



TWEED
SHIRE COUNCIL

LEP 2014 Amendment No. **15**

**PLANNING PROPOSAL FOR BOB WHITTLE
MURWILLUMBAH AIRFIELD**

Quarry Road, South Murwillumbah, 2484

V3 Planning Proposal for Making

November 2018

TSC File PP17/0003

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Part 1 Objectives and intended outcomes

This planning proposal seeks to resolve the potential for land use conflicts between Bob Whittle Murwillumbah Airfield and adjacent industrial land by way of including an additional site-specific clause into the Tweed Local Environmental Plan (LEP) 2014. The clause would regulate the height of buildings in the vicinity of the airfield. The intended outcome of the clause is to ensure protection of the airspace surrounding the airfield by preventing inappropriate development from encroaching into the take off and approach surface slopes.

More specifically, the proposed amendment would require proponents for development that penetrates Obstacle Surface Limitation associated with the airfield to submit a review by a suitably qualified professional, detailing the impact the proposed development will have on the airspace in the vicinity of the airfield.

The Bob Whittle Murwillumbah Airfield is located at Quarry Road in South Murwillumbah. It is bound by industrial land in the north and adjoins sugar cane fields to the south and west (Figure 1). The airfield has a grass strip with an effective runway length of approximately 500 metres and can accommodate up to twin propeller aircraft. It operates in unrestricted airspace and is open to use by general aviation. At present, the airfield hosts the Murwillumbah Aero Club which has approximately 50 members and owns a Cessna 172M, based at the airfield for the shared use of the Aero Club members



Figure 1 Aerial view of the Bob Whittle Murwillumbah Airfield



Figure 2 Locality Plan of the Bob Whittle Murwillumbah Airfield

Part 2 Explanation of provisions

This planning proposal seeks to include an additional, site-specific clause within the Tweed LEP 2014, regulating the height of development in the vicinity of the Bob Whittle Murwillumbah Airfield.

The proposed clause is as follows:

Clause 7.8A Airspace Operations -Murwillumbah Airfield

- (1) The objectives of this clause are as follows:
 - (a) to provide for the effective and ongoing operation of the Murwillumbah Airfield by ensuring that such operation is not compromised by proposed development that penetrates the Obstacle Limitation Surface for that airfield,
 - (b) to protect the community from undue risk from that operation.
- (2) Development consent must not be granted for development that penetrates the Obstacle Limitation Surface unless the consent authority:
 - (a) is satisfied that the proposed development will not adversely impact the effective and ongoing operation of the airfield or result in undue risk to the community, as addressed in a report prepared by a suitably qualified professional, and
 - (b) has consulted with the Murwillumbah Airfield Operator, and
 - (c) the Murwillumbah Airfield Operator has raised no objection.
- (3) The consent authority must not grant development consent for proposed development if the Murwillumbah Airfield Operator advises that the development will penetrate the Obstacle Limitation Surface and should not be carried out.
- (4) In this clause:

Obstacle Limitation Surface means the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Murwillumbah Airfield.

Figure 3 Proposed Tweed LEP 2014 clause regulating development in the vicinity of Bob Whittle Murwillumbah Airfield

It is noted that the above clause is a draft and may differ to the final clause when legally drafted for amendment by the Department of Planning and Environment (DPE).

The proposed Obstacle Limitation Surface mapping for Murwillumbah Airfield, to which the draft clause refers is provided within Part 4 of this planning proposal.

This planning proposal has been prepared in accordance with *A Guide to Preparing Planning Proposals*. The following sections include a detailed justification (Part 3), proposed mapping amendment (Part 4) and summary of community and public agency consultation (Part 5).

Part 3 Justification

Section A Need for the planning proposal

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

This planning proposal is not a result of a strategic study or report. The Bob Whittle Murwillumbah Airfield is a local airfield used predominantly by members of the local Aero Club. It is also used for agricultural purposes (aerial spraying). The site does not receive significant attention in planning strategies and analysis, mainly due to the close proximity (20km) to the Gold Coast Airport, which serves as a major domestic and international gateway to the region for both passenger and freight planes. Notwithstanding that, the Bob Whittle Murwillumbah Airfield is an integral part of the North Coast's air, rail and public transport infrastructure system and should be considered as an economic asset underpinning economic growth and prosperity of the region. As such, the airfield requires appropriate planning regulations ensuring its safe and ongoing operation.

