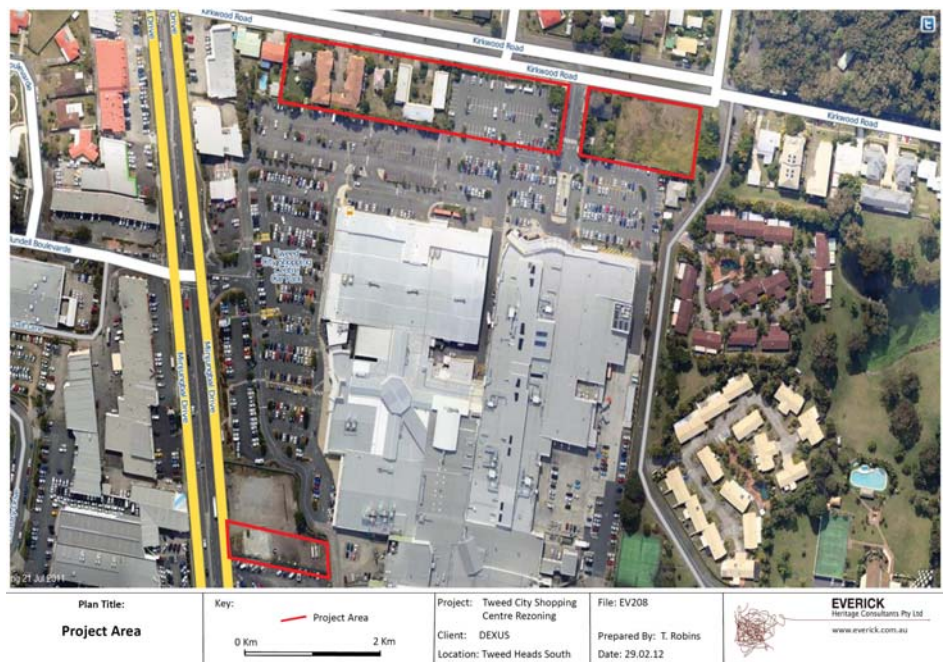
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DATE

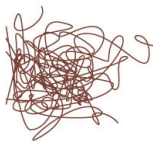
Attachment 7 – Cultural Heritage Due Diligence Assessment

CULTURAL HERITAGE DUE DILIGENCE ASSESSMENT



TWEED CITY SHOPPING CENTRE REZONING APPLICATION

TWEED HEADS SOUTH, NSW



Report Reference:

Piper, A., Robins, T. Ingram, C and A. Dighton 2012 *Tweed City Shopping Centre, NSW: Cultural Heritage Due Diligence Assessment (March 2012)*. Everick Heritage Consultants Pty Ltd unpublished report prepared for DEXUS Property Group.

Acknowledgements:

Everick would like to acknowledge the following people for their assistance in the production of this report:

Des Williams (TBLALC)

Tweed Shire Council Aboriginal Advisory Committee

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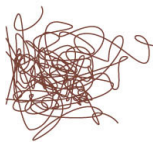
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Document Status:

Rev No.	Version	Author(s)	Amended Sections	Date	Authorised
1	Final	A. Piper, T. Robins, C. Ingram and A. Dighton,	All	20.04.12	T. Robins

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EXECUTIVE SUMMARY

The following is a report detailing the cultural heritage assessment of Aboriginal and non-Indigenous (historic) cultural heritage for the proposed re-zoning of lands adjacent to the Tweed City Shopping Centre, Tweed South, N.S.W. The land subject to assessment is identified in Figure 2.

The assessment was undertaken on behalf of DEXUS Property Group. The purpose of this assessment is to apply the first stages of the New South Wales Office of Environment and Heritage ('OEH') Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (2010). This assessment also provides preliminary advice on potential impacts to significant historic heritage places.

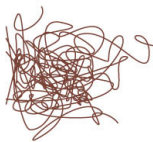
The methods used for this assessment involved:

- (a) a search of relevant historic and Aboriginal heritage registers;
- (b) a review of historic aerial photography and resources relating to past land uses of the Project Area;
- (c) a brief review of past archaeological studies of the Project Area and surrounds;
- (d) an assessment in accordance with the Due Diligence Code; and
- (e) consultation with the Tweed Shire Councils Aboriginal Advisory Committee ('AAC') and the Tweed Byron Local Aboriginal Land Council ('Tweed LALC').

As part of a desktop study, Everick undertook searches of the relevant Aboriginal and historic heritage registers. A search of applicable historic heritage registers did not identify any items of cultural heritage significance within close proximity to the proposed Project Area. A search was conducted on 10 January 2012 of the OEH Aboriginal Heritage Information Management System ('AHIMS'), which identified 40 recorded sites for the broader search area. Five Indigenous archaeological sites are registered within 1.25 km of the Project Area (Appendix C), with one site (AHIMS # 04-2-0009) being located 175m from the north eastern extent of the Project Area. None were recorded within the Project Area itself. There are no Indigenous places within the Project Area listed in other heritage registers.

The Project Area is within the area administered for Aboriginal cultural heritage purposes by the Tweed Byron LALC. A survey for historic and Aboriginal cultural heritage was carried out by Everick Senior Archaeologist Adrian Piper and Mr. Des Williams Chairman/ Sites Officer for the Tweed Byron LALC, on 16 March 2012.

The Tweed LALC were asked to provide written feedback on the contents and recommendations in this report. Their response to this assessment is included as Appendix A.



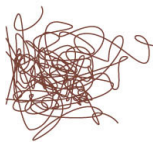
Results

- No Aboriginal Objects or Places were identified within the Project Area.
- The members of the AAC made no objections to the proposed rezoning. However, monitoring of initial earthworks was raised as a strategy for managing potential impacts to physical Aboriginal heritage. This proposal is supported by the archaeological analysis and recommendations in this report.
- Consultation with the Tweed LALC and the AAC identified no places of particular intangible (spiritual) significance within the Project Area. However, the Project Area is situated within an immediate cultural landscape that is of high significance to the Aboriginal people of the Tweed. This significance derives from a range of spiritual, ceremonial and occupation sites in relatively close proximity to the Project Area. Consultation with the AAC and the Tweed Byron LALC indicates that the Project would appear unlikely to have a substantial detrimental impact on the significance of surrounding landscape, including nearby Bora ground, owing to the already high levels of development over the Project Area.
- Having regard to the high cultural significance of the surrounding landscape, any subsurface Aboriginal Objects within the Project Area are also likely to be of high significance. Portions of the Project Area may warrant monitoring during initial earthworks by the Proponent.
- Almost all of the Project Area has been heavily impacted by past development activities and is unlikely to contain *in situ* (archaeologically / scientifically significant) Aboriginal Objects. The exceptions may be properties 24-30, 46 and 52 Kirkwood Road, which have not seen significant amounts of fill or development impacts.

Recommendations:

The potential for Aboriginal cultural heritage to be located within portions of the Project Area, particularly the specified Kirkwood Road East properties, cannot be ruled out. If these locations contain original sand strata then there is a potential that both disturbed and '*in situ*' cultural materials will remain.

The Aboriginal community and the Tweed LALC are opposed to development proposals that do not take prior measures allowing them to identify whether their heritage is being impacted, and if so, participate in formulating appropriate, informed management strategies. Recommendations 1 - 6 have been drafted in consultation with the AAC and the Tweed Byron LALC, and are seen as an appropriate impact mitigation strategy having regard to the present planning process.



Recommendation 1: Ongoing Consultation over Monitoring of Earthworks

It is recommended that the Proponent undertake further consultation with the AAC and the Tweed Byron LALC prior to the submission of any Development Application(s) for the Project Area. The consultation should be aimed at reaching agreement over appropriate monitoring and/or post clearing survey strategies for the Project, focusing on properties 24-30, 46 and 52 Kirkwood Road East.

Recommendation 2: Aboriginal Human Remains

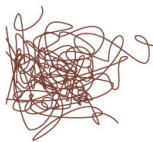
It is recommended that if human remains are located at any stage during earthworks within the Project Area, all works must halt in the immediate area to prevent any further impacts to the remains. The Site should be cordoned off and the remains themselves should be left untouched. The nearest police station, the Tweed Local Aboriginal Land Council and the OEH Regional Office, Coffs Harbour are to be notified as soon as possible. If the remains are found to be of Aboriginal origin and the police do not wish to investigate the Site for criminal activities, the Aboriginal community and the OEH should be consulted as to how the remains should be dealt with. Work may only resume after agreement is reached between all notified parties, provided it is in accordance with all parties' statutory obligations.

It is also recommended that in all dealings with Aboriginal human remains, the Proponent should use respectful language, bearing in mind that they are the remains of Aboriginal people rather than scientific specimens.

Recommendation 3: Aboriginal Objects Find Procedure

It is recommended that if it is suspected that Aboriginal material has been uncovered as a result of development activities within the Project Area:

- (a) work in the surrounding area is to stop immediately;
- (b) a temporary fence is to be erected around the site, with a buffer zone of at least 10 metres around the known edge of the site;
- (c) an appropriately qualified archaeological consultant is to be engaged to identify the material; and
- (d) if the material is found to be of Aboriginal origin, the Aboriginal community is to be consulted in a manner as outlined in the OEH guidelines: *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010).



Recommendation 4: Notifying the OEH

It is recommended that if Aboriginal cultural materials are uncovered as a result of development activities within the Project Area, they are to be registered as Sites in the Aboriginal Heritage Information Management System (AHIMS) managed by the OEH. Any management outcomes for the site will be included in the information provided to the AHIMS.

Recommendation 5: Conservation Principles

It is recommended that all effort must be taken to avoid any impacts on Aboriginal Cultural Heritage values at all stages during the development works. If impacts are unavoidable, mitigation measures should be negotiated between the Proponent, OEH and the Aboriginal community.

