

Planning Proposal  
for Lot 1747 DP 1215252, Pottsville (PP19/0006)

**Version 1 for Gateway Determination**  
**September 2019**

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## Part 1 Objectives and intended outcomes

### Introduction

1. The Seabreeze Estate residential development is located to the north west of the Pottsville Village Centre and to the north of Pottsville Road (refer to Figure 1).
2. The first stages (Stages 1 to 14) were completed under Development Consent No K99/1837 (as modified) and comprised around 500 lots. On 2 June 2013, Tweed Shire Council issued Development Consent No. DA13/0577 for an 88 lot subdivision of Stages 15 to 18. Stages 15 to 17 are now complete.
3. The subject site (Lot 1747 DP 1215252) forms Stage 18 of the Seabreeze Estate and has been identified as a 'potential school site' since the conceptual stages of the Estate, with early marketing using the school site as an attraction to the area. It signifies the net community benefit commitment associated with rezoning the Seabreeze Estate.

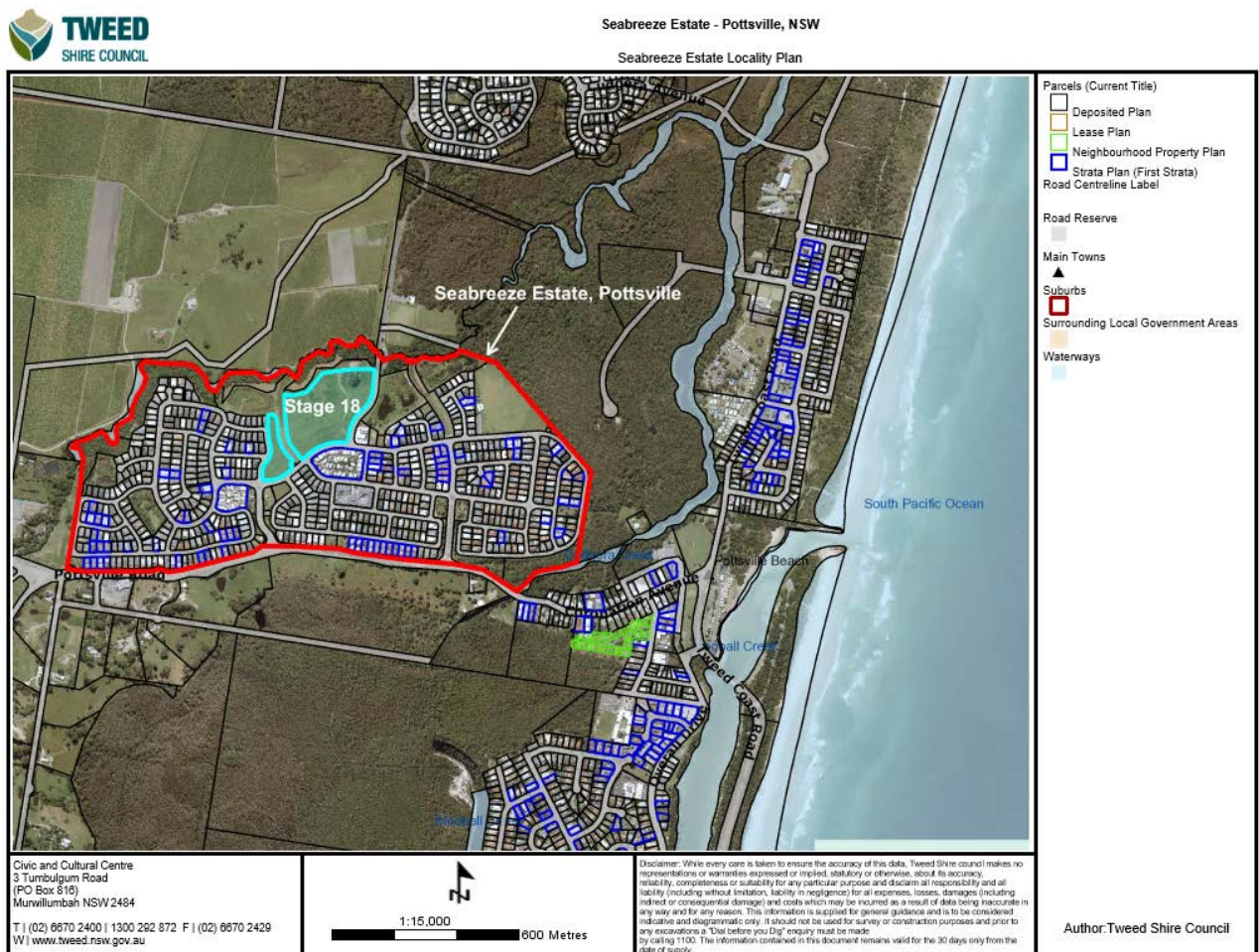


Figure 1 – Seabreeze Estate, Pottsville and the Subject Site

4. Section B15 of the Tweed Development Control Plan (DCP) 2008, nominates Stage 18 (the subject site) of the Seabreeze Estate as a 'potential school site'. This designation has existed in substantially the same form in the relevant DCP since 2000.

5. The potential school designation is logically placed, neighbouring playing fields in both Seabreeze Estate and Koala Beach as well as the Seabreeze-Koala Beach link road, allowing an effective cross utilisation of existing infrastructure.
6. Expected population growth in the area demonstrates the need for a school in the locality. High school students, in particular, currently have to travel long distances to attend school in other areas.
7. The subject site is currently zoned R2 Low Density Residential under the provisions of the Tweed Local Environmental Plan (LEP) 2014 and the Department of Planning and Environment guidelines for the zoning of school infrastructure.

