

## Planning Services

### Gateway Determination Report

<b>LGA</b>	Tweed
<b>PPA</b>	Tweed Shire Council
<b>NAME</b>	Regulating development in the vicinity of Bob Whittle Murwillumbah Airfield
<b>NUMBER</b>	PP_2018_TWEED_004_00
<b>LEP TO BE AMENDED</b>	Tweed Local Environmental Plan (LEP) 2014
<b>ADDRESS</b>	Land in the vicinity of Quarry Road, South Murwillumbah (Bob Whittle Murwillumbah Airfield)
<b>DESCRIPTION</b>	Lot 17 DP 712954 and surrounding land
<b>RECEIVED</b>	30/05/2018
<b>FILE NO.</b>	IRF18/2416
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## INTRODUCTION

### Description of planning proposal

The planning proposal seeks to amend the Tweed Local Environmental Plan (LEP) 2014 by incorporating an additional local provision to regulate development within the vicinity of the Obstacle Limitation Surface (OLS) and Procedures for Air Navigation Services Operations (PANS-OPS) limits around the Bob Whittle Murwillumbah Airfield, to safeguard the airfields operations.

The proposal requires an amendment to the written instrument only. No map amendments are required.

### Site description

The land applies to Lot 17 DP 712954, Quarry Road, South Murwillumbah and surrounding land.

### Existing planning controls

The airfield is zoned SP2 Infrastructure (Airport) under the Tweed LEP 2014. The surrounding land is zoned RU1 Primary Production and IN1 General Industrial and the height of building has a limit set at 10 metres. The OLS map illustrates the extent of the land affected by the proposal.

## Surrounding area

The surrounding land uses in the vicinity of the airfield include industrial development to the north, east and west and agricultural land identified as Regionally Significant Farmland adjoins the airfield to the south.

### **Summary of recommendation**

The proposed amendment should proceed subject to a number of conditions. The proposal is supported as it will provide a regulatory framework to assess the compatibility of adjacent industrial land uses, while maintaining the safe operation of the airfield.

## **PROPOSAL**

### **Objectives or intended outcomes**

The statement of objectives adequately describes the intention of the planning proposal. The planning proposal seeks to amend the Tweed LEP to ensure development which encroaches on the OLS or PANS\_OPS surfaces are considered appropriately.

### **Explanation of provisions**

The explanation of provision adequately addresses the intended changes to Tweed LEP 2014. The planning proposal seeks to:

- Incorporate a local provision into the Tweed LEP 2014 that regulates development within the vicinity of the Bob Whittle Murwillumbah Airfield.

The proposal will amend Part 7 – Additional local provisions of Tweed LEP 2014.

Parliamentary Counsel Office (PCO) is responsible for drafting amendments to LEPs. The Explanation of Provisions should be updated to clearly outline that the clause provided in the planning proposal may differ from the LEP amendment, when drafted by PCO.

This information will need to be incorporated into the planning proposal prior to exhibition. A condition will be included to ensure the planning proposal is updated.

### **Mapping**

The planning proposal will not amend any LEP maps. The amendment involves a change to the written instrument only.

The current Obstacle Limitation Surface mapping for the airfield needs updating and Council is required to finalise the OLS and PANS-OPS maps and ensure that these are included with the exhibition material.

## **NEED FOR THE PLANNING PROPOSAL**

The Bob Whittle Murwillumbah Airfield is a local airfield catering to light aircraft, intermittent agricultural aerial spraying activities and local aero club members.

The Tweed LEP 2014 addresses airspace operations and areas subject to aircraft noise for development in proximity to the Gold Coast Airport, the major domestic and international airport that services the Tweed area, however these provisions do not extend to local airfields.

The current approach to development in the vicinity of the airfield is limited to the zoning of the land and a 10m height of building limit. There is no formal mechanism to control impacts from development, on the airfield's operations or safety

obligations.