Recommendation 6: Cultural Heritage Inductions

It is recommended that Staff and Contractors involved in the initial stripping of topsoil on the site should undergo a cultural heritage induction prior to commencing works. The induction should include:

- (a) an introduction to Aboriginal culture and tradition, including why evidence of Aboriginal occupation is important to Aboriginal people;
- (b) a summary of the requirements under New South Wales cultural heritage legislation
- (c) a brief introduction on how to identify Aboriginal Objects; and
- (d) a review of procedures in the event that Aboriginal cultural heritage is identified during the course of undertaking the project.

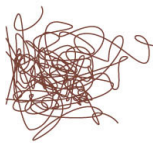


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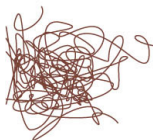
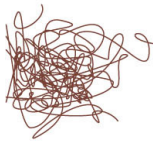


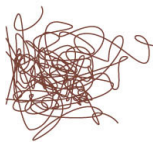
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DEFINITIONS

The following definitions apply to the terms used in this report:

Aboriginal Object means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

Aboriginal Place means any place declared to be an Aboriginal place (under s.84 of the NPW Act) by the Minister administering the NPW Act, by order published in the NSW Government Gazette, because the Minister is of the opinion that the place is or was of special significance with respect to Aboriginal culture. It may or may not contain Aboriginal Objects.

ACHCR Guidelines means the OEH *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010).

Archaeological Code of Practice means the OEH *Code of Practice for Archaeological Conduct in New South Wales* (2010).

Due Diligence Code means the OEH *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (2010).

EP&A Act means the *Environmental Planning and Assessment Act 1979* (NSW).

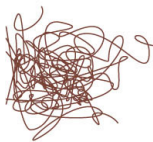
NCREP 1988 means the *North Coast Regional Environmental Plan 1988*.

NPW Act means the *National Parks and Wildlife Act 1974* (NSW).

NPW Regulations means the *National Parks and Wildlife Regulations 2009* (NSW).

OEH means the New South Wales Office of Environment and Heritage.

Project Area means the land subject to this assessment identified in Section 1.3 as being Lot 24 DP23659; Lot 22 DP23659; Lot 21 DP23659; Lot 20 DP23659; Lot 19 DP23659; Lot 6 DP1119624; Lot 12



DP23659; Lot 13 DP23659; Lot 11 DP23659; SP38016; SP40743; Lot 8 DP23659; Lots 1 & 2 DP524806; Lot 2 DP781518; Lot 1 DP781517 and Lot 5 DP830973.

Proposed Works means all activities associated with construction and landscaping within the Project Area (Figures 2), including activities undertaken by subsequent landholders.

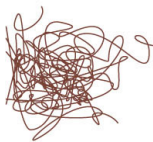
Proponent means DEXUS Property Group and all employees and contractors of the Proponent.

Study Area means the Tweed City Shopping Centre and its precincts.

The Project means the proposed re-zoning of the lands adjacent to the Tweed City Shopping Centre, Tweed South, NSW, as identified in Figure 2.

The Consultant means qualified archaeological staff and/or contractors of Everick Heritage Consultants Pty Ltd.

Tweed LALC means the Tweed Byron Local Aboriginal Land Council.



1. INTRODUCTION

1.1 Purpose of the Archaeological Investigation

The following report is a Due Diligence Assessment of Indigenous and non-Indigenous (historic) cultural heritage relating to the proposed re-zoning of lands adjacent to the Tweed City Shopping Centre, Tweed South, NSW (the Project). The intent of the investigation was to identify any archaeological or cultural heritage constraints to the proposed development.

1.2 Proponent & Project Brief

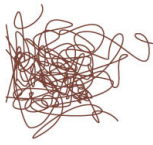
Everick Heritage Consultants (The Consultant) was commissioned by DEXUS Property Group (The Proponent) to undertake this assessment.

The brief for this project was to undertake a heritage assessment of suitable standard to be submitted as a stand alone report in support of a Development Application to the Tweed Shire Council. In accordance with the relevant administrative and legislative standards for New South Wales (see Section 2 below), the methods employed in this assessment included:

- (a) consultation with the Tweed LALC;
- (b) searches of applicable heritage registers;
- (c) a review of historic aerial photography;
- (d) archaeological survey of the Project Area;
- (e) assessment of the Project impacts in accordance with the Due Diligence Code; and
- (f) report on findings and recommended management strategies.

1.3 Defining the Project Area

The land subject to assessment is situated at Minjunbal Drive, Tweed Head South NSW, and is identified as:



Lot 24 DP23659; Lot 22 DP23659; Lot 21 DP23659; Lot 20 DP23659; Lot 19 DP23659; Lot 6 DP1119624; Lot 12 DP23659; Lot 13 DP23659; Lot 11 DP23659; SP38016; SP40743; Lot 8 DP23659; Lots 1 & 2 DP524806; Lot 2 DP781518; Lot 1 DP781517 and Lot 5 DP830973.

The Project Area is bounded by Minjungbal Drive to the west and Kirkwood Road East to the north, and is situated to the north of Soorley Street. The Coolangatta and Tweed Heads Golf Club and the Oasis gated community are situated to the east of the Project Area. The land is zoned 2(b) Medium Density Residential under Tweed LEP 2000 and R1 General Residential in the Draft Tweed LEP 2010. The Project Area is approximately 2.1 ha.

1.4 Report Authorship

The site survey was undertaken by qualified archaeologist Adrian Piper, assisted by Mr. Des Williams, Chairman/Sites Officer of the Tweed Byron Local Aboriginal Land Council (Tweed LALC). The desktop study was undertaken by Adrian Piper, Tim Robins and Anne Dighton. This report was written by Adrian Piper, assisted by Tim Robins, Caroline Ingram and Anne Dighton.