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

A planning proposal is considered to be the most appropriate means of achieving the intended objective. Currently, development proposals in the vicinity of the airfield are assessed against the zoning designation, RU2 Rural Landscape or IN1 General Industrial with a default height of building control of 10 metres, (see Figures 5 and 6) without adequate consideration of impacts of development on the safety of airfield operations. The intended outcome of this planning proposal cannot be achieved without an amendment to Tweed LEP 2014 to introduce such considerations.

Section B Relationship to strategic planning framework

Question 3: Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy or district plan or strategy (including any exhibited draft plans or strategies)?

The principal regional strategy pertinent to the Tweed Shire LGA is the North Coast Regional Plan 2036. The Plan *sets regional planning priorities and provides guidance and direction for regional and local planning decisions*. This planning proposal is consistent with the following Directions in the North Coast Regional Plan:

- (a) Direction 12: *Grow agribusiness across the region*. This direction provides that in context of agribusiness, appropriate co-location of related industries should be encouraged to maximise infrastructure and facility, decrease supply chain costs, increase economies of scale and attract further investment. A set of four (4) specific Actions is identified to advance delivery of this direction, including Action 12.4: facilitate investment in the agricultural supply chain by protecting assets (including freight and logistics facilities) from land use conflicts arising from the encroachment of incompatible land uses.
- (b) Direction 10: *Facilitate air rail and public transport infrastructure*. This Direction provides that airports are important gateways for business, tourism and personal travel,

as well as high-value freight. Whilst actions identified to advance delivery of this direction do not directly refer to Murwillumbah Airfield, the intended outcome of this planning proposal (preservation of the airspace surrounding the airfield by preventing unsuitable development from encroaching into the take off and approach surface slopes) is consistent, and responds to the overall purpose of Direction 10.

No inconsistencies between this planning proposal and the North Coast Regional Plan 2036 have been identified.

Question 4: Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

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 CSP is structured around four service streams, including *Making decisions with you: We're in this together*. One of themes of this service stream is built environment (section 2.1 of the CSP). The goal of this theme is to regulate and deliver the built environment to balance the social, cultural, economic and environmental needs of the community, and is to be achieved through several actions, including:

- (a) Assess and regulate development activity to promote good design,
- (b) Provide infrastructure to meet the needs of local and regional growth.

The intended outcome of this planning proposal responds to theme 2.1 and its actions, demonstrating consistency of this planning proposal with provisions and objectives of the Tweed Community Strategic Plan 2017-2027.

Question 5: Is the planning proposal consistent with the applicable State Environmental Planning Policies (SEPPs)?

State Environmental Planning Policies, referred to as SEPPs, regulate matters of State or regional significance. They have precedence, unless specifically stated otherwise, over all local environmental plans. An assessment has been undertaken to determine the level of consistency of this planning proposal with relevant State Environmental Planning Policies (SEPPs). Due to the administrative, low impact nature of this planning proposal, no specific inconsistencies have been identified and the following remarks are made:

SEPP Exempt and Complying Development Codes (The Codes SEPP)

Consistent. The Codes SEPP provides for development of rural housing as complying development therefore it applies to the subject site and its vicinity which are zoned RU1 Primary Production and RU2 Rural Landscape. However, relevant provisions of this SEPP do not apply if the size of the lot is less than the minimum lot size for the erection of a dwelling house under the environmental planning instrument applying to the lot. Whilst rural allotments located in the vicinity of Murwillumbah Airfield do not meet the standards of the Lot Size Map, provisions of the Codes SEPP will not result in development that would contravene, or be inconsistent with, the intended outcome of this planning proposal.