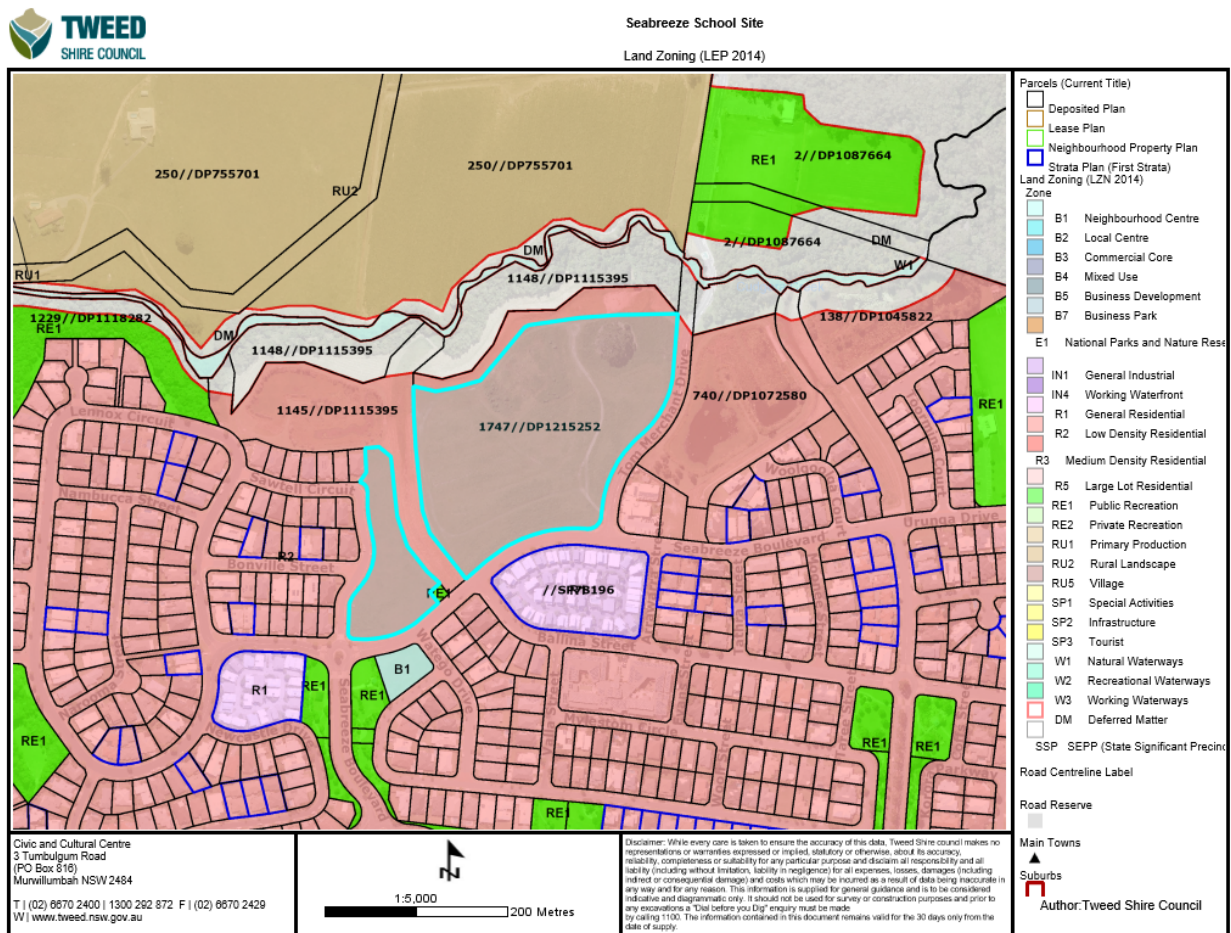


Figure 2 – Land zoning (LEP 2014)

8. The site has been the subject of several development applications and an appeal in the NSW Land and Environment Court, each seeking development of the land for residential purposes, which to date have all been refused.
9. The Tweed coast community has maintained strong opposition to the removal of the 'potential school site' designation of the land, in recognition of the desire to have a secondary school built.
10. On 7 August 2018, Council received a request on behalf of the landowner to amend Section B15 of the Tweed DCP 2008 to delete reference to the subject site as a 'potential school site', thus allowing it to be developed for residential purposes.

11. As part of the request the landowner notes that School Infrastructure NSW (formerly the Department of Education) has advised that *“the department does not wish to acquire the school site identified through Council’s Development Control Plan.”*
12. The landowner further notes that an offer was received from an independent school (the Pacific College Group) however this offer was not considered to be commercially acceptable.
13. Council is of the view that the current zoning of the land may be influencing the level of interest in the site for a potential school, if the market value is based on a residential development potential rather than an educational use development potential.
14. Under the NSW planning system, the State Government has previously issued an LEP Practice Note (PN 10-001 Zoning for Infrastructure in LEPs) guiding councils to zone public infrastructure land to reflect the zoning of the adjoining land, which in this case is R2 Low Density Residential.
15. The intent of this approach was to provide greater flexibility for the provision of new infrastructure developments, redevelopment of sites for alternative uses and disposal of surplus public land.
16. In this instance however, Council considers it is reasonably likely that the market land value is cost prohibitive for the primary intended use as a school, biased by its R2 Low Density Residential zoning.
17. In order to remove the potential land value bias, Council propose to rezone the subject site to SP2 Infrastructure providing surety to the open market that the land would be available for acquisition at a market value aligned with the intended use of the site as a school.
18. The focusing in development potential of the land is anticipated to improve clarity and certainty in regard to the development potential for the landowner, potential developers and the local community.
19. On 6 September 2018, Council resolved that:
  1. *The request to remove reference to ‘potential school site’ from Tweed Development Control Plan 2008 section B15 is not supported;*
  2. *The General Manger is to investigate options through a planning proposal to change the zoning of the site to a zone which more closely aligns with the Developer’s original commitment, which was to provide a public net benefit by way of allocation of land for educational purposes, as depicted in Tweed Development Control Plan 2008 section B15; and*
  3. *An independent valuation to determine market valuation differences between the existing R2 Low Density Residential and an applied Special Purpose – Education zoning (SP1) would assist with Council’s consideration of the potential use or uptake of the land and is to be undertaken only if the Proponent agrees to pay Council’s costs of having one prepared.*
20. This planning proposal has been prepared in response to Council's resolution and seeks to amend the Tweed LEP 2014 zoning map.
21. The planning proposal is seeking a temporal amendment to the land zoning map by rezoning the subject site (Lot 1747 DP 1215252) from R2 Low Density Residential to SP2 Infrastructure to help

facilitate development of the site for its primary intended use in line with the developer’s original commitment, which Council has continued to uphold.

## Objectives and Intended Outcomes

22. The objective of the planning proposal is to realise the net community benefit commitment and achieve a school development on the site by amending the Tweed LEP 2014 land zoning map to show the subject site as SP2 Infrastructure.
23. The intended outcome of the planning proposal is to:
  - a. realise the developer’s original commitment and the community and Council’s expectations to have a school developed on the site;
  - b. improve clarity and certainty in regard to the development potential for the landowner, potential developers and the local community; and
  - c. remove potential for inflated land valuation of the R2 zone by rezoning the land to SP2 Infrastructure to align with the intended school use.
24. It is not the intention of the planning proposal to reserve the land for a specific use in perpetuity that may demonstratively not be required.
25. If the rezoning is completed, and after a designated period no reasonable offer is made by a school provider to purchase the site, it would be considered appropriate for the site to default back to the existing R2 Low Density Residential zoning, including the nomination for an alternate net community benefit.
26. As such, it is proposed to rezone the subject site to SP2 Infrastructure for a specified time period of 5 years as permitted under Clause 3.14(3A) of the *Environmental Planning and Assessment Act 1979*.

## Part 2 Explanation of provisions

The land the subject of this Planning Proposal is currently zoned R2 Low Density Residential under the Tweed LEP 2014.

The objectives and intended outcomes of this Planning Proposal would be achieved by utilising Clause 3.14(3A) of the *Environmental Planning and Assessment Act 1979* to apply a temporal rezoning of the site to SP2 Infrastructure and amending the following map sheets of the Tweed LEP 2014:

Map Sheet	Current	Proposed Change
Land Zoning Map – Sheet LZN_025	R2 Low Density Residential	SP2 Infrastructure - School
Lot Size Map – Sheet LSZ_025	‘G’ - 450 square metres	No minimum lot size specified
Height of Buildings Map – Sheet HOB_025	‘J’ – 9 metres	No maximum building height specified
Floor Space Ratio Map – Sheet FSR_025	‘J’ – 0.8	No maximum floor space ratio specified

No changes are proposed to any other maps or development standards as part of this Planning Proposal.

## 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 gives effect to two locality based development control plans, which after having been publicly consulted and endorsed by Council, became sections of the Tweed DCP 2008, being:

- Section B15 – Seabreeze Estate – Pottsville; and
- Section B21 – Pottsville Locality Based Development Code.

The aims of Section B15 include ensuring that the necessary services and community facilities infrastructure are available in an orderly and economic manner. Map 7A includes the specific designation of the ‘potential school site’.

Development control requirements are provided within Section 3.5 of Section B21 should Council receive an application over these lands which does not include the provision of a school facility. The development controls include the requirement for any applicant to demonstrate that the proposed use represents a better outcome than the provision of a school. No applications have been received by Council to date, which adequately address this control.

#### 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 rezoning the subject site (Lot 1747 DP 1215252) from R2 Low Density Residential to SP2 Infrastructure to help facilitate development of the site for its primary intended use, is the best means of achieving the objective and intended outcomes of the Planning Proposal.