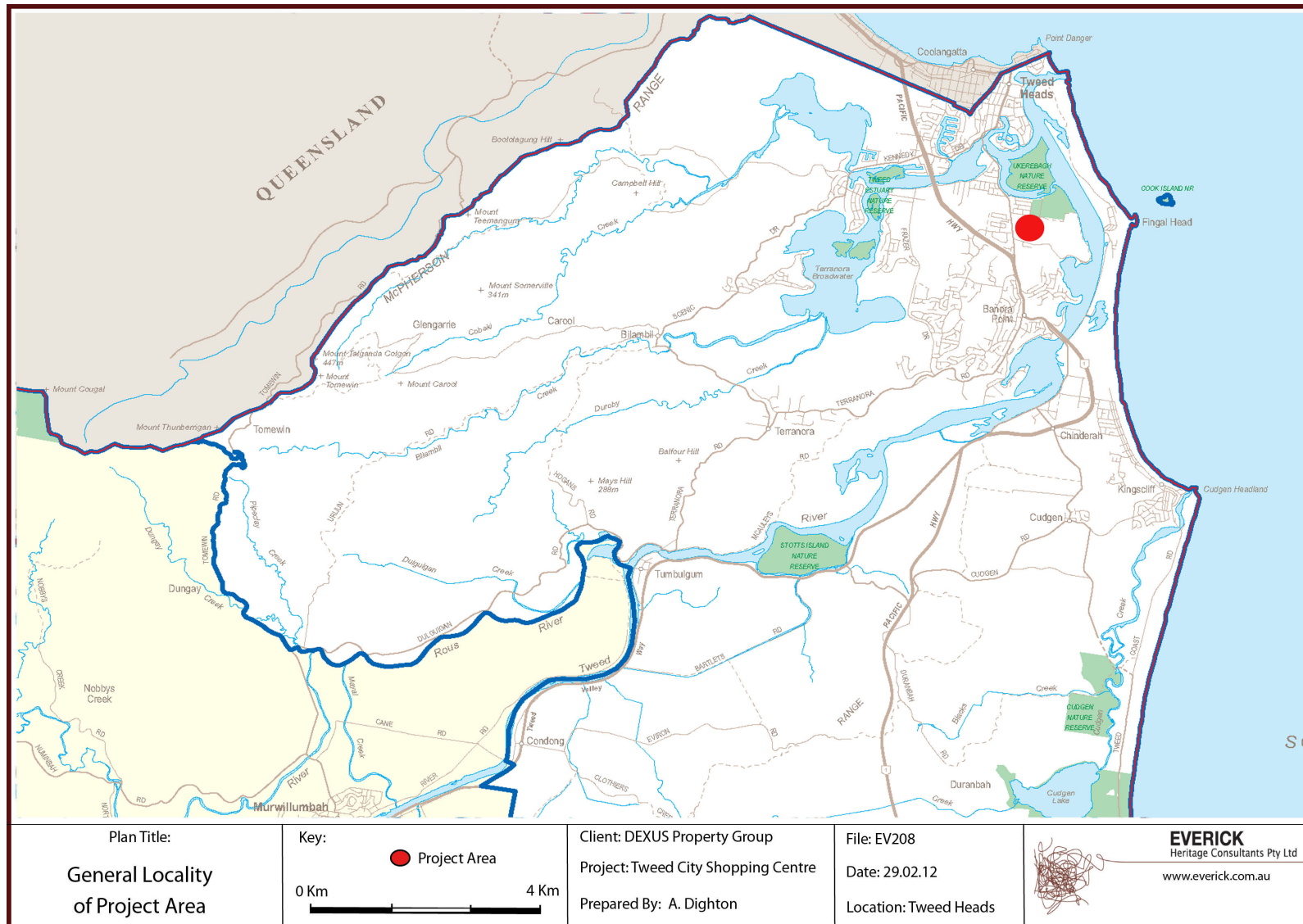


Figure 1: Project Area General Locality

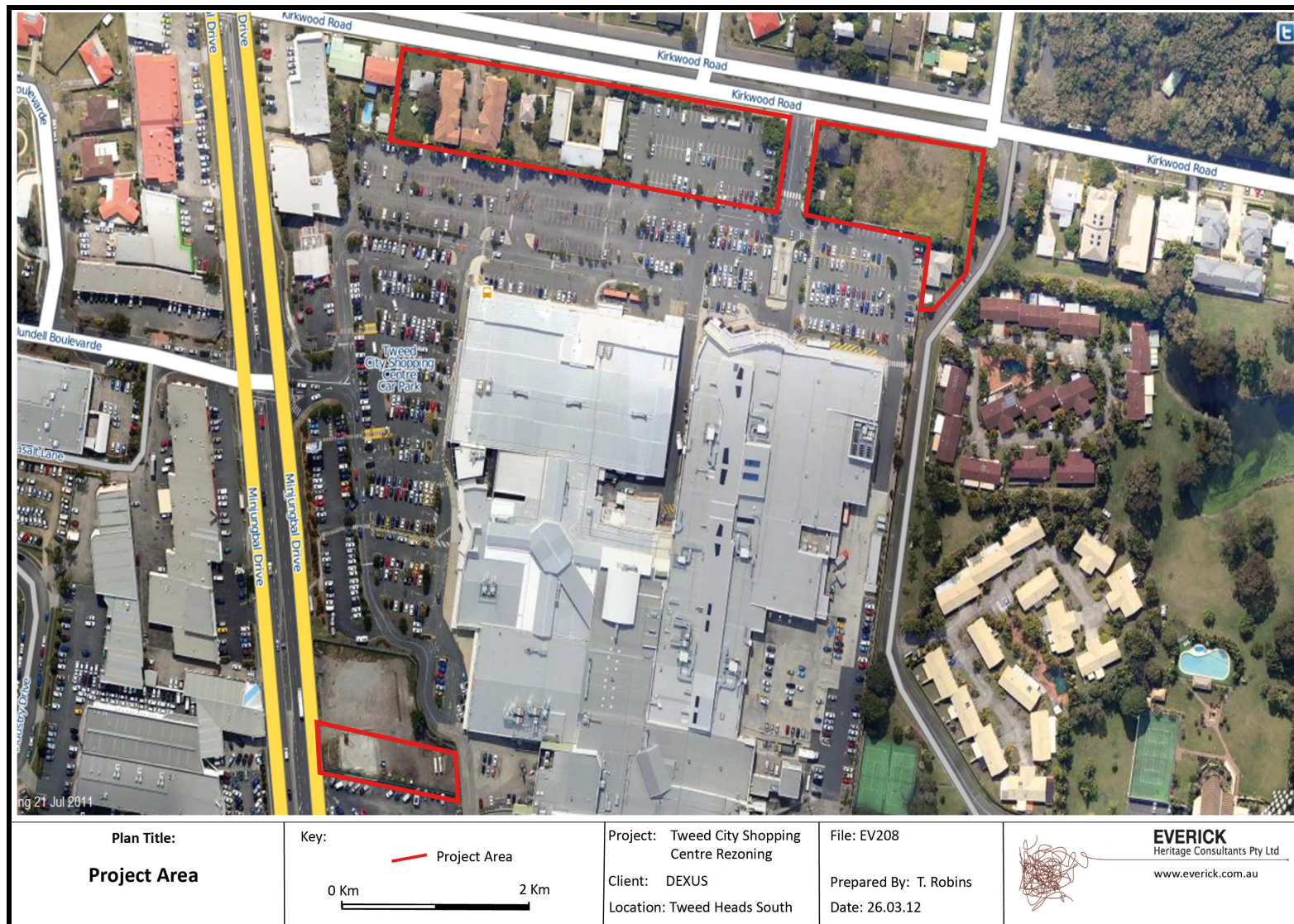
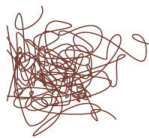


Figure 2: Aerial view of the Project Area



2. LEGISLATIVE AND PLANNING CONTEXT

The following legislation provides the context for cultural heritage in NSW: the *National Parks and Wildlife Act 1974* (NSW), the *Environmental Planning and Assessment Act 1979* (NSW) and the *Heritage Act 1977* (NSW) and local council Environmental Plans and Development Control Plans. The Commonwealth also has a role in the protection of nationally significant cultural heritage through the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth), *The Protection of Movable Cultural Heritage Act 1986* (Cth) and the *Historic Shipwrecks Act 1976* (Cth).

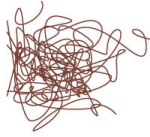
For the purposes of this assessment it is the State and local legislation that are relevant. The consent authorities will be the Tweed Shire Council and, where a referral agency is required, the OEH. Approval from the OEH will also be required should the Project impact on identified Aboriginal Objects. The information below lists the legislative and policy framework within which this assessment is set.

As of 1 October 2010, a range of legislative amendments came into operation in New South Wales affecting Aboriginal heritage. The methods used in this assessment have been informed by these legislative amendments, which are discussed in further detail below.

2.1 The *National Parks and Wildlife Act 1974* (NSW) and the *National Parks and Wildlife Regulations 2009* (NSW)

The *National Parks and Wildlife Act 1974* (NSW) (NPW Act) is the primary legislation concerning the identification and protection of Aboriginal cultural heritage. It provides for the management of both Aboriginal Objects and Aboriginal Places. Under the NPW Act, an Aboriginal Object is any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area, regardless of whether the evidence of habitation occurred before or after non-Aboriginal settlement of the land. This means that every Aboriginal Object – regardless of its size or seeming isolation from other Objects – is protected under the Act.

An Aboriginal Place is an area of particular significance to Aboriginal people which has been *declared* an Aboriginal Place by the Minister. The drafting of this legislation reflects the traditional focus on Objects, rather than on areas of significance such as story places and ceremonial grounds. However, a gradual shift in cultural heritage management practices is occurring towards recognising the value of identifying the significance of areas to

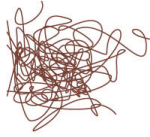


Indigenous peoples beyond their physical attributes. With the introduction of the *National Parks and Wildlife Amendment Act 2010* (NSW) the former offence provisions under Section 86 of ‘disturbing’, ‘moving’, ‘removing’ or ‘taking possession’ of Aboriginal Objects or Places have been replaced by the new offence of ‘harming or desecrating’. The definition of ‘harm’ is ‘destroying, defacing or damaging an Object’. Importantly in the context of the management recommendations in this assessment, harm to an Object that is ‘trivial or negligible’ will not constitute an offence.

The new amendments also significantly strengthen the penalty provisions. The issue of intent to harm Aboriginal cultural heritage has been formally addressed by separating it from inadvertent harm. The penalty for individuals who inadvertently harm Aboriginal Objects has been set at up to \$55,000, while for corporations it is \$220,000. Also introduced is the concept of ‘*circumstances of aggravation*’ which allows for harsher penalties (up to \$110,000) for individuals who inadvertently harm Aboriginal heritage in the course of undertaking a commercial activity or have a record for committing similar offences. For those who knowingly harm Aboriginal cultural heritage, the penalty will rise substantially. The maximum penalty will be set at \$275,000 or one year imprisonment for individuals, while for corporations it will rise to \$1,100,000.

Where a land user has or is likely to undertake activities that will harm Aboriginal Objects, the Director General (OEH) has a range of enforcement powers, including stop work orders, interim protection orders and remediation orders. The amended regulations also allow for a number of penalties in support of these provisions. The NPWA also now includes a range of defence provisions for unintentionally harming Aboriginal Objects:

- (a) Undertaking activities that are prescribed as ‘*Low Impact*’.
- (b) Acting in accordance with the new *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (2010) (‘Due Diligence Code’);
- (c) Using a consulting archaeologist who correctly applies the OEH *Code of Practice for Archaeological Conduct in New South Wales* (2010) (‘Archaeological Code of Practice’) (see Appendix B); and
- (d) Acting in accordance with an Aboriginal Heritage Impact Permit (AHIP).



2.1.1 'Low Impact Activities'

The new regulations allow for a range of low impact activities to be undertaken without the need to consult the OEH or a consulting archaeologist. Generally, those who undertake activities of this nature will not be committing an offence, even if they inadvertently harm Aboriginal Objects. These activities include:

- (a) Maintenance – For example on existing roads and tracks, or on existing utilities such as underground power cables and sewage lines.
- (b) Farming and Land Management – for land previously disturbed, activities such as cropping, grazing, bores, fencing, erosions control etc.*
- (c) Removal of dead or dying vegetation – only if there is minimal ground disturbance.
- (d) Environmental rehabilitation – weed removal, bush regeneration.
- (e) Development in accordance with a Development Certificate issued under the EPA Act 1979 (provided the land is previously disturbed).*
- (f) Downhole logging, sampling and coring using hand held equipment.
- (g) Geochemical surveying, seismic surveying, costeaning or drilling.*

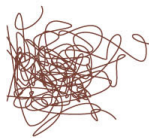
* This defence is only available where the land has been disturbed by previous activity. Disturbance is defined as a clear and observable change to the land's surface, including but not limited to land disturbed by the following: soil ploughing; urban development; rural infrastructure (such as dams and fences); roads, trails and walking tracks; pipelines, transmission lines; and stormwater drainage and other similar infrastructure.

2.1.2 Due Diligence Code of Practice for the Protection of Aboriginal Objects

The Due Diligence Code has been applied in Section 7.2 of this assessment. It operates by posing a series of questions for land users before they commence development. These questions are based around assessing previous ground disturbance. An activity will generally be unlikely to harm Aboriginal Objects where it:

- (a) will cause no additional ground disturbance; or
- (b) is in a developed area; or
- (c) is in a significantly disturbed area.

Where these criteria are not fulfilled, further assessment for Aboriginal cultural heritage will typically be required prior to commencing the activity.



