

Draft LEP Amendment No. **18**

**Planning Proposal for
River Retreat Caravan Park**

Version 1 – Gateway Determination
October 2015

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Table of Contents

Part 1	Objectives and intended outcomes	1
Part 2	Explanation of provisions	2
Part 3	Justification	2
Section A	Need for the planning proposal.....	2
1	Is the planning proposal a result of any strategic study or report?	2
Section B	Relationship to strategic planning framework	3
1	Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?	3
2	Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?.....	4
3	Is the planning proposal consistent with the applicable State Environmental Planning Policies (SEPPs)?	4
4	Is the planning proposal consistent with applicable Ministerial Directions (s117 Directions)?.....	6
Section C	Environmental, Social and Economic Impact.....	10
1	Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal?	10
2	Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?.....	10
3	How has the planning proposal adequately addressed any social and economic effects?	11
Section D	State and Commonwealth interests	11
1	Is there adequate public infrastructure for the planning proposal?	11
2	What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?	11
Part 4	Mapping	12
Part 5	Community consultation	15
Part 5	Timeframe and information checklist.....	15

Part 1 Objectives and intended outcomes

The objective of this Planning Proposal is to provide justification for amendments to Tweed Local Environmental Plan 2014 (LEP 2014) affecting part of Lot 1 DP 100121, being land adjacent to the River Retreat Caravan Park, located at 12 Philp Parade, Tweed Heads South. The intended outcome of these amendments is to allow *camping ground* land use with development consent on the subject site.

According to the definition of the Tweed LEP 2014, *camping ground* means *an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.*

Whilst the land subject to this Planning Proposal is a residential property zoned R2 Low Density Residential and owned by a local family, it is currently leased by River Retreat Caravan Park, adjoining to the east, south and west (refer to *Figure 3* provided under Part 4 Mapping for aerial photography of the site). The land is not developed and is utilised as an area for overflow of campervans and tents during peak holiday seasons. As such, the intended outcome of this Planning Proposal is to retain the current form of land use on the subject site.

A report to the Tweed Shire Council's Planning Committee 5 November 2015 recommends the following:

- 1. A planning proposal pursuant to s.55 of the *Environmental Planning and Assessment Act 1979*, seeking to facilitate use of Part Lot 1 DP 100121 for “camping ground” associated with River Retreat Caravan Park be prepared and submitted for a Gateway Determination, as administered by the NSW Department of Planning & Environment;**
- 2. The Minister for Planning or their Delegate be advised that Tweed Council is not seeking plan making delegations for the planning proposal;**
- 3. The Minister for Planning or their Delegate be advised that the minimum exhibition period for this Planning Proposal should be 14 days;**
- 4. On receipt of the Minister’s Gateway Determination Notice to proceed any ‘conditional’ requirements of the Minister and any other study or work required by Council for the purpose of making a proper determination of the lands suitability are to be completed, and included within the public exhibition material;**
- 5. That the planning proposal be publicly exhibited in accordance with the Gateway Determination; and**
- 6. Following public exhibition of the Planning Proposal a report is to be submitted to Council detailing the content of submissions received and any proposed amendment(s).**
- 7. Council officers will work with the Proponent to secure a legally enforceable agreement that will have the effect of limiting both the number of sites and type of camping accommodation to RCV’s (Recreational Camper Vans) and Camper trailers.**

- 8. Compliance action in relation to the alleged unlawful use of the land for camping ground purposes be ceased whilst the Proponent caravan and camping ground operator makes a genuine attempt to remedy the circumstances calling into effect that compliance action by obtaining all necessary statutory approvals, and only if the caravan and camping ground operator agrees in writing to:**
- a. limit the number of camping ground sites to six (6);**
 - b. restricts the use of these sites to times of over-flow demand;**
 - c. permits only recreational camper vehicle (motorhome), caravan and camper trailer accommodation on these sites;**
 - d. provides a copy of an appropriate flood warning and evacuation plan to the occupants of these sites at the time of arrival check-in, and**
 - e. undertakes to not carry-out any works in association with the use of the land for camping ground purposes prior to and without all necessary approvals being obtained.**

A detailed explanation, justification and draft versions of the intended amendments are provided in Part 2 and Part 3 of this document. Part 4 comprises mapping, including the proposed amendment to the Additional Permitted Uses Map pursuant to Clause 2.5. Part 5 outlines the progress of community and agency consultation and will be updated throughout further stages of the process. Part 6 includes indicative an timeframe of the process.