An additional local provision in the LEP is proposed to reflect similar requirements set for development adjoining the Gold Coast airport, however relates directly to the Bob Whittle Murwillumbah Airfield and its operations. The clause is proposed to regulate development that has the potential to penetrate the Obstacle Limitation Surface (OLS) and the Procedures for Air Navigation Services Operations (PANS-OPS) in the vicinity of the airfield.

The OLS limits are the specifications adopted by Civil Aviation Safety Authority (CASA) which apply to commercial airports and aerodromes. Local airfields are not regulated by CASA or subject to the same constraints that apply to commercial airports and aerodromes. Although this airfield is not regulated by CASA, it is still appropriate to ensure that development will not impact on the airfield's ability to operate in a safe manner, considering OLS and PANS OPS limits for aviation safety.

The amendment to the instrument is the most appropriate mechanism to achieve the objectives and intent of the proposal.

## **STRATEGIC ASSESSMENT**

### **Regional**

The planning proposal is consistent with the North Coast Regional Plan 2036 goals to support air, rail and public infrastructure transport corridors and grow agribusiness across the region. Although Direction 10 does not relate directly to Murwillumbah Airfield, it does support the need to preserve air transport corridors and development within the vicinity of air space activities. The proposal delivers on action 12.4 to protect logistic facilities from land use conflict and encroachment by managing development proposed within the air space of Murwillumbah airfield.

### **Local**

The planning proposal is consistent with Council's Community Strategic Plan 2017-2027 and one of the strategy's key themes 'People, places and moving around: *Who we are and how we live*' identifies the airfield as a key service. The proposal is consistent with the goal - to provide a transport network to move people, vehicles and air traffic. The proposal seeks to maintain the airfield's operations as part of the transport network.

### **Section 9.1 Ministerial Directions**

The planning proposal is consistent with section 9.1 Directions 1.1 Business and Industrial Zones, 1.2 Rural Zones, 1.3 Mining, Petroleum Production & Extractive Industries, 1.5 Rural Lands, 5.3 Farmland of State & Regional Significance on the NSW Far North Coast, 5.10 Implementation of Regional Plans and 6.1 Approval and Referral Requirements.

Direction 6.1 Approval and Referral Requirements is relevant to this planning proposal. This direction requires that proposals minimise the inclusion of concurrences or referrals. This planning proposal does introduce a referral requirement but this is limited to instances where proposed development protrudes through the air safety surfaces. In this case a referral is the best outcome, and would happen in a minimal amount of cases. As such it is considered that the proposal is substantially consistent with the terms of this direction.

The planning proposal is considered inconsistent with the following directions:

Direction 2.2 Coastal Protection is relevant to the planning proposal. This direction provides that a planning proposal must contain provisions which give effect to NSW Coastal policies. This proposal does not impact on matters of coastal significance, in addition the Tweed LEP 2014 already contains protections relating to the coastline and coastal processes. As adequate provisions already exist the inconsistency with this Direction is considered to be justified as being of minor significance.

Direction 2.3 Heritage Conservation is relevant to the planning proposal. The direction provides that a planning proposal must contain provisions which facilitate the conservation of matters of environmental and Aboriginal cultural heritage significance. This proposal does not detract from the heritage protection provisions which already exist within the Tweed LEP 2014. As adequate provisions already exist the inconsistency with this Direction is considered to be justified as being of minor significance.

Direction 3.4 Integrating Land Use and Transport is relevant to the planning proposal. The direction requires that land zoned for urban purposes include provisions that give effect to various transport planning documents. The airfield planning proposal does not impact on the integration of land use and transport. It is considered that any inconsistency with this direction is of minor significance.

Direction 3.5 Development Near Licensed Aerodromes is not relevant to the planning proposal. The Murwillumbah Airfield is not a licensed aerodrome. Nevertheless, this proposal is considered to give effect to this direction by protecting airfield space.