2.2. The ACHCR (2010)

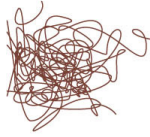
The OEH has recently published the *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010) (ACHCR). These requirements replaced the former *Interim Community Consultation Requirements for Applicants* (2004) (ICCR) as of 12 April 2010. The ACHCR provide an acceptable framework for conducting Aboriginal community consultation in preparation for Aboriginal Heritage Impact Permits. Proponents are also required to follow the ACHCR where undertaking a project that is likely to impact on cultural heritage and/or where required by the consent authority.

2.3 The *Heritage Act 1977* (NSW)

The Heritage Act 1977 (NSW) ('Heritage Act') is aimed at identifying and protecting significant items of historic (as opposed to Aboriginal) cultural heritage. The focus of the legislation is on identifying places of either local or state heritage significance, and protecting them by registration on heritage registers. Significant historic heritage items are afforded little protection (other than at the discretion of councils) where they are not on a heritage register.

Of note are the provisions allowing for interim heritage orders (Part 3), which grants the Minister or the Minister's delegates, (which importantly may include a local government agent) the power to enter a property and provide emergency protection for places that have not yet been put on a heritage register but that may be of local or State significance.

The Heritage Act 1977 (NSW) also makes allowances for the protection of archaeological deposits and relics (Part 6). An archaeological "relic" means any deposit, object or material evidence which relates to the settlement of the area, not being Aboriginal settlement. Importantly, a former requirement for an archaeological relic to be 50 years or older has recently been repealed. The focus is now on the item's potential heritage significance, not its age. As will be discussed below, it is highly unlikely that archaeological relics of significant historic sites are located within the Project Area.



2.4 The Tweed Shire Local Environmental Plan 2000

The Tweed Shire LEP 2000 provides statutory protection for items already listed as being of heritage significance (Schedule 2), items that fall under the ambit of the *Heritage Act 1977* (NSW) and Aboriginal Objects under the *National Parks and Wildlife Act 1974* (NSW). It ensures that essential best practice components of the heritage decision making process are followed.

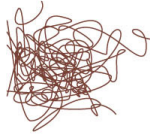
For listed heritage items, relics and heritage conservation areas, the following action can only be carried out with the consent of the Tweed Shire Council:

- a) demolishing, defacing, damaging or moving a heritage item or a building, work, relic, tree or place within a heritage conservation area, or
- b) altering a heritage item or a building, work or relic within a heritage conservation area by making structural changes to its exterior, or
- c) altering a heritage item or a building, work or relic within a heritage conservation area by making non-structural changes to the detail, fabric, finish or appearance of its exterior, except changes resulting from any maintenance necessary for its ongoing protective care, which does not adversely affect its heritage significance, or
- d) moving a relic, or excavating land for the purpose of discovering, exposing or moving a relic, or
- e) erecting a building on, or subdividing, land on which a heritage item is located or which is within a heritage conservation area.

In addition, Council may not grant development consent without considering whether the lands contain potential Aboriginal archaeological deposits (Section 44).

2.4 The *State Environment Planning Policy (North Coast Regional Environmental Plan 1988)*

The North Coast Regional Environmental Plan 1988 ('NCREP 1988') recognises the importance of regionally significant heritage items and places to the State of NSW. It provides statutory protection for a select number of state and regionally significant heritage items and places in northern NSW. A "heritage item" means a building,



work, relic, tree or place of heritage significance to the North Coast Region specified or described in Schedule 2 or 3 of the NCREP 1988. For these items, the Ballina Shire Council remains the consent authority. Under the NCREP 1988 Council must consider:

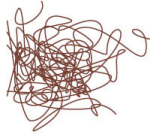
- the views of the Heritage Council;
- the heritage significance of the item to the State or region;
- the extent to which the carrying out of the development would affect the heritage significance of the item and its site;
- whether the setting of the item, and in particular, whether any stylistic, horticultural or archaeological features of the setting should be retained;
- measures taken to conserve and preserve the heritage item, including where appropriate, any conservation plan; and
- whether the item constitutes a danger to the users or occupiers.

The main difference between the NCREP 1988 and other Council planning controls is that it focuses on regional significance rather than local significance. It also involves referral to the NSW Heritage Council, regardless of whether the item is on the NSW Heritage Register.

2.5 The NSW Heritage Manual

The NSW Heritage Manual lists an 8-step process that is generally considered a best practice guide to assessing significant items. The process steps are:

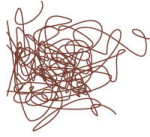
1. Summarise what is known about the item.
2. Describe the previous and current uses of the item and the associations it may have to individuals or groups and its meaning for those people.
3. Assess the significance using the NSW heritage criteria.
4. Check if a sound analysis of the item's heritage significance can be made.
5. Determine the item's level of significance.
6. Prepare a succinct statement of heritage significance.
7. Get feedback.
8. Write up the information.



Contrary to common belief, a significant heritage item need not be particularly 'old' (the exception to the rule being the definition of an Archaeological Relic discussed above). Rather, the focus is on identifying what aspects of a particular item may be significant.

The NSW Heritage Manual contains a set of 7 assessment criteria that act as a guide to assessing significance. They are:

- **Criterion (a):** An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area);
- **Criterion (b):** An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area);
- **Criterion (c):** An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area);
- **Criterion (d):** An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons;
- **Criterion (e):** An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area);
- **Criterion (f):** An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area); and
- **Criterion (g):** An item is important in demonstrating the principal characteristics of a class of NSW's
 - cultural or natural places; or
 - cultural or natural environments.

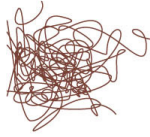


3. DESCRIPTION OF DEVELOPMENT PROPOSAL

The proposed development is defined as a re-zoning application to the Tweed Shire Council. The proposed re-zoning of the Project Area is from 2(b) Medium Density Residential, Part 3 (c) Commerce and Trade, Part 6(b) Open Space Recreation land to 3(b) General Business. The proposed development includes the expansion of the Tweed City Shopping Centre which may include an increased number of retail outlets, additional car parking area and upgrades to public roads and intersections adjacent to the shopping centre.

For the purposes of this assessment, it has been assumed that all of the Project Area may be the subject of significant surface and subsurface ground disturbance.

As this proposal relates to a rezoning application, development plans are yet to be finalised at this stage of the planning process.



4. HERITAGE REGISTERS: ABORIGINAL AND HISTORIC HERITAGE

4.1 The OEH Aboriginal Heritage Information Management System

Care should be taken when using the AHIMS database to reach conclusions about site prevalence or distribution. For example, a lack of sites in a given area should not be seen as evidence that the area was not occupied by Aboriginal people. It may simply be an indication that it has not been surveyed, or that the survey was undertaken in areas of poor surface visibility. Further, care needs to be taken when looking at the classification of sites. For example, the decision to classify a site an Open Campsite containing shell rather than a Midden can be a highly subjective exercise, the threshold for which may vary between archaeologists. There are also errors with the data.

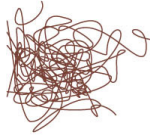
A search was conducted on 22 February 2012 of the OEH Aboriginal Heritage Information Management System (AHIMS service number 63853) over 25 km² centred on the Project Area. The search identified 40 registered Aboriginal sites within the general locality search area (Figure 3 and Appendix B). The majority of the sites in the search area are listed as middens (9) with artefacts also common (4). Also present were burials (2), a habitation structure (1), and a ceremony / dreaming location (1).

Also listed in the in the register were sites that were a combination of features, including: a Bora / ceremonial place / midden (1), Earth Mound / shell / artefact (4), modified tree – carved or scarred (2), PAD / Aboriginal resource gathering locations / habitation structure (1), burial / habitation structure (1),

None of the sites listed are located within the Project Area, although site 04-2-0009 (Bora / ceremony / midden) is located close proximity to it, approximately 175m from Lot 22 DP23659, and may be affected by the proposed works.



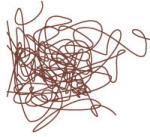
Figure 3: AHIMS search results (indicative locations only) (GoogleEarth 2012)



4.2 Other Heritage Registers: Aboriginal & Historic Cultural Heritage

The following heritage registers were accessed on 29 February 2012 for Indigenous and historic places within the Tweed Shire LGA:

- **The World Heritage List:** Contains one place listing for the Tweed LGA, The Gondwana Rainforests of Australia. The place is not in proximity to the Project Area.
- **The National Heritage List** (Australian Heritage Council): Contains no place listings for the Tweed South area.
- **Commonwealth Heritage List** (Australian Heritage Council): Contains no place listings for the Tweed South area.
- **Register of the National Estate** (Australian Heritage Council): 6 places within the vicinity of the Project Area are listed on the register of the National Estate. Three are Aboriginal places and are discussed in further detail in the AHIMS site search detailed above. Three are significant heritage places. The first of these, the T.S. Vampire Dry Dock is located on Dry Dock Road, Tweed Heads South on the southern bank of Terranora Creek and north of the Project Area. The second is the Ukerebagh Nature Reserve, Tweed Heads South which comprises Ukerebagh Island and an adjacent block on the southern shore of Ukerebagh Passage. The third site is the Ukerebagh Ornithological Reserve, Kirkwood Road East East, Tweed Heads South. This site is bounded by the southern low-tide mark of Terranora Inlet to the north and the high-tide mark on the western shore of Ukerebagh Passage and Duffy Street to the west. The eastern boundary is defined by the low-tide mark of the western shoreline of the Tweed River and Kirkwood Road East to the south.
- **The State Heritage Register** (NSW Heritage Office): Contains two place listings for the Tweed LGA. They are not in proximity to the Project Area
- **Tweed Shire Local Environmental Plan 2000 (LEP) and Draft Tweed Shirewide Local Environment Plan 2010:** Lists 24 heritage places. None are within Tweed Heads South.



5. LANDSCAPE CONTEXT

5.1 Environment Locality

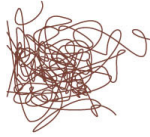
The Project Area is located in Tweed Heads South, approximately 1.1km west of the current western bank of the Tweed River. The ocean beach is approximately 2km to the east. The Project Area is a highly modified landscape surrounded by residential and light industrial development.