Part 2 Explanation of provisions

The intended outcome will be enabled by the following amendments to the Tweed LEP 2014:

- Amendment to the map pursuant to Clause 2.5 (Additional Permitted Land Uses Map) to identify land subject to this Planning Proposal as item number 13, and
- Inclusion of an additional item in Schedule 1, permitting camping ground on Lot 1 DP 100121 with development consent.

Part 3 Justification

Section A Need for the planning proposal

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

This Planning Proposal is not a direct result of any strategic study or report. Council received a request for a planning proposal from the owner of River Retreat Caravan Park. The purpose of this Planning Proposal is to amend the list of land uses permissible on the subject site to ensure that it can continue to be used as a camping ground for tents and campervans.

Although the site has been used as a camping ground for many years, its current zoning, R2 Low Density Residential prohibits such use and, following receipt of a formal complaint, Council is pursuing compliance action against the River Retreat Caravan Park. Notwithstanding the compliance action, Council prepared a planning proposal for the site as its desired outcome is consistent with strategic approach towards planning and management of land located within the flight paths of Gold Coast Airport, which is to prevent noise sensitive development, such as permanent residential accommodation. The subject site is located within the 25-30 Australian Noise

Exposure Forecast (ANEF) zone therefore by facilitating use of the subject land for a camping ground, this Planning Proposal gives effect to Direction 3.5 of the s117 Direction (*Development Near Licensed Aerodromes*).

Camping grounds are often described as an affordable alternative to hotel or motel accommodation, particularly among family groups. This mode of accommodation has shown an increasing trend of popularity, both with family groups, but also with larger tourist groups of tourists. Under the Tweed Community Strategic Plan 2013/2023, caravan parks, being part of tourism sector, are described as one of the major industries contributing to the local economy. In the 2013/2014 financial the number of visitors to the Tweed grew to 1.4 million (both international and domestic). Tourism and hospitality are important contributors to the local economy with the total tourism and hospitality sales in Tweed Shire in 2013/2014 reaching \$555.5m and the total value added was \$278.1m.

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

It is considered that the proposed LEP amendment is the most appropriate method of enabling continuous use of land for the purposes of River Retreat Caravan Park. To ensure that this occurs in a timely fashion the gateway process is the most appropriate planning mechanism. The desired outcome is proposed to be achieved through an amendment to Schedule 1 Additional Permitted Uses of the Tweed LEP 2014. This is considered to be the preferred avenue for proceeding with the amendment as it maintains consistency with the principles for planning and management of land within the flight paths of Gold Coast Airport. Alternative zones, such as RE2 Private Recreation zone, are not suitable as they would also permit land uses unacceptable within the flight paths due to significant aircraft noise.

Section B Relationship to strategic planning framework

1 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Tweed Shire is subject to the *Far North Coast Regional Strategy (FNCRS) 2006-2031*. This Planning Proposal is consistent with the vision statement provided under the FNCRS (*A healthy, prosperous and sustainable future for the diverse communities of the Far North Coast Region*) and with the following provisions:

Part 8 Settlement and Housing

- Caravan parks and manufactured home estates, where there is any potential for permanent accommodation to occur, should be located generally in urban areas.