In the absence of an independent land valuation that compares the market value of the land in its current form to its value if a Special Activities – School zone was applied or a suitable alternative site for the possible future school being identified and secured, Council does not currently support development of the site for any purpose other than the developer’s initial commitment for a school.

### Section B Relationship to strategic planning framework

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

The North Coast Regional Plan 2036 was approved by the Minister for Planning in March 2017 and is the principal regional strategy guiding growth across the North Coast Region.

Under the provisions of the North Coast Regional Plan, the subject land is within an Urban Growth Area, being the coastal village of Pottsville. The coastal villages of the Tweed Shire, including Pottsville, have experienced some of the strongest growth on the North Coast. A priority of the plan is to explore additional greenfield opportunities to deliver housing in Pottsville and the nearby Dunloe Park.

Council is of the view that the desired outcome of this planning proposal, that is facilitating development of the site for its primary intended use as a school and improving clarity and certainty in



regard to the development potential of the land, whilst not directly related to the goals of the Plan, will facilitate delivery of its directions.

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

Tweed Council's local strategy the Tweed Community Strategic Plan (CSP) 2017-2027 establishes the following vision: "*The Tweed will be recognised for its desirable lifestyle, strong community, unique character and environment and the opportunities its residents enjoy*".

The following provisions of the CSP have been identified as relevant to the scope of this planning proposal:

- (a) Action 1.4 Managing community growth: The goal of this action is to "*plan for sustainable development which balances economic, environmental and social considerations. Promote good design in the built environment*";
- (b) Action 2.1 Built environment. The goal of this action is to "*regulate and deliver the built environment to balance the social, cultural, economic and environmental needs of the community*".

The planning proposal responds and acts upon the above actions and is consistent with the vision of the Tweed CSP 2017-2027 as it seeks to ensure a public net benefit is achieved in line with the developer's original commitments and the community and Council's expectations.

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

An assessment has been undertaken to determine the level of consistency of this planning proposal with relevant, applicable SEPPs. Due to the administrative nature of this planning proposal (no new development is proposed), no significant inconsistencies have been identified.

The planning proposal is consistent with relevant State Environmental Planning Policy's applying to the Tweed local government area, being:

### State Environmental Planning Policy No 55 - Remediation of Land

The aim of this Policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

As outlined in Section C(2) of this report, the site has been filled in accordance with development consent K99/1837. Previous investigations and onsite testing indicate that contamination is unlikely to be a constraint on the subject site.

### State Environmental Planning Policy (Coastal Management) 2018

The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the *Coastal Management Act 2016*.

The subject site is located within both the Coastal Use Area and Coastal Environment Area. Division 5 of this SEPP provides that coastal hazard and coastal management program matters must be considered at development assessment stage. This planning proposal does not envisaged to result in an increase to coastal hazard in the area and is considered consistent with this SEPP.

**4 Is the planning proposal consistent with applicable Ministerial Directions (s9.1 Directions)?**

The planning proposal is consistent with the Ministerial s9.1 Directions, as outlined in the following table.

<i>Table 2- Consistency with 9.1 Directions</i>			
S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
<b>1. Employment and Resources</b>			
1.1 Business and Industrial Zones	<p><u>Summary of Objectives</u> To protect, encourage and support employment / strategic centres.</p> <p><u>Application</u> When a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).</p>	Not relevant. This planning proposal does not apply to land with a business or industrial zone.	Not applicable.
1.2 Rural Zones	<p><u>Objectives:</u> The objective of this direction is to protect the agricultural production value of rural land.</p> <p><u>Application:</u> 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).</p>	Not relevant. This planning proposal does not apply to land with a rural zone.	Not applicable.
1.3 Mining, Petroleum Production and Extractive Industries	<p><u>Objectives:</u> The future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials is not compromised by inappropriate development.</p> <p><u>Application:</u></p>	This planning proposal does not include provisions that would trigger the application of this direction.	Consistent.

Table 2- Consistency with 9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	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 likely to be incompatible with such development.		
1.4 Oyster Aquaculture	<u>Objectives:</u> To protect Priority Oyster Aquaculture Areas (POA) and oyster aquaculture outside such an area, from adverse impacts on water quality, the health of the oysters and oyster consumers. <u>Application:</u> When there is a change in land use that could result with adverse impact or incompatibility of land uses.	This planning proposal does not apply to land that would be known or identified as a Priority Oyster Aquaculture Area.	Not applicable.
1.5 Rural Lands	<u>Objectives:</u> To protect the agricultural production value of rural land and to facilitate the orderly and economic development of rural lands for rural and related purposes. <u>Applies when:</u> (a)a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone, 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.	Not relevant. This planning proposal does not apply to land with a rural zone.	Not applicable.
<b>2. Environment and Heritage</b>			
2.1 Environment Protection Zones	<u>Objective</u> To protect and conserve environmentally sensitive areas. <u>Application</u>	The subject land does not contain any environmentally sensitive areas and is not subject to an environment protection zone.	Not applicable.

Table 2- Consistency with 9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	When a relevant planning authority prepares a planning proposal.		
2.2 Coastal Protection	<p><u>Objective</u> To implement the principles in the NSW Coastal Policy.</p> <p><u>Application</u> When a relevant planning authority prepares a planning proposal that applies to land in the coastal zone.</p>	<p>The subject site is located within the Coastal Zone.</p> <p>This planning proposal seeks to resolve a potential land value bias by rezoning the site to SP2 Infrastructure. No provisions of this planning proposal are expected to increase the permissible use or density of land within the coastal zone.</p>	Consistent.
2.3 Heritage Conservation	<p><u>Objective</u> To conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p><u>Application</u> When a relevant planning authority prepares a planning proposal.</p>	No known items of heritage significance or cultural value are known to occur within or immediately adjoining the subject site.	Consistent.
2.4 Recreation Vehicle Areas	<p><u>Objective</u> To protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.</p> <p><u>Application</u> When a relevant planning authority prepares a planning proposal.</p>	Not relevant to this planning proposal because it does not seek to change the regulation of recreation vehicles or land on which a recreation vehicle access or development may occur.	Not applicable.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPS	<p><u>Objective:</u> To ensure that a balanced and consistent approach is taken when applying environmental protection zones and overlays to land on the NSW Far North Coast.</p> <p><u>Application:</u> When a relevant planning authority prepares a planning proposal that introduces or alters an E2 or E3 zone, or an overlay with associated clause.</p>	The subject land does not contain any environmentally sensitive areas and is not subject to an environment protection zone.	Not applicable.

Table 2- Consistency with 9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	A relevant planning authority must apply the proposed E2, E3 or the overlay and associated clause consistent with the Northern Councils E Zone Review Final Recommendations.		
<b>3. Housing, Infrastructure and Urban Development</b>			
3.1 Residential Zones	<p><u>Summary of Objectives:</u></p> <ul style="list-style-type: none"> <li>(a) to encourage a variety and choice of housing types,</li> <li>(b) to make efficient use of existing infrastructure and services,</li> <li>(c) to minimise the impact of residential development on the environment and resource lands.</li> </ul> <p><u>Application</u></p> <p>When a planning proposal affects land within:</p> <ul style="list-style-type: none"> <li>(a) an existing or proposed residential zone, or</li> <li>(b) any other zone in which significant residential development is permitted or proposed to be permitted.</li> </ul>	The proposal is generally consistent with this Direction in that it will ensure existing and future housing has appropriate access to services, particularly a school or educational facility.	Consistent.
3.2 Caravan Parks and Manufactured Home Estates	<p><u>Objectives:</u></p> <ul style="list-style-type: none"> <li>(a) to provide for a variety of housing types, and</li> <li>(b) provide opportunities for caravan parks and manufactured home estates.</li> </ul> <p><u>Application:</u></p> <p>When a relevant planning authority prepares a planning proposal.</p>	Not relevant to this planning proposal because caravan parks and manufactured home estates are prohibited in the existing R2 Low Density Residential zone and not proposed under the SP2 Infrastructure zone.	Not applicable.
3.3 Home Occupations	<p><u>Objective:</u></p> <p>To encourage the carrying out of low-impact small businesses in dwelling houses.</p> <p><u>Application:</u></p> <p>When a relevant planning authority prepares a planning proposal.</p> <p><u>If this direction applies:</u></p>	This planning proposal will not alter home occupation provisions, in the Tweed LEP 2014.	Consistent.