5.2 Topography

The site is low, level to gently undulating Pleistocene sand sheets overlying peat and alluvium (Morand 1996:153). It is designated as Disturbed Terrain (xx), being disturbed by human activity to a depth of at least 100 cm (Morand 1996:162). Slope is <5%, with minimal relief and elevation. Urban development of old estuarine plains requires extensive drainage and importing of soil materials, resulting in areas 1-2 m higher than their original elevation (Morand 1996:162).

5.3 Geology & Soils

The geology of the Project Area is Pleistocene marine and Aeolian quartz sand sheets and dunes of the inner barrier system. Soils were deep (>200 cm), generally well-drained Podzols (Morand 1996:152). Original soils may have been removed, greatly disturbed or buried. If artificial fill is present, it may comprise dredged sand or mud, rocks and local soil materials as well as demolition rubble, and industrial and household waste (Morand 1996:162).



5.4 Vegetation

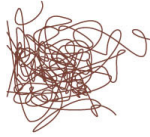
The Project Area consisted of extensively cleared and disturbed open-heathland and forest vegetation. Parts of the subject area may have been subject to fill, prior to which common trees, shrubs and understorey vegetation would have included scribbly gum (*Eucalyptus signata*), wallum banksia (*Banksia emula*), heath banksia, along with coast honey myrtle (*Homoranthus virgatus*), whites tea-tree (*Leptospermum whitei*) and prickly brown heath (*Monotoca scoparia* var. *scoparia*). Open-woodland of broad-leafed paperbark (*Melaleuca quinquernervia*) would have occurred in wetter areas (Morand 1996:152).

5.5 Land-use History

5.5.1 Settlement

In 1823 John Oxley and his assistant John Fitzgerald Uniacke sailed along the north coast of NSW searching for a suitable spot for a new penal colony. During a storm his ship the 'HMS Mermaid' anchored 'under the lee of a small island [Cook Island] off Point Danger, about a mile from the land' (The Log of John Oxley, 'HMS Mermaid' 1823). Oxley's party explored the nearby estuary which he recorded as 'on the south side of this headland we had the satisfaction to discover a considerable river with an apparent clear entrance...' (The Log of John Oxley, 'HMS Mermaid' 1823) and he bestowed the name of the Tweed River (Denning 1973:8).

With the establishment in 1824 of the Moreton Bay Penal Settlement the coastal route for escaped convicts was south to Point Danger cross the Tweed River and continue to Port Macquarie where some gave themselves up to prison authorities. So frequent were escapes that in 1828 Commandant Logan sent a detachment of soldiers to intercept 'runaways' at the Tweed River by establishing a military outpost on the south side of the river (Keats 1999: 5). The detachment was forced to withdraw due to "...a rupture with the natives and since that period the natives have I believe been particularly hostile.....Pine and cedar gangs employed near the spot were attacked which obliged them to leave that part of the country and make their way to the settlement..." (Cunningham 1832, in Piper 1976:37).



In the early years supervised convict gangs operated in the Tweed felling the red cedar for shipping to the northern colony (Keats 1999:6). By the mid 1840s a small party of timber-getters from Moreton Bay were chopping cedar trees along the riverbanks (Denning 1973:12). The initial cedar-getters camp at Taranora was superseded by a new settlement (Cooloon) on the north bank near the river mouth, where it was more convenient for trading with the schooners that brought supplies and took the logs to Sydney (Keats 1989:404). Cedar forests on the slopes of Flagstaff Hill and throughout the Tweed Heads – Coolangatta area were targeted by axemen from Nerang and later Sydney (Keats 1999:6; Miller 2005:1). Timber felling was once the only economic activity on the river but by the end of the nineteenth century most of the cedar was gone.

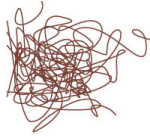
The Tweed Valley offered limited open forest that was suitable for pastoral grazing on a large scale. Michael Guilfoyle, the Tweed Valley's first 'agriculturalist', took up 600 acres at Cudgen on the Tweed River for the cultivation of sugarcane (Tweed River Historical Society XXX). Shortly afterwards, in the 1870s, the Colonial Sugar Refining Co. (CSR) bought up extensive acreage including John Mcleod's land at Condong, and subdivided it into farms for cultivation of the cane.

A Parish map dating from approximately 1902 (Figure X) indicates that the majority of the Project Area in Tweed Heads South was privately owned by James King and not Crown land as is the case to the north and east of the Project Area. This, in addition to the types of activities outlined above, indicates that this landscape has been modified and disturbed since the mid-19th century.

5.5.2 A Review of Historic Aerial Photography

Historic aerial photographs of the Project Area were reviewed to ascertain the level of past ground disturbance. This information is used to assist in developing a predictive model for potential cultural heritage site locations. Aerial photographs from 1955, 1962, 1977 and 1982 were reviewed as part of this assessment (Appendix C). Please note that the comments in this section refer to the entire Study Area and not just the Project Area.

The 1955 image shows that the Project Area has been substantially cleared (Figure 10). Minjungbal Drive is well-formed at this time though Kirkwood Road East remains a track that deviates slightly off alignment from the northern boundary of the Study Area. Some dwelling construction is visible on Minjungbal Drive in addition to the beginning of residential construction along the northern portions of the Project Area. Cleared areas are visible



slightly south of the Project Area though it is not possible to determine whether this is for cultivation or for grazing. The south eastern margins of the Project Area have yet to be cleared in 1955.

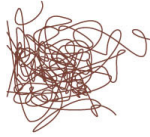
Significant development has occurred across the Study Area by 1962. The 1962 aerial photograph (Figure 11) shows additional dwellings in Minjungbal Drive and Kirkwood Road East. The central portion of the Study Area shows clear evidence of improvements for cultivation. The northern portion of the Study Area towards the Project Area remains cleared. In the southeast corner there are what appear to be windrows though what the purpose of these is remains unclear.

The 1977 image (Figure 12) shows a small increase in residential dwellings along Kirkwood Road East. The most significant change has occurred in the southern portion of the northern half of the Study Area with the appearance of a car wrecking yard.

The most significant impact on the Project Area as viewed on these aerial photographs occurred between the 1977 and 1982 photographs (Figure 13) with the construction of the Tweed City Shopping Centre and related areas evident in Figure 13. In addition, the construction of the golf course is clearly evident in the southern portion of the Study Area along with the initial preparation of the land for the retirement village in the north eastern portion.

Also present within the north and eastern portion of the Project Area, sand excavation / development works area clearly visible to the rear of properties 30-34 Kirkwood Road East. This area would have been back filled to provide a foundation for the eastern expansion of the shopping complex to its current boundary. This includes the triangular section which comprises Lot 5 DP830973.

Conclusions: Due to the size of the Project Area, the poor resolution of the early photographs and the lack of clear features, identification of specific impacts on the Project Area is problematic. The initial clearing activities were likely to have caused ground disturbance and subsequent erosion would have likely had a significant impact to the depositional integrity of any Aboriginal Objects. Additional disturbance would have been caused by building construction, tracks and roads.



6. FIELD METHODS & RESULTS

6.1 Sampling Strategy & Survey Methods

The field inspection was conducted on foot by the Consultant and the Sites Officer of Tweed LALC on 16 March 2012. The properties under rezoning proposal contain commercial, residential or cleared former residential properties. The following lists the conditions on the date of inspection.

- 58-62 Minjungbal Drive: Cleared former service station site, surface of concrete slabs and driveway tarmac (Figure 4)
- 34-36 Minjungbal Drive: Existing commercial premises (Figure 5)
- 24-30 Kirkwood Road East: Cleared former residential premises, heavily grassed (Figure 6)
- 42-44 Kirkwood Road East: Existing residential premises (Figure 7)
- 46 Kirkwood Road East: Existing residential premises (Figure 8)
- 48-50 Kirkwood Road East: Existing residential premises (Figure 7)
- 52 Kirkwood Road East: Residential premises (Figure 9)

The Kirkwood Road East properties 24-30, 46 and 52, may not have been filled with introduced materials and therefore may have original ground surfaces, although modified to a limited degree by residential activity (services: sewage, water, foundations, gardens, paths, outbuildings etc.). The remainder of the Kirkwood Road East properties and Minjungbal Drive properties have been subject to varying degrees of excavation and back fill.

Photographs were taken for purpose of orientation, as a record of general features and conditions, to indicate the degree of surface visibility and the content of any archaeological sites found. Observations were made of the degree of surface visibility, the area of visibility, ground cover, land uses and any other relevant features.

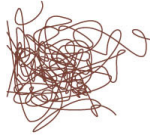


Figure 4: View south of 58-62 Minjungbal Drive



Figure 5: view east over 34-38 Minjungbal Drive

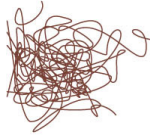


Figure 6: View south west over 24-30 Kirkwood Road East



Figure 7: 42-44 Kirkwood Road East (white building) and 48-50 (brown building)

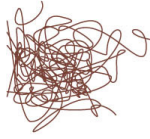
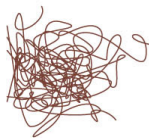


Figure 8: View south west towards 46 Kirkwood Road East



Figure 9: View south 52 Kirkwood Road East



6.3 Results

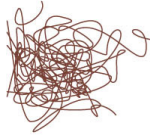
6.3.1 Aboriginal Cultural Heritage---The Kirkwood Road East Bora Ring

It was a particular focus of this DDA to establish the cultural links the Project Area has to the Kirkwood Road East Bora Ring (AHIMS #04-2-0009) and wider area. The ceremonial ring is part of the Minjungbal Resource Museum and Study Centre, Kirkwood Road East, located opposite 24 Kirkwood Road East, one of the proposed rezoning properties. The ring and surrounding area is a cultural heritage focal point to the local and wider Indigenous community.