Part 9 Economic Development and Employment Growth

- Local environmental plans will ensure that appropriate land is available to provide for a range of tourism experiences and forms of tourist accommodation, including ecotourism and the support of 'bed and breakfast' enterprises within residential and rural areas.
- Local environmental plans will locate large scale tourism development in prime tourism development areas unless other proposed locations are consistent with an approved Local Growth Management Strategy.
- In planning for tourism needs, councils will have regard to the North Coast Regional Tourism Plan 2004–2007 (or latest version) and Northern Rivers Regional Tourism Plan 2003–2006 (or latest version).

Mapping *Town and Village Growth Boundaries Sheet 1 - Tweed*

- The subject site is located within the Town and Village Growth Boundaries which identify the land required to meet the region's urban housing and employment needs until 2031.

Part 6 Natural Hazards of the FNCRS provides that local environmental plans will zone areas subject to high hazard to reflect the capabilities of the land. Whilst this Planning Proposal seeks to allow use of land identified as flood prone for a *camping ground*, it will not result in permanent accommodation or any forms of habitable structures on the site.

No references to caravan parks were found in the FNCRS during preparation of this Planning Proposal. The FNCRS however pays close attention to the role of tourism accommodation in the local economy: tourism is defined as one of the key industry sectors in the region (p. 7 of the FNCRS). Further, the FNCRS estimates that the *Northern Rivers Tropical NSW Tourism* precinct received 4.6 million visitors and \$1.128 billion worth of expenditure in 2005 and employed 7 000 people in that year (p. 35).

No inconsistencies between this Planning Proposal and the FNCRS were found. To satisfy all recommendations provided under Part 9, consideration was given to the North Coast of NSW Destination Management Planning June 2013 – no inconsistencies were identified.

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

The *Tweed Community Strategic Plan 2013/2023* (CSP) is the long term strategic plan for the future of Tweed Shire area. It identifies the community's main priorities and expectations for the future and ways to achieve these goals. The CSP is established on four thematic sections: Civic Leadership, Supporting Community Life, Strengthening the Economy, and Caring for the Environment. The Planning Proposal does not directly respond to any of the key actions identified within the CSP, but is consistent with the overarching objective of strengthening the local economy. This will be achieved by regulating the current use of land for camping ground. Particularly, this Planning Proposal is consistent with the following objective of the CSP:

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.

The planning proposal seeks to regulate the use of the subject site for a camping ground associated with the adjoining River Retreat Caravan Park. This outcome is expected to provide an effective statutory framework and a high level of certainty for owners of the site, the visitors and the local community.

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

While assessing consistency of this Planning Proposal with State Environmental Planning Policies, consideration was given to the scope of proposed changes to the LEP, which are limited to a site specific amendment of Schedule 1 and associated Additional Permitted Land Uses mapping. This change is considered to be of a minor nature as it intends to formalise the minor, low impact use rather than lead to further intensification of development or density of the subject site.

Of the approximately 66 SEPPs made by the NSW Government, many of them apply to land within Tweed Shire and regulate matters of State or regional environmental planning significance. Key SEPPs, usually considered as applicable to planning proposals in the Tweed, include SEPP 14 Coastal Wetlands, SEPP 21 Caravan Park, SEPP 26 Littoral Rainforests, SEPP 71 Coastal

Protection, Rural Lands, SEPP 44 Koala Habitat Protection, Exempt and Complying Development Codes, BASIX. Two of these SEPPs are of high relevance to this Planning Proposal:

SEPP 71 Coastal Protection The subject land is less than 100 metres from the tidal part of the Terranora Creek and is within the coastal zone identified in this SEPP. Consistency with this SEPP is maintained through the following:.. : The planning proposal will not affect public access to the Terranora Creek foreshore or generate the need to provide new access; the use is suited to its locality given surrounding land use, the proposal will not affect the scenic amenity of the creek's foreshore or cause overshadowing or major view impacts; the proposal will not affect threatened species or wildlife corridors; the use will not be affected by coastal processes; the proposal will not cause conflict with water or land based activities and is compatible with its neighbouring land uses; the proposal will not cause impacts on waterbodies; and will not impact on cultural heritage of significance as it will not result in earthworks or development of permanent structures.