Table 2- Consistency with 9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.</p>		
<p>3.4 Integrating Land Use and Transport</p>	<p><u>Summary of Objectives:</u>                      To ensure that urban structures, building forms, land use, subdivision and street layouts achieve the following objectives:</p> <ul style="list-style-type: none"> <li>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</li> <li>(b) increasing the choice of available transport and reducing dependence on cars, and</li> <li>(c) reducing travel demand including the number of trips generated by development and the distances travelled,</li> <li>(d) supporting the efficient operation of public transport services, and</li> <li>(e) providing for the efficient movement of freight.</li> </ul> <p><u>Application:</u>                      This direction 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.</p>	<p>The subject site is in an existing urban area The proposal will contribute to the creation of a vibrant walkable education node in this coastal village.</p>	<p>Consistent.</p>
<p>3.5 Development Near Licensed Aerodrome</p>	<p><u>Summary of Objectives:</u></p> <ul style="list-style-type: none"> <li>(a) ensure the effective and safe operation of aerodromes,</li> <li>(b) ensure that their operation is not compromised by development,</li> <li>(c) ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast contours of between 20 and 25, incorporates appropriate mitigation measures.</li> </ul> <p><u>Application:</u>                      When a 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.</p>	<p>This planning proposal applies to land outside of the ANEF contour areas. Also, because of significant distance from the nearest aerodrome, it is not likely to affect the safe operation of aerodromes through inappropriate development.</p>	<p>Consistent.</p>

Table 2- Consistency with 9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p><u>What must be done</u> Summary: a planning proposal that sets controls for the development of land in the vicinity of a licensed aerodrome must be subject to prescribed consultation and take certain prescribed matters into account.</p>		
3.6 Shooting Ranges	<p><u>Objectives:</u> (a) to maintain public safety and amenity, (b) to reduce land use conflicts, (c) to identify issues for consideration when rezoning land adjacent to an existing shooting range.</p> <p><u>Application:</u> When a planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to a shooting range.</p> <p><u>What must not be done</u> A planning proposal must not seek to rezone land adjacent to and/ or adjoining an existing shooting range that has the effect of permitting more intensive land uses than those which are permitted under the existing zone or permitting land uses that are incompatible with the noise emitted by the shooting range.</p>	The site subject to this planning proposal is not adjacent to an existing shooting range.	Consistent.
<b>4. Hazard and Risk</b>			
4.1 Acid Sulfate Soils	<p><u>Objective</u> To avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p> <p><u>Application:</u> When a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils.</p>	<p>The site is mapped as potentially containing Class 3 Acid Sulfate Soils. Acid sulphate soils do not impose a significant constraint because excavation below 1m is unlikely to be required.</p> <p>Acid Sulfate Soils will be further assessed with any future development assessment.</p>	Consistent.

Table 2- Consistency with 9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
4.2 Mine Subsidence and Unstable Land	<p>To prevent damage to life, property and the environment on land unstable or potentially subject to mine subsidence.</p> <p><u>Application:</u> When a relevant planning authority prepares a planning proposal that permits development on land that is within a mine subsidence district, or has been identified as unstable in a study, strategy or other assessment.</p>	Not relevant to this planning proposal as the subject site is not within a mine subsidence district and has not been identified as unstable in a study, strategy or other assessment.	Not applicable.
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.	This planning proposal seeks to resolve a potential land value bias by rezoning the site to SP2 Infrastructure. No provisions of this planning proposal are expected to increase the permissible use or density of flood prone land.	Consistent.
4.4 Planning for Bushfire Protection	<p><u>Objective</u></p> <p>(a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and</p> <p>(b) to encourage management of bush fire prone areas.</p> <p><u>Application:</u> When a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.</p>	This planning proposal seeks to resolve a potential land value bias by rezoning the site to SP2 Infrastructure. No provisions of this planning proposal are expected to increase the permissible use or density of bushfire prone land.	Consistent.
<b>5. Regional Planning</b>			
5.1 Implementation of Regional Strategies	<p><u>Objective</u> To give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.</p> <p><u>Application:</u> When a relevant planning authority prepares a planning proposal.</p>	Compliance of this planning proposal with the general directions of the North Coast Regional Plan, 2036 has been demonstrated in Section B 1 of this report.	Consistent.
5.2 Sydney Drinking Water Catchments	Local government areas not including Tweed.	Not relevant.	Not applicable.



<i>Table 2- Consistency with 9.1 Directions</i>			
<b>S9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	<p><u>Objective</u>                      (a) to ensure that the best agricultural land will be available for current and future generations to grow food and fibre,                      (b) to provide more certainty on the status of the best agricultural land, and                      (c) to reduce land use conflict.</p> <p><u>Application:</u>                      When a relevant planning authority prepares a planning proposal for land mapped as: State significant farmland, regionally significant farmland, or significant non-contiguous farmland. A planning proposal must not rezone land identified as "State Significant Farmland", "Regionally Significant Farmland" or "significant non-contiguous farmland" for urban or rural residential purposes.</p>	This planning proposal relate to any land or change the permissibility of any land mapped as state or regionally significant farmland or as non-contiguous farmland.	Not applicable.
5.4 Commercial and Retail Development along the Pacific Hwy, North Coast	<p><u>Objective</u>                      To manage commercial and retail development along the Pacific Highway to preserve and protect the safe function of the highway and its users.</p> <p><u>Application:</u>                      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.</p>	Not relevant to this planning proposal.	Not applicable.
5.8 Second Sydney Airport: Badgerys Creek	Applies to other local government areas than Tweed.	Not relevant to this planning proposal.	Not applicable.
5.9 North West Rail Link Corridor Strategy	Applies to other local government areas than Tweed.	Not relevant to this planning proposal.	Not applicable.
5.10 Implementation of Regional Plans	<p><u>Objective</u>                      To give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</p> <p>Applies when preparing a planning proposal.</p>	Compliance of this planning proposal with the general directions of the North Coast Regional Plan, 2036 has been demonstrated in Section B 1 of this report.	Consistent.

Table 2- Consistency with 9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
<b>6. Local Plan Making</b>			
6.1 Approval and Referral Requirements	<p><u>Objective</u> To ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p> <p><u>Application:</u> When a relevant planning authority prepares a planning proposal.</p> <p><u>What must be done:</u> Ensure provisions minimise concurrence roles, consultation or referral of DAs to public authority.</p>	This planning proposal does not propose an amendment of the kind referred to in the Direction.	Consistent.
6.2 Reserving Land for Public Purposes	<p><u>Objective</u> (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</p>	Not relevant to this planning proposal because it does not create, reduce or alter existing zoned reserves, and is not the subject of a direction of the Minister or public authority for that purpose.	Not applicable.
6.3 Site Specific Provisions	<p><u>Objective</u> To discourage unnecessarily restrictive site specific planning controls.</p> <p><u>Application:</u> When a relevant planning authority prepares a planning proposal that will allow a particular development.</p>	The proposal is consistent with this Direction as it propose to rezone the subject site that allows the intended land use without imposing any development standards or requirements in addition to those already contained in that zone.	Consistent.
<b>7. Metropolitan Planning</b>			
7.1 Implementation of A Plan for Growing Sydney	Applies to local government areas other than Tweed.	Not relevant to this planning proposal.	Not applicable.
7.2 Implementation of Greater Macarthur Land Release Investigation	Applies to local government areas other than Tweed.	Not relevant to this planning proposal.	Not applicable.