The terms Bora Ground, Ceremonial Ground and Bora ring are often used synonymously yet they are distinct but connected entities. The Bora/Ceremonial Ground may be an extensive area over which ceremonial and non-ceremonial activities may take place. The main ceremonial complex in northern NSW and southern Queensland will include at least two rings, larger and smaller, linked by a path up to hundreds of metres distant. The larger of the two rings will be for 'public' purposes attended by all participating groups. This is commonly the surviving Bora ring. The smaller ring is used by select older men and initiates and prohibited to women and children. The path/paths between rings may be a trench and be lined by marked/carved trees and ritual images. In the surrounding district there are locations where further teaching and tests of the initiates may take place over several weeks before the initiates return to their family or clan group. This area of travel is termed by anthropologists "the ritual circuit". Campsites for visiting groups will be allocated with access to water and food usually facing the direction of their homeland. These 'visitors' camps may be some distance away but within easy walking distance. There will be no campsites near the smaller initiation ring or prohibited areas of the ritual circuit. More detailed descriptions of Bora Grounds/Rings can be found in Bowdler 1999, Fife 1995, McBryde 1974.

Dr. Isabel Mc Bryde referred to the Kirkwood Road East Bora ring in 1961 and quotes N.C.Hewitt who "...refers to three rings at Tweed Heads but gives no specific details of their location. A reflection of the number of ceremonial sites in this area may also be found in the Aboriginal name for Cudgen-'Ku-ging'. This apparently means red raddle. There is a hill at this place where the blacks get the red raddle or pigment to paint themselves with when going fighting or to corroboree..." (Hewitt 1900 in McBryde 1974:59).

In the personal experience of the author Ms. Margaret Kay assumed custodianship of the Bora Ring from at least the 1950's-1960's, marked surrounding trees with white marker (ochre?) and collected stone artefacts from the



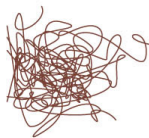
surrounding area which visitors could see at her home nearby. Ms Kay could also point to a well on the northern side of the ring no longer visible (Ms M. Kay pers comm: c1958). A distinct gap in the western bank of the ring indicates that a second ring, possibly the initiation ring, was in that direction.

6.3.2 Consultation with Tweed Byron LALC and AAC

Prior to conducting the site inspection, Everick Operations Manager Tim Robins attended a meeting of the Tweed Shire Councils Aboriginal Advisory Committee ('AAC') on 2 March 2012. The purpose of the meeting was to introduce the proposed rezoning plans to the members of the AAC. The members of the AAC raised no objections to the proposed rezoning. However, monitoring of initial earthworks was raised as a strategy for managing potential impacts to physical Aboriginal heritage. This proposal is supported by the archaeological analysis and recommendations in this report. Consultation with the AAC identified no places of particular intangible (spiritual) significance within the Project Area. However, the Project Area is situated within an immediate cultural landscape that is of high significance to the Aboriginal people of the Tweed. This significance derives from a range of spiritual, ceremonial and occupation sites in relatively close proximity to the Project Area. Consultation with the AAC indicates that the Project would appear unlikely to have a substantial detrimental impact on the significance of surrounding landscape, including nearby Bora ground, owing to the already high levels of development over the Project Area.

The services of Mr. Des Williams Chairperson/Sites Officer of the Tweed LALC were also employed to inform the assessment as to the cultural significance of the proposed rezoning properties and surrounding 'Tweed City' precinct and to direct the future cultural heritage management strategies that may be required.

Mr. Williams formed opinions as to the cultural heritage significance of the Project Area in relation to the Kirkwood Road East Bora Ring. It is Mr. William's view that there are two areas of cultural significance associated in a spiritual sense to the Bora Ring these areas are to the east of the 'Tweed City' precinct in the vicinity of a high rise building. The second area of significance associated with the Bora Ring is located at a residential premises on the northern side of Kirkwood Road East. Details of these two locations are at the discretion of Mr. Williams only. Mr. Williams was of the view that the proposed lands under rezoning consideration and the 'Tweed City' precinct in general, was a camping ground used by groups participating in ceremonial and non-ceremonial activities (Des Williams pers comm: March 16 2012).



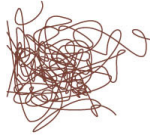
There were no Aboriginal Objects identified as a result of the field inspection.

6.3.3 Disturbance Impacts

From the review of archival aerial photography, field inspection and local information it can only be concluded that the Project Area has undergone major disturbance over the majority of the site. This has been in large part due to the construction in a number of building phases since the 1970's of the 'Tweed City' precinct. It is the understanding of the authors that foundation, drainage and service works required the excavation and removal of the original sand cover and back filling with introduced fill. It would seem probable that any Indigenous cultural materials in the form of shell and stone artefacts that may have existed on the bulk of the present 'Tweed City' precinct have been removed off site or buried to several metres depth.

Prior to European settlement there can be no doubt archaeological materials in the form of stone and shell artefacts were deposited throughout the area as the result of the resource gathering and tool maintenance by local inhabitants and periodically by large numbers of visiting groups to ceremonial activities. To the Indigenous Community the fact that physical evidence beyond the surviving ceremonial area is no longer visible does not mean that a cultural connection to the location is lost. The OEH recognises the continuity of cultural connection in its AHIMS when it retains the records of sites known to have been destroyed.

In regard to the proposed rezoning properties, an exception to the above impacts may be 5 residential properties on Kirkwood Road East that do not appear to have been filled with introduced materials that raise them to current RL (flood) levels. These are Kirkwood Road East properties 24-30, 46 and 52. These Kirkwood Road East properties do not appear to have been excavated and filled with introduced materials to the same degree as nearby more recent constructions. Therefore the original ground surfaces, although modified to a limited degree by residential activity (services: sewage, water, foundations, gardens, paths, outbuildings etc.), may retain a potential for cultural heritage material. This potential remains undefined until measures are taken to investigate further.



6.3.2 Historic Cultural Heritage

There were no places of historic heritage significance identified within the Project Area as a result of the field inspection.

7. CULTURAL HERITAGE DUE DILIGENCE ASSESSMENT

As discussed in Section 1.3.2 above, the Due Diligence Code recommends a staged analysis of cultural and archaeological factors. This section discusses the analysis of the Project Area when compared against these guidelines.

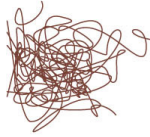
7.1 Step 1: Will the activity disturb the ground surface?

Yes. Refer to Section 1.2 for a full description of the project activities. The DEXUS Property Group is proposing to expand the Tweed City Shopping Centre footprint of the shopping centre complex to include the Lots subject to re-zoning application. These lots will be incorporated into the overall infrastructure of the Shopping complex. Ground disturbance is proposed to be fairly extensive in those areas for Re-zoning.

7.2 Step 2a: Search of AHIMS Database

A search of the AHIMS register was undertaken 10 January 2012. A total of forty (40) sites were located within the search area.

There are no registered Aboriginal cultural heritage sites within the Project Area itself. The nearest site is the Ceremonial ring (AHIMS # 04-2-0009), approximately 175m to the east of the eastern most portion of the Project Area. Ceremonial (Bora) grounds are known to have cultural significance that extend well beyond their physical boundaries. Community consultation has been undertaken, and will continue to be undertaken, to address potential impacts of the Project on this significance.



The next nearest occupation site is an Earth Mound / Shell / artefact complex (AHIMS # 04-2-0014), located approximately 300m to the north of 04-2-0009.

7.3 Step 2b: Is the activity in an area where landscape features indicate the presence of Aboriginal cultural heritage?

Aboriginal objects are often associated with particular landscape features such as ridge-lines, waterways and wetlands. The Due Diligence Code lists a range of landscape features that are considered likely to contain Aboriginal cultural heritage. These include proximity to watercourses, ridgelines and resource areas.

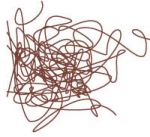
The Project Area is a former sand plain in close proximity to estuarine, ocean beach and fresh water swamp conditions. Prior to European settlement the area would have been a highly productive food and resource environment and highly desirable Indigenous campsite location. It is within a wider ceremonial area, with a focal point being the Kirkwood Road East Bora Ring.

7.4 Step 2c: Is there evidence of past ground disturbance?

All of the Project Area has been cleared and developed, constituting 'disturbance' under the meaning of the Due Diligence Code. Under the Due Diligence Code, no further assessment or impact mitigation activities are required.

However, having regard to the cultural significance of the surrounding area, and the potential for Aboriginal objects to be located within parts of the Project Area, a cautionary approach to managing heritage is recommended.

The disturbance analysis in this report demonstrates that there have been major impacts of prior events of vegetation clearance, drainage and construction that would have been highly destructive to the integrity of any Aboriginal objects located within the current footprint of the Tweed City shopping centre (see sections 4.1 and 6.4 for discussion on archaeological potential of the Study Area). Such impacts have occurred on multiple occasions



over the past 50 years and constitutes significant disturbance of the ground, consistent with the meaning in the Due Diligence Code (see Section 1.3.2).

Properties 58-62 Minjungbal Drive and properties 42, 44, 48-50 Kirkwood Road East have also been heavily impacted by past development activities including clearing, cut, fill and excavation for footings and services. These portions of the Project Area would appear to have little archaeological or cultural value.

There is a low to moderate potential that properties 24-30, 46 and 52 Kirkwood Road East may contain Aboriginal objects as they do not appear to have been subject to the same degree of development activities as the nearby properties.

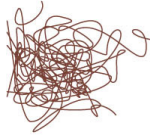
8. CONCLUSIONS AND RECOMMENDATIONS

The potential for Aboriginal cultural heritage to be located within the specified Kirkwood Road East properties cannot be ruled out. If these locations contain original sand strata then there is a potential that both disturbed and 'in situ' cultural materials to remain.