SEPP 21 Caravan Parks This Planning Proposal is consistent with the objectives and aims of this SEPP as it aims to encourage orderly and economic use of the subject land for a camping ground, associated with the adjoining caravan park.

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

The Planning proposal is consistent with the Ministerial s117 Directions, as outlined in the following table.

The consistency with applicable s117 Directions is assessed in the following table 4.

Table 1- Consistency with s117(2) Directions

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
2. Environment and Heritage			
2.2 Coastal Protection	<u>Objective:</u> The objective of this direction is to implement the principles in the NSW Coastal Policy. <u>Application:</u> This direction applies to the coastal zone, as defined in the Coastal Protection Act 1979.	The subject site is located within the coastal zone. The planning proposal is considered to be consistent with the provisions of the NSW Coastal Policy 1997, Coastal Design Guidelines 2003 and the NSW Coastline Management Manual 1990, particularly as the proposal is restricted to permitting 'camping grounds' within an already urbanised setting. Specifically, the proposal does not affect public access to the Tweed River foreshore, nor generate the need to provide new access. Further, the proposal will not affect the scenic amenity of the Tweed River foreshore, cause undue overshadowing or major view impacts. The proposal will not affect threatened species or wildlife corridors. Camping grounds are considered a low impact use, often pursued in coastal environments, particularly adjoining waterbodies due to their temporal and dynamic nature. In this regard, including camping ground as the additional use above the usual	Consistent

Table 1- Consistency with s117(2) Directions

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		permitted low density residential land uses is considered appropriate in light of the applicable coastal policy framework.	
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	<u>Objective:</u> To encourage a variety and choice of housing types, to make efficient use of existing infrastructure and services and to minimise the impact of residential development on the environment and resource lands. This direction applies to all relevant planning authorities.	Applicable - The planning proposal does not discourage a variety and choice of housing types to provide for existing and future housing needs, make inefficient use of existing infrastructure and services, or contribute to the impact of residential development on the environment and resource lands. In this regard, the planning proposal seeks to amend the permitted uses, as they relate to the subject site, to permit an additional tourist and visitor accommodation type, being camping ground.	Consistent
3.3 Home Occupations	<u>Objective:</u> To encourage the carrying out of low-impact small businesses in dwelling houses. This direction applies to all relevant planning authorities.	Not applicable – The proposal seeks to create an additional permitted use for the site as opposed to amend the zoning. Home Occupation is already a permitted land use within the R2 Low Density Residential zone, though is not applicable to the tourism use.	Consistent

Table 1- Consistency with s117(2) Directions

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
3.4 Integrating Land Use and Transport	<u>Objective:</u> To ensure that urban structures achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.	Applicable – Whilst enabling an additional permitted land use, the planning proposal in itself would not create a traffic generating development as the development is currently existing and will not result in increased land occupation. Nonetheless, the subject site is located within the locality of Tweed Heads South, combining with Tweed Heads to represent a Major Regional Centre for the NSW Far North Coast. In this regard the locality includes a variety of live, work, play, stay options, cycleways and the highest frequency public transport network for the Tweed Shire.	Consistent
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.	The subject site is located within the 25-30 Australian Noise Exposure Forecast (ANEF) zone therefore by facilitating use of the subject land for a camping ground, this Planning Proposal is consistent with this Direction.	Consistent
4. Hazard and Risk			
4.3 Flood Prone Land	Applies when a planning proposal creates, removes or alters a zone or a provision that affects flood prone land. Aims to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land. Requires planning proposals to include	This direction applies as the subject site is located within the identified Flood Planning area. Provisions of the Floodplain Development Manual 2005 are implemented through Tweed Development Control Plan 2008 (Section A3). However, it applies to a relatively small area (8-10 camping sites) that has been used as a camping ground for a number of years. It does not aim to permit any additional development.	Justifiably inconsistent – the extent of the inconsistency is considered to be of a minor significance. Further discussion about flooding is provided under Section C of this Planning Proposal.