*Table 2- Consistency with 9.1 Directions*

<b>S9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>
7.3 Parramatta Road Corridor Urban Transformation Strategy	Applies to local government areas other than Tweed.	Not relevant to this planning proposal.	Not applicable.

## 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?

Tweed Shire Council's vegetation mapping identifies the site as mainly highly modified and disturbed and the site is not mapped on the Biodiversity Value Map.

The subject site has been filled and highly disturbed by bulk earthworks in accordance with Development Consent K99/1837 (as modified), and comprises maintained exotic grassland of low conservation value. One large White Fig (*Ficus virens var. sublandceolata*) is located in the north-east corner of the site.

Previous surveys have occurred on the site, associated with the Seabreeze Estate development application and modifications. No threatened flora or fauna species, or endangered ecological communities have been recorded on the subject site.

This planning proposal is not anticipated to cause adverse effects to critical habitat or threatened species, populations or ecological communities, or their habitats. The planning proposal improves clarity and certainty in regard to the development potential of the site. It does not increase the development potential or use of land to which it applies.

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

This planning proposal does not increase the development potential or use of land to which it applies and no environmental impacts are anticipated as a result of the proposal. The key constraints associated with the subject site, including bushfire hazards, acid sulfate soils and flooding, can be appropriately managed and mitigated as outlined below.

#### Acid Sulfate Soils

The subject site is mapped as Class 3 acid sulphate soils (refer to Figure 3). An Acid Sulfate Soil Management Plan will be required to accompany any application for excavation greater than 1m in depth or for works by which the water table is likely to be lowered more than 1 metre below the natural ground surface.



Seabreeze School Site

Acid Sulfate Soils

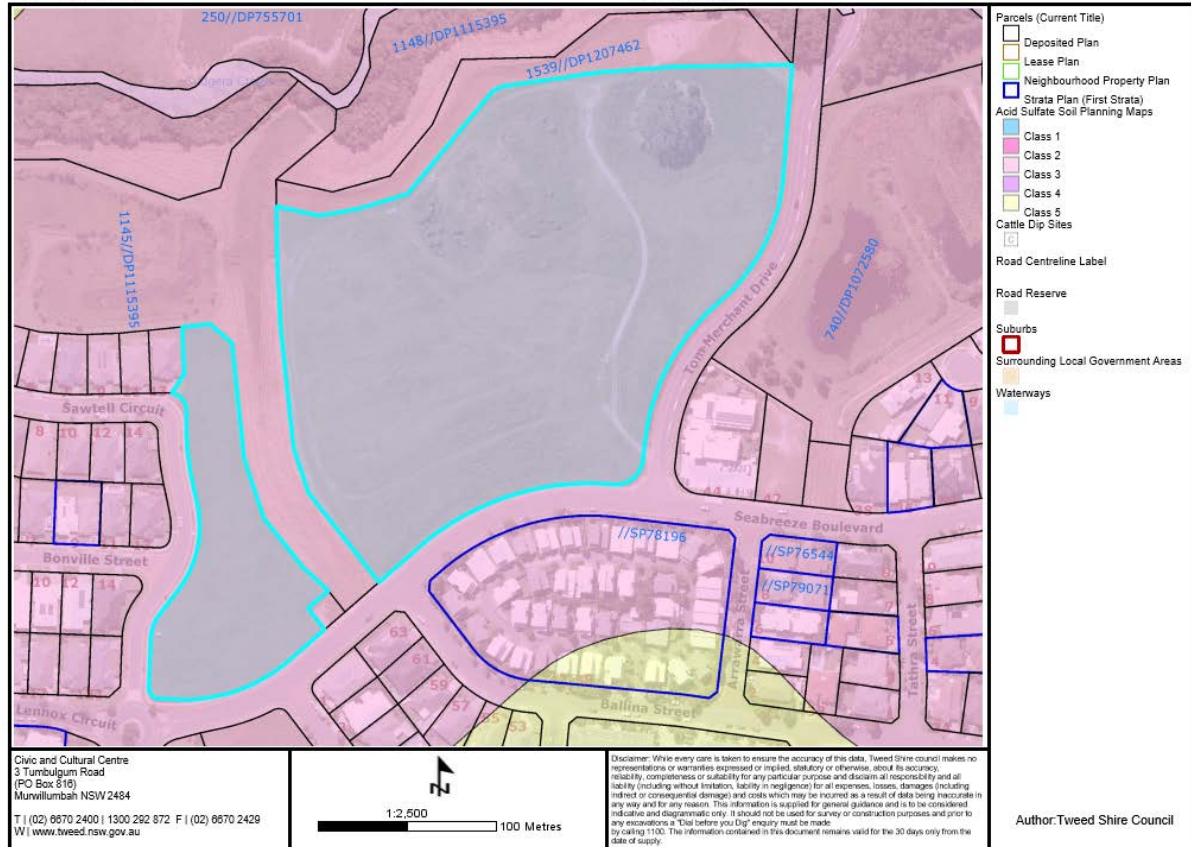


Figure 3 – Acid Sulfate Soils

**Bushfire Prone Land**

As shown on Figure 4, the northern portion of the subject site is mapped as bushfire prone land (vegetation buffer).

There is an established asset protection zone (APZ) between the riparian vegetation and the subject site boundary, reducing the overall bushfire risk to the site.

Bushfire risk is not considered to impose a significant constraint to the proposed Planning Proposal and can be further addressed at the Development Application stage for any future development.

**Flooding**

The subject site has largely been filled in accordance with Development Consent K99/1837 (as modified), to achieve a minimum of RL 2.67m AHD. As such, the majority of the subject site is not mapped as flood prone in the design flood event, however is mapped as flood prone in the probable maximum flood event (refer to Figure 5).

In this context, flooding is not considered to impose a significant constraint to the proposed Planning Proposal and can be further addressed at the Development Application stage for any future development.