SEPP (Infrastructure) 2007

This SEPP aims to facilitate the effective delivery of infrastructure across the State and identifies “air transport facilities” as one of the 25 types of infrastructure. Whilst the Murwillumbah Airfield is not directly referred to within this SEPP, the intent of this planning proposal is considered consistent with provisions of this SEPP.

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

This SEPP seeks to ensure the proper management and development of mineral, petroleum and extractive material resources. Nothing in this planning proposal contradicts this aim therefore the planning proposal is considered consistent.

SEPP Coastal Management 2018

Part of Murwillumbah Airfield, as well as lands affected by this planning proposal, are within the area identified on the Coastal Zone Land Application Map (Figure 4). The provisions of this SEPP therefore apply. 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 intend to result in an increase to coastal hazard nor will it facilitate any increase in opportunity for development in the area. It is therefore considered consistent with this SEPP.

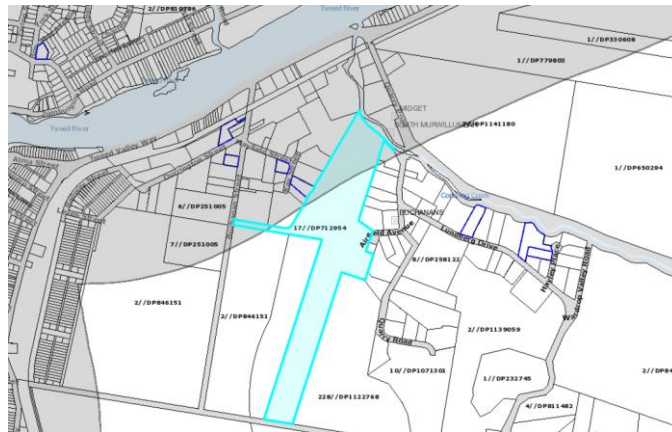


Figure 4 Land mapped as coastal zone in grey and airfield site highlighted in blue

SEPP (Rural Lands) 2008

This SEPP applies as some land to which this planning proposal applies is currently zoned for rural purposes. This SEPP provides matters for consideration while subdividing or developing dwelling houses on rural lands. These matters are spelt out under clauses 7 Rural Planning Principles and 8 Rural Subdivision Principles. It is noted that the Proposal is outside of the scope of these clauses as its intended outcome is to mitigate ongoing land use conflict between rural/industrial land and the Murwillumbah Airfield.

Question 6: Is the planning proposal consistent with applicable Ministerial Directions (s9.1 Directions)?

Section 9.1 of the EP&A Act allows the Minister for Planning to give directions to councils regarding the principles, aims, objectives or policies to be achieved or given effect to in the preparation of draft local environmental plans (LEPs). Consistency of this planning proposal with relevant Ministerial Directions provided under Section 117 is assessed in table below.