The Aboriginal community and the Tweed LALC are opposed to development proposals that do not take prior measures allowing them to identify whether their heritage is being impacted, and if so, participate in formulating appropriate, informed management strategies. Recommendations 1 - 6 have been drafted in consultation with the AAC and the Tweed Byron LALC, and are seen as an appropriate impact mitigation strategy having regard to the present planning process. They have received the support of the Tweed Byron LALC.

Recommendation 1: Ongoing Consultation over Monitoring of Earthworks

It is recommended that the Proponent undertake further consultation with the AAC and the Tweed Byron LALC prior to the submission of any Development Application(s) for the Project Area. The consultation should be aimed at reaching agreement over appropriate monitoring and/or post clearing survey strategies for the Project, focusing on properties 24-30, 46 and 52 Kirkwood Road East.



Recommendation 2: Aboriginal Human Remains

It is recommended that if human remains are located at any stage during earthworks within the Project Area, all works must halt in the immediate area to prevent any further impacts to the remains. The Site should be cordoned off and the remains themselves should be left untouched. The nearest police station, the Tweed Local Aboriginal Land Council and the OEH Regional Office, Coffs Harbour are to be notified as soon as possible. If the remains are found to be of Aboriginal origin and the police do not wish to investigate the Site for criminal activities, the Aboriginal community and the OEH should be consulted as to how the remains should be dealt with. Work may only resume after agreement is reached between all notified parties, provided it is in accordance with all parties' statutory obligations.

It is also recommended that in all dealings with Aboriginal human remains, the Proponent should use respectful language, bearing in mind that they are the remains of Aboriginal people rather than scientific specimens.

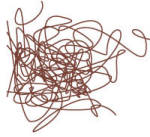
Recommendation 3: Aboriginal Objects Find Procedure

It is recommended that if it is suspected that Aboriginal material has been uncovered as a result of development activities within the Project Area:

- (e) work in the surrounding area is to stop immediately;
- (f) a temporary fence is to be erected around the site, with a buffer zone of at least 10 metres around the known edge of the site;
- (g) an appropriately qualified archaeological consultant is to be engaged to identify the material; and
- (h) if the material is found to be of Aboriginal origin, the Aboriginal community is to be consulted in a manner as outlined in the OEH guidelines: *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010).

Recommendation 4: Notifying the OEH

It is recommended that if Aboriginal cultural materials are uncovered as a result of development activities within the Project Area, they are to be registered as Sites in the Aboriginal Heritage Information Management System



(AHIMS) managed by the OEH. Any management outcomes for the site will be included in the information provided to the AHIMS.

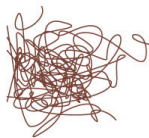
Recommendation 5: Conservation Principles

It is recommended that all effort must be taken to avoid any impacts on Aboriginal Cultural Heritage values at all stages during the development works. If impacts are unavoidable, mitigation measures should be negotiated between the Proponent, OEH and the Aboriginal community.

Recommendation 6: Cultural Heritage Inductions

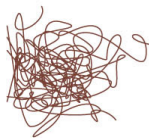
It is recommended that Staff and Contractors involved in the initial stripping of topsoil on the site should undergo a cultural heritage induction prior to commencing works. The induction should include:

- (e) an introduction to Aboriginal culture and tradition, including why evidence of Aboriginal occupation is important to Aboriginal people;
- (f) a summary of the requirements under New South Wales cultural heritage legislation
- (g) a brief introduction on how to identify Aboriginal Objects; and
- (h) a review of procedures in the event that Aboriginal cultural heritage is identified during the course of undertaking the project.



REFERENCES

- BOWDLER, S. 1999 A study of indigenous ceremonial ("Bora") sites in eastern Australia. Paper "Heritage Landscapes: Understanding Place and Communities" Southern Cross University.
- DENNING, H.W. 1973 Tweed Valley of Contrast; 150th Anniversary 1823-1972. Tweed Shire Council, Murwillumbah, NSW.
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APPENDIX A: CORRESPONDENCE – TWEED BYRON LALC



TWEED BYRON LOCAL ABORIGINAL LAND COUNCIL

P.O. Box 6967
Tweed Heads South NSW 2486
21/25 Ourimbah Road,
Tweed Heads NSW 2485
Telephone: (07) 55361 763
Fax: (07) 55369 832
admin@tblalc.com

Friday, 20 April 2012

Tim Robbins
Evericks Heritage Consultants
PO Box 146
Red Hill Qld 4059

Dear Tim,

**Re: Cultural Heritage Due Diligence Assessment for Tweed City Shopping Centre Rezoning
Application, Tweed Heads South, NSW**

Tweed Byron LALC Cultural Sites Representative Mr Des Williams undertook a preliminary Cultural Site Assessment of the above property on the 16th March 2012 with your Senior Archaeologist Mr Adrian Piper.

The assessment area included the Tweed City Shopping Centre premises, car park, a number of adjoining houseblocks (vacant & with dwellings) and the vacant site of the old service station.

From Mr Williams assessment there were no objects or cultural material found. However given that the complex and adjoining said properties are within very close proximity to registered and known bora rings, the possibility of finding cultural materials/sites is highly likely.

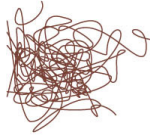
Tweed Byron LALC are therefore recommending that;

Recommendation

Tweed Byron LALC representative must be present when excavation work is being done during the project.

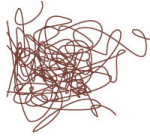
Yours sincerely

Leweena Williams
(CEO)

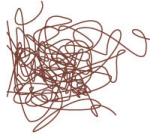


APPENDIX B: AHIMS SEARCH RESULTS

Site ID	Site Name	Easting	Northing	Context / Type	Features
04-2-0005	Terranora Broadwater, BMP-05-0160	552404	6879488	midden	Earth Mound, Shell, Artefact
04-2-0009	South Tweed Heads Bora Ring, BMP-05-0164	553934	6880638		Open site Bora/ceremonial, midden
04-2-0010	Fingal Point	555504	6880188	burial	burial
04-2-0011	Fingal Point, Fingal	555504	6880188	midden	Earth Mound, Shell, Artefact
04-2-0013	Fingal Head Aboriginal Cemetery	555304	6881088	burial	burial
04-2-0014	Ukerebagh Island Midden	553804	6880988	midden	Earth Mound, Shell, Artefact
04-2-0016	Ukerebagh Island, BMP-05-0154	553904	6881888	Ritual, natural mythological	Aboriginal ceremony & dreaming
04-2-0032	Greenbank Island, Tweed Heads	553324	6882758	midden	Earth Mound, Shell, Artefact
04-2-0034	Terranora Inlet Midden, BMP-05-0182	552644	6881578		
04-2-0071	Sexton Hill midden	554064	6879418		open site midden
04-2-0076	Fingal Head	555454	6880788	open site	artefact
04-2-0077	Fingal Head	555504	6880478	midden	earth mound, shell artefact
04-2-0078	Tony's Head, BMP-05-0185			restrictions apply	
04-2-0079	Terranora Creek 5, BMP-05-0186			restrictions apply	
04-2-0080	Daveys Island 6, BMP-05-0187			restrictions apply	open site midden
04-2-0081	Terranora Creek 7, BMP-05-0188			restrictions apply	open site midden
04-2-0082	Terranora Creek 8, BMP-05-0189			restrictions apply	open site midden
04-2-0083	Terranora Broadwater 9, BMP-05-0189			restrictions apply	open site midden
04-2-0084	Terranora Broadwater 10, BMP-05-0191			restrictions apply	open site midden
04-2-0085	Terranora Broadwater 11, BMP-05-0192			restrictions apply	open site midden



Site ID	Site Name	Easting	Northing	Context / Type	Features
04-2-0086	Terranora Broadwater 12, BMP-05-0193			restrictions apply	open site midden
04-2-0088	Terranora Broadwater 12, BMP-05-0194			restrictions apply	open site midden
04-2-0130	Fingal Point Quarry	555702	6880275	open site	habitation structure
04-2-0143	Ukerebagh Island	553935	6882009	open site	PAD, Aboriginal resource gathering, habitation structure
04-2-0144	Fingal Point Community	555130	6881326	open site	Burial, Habitation structure
04-2-0151	Coolangatta Airport Murraba 3, BMP-05-0144	550354	6883538	restrictions apply	
04-2-0153	West Tweed BMP-05-0146	551004	6883238	restrictions apply	
04-2-0154	West Tweed 2, BMP-05-0147	550804	6882988	restrictions apply	
04-2-0156	West Tweed 3, BMP-05-0149			restrictions apply	
04-2-0158	Terranora Broadwater, BMP-05- 0195	550604	6880538	restrictions apply	
04-2-0159	Terranora Broadwater, BMP-05-0196	550554	6880438	restrictions apply	
04-2-0160	Terranora Broadwater, BMP-05-0197			restrictions apply	open site
04-2-0161	Floral Avenue, BMP-05-0198			restrictions apply	
04-2-0162	Darlington Drive, BMP-05-0199			restrictions apply	open site
04-2-0163	Boyd Family Memorial, BMP-05-0120			restrictions apply	open site
04-2-0164	Razorback Lookout, BMP-05-0151			restrictions apply	
04-2-0165	Greenbank Island, BMP-05-0153			restrictions apply	
04-2-0166	Kinnear Aboriginal Midden Site	554253	6878514		
04-2-0182	KR1 Scarred Tree	552733	6880798		open site; Modified Tree, carved or scarred
04-2-0183	KR3 Scarred Tree	552618	6880809		open site; Modified Tree, carved or scarred



APPENDIX C: HISTORIC AERIAL PHOTOGRAPHY



Figure 10: 1955 Aerial photograph of the Project Area (Indicative Study Area shown in Red)

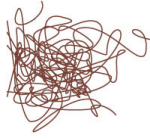


Figure 11: 1962 Aerial photograph of the Project Area (Indicative Study Area shown in Red)