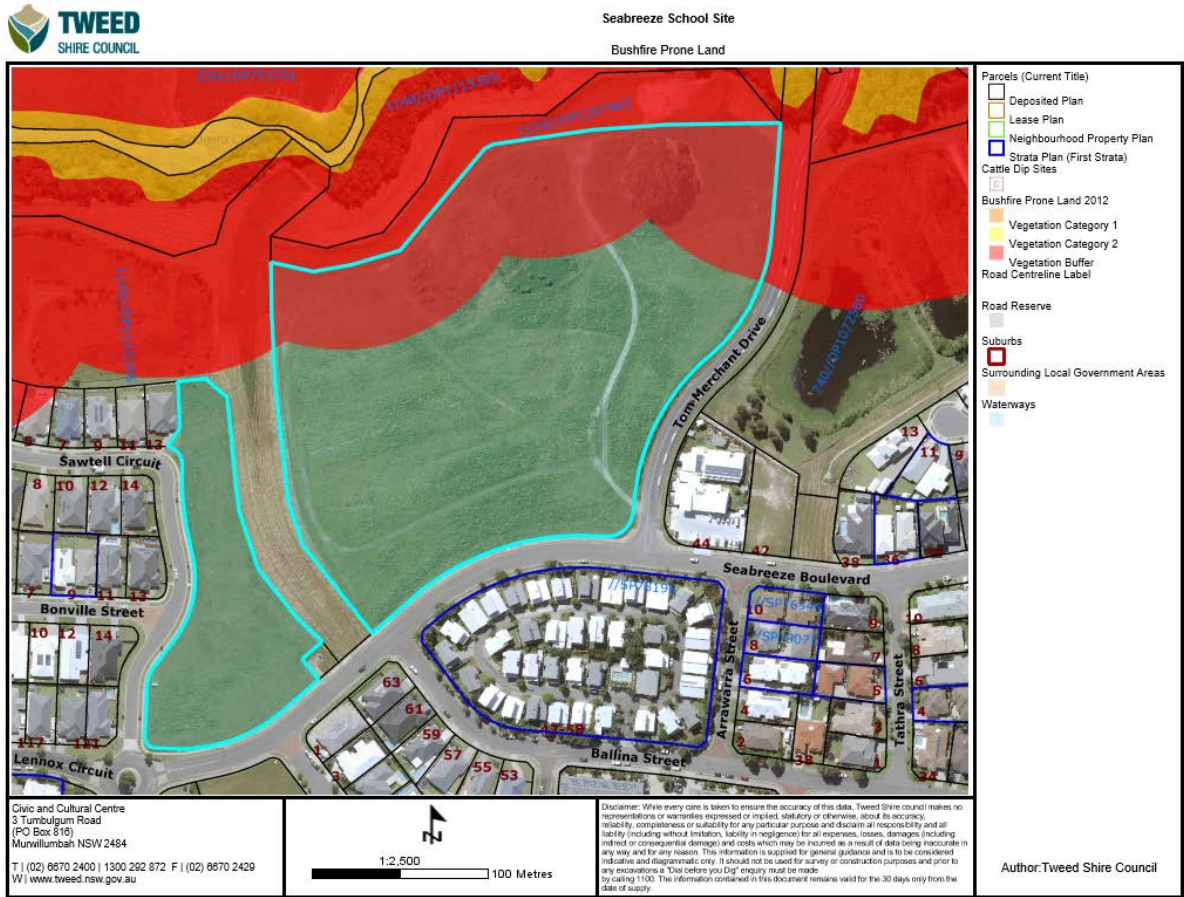


Figure 4 – Bushfire Prone Land

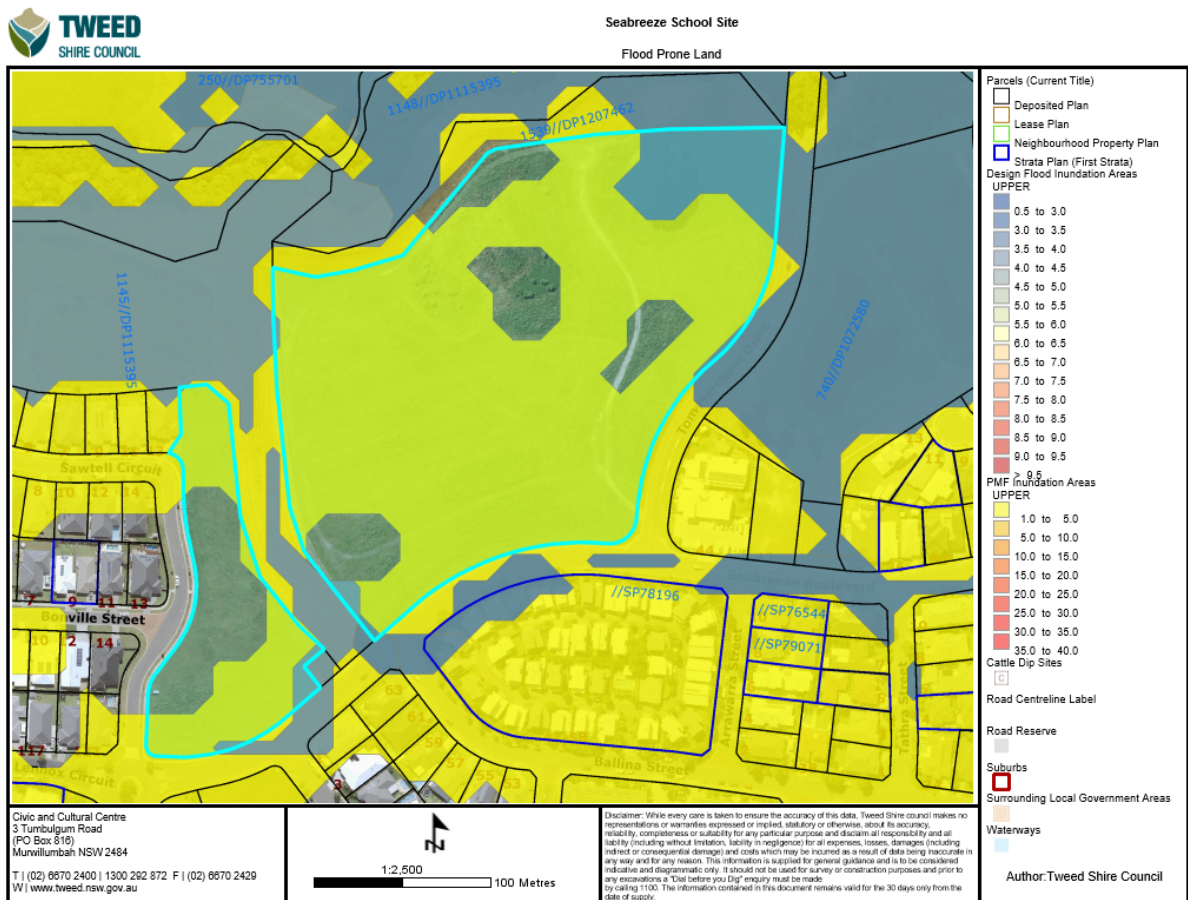


Figure 5 – Flood Prone Land

## Contaminated Land

The subject site has largely been filled in accordance with Development Consent K99/1837 (as modified), to achieve a minimum of RL 2.67m AHD.

Gilbert and Sutherland previously provided advice in relation to potential contamination of the subject site as part of DA13/0577. The report concluded that there is no documented occurrence or site based evidence of land contamination. The land use of the site has not changed and it can be reasonably assumed to be free of contamination and suitable for the intended use.

## Cultural Heritage

The site is not mapped as an *Aboriginal Place of Heritage Significance* or Predictive Aboriginal Cultural Heritage under the Tweed Shire Council Aboriginal Heritage Management Plan 2018.

The subject site has been filled and highly disturbed by bulk earthworks in accordance with Development Consent K99/1837 (as modified). It is considered unlikely that the planning proposal and any future development of the site would impact on Aboriginal cultural heritage.

## Historic Heritage

The heritage database provided under Schedule 5 of the Tweed LEP 2014 indicated that no items of Historic heritage significance are known to occur within or immediately adjoining the subject site. It is considered unlikely that the planning proposal and any future development of the site would impact on Historic heritage.