Direction 4.1 Acid Sulfate Soils (ASS) is relevant to the planning proposal. This Direction requires that an ASS study must be considered prior to rezoning land mapped as containing ASS. The Tweed LEP 2014 contains existing provisions to ensure the consideration of ASS during development assessment. Considering the existing provisions providing protection and that this proposal does not intensify development it is considered any inconsistency with this direction is justified as being of minor significance.

Direction 4.3 Flood Prone Land is relevant to the planning proposal. This direction requires that a planning proposal must be consistent with and give effect to the NSW Flood planning documents. Considering that this proposal does not enable any intensification of development, and the Tweed LEP contains existing flood planning provisions, it is considered any inconsistency with this direction is justified as being of minor significance.

Direction 4.4 Planning for Bushfire Protection is relevant to this planning proposal. This direction is applicable to the proposal as the subject land has been identified as being bushfire prone.

Consultation with the Rural Fire Service (RFS) is required after a Gateway determination is issued and before public exhibition and until this consultation has occurred the inconsistency of the proposal with the direction remains unresolved.

### **State environmental planning policies**

The proposal is consistent with all relevant SEPPs.

## **SITE-SPECIFIC ASSESSMENT**

### **Social/Economic**

The proposal seeks to maintain the airfield's operations, as part of the Tweed Valley transport network. Airfields are an integral part of the transport network and an important asset utilised by the local community, for both economic and leisure pursuits.

### **Environmental**

The planning proposal involves an extra heads of consideration clause and is unlikely to create any negative environmental impacts.

## **CONSULTATION**

### **Community**

The planning proposal has indicated a 14 day community consultation period. Although the proposal could be classed as low impact, a precautionary approach should be taken and a 28 day community consultation period is recommended.

### **Agencies**

#### NSW Rural Fire Service (RFS)

As the land has been identified as bushfire prone and to satisfy section 9.1 Direction 4.4 Planning for Bushfire Protection, referral to the NSW RFS will be required as part of the consultation process.

#### Licensee of the Airfield (operator)

The licensee of the airfield is Tweed Shire Council – Economic Development department. Council is proposing a higher level of assessment for the operator through the proposed clause. Council is required to consult with the airfield operator to ensure that the intent of the provision is not in contrast to the operator's official duty to the airfield.

#### Local Aero Club

The local aero club are the primary users of the airfield. Council is required to invite the aero club to comment on the proposal.

## **TIME FRAME**

The planning proposal includes a project time line which suggests a completion time within 6 months. It is recommended that a 9 month period be accepted to capture any unforeseen circumstances. This does not restrict Council from finalising the LEP amendment sooner.

## **LOCAL PLAN-MAKING AUTHORITY**

Tweed Shire Council has not accepted plan-making function nor has it requested delegation to finalise the subject proposal. It is recommended that the plan-making function not be issued to Council in this instance.

## CONCLUSION

The preparation of this planning proposal is supported as it applies a regulatory approach to consideration of airport safety thereby:

- reducing the potential for land use conflict between the airfield and the surrounding industrial uses; and
- allowing for the continued safe operation of the airfield.

## RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. Agree that the proposal's inconsistencies with section 9.1 Directions 2.2 Coastal Protection, 2.3 Heritage Conservation, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land are justified in accordance with the terms of the directions; and
2. Note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal is to be updated prior to community consultation to:
  - a) provide a clear explanation that the clause provided in the planning proposal may differ from the LEP amendment when legally drafted; and
  - b) provide updated Obstacle Limitation Surface and Procedures for Air Navigation Services – Aircraft Operations mapping within the planning proposal so the community can understand where this clause applies.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities:
  - NSW Rural Fire Service;
  - Licensee of the Airfield (Economic Development – Tweed Shire Council); and
  - Local Aero Club.
4. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
5. Council have not accepted plan-making function and therefore should not be authorised to be the local plan-making authority to make this plan.



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