Table 1- Consistency with s117(2) Directions

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.		
5. Regional Planning			
5.1 Implementation of Regional Strategies	This direction gives legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	Section B above provides a detailed analysis of compliance of this Planning Proposal with provisions of the Far North Coast Regional Strategy 2006-31. The subject site is located within the Town and Village Growth Boundary which identifies the land required to meet the region's urban housing and employment needs until 2031.	Consistent
6. Local Plan Making			
6.1 Approval and Referral Requirements	<u>Objective:</u> To ensure that LEP provisions encourage the efficient and appropriate assessment of development. This direction applies to all relevant planning authorities.	The planning proposal does not include any provisions that require additional concurrence, consultation or referral with the Minister or other state authority.	Consistent
6.3 Site Specific Provisions	<u>Objective:</u> To discourage unnecessarily restrictive site specific planning controls. This direction applies to all relevant planning authorities.	The planning proposal does not recommend or seek any site specific controls aside from the additional permitted use, which enables development as opposed to restricting development.	Consistent

Section C Environmental, Social and Economic Impact

1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal?

This proposal is of a minor nature as it aims to regulate the existing use of land. In addition, it applies to a relatively small land of approximate area of 1500m², located well within the heavily urbanised locality of Tweed Heads South, combining with Tweed Heads to represent a Major Regional Centre for the NSW Far North Coast. Due to its location, size, and current use, it is unlikely that the Planning Proposal will result in negative environmental impacts.

Although the site is located within the coastal zone, the proposal does not affect public access to the Tweed River foreshore, nor generate the need to provide new access. Further, the proposal will not affect the scenic amenity of the Tweed River foreshore, cause undue overshadowing or major view impacts.

Camping grounds are considered a low impact use, often pursued in coastal environments, particularly adjoining waterbodies due to their temporal and dynamic nature. In this regard, including camping ground as the additional use above the usual permitted low density residential land uses is considered appropriate in light of the applicable coastal policy framework.

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

The land is subject to the Flood Planning Area. Ministerial Directions provided under s117 of the *EP&A Act 1979* requires consideration of the flood risk at the rezoning stage, particularly in relation to the consistency with the NSW Flood Prone Land Policy and the principles of the *Floodplain Development Manual 2005*.

The *Floodplain Development Manual 2005* has been progressively implemented into Tweed's strategic planning framework through Section A3 Development Control Plan (DCP) 2008 *Development of Flood Liable Land*. According to this section of the DCP, existing caravan parks cannot expand to include moveable dwelling sites, unless there is a permanent high level road evacuation route to high land external to the site available, or high land internal to the site can be accessed by the additional sites via road and/or pedestrian routes. This DCP further provides that expansion of caravan park amenities and other non-habitable facilities may be permitted without consideration of PMF.

Council's Road and Stormwater Unit advised that any expansion of the River Retreat Caravan Park, including additional campervan and tent sites should be considered as inconsistent with the DCP A3 and is not supported, so long as the number of sites and the type of accommodation is undefined, except by the LEP definition.

Notwithstanding, on balance, the proposal does not seek any permanent structure or occupation of the site and therefore, does not increase the exposure of persons to risk in a flood event, given the site is surrounded on three sides by the established River Retreat Caravan Park. Instead the planning proposal seeks to formalise the overflow camping use of the site in association with the current River Retreat Caravan Park.

From a town planning perspective it is considered that this is a minor and justified variation under the S117 Ministerial Directions. Notwithstanding, it is agreed that if the site was to be evaluated for the unrestricted category of 'camping ground' that a risk assessment must both be prepared and unequivocally support that use. Those reports typically cost in the vicinity of \$10,000 and it would be open the proponent to agree to preparing a risk assessment. In the alternative, it is the agreed opinion of Council staff that the unique circumstance of this proposal, in the absence of a proper risk management assessment, that the camping overflow area is supportable but only if the maximum number of sites is agreed between the Council and the Proponent, that the type of accommodation is restricted to recreational camper vans and camper trailers, and is contained in a legally enforceable agreement.