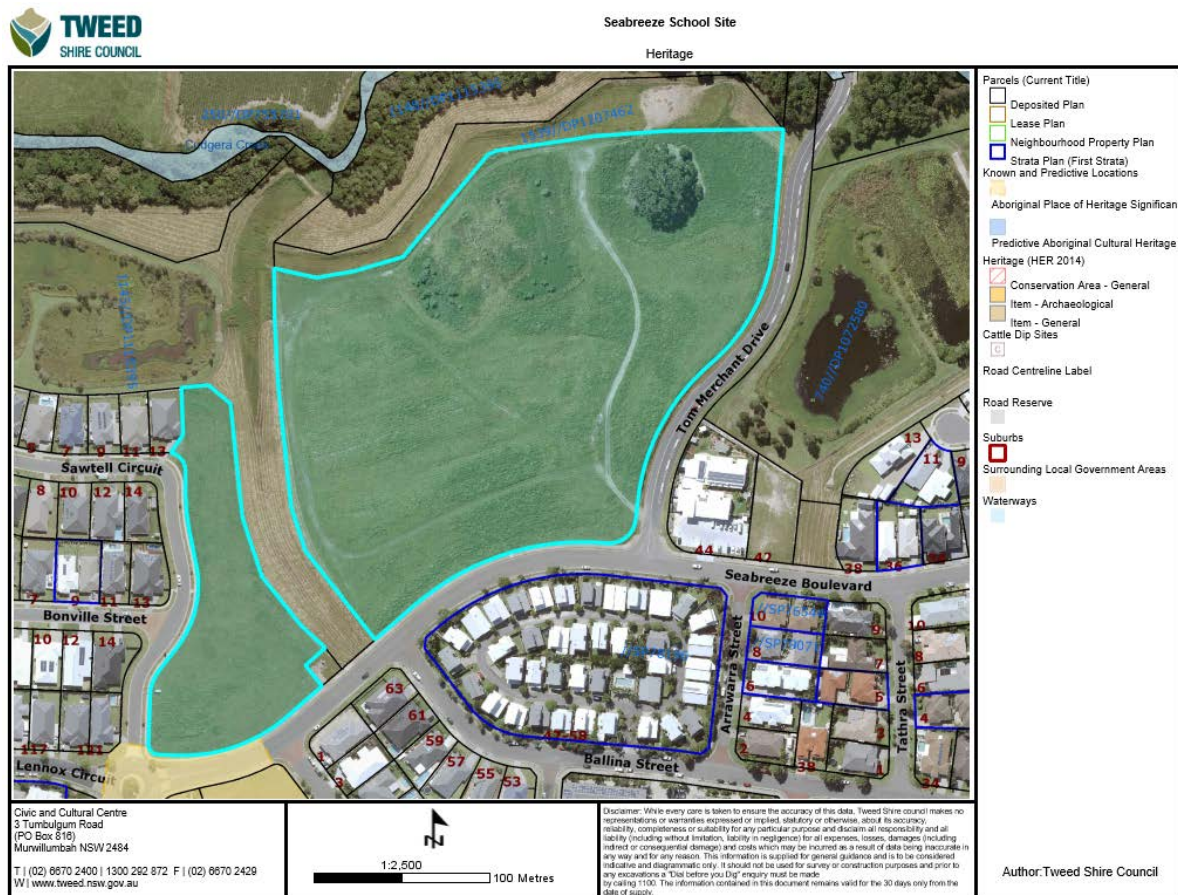


Figure 5 – Indigenous and Non-Indigenous Heritage

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

The planning proposal has been prepared to remove the potential land value bias by rezoning the site from R2 Low Density Residential to SP2 Infrastructure providing surety to the open market that the land would be available for acquisition at a market value aligned with the intended use of the site as a school, in line with the developer’s original commitment.

The reduction in development potential of the land is anticipated to improve clarity and certainty in regard to the development potential for the landowner, potential developers and the local community.

**Section D State and Commonwealth interests**

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

This planning proposal does not increase the development potential or use of land to which it applies. The planning proposal applies to land already zoned for urban development and its purpose is to provide a greater clarity with respect of the development potential for the landowner, potential developers and the local community.

This planning proposal does not trigger the provision of any significant additions to or upgrading of public infrastructure within the area. Essential services including reticulated water, sewer, power and telephone services are in place to service the existing Seabreeze Estate.

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

A Gateway determination has not yet been issued for this planning proposal. Relevant public authorities will be consulted in accordance with the requirements of the Gateway Determination.

The views of consulted public authorities will be summarised and addressed as appropriate in the final Planning Proposal.

**Part 4 Mapping**

To achieve the objectives of the Planning Proposal an amendment to the following maps, will be required:

- Land zoning;
- Lot size;
- Height of buildings; and
- Floor space ratio.

Maps of the existing and proposed zones are attached in Appendix A.

All other maps will remain unchanged.



## Part 5 Community consultation

Council will place the Planning Proposal on public exhibition for a period of not less than 28 days and undertake consultation with all stakeholders as directed, in accordance with conditions of the Gateway determination.

Community consultation will be commenced with placing a public notice in the local newspapers and on the website of the Tweed Shire Council and/or the Department of Planning and Environment. In addition, adjoining landowners will be notified in writing.

## Part 6 Timeframe

The following project timeline is intended to be a guide only and may be subject to changes in response to the public consultation process and/or community submissions.

Task	Timeframe	Completed
Referral of the planning proposal for a Gateway determination	July 2019	
<b>Gateway Determination</b>	August 2019	
Undertake requirements of the Gateway Determination and prepare V2 planning proposal	September 2019	
Public exhibition	October 2019	
Agency consultation	October 2019	
Review submissions, respond and prepare V3 planning proposal for Council's consideration	November/December 2019	
Council report to finalise and refer the plan to the DPE to be made	February 2020	
Referral of the Plan to the DPE for making	March 2020	
Plan to be made within 9 months of Gateway	April 2020	

## Part 7 Summary and conclusions

This planning proposal has been initiated by Tweed Shire Council, to apply a temporal rezoning to the subject site, amend the Tweed LEP 2014 land zoning map to show the subject site as SP2 Infrastructure and to remove the associated development standard mapping layers of lot size, floor space ratio and height of buildings.

Council is of the view that the current zoning (R2 Low Density Residential) of the land may be influencing the level of interest in the site for a potential school, if the market value is based on a residential development potential rather than an educational use development potential.

The intended outcome of the planning proposal is to:

- a. Achieve a land value commensurate to the intended purpose of the planned land use, being a school, by eliminating any potential inflation in land value associated with the current R2 Low Density Residential zoning;
- b. improve clarity and certainty in regard to the development potential for the landowner, potential developers and the local community; and
- c. Ensure the developer's original commitment to provide a public net benefit is achieved.

It is not the intention of the planning proposal to reserve the land for a specific use in perpetuity that may demonstratively not be required. As such, the attached planning proposal seeks use of Clause

3.14(3A) of the *Environmental Planning and Assessment Act 1979* to rezone the site to SP2 Infrastructure for a specified time period of 5 years, following which it would default back to the existing zoning, with objectives for an alternate net community benefit, should no reasonable offer be made by a school provider to purchase the site during this time.

Preliminary assessment of this proposal indicates that it is consistent with the local and regional strategic framework, as well as State Environmental Planning Policies and Ministerial Directions provided under Section 9.1 of the *Environmental Planning & Assessment Act 1979*.