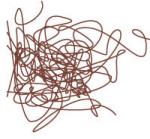


Figure 12: 1977 Aerial photograph of the Project Area (Indicative Study Area shown in Red)

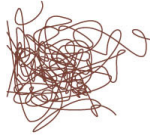


Figure 13: 1982 Aerial photograph of the Project Area (Indicative Study Area shown in Red)

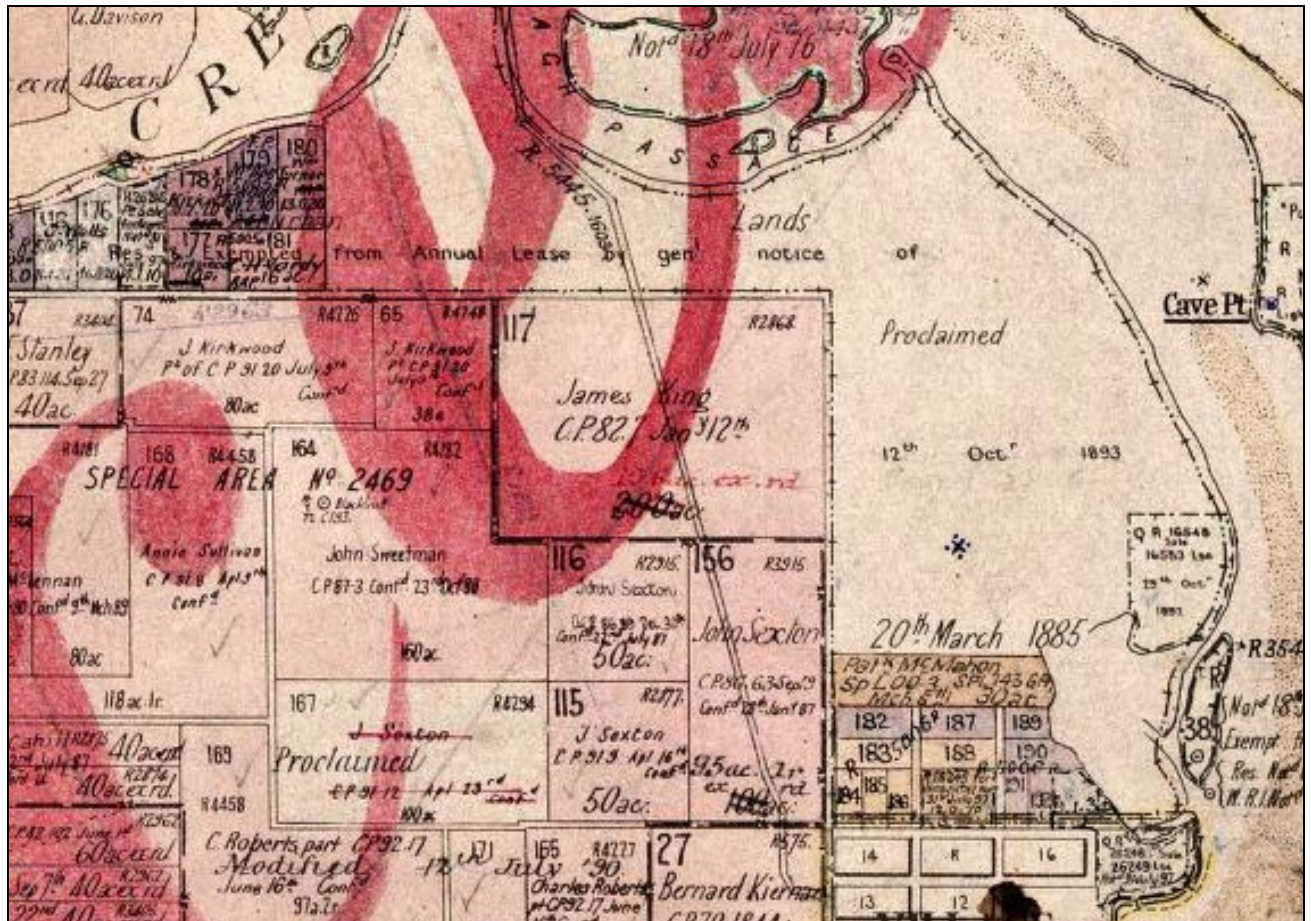
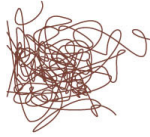


Figure 14: Parish Map c. 1902

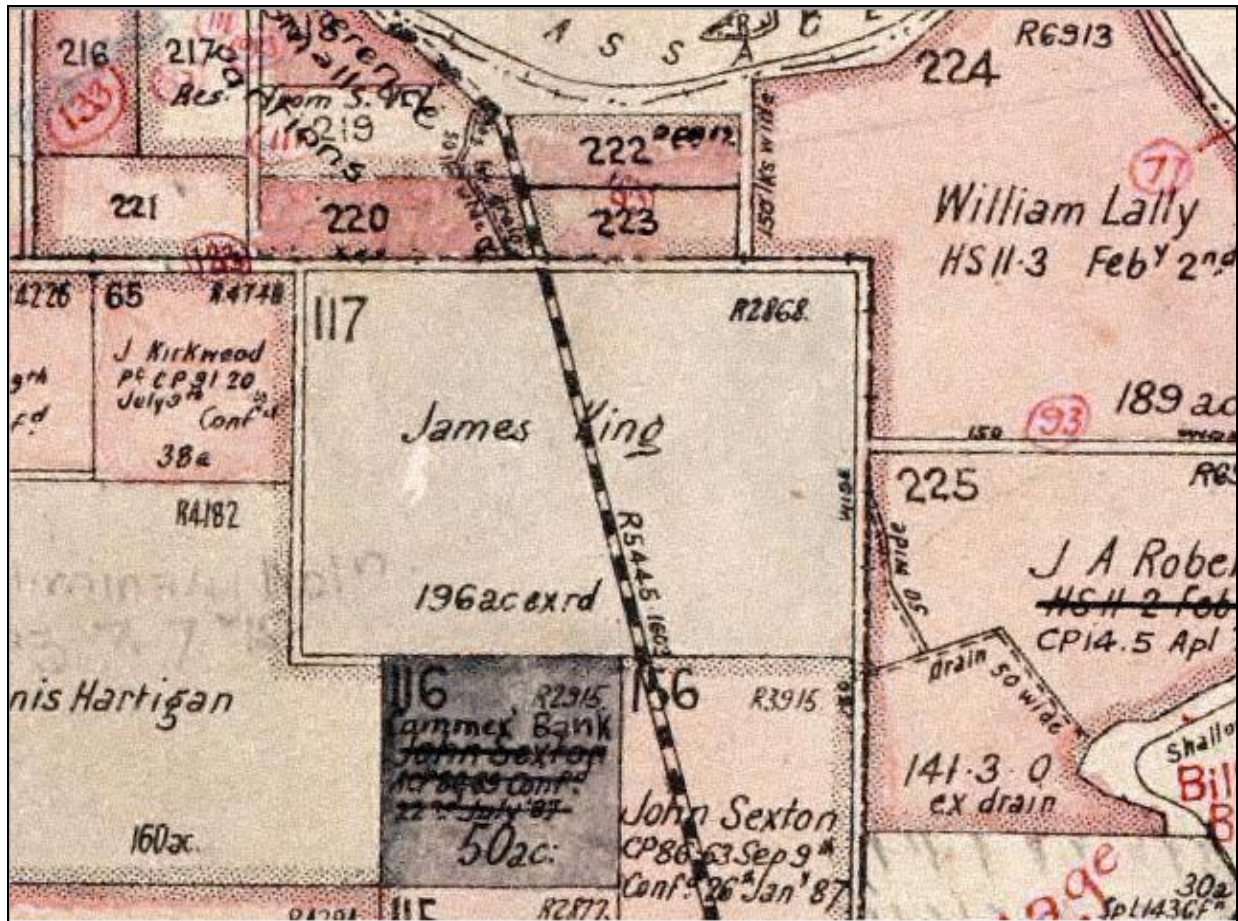
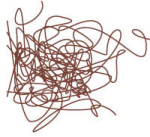


Figure 15: Parish Map 1913

Attachment 8 – Environmental Works Update for Service Station site

22 March 2012

Belinda Hufton
Asset and Development Manager, Retail
DEXUS Property Group
PO Box R1822
Royal Exchange NSW 1225

**Environmental Works Update –
58-62 Minjungbal Drive, Tweed Heads South, NSW**

Dear Belinda,

The purpose of this letter is to provide an update of the environmental works recently completed at the site located at 58-62 Minjungbal Drive, Tweed Heads South, NSW.

Recent Works

- A draft soil and groundwater data review and sample analysis and quality plan report has been prepared for the site. A number of soil data gaps were identified and these will be addressed during upcoming soil sampling (validation) works. This new soil data will facilitate the Auditor in preparing the Site Audit Statement

Planned Works

- Auditor review of the soil and groundwater data review and sample analysis and quality plan
- Preparation of a Phase I site assessment (which was another data gap identified during the soil and groundwater data review)
- Soil validation sampling proposed for April 2012
- Two further groundwater monitoring events are planned for April and May 2012 to monitor the results of the February chemical injection event

Conclusion

- The soil and groundwater data review has been prepared and will be with the Auditor shortly for review
- A Phase I site assessment will be prepared for the site
- Soil validation sampling will be undertaken at the site in April
- Groundwater sampling to assess the performance of the February 2012 chemical injection event will be undertaken in April and May 2012

Please do not hesitate to contact OTEK on the details below to discuss the matters further.

Yours Sincerely,



Charles Grimison
Senior Remediation Project Manager



Denton Mauldin
Remediation Practice Leader

OTEK Sydney, Suite 4.01, Level 4, 146 Arthur Street, North Sydney, NSW 2060

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