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

The social and economic impacts resulting from this Planning Proposal are considered minimal, however, it is envisaged that the proposal has a positive impact by facilitating the ongoing use of the existing caravan park, therefore supporting tourism and its economic and social input into the region.

The site does not contain any identified European or Aboriginal cultural heritage significance that could potentially be impacted by the proposal.

Section D State and Commonwealth interests

1 Is there adequate public infrastructure for the planning proposal?

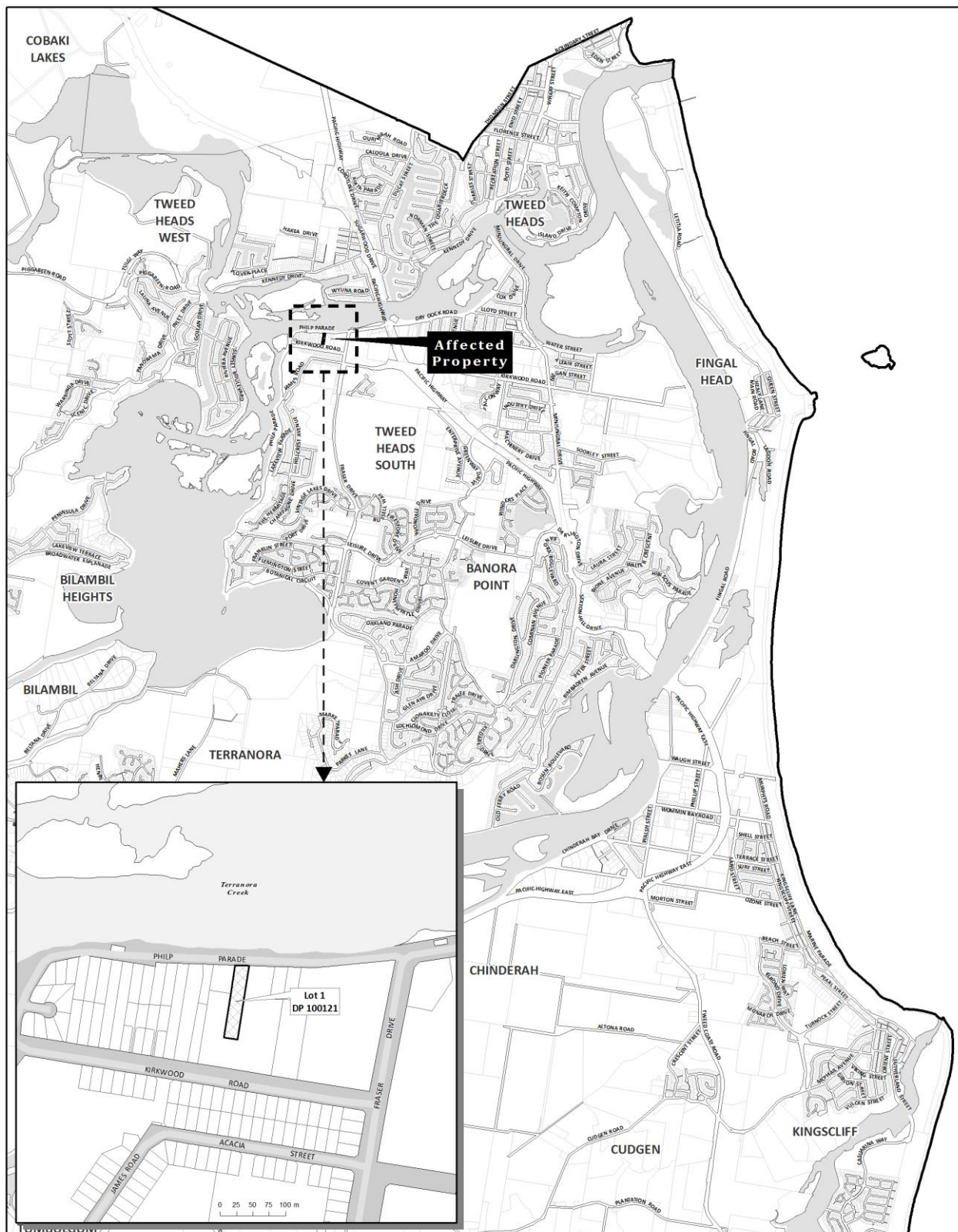
This Planning Proposal does not require additional public infrastructure as it aims to regulate already existing use of land.