Table 1 Consistency with s117(2) Directions

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
1. Employment and Resources			
1.1 Business and Industrial Zones	<p>This direction aims to protect employment land, encourage business growth in suitable locations and support the viability of identified centres.</p> <p>It applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).</p>	<p>This planning proposal affects industrial land located in the vicinity of the Murwillumbah Airfield, zoned IN1 General Industrial. The height of building standard within this zone is 10 metres, and the precinct is developed with single storey industrial sheds of varied height. As this planning proposal does not seek to limit development potential of land to which it applies, it is considered consistent with the objectives of this direction.</p>	Consistent
1.2 Rural Zones	<p>Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).</p> <p>Under this direction a planning proposal must:</p> <ul style="list-style-type: none"> (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>This planning proposal applies to land zoned RU1 Primary Production and RU2 Rural Landscape. It does not seek to rezone or increase permissible density of rural land; instead, it aims to ensure safe operation of Murwillumbah Airfield. No inconsistencies between this planning proposal and Direction 1.2 have been identified.</p>	Consistent
1.3 Mining, Petroleum Production and Extractive Industries	<p>Applies when a relevant planning authority prepares a planning proposal that would have the effect of:</p> <ul style="list-style-type: none"> (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 	<p>This planning proposal does not change the permissibility of mining, petroleum or extractive industries.</p>	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>of State or regional significance by permitting a land use that is likely to be incompatible with such development.</p>		
<p>1.5 Rural Lands</p>	<p>Applies when:</p> <p>(a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or</p> <p>(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.</p> <p>A planning proposal to which clauses (a) and (b) apply must be consistent with the Rural Planning Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>.</p> <p>A planning proposal to which clause (b) applies must be consistent with the Rural Subdivision Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>.</p>	<p>This planning proposal affects land zoned RU1 Primary Production and RU2 Rural Landscape therefore this direction is applicable.</p> <p>It is anticipated that the outcome of this planning proposal will have a minimum, if any, impact on rural land. This planning proposal is considered as consistent with principle (a) of the Rural Planning Principles provided under the Rural Lands SEPP: <i>the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas</i>. This consistency is manifested by the proposal's intent to ensure safe operation of Murwillumbah Airfield, which is used for agricultural-related operations (spraying) and as such is an economic asset of the region.</p>	<p>Consistent</p>
<p>2 Environment and Heritage</p>			
<p>2.2 Coastal Protection</p>	<p>This direction applies when a relevant planning authority prepares a planning proposal affecting land in the coastal zone.</p>	<p>Land affected by this planning proposal is located in the vicinity of the tidal part of the Tweed River therefore this direction applies.</p> <p>The planning proposal will not affect public access to the Tweed River foreshore or generate the need to provide new access; the use of the site for Murwillumbah Airfield is suited to its locality given surrounding land use and proximity to the industrial area and Tweed Valley Way which is the main</p>	<p>Consistent</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		<p>transport corridor of the region, the proposal will not affect the scenic amenity of the Tweed River foreshore or cause overshadowing or major view impacts; the proposal will not affect threatened species or wildlife corridors; the land may be affected by coastal processes as it is located within the flood zone, 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 water bodies such as the Tweed River as long as appropriate storm water controls are implemented through the DA process; and will not impact on cultural heritage of significance</p>	
<p>2.3 Heritage Conservation</p>	<p>A planning proposal must contain provisions that facilitate the conservation of:</p> <ul style="list-style-type: none"> (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people. 	<p>Council has recently adopted the Tweed Aboriginal Cultural Heritage Management Plan (ACHMP). Whilst the land in the vicinity of the airfield does not contain identified heritage items, the hill to the south-east is mapped within ACHMP as a 'predictive site'.</p> <p>This planning proposal does not intend to facilitate additional development therefore it is not accompanied by a heritage assessment report. It is anticipated that matters related to heritage conservation will be adequately assessed as part of the development assessment process in line with the DA framework including the ACHMP.</p>	<p>Consistent</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
3. Housing, Infrastructure and Urban Development			
<p>3.2 Caravan Parks and Manufactured Home Estates</p>	<p>Applies when a relevant planning authority prepares a planning proposal.</p> <p>(1) In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</p> <ul style="list-style-type: none"> (a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and (b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park. <p>(2) In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:</p> <ul style="list-style-type: none"> (a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located, (b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and (c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the <i>Community</i> 	<p>Caravan park as a land use is permitted with consent in the RU2 Rural Landscape and prohibited in the RU1 Primary Production zone. As the rural land located in the vicinity of Murwillumbah Airfield has got RU1 zoning designation, direction 3.2 is considered as not relevant to this planning proposal.</p>	<p>Not applicable</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<i>Land Development Act 1989</i> be permissible with consent.		
3.3 Home Occupations	Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.	This proposal does not affect home occupation provisions in the Tweed LEP 2014.	Consistent
3.4 Integrating Land Use and Transport	<p>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 that is land zoned for residential, business, industrial, village or tourist purposes.</p> <p>(4) A planning proposal must locate zones for urban purposes and include provisions that give effect to/are consistent with the aims, objectives and principles of:</p> <p>(a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and</p> <p>(b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).</p>	Whilst the policy and the guidelines referred to in direction 3.4 are silent on the operation of airports or airfields, this planning proposal is considered as generally consistent with both documents, particularly with the principles advocating for concentration of development in centres and alignment with major transport corridors.	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.	Whilst no ANEF contours are established for the Murwillumbah Airfield, this planning proposal is considered consistent with direction 3.5. It does not seek to rezone land and its objective is to ensure that development applications will adequately consider proximity to the airfield and the airfield operations particularly in context of the appropriate height of buildings located in the vicinity of the airfield. Consultation with state agencies will be carried out in accordance with the Gateway Determination.	Consistent
4. Hazard and Risk			