# Appendices

## Appendix 1: Existing and proposed maps

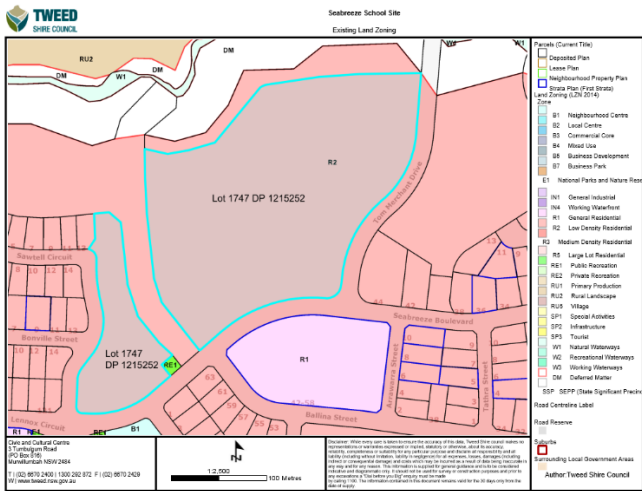


Figure 6 – Existing Land Use Zone

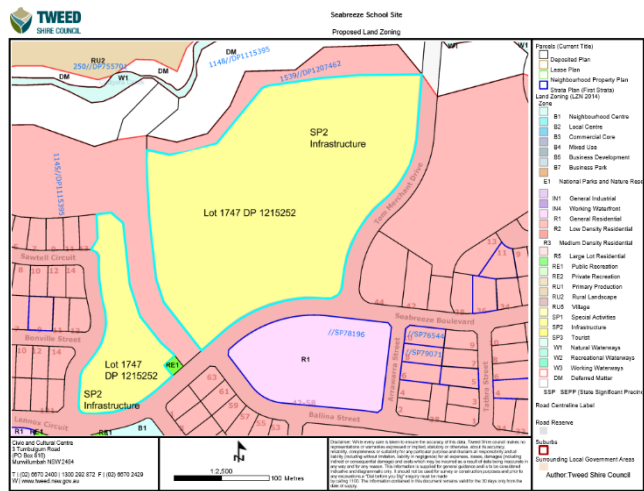


Figure 7 – Proposed Land Use Zone

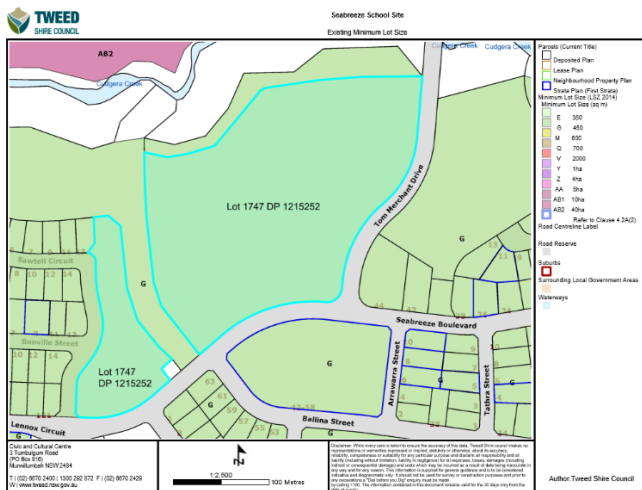


Figure 8 – Existing Minimum Lot Size

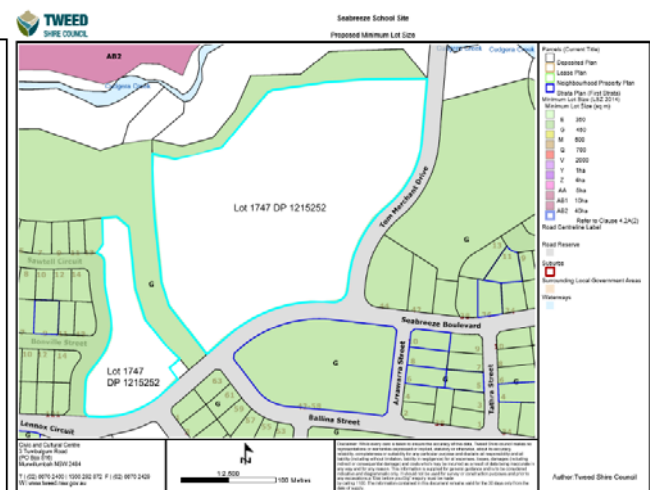


Figure 9 – Proposed Minimum Lot Size

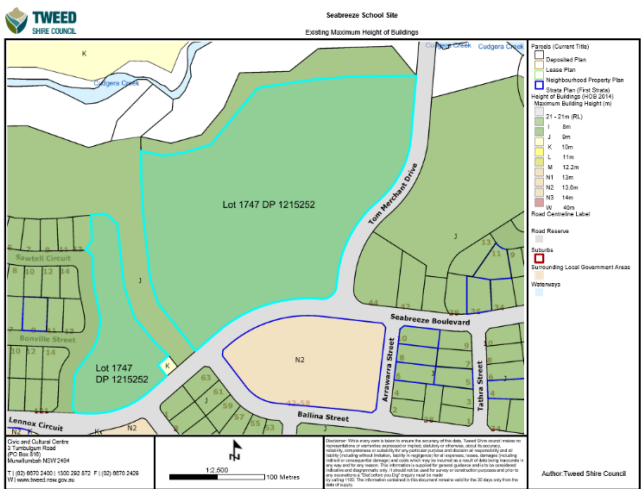


Figure 10 – Existing Maximum Height of Buildings

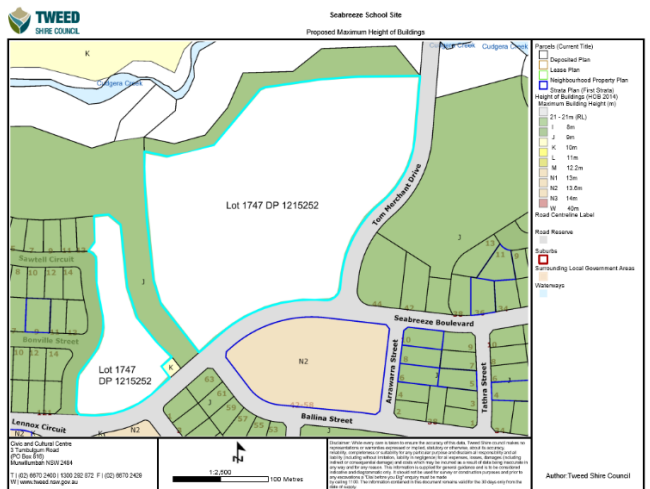


Figure 11 – Proposed Maximum Height of Buildings

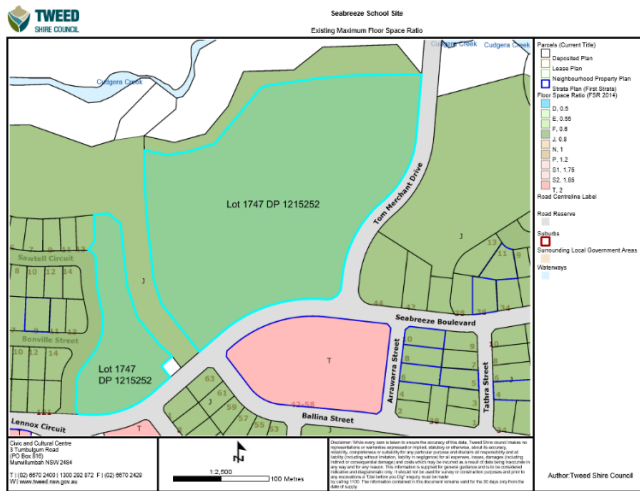


Figure 10 – Existing Maximum Floor Space Ratio

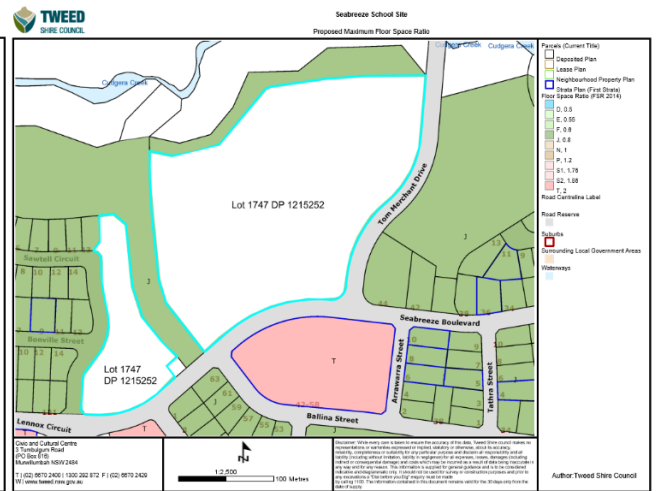


Figure 11 – Proposed Maximum Floor Space Ratio



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