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

This planning proposal will be referred to the NSW Department of Planning & Environment seeking a Gateway Determination.

This section of the Planning Proposal will be further updated once the relevant consultation has been undertaken consistently with conditions of the Gateway Determination.

Part 4 Mapping



Locality Plan

Lot 1 DP 100121
No.12 Philp Parade, Tweed Heads South

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Map Projection: Universal Transverse Mercator
Horizontal Datum: Geodetic Datum of Australia 1994
Grid: Map Grid of Australia, Zone 56

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Author: JBatchelor - Strategic Planning & Urban Design Unit

Date Printed: 12 October, 2015

Figure 1: Locality Plan



ADDITIONAL PERMITTED USES

Lot 1 DP 100121
No.12 Philp Parade, Tweed Heads South

Tweed Local Environmental Plan 2014

Additional Permitted Use

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Horizontal Datum: Geodetic Datum of Australia 1994
Grid: Map Grid of Australia, Zone 56

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Author: J. Batchelor - Strategic Planning & Urban Design Unit

Date Printed: 12 October, 2015

Figure 2: Proposed amendment to the Additional Permitted Uses Map.



AERIAL PHOTO - April 2015

Lot 1 DP 100121
No.12 Philp Parade, Tweed Heads South

SOURCE:
Aerial imagery was captured
April 2015 © AAM Pty Ltd and NSW LPI

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Map Projection: Universal Transverse Mercator
Horizontal Datum: Geodetic Datum of Australia 1994
Grid: Map Grid of Australia, Zone 56

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TWEED
SHIRE COUNCIL

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Author: J. Batchelor - Strategic Planning & Urban Design Unit

Date Printed: 12 October, 2015

Figure 3: Aerial photography of the subject site

Part 5 Community consultation

The public will have the opportunity to view and comment on the Planning Proposal once the Gateway determination is issued requiring public exhibition in accordance with section 57 of the EP&A Act. This section of the planning proposal will be updated once the consultation is finalised.

It is submitted that the Proposal be considered as a “low impact planning proposal”, in the meaning of Departments’ guidelines, as it is:

- consistent with the pattern of surrounding land use zones and/or land uses
- consistent with the strategic planning framework
- presents no issues with regard to infrastructure servicing
- not a principal LEP
- does not reclassify public land.

As such, it is recommended to exhibit this Planning Proposal for a period of 14 days.

Public notification of the exhibition will include notification in Tweed Link, notice on Council website and an individual letter sent to the owners of adjoining properties. Hard copies of this Planning Proposal will be available at Council’s Administrative Buildings in Murwillumbah and Tweed Heads.

Part 5 Timeframe and information checklist

Task	Timeframe	Completed
Referral of the Planning Proposal for Gateway determination	November 2015	
Gateway Determination	Nov/Dec 2015	
Undertake requirements of the Gateway Determination and prepare V2 Planning Proposal	December 2015	
Public exhibition	December / January 2015 - 16	
Agency consultation	December / January 2015- 16	
Review submissions, respond and prepare V3 Planning Proposal for Council’s consideration	February 2015	
Council report to finalise and refer the plan to the DPE to be made	March 2016	
Referral of the Plan to the DPE for making	March / April 2016	
Plan to be made within 9 months of Gateway	May / June 2016	



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