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
<p>4.1 Acid Sulfate Soils</p>	<p>Applies when a relevant planning authority prepares a planning proposal affecting land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.</p>	<p>This planning proposal has been prepared with consideration to the Acid Sulfate Soils Planning Guidelines. It does not propose an intensification of land uses on land identified as Acid Sulfate Soils therefore is considered as consistent with direction 4.1. Environmental risks related with development on land containing ASS will be assessed at the DA stage.</p>	<p>Consistent.</p>
<p>4.3 Flood Prone Land</p>	<p>A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i>.</p> <p>A planning proposal must not rezone land within the flood planning areas from Special or Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Purpose Zone.</p> <p>A planning proposal must not contain provisions that apply to the flood planning areas which:</p> <ul style="list-style-type: none"> (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit an increase in the development of that land, (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or (e) permit development to be carried out without development consent except for the purposes of agriculture, roads or exempt development. <p>A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless justified.</p>	<p>Whilst this planning proposal applies to land located within flood prone area, is considered as consistent with direction 4.3:</p> <ul style="list-style-type: none"> • It does not seek to change zoning of the land to which it applies, • It does not contain provisions enabling development in floodway areas, • It will not result in a substantially increased requirement for government spending on flood mitigation measures, • It does not permit development to be carried out without consent, • It does not impose flood related development controls. 	<p>Consistent</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005, unless justified.</p>		
<p>4.4 Planning for Bushfire Protection</p>	<p>Applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.</p> <p>Planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway Determination and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made,</p> <p>A planning proposal must:</p> <ul style="list-style-type: none"> (a) have regard to <i>Planning for Bushfire Protection 2006</i>, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, (c) ensure that bushfire hazard reduction is not prohibited within the APZ. <p>A planning proposal must, where development is proposed, comply with the following provisions:</p> <ul style="list-style-type: none"> (a) provide an Asset Protection Zone (APZ) incorporating Inner and Outer Protection Areas, (b) for infill development, where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service, (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks, 	<p>The planning proposal affects land mapped as bushfire-prone. As required by Direction 4.4, the planning proposal has been prepared with consideration to the Planning for Bushfire Protection 2006 (PBP). It is noted however that the PBP includes <i>Planning Principles</i> and detailed provisions with respect of LEP amendments where new development or subdivision is proposed. As this planning proposal does not facilitate new development and does not modify subdivision controls, it is considered consistent with Direction 4.4 and with the PBP.</p> <p>The planning proposal was forwarded to the NSW Rural Fire Service who have raised no objection.</p>	<p>Consistent</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	(d) contain provisions for adequate water supply for firefighting purposes, (e) minimise the perimeter of the area of land interfacing the hazard which may be developed, (f) introduce controls on location of combustible materials in the Inner Protection Area.		
5. Regional Planning			
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Applies 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: (c) rezone land identified as “State Significant Farmland” for urban or rural residential purposes. (d) rezone land identified as “Regionally Significant Farmland” for urban or rural residential purposes. (e) rezone land identified as “significant non-contiguous farmland” for urban or rural residential purposes.	This planning proposal affects land zoned RU1 Primary Production and mapped as State Significant Farmland. No rezoning or intensification of land uses is proposed and this planning proposal is consistent with Direction 5.3.	Consistent
5.10 Implementation of Regional Plans	This direction applies to land to which a Regional Plan has been released by the Minister for Planning. The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.	The principal regional strategy pertinent to the Tweed Shire LGA is the North Coast Regional Plan 2036. Consistency between the Regional Plan and this planning proposal is discussed and demonstrated in Section B, Question 3 above.	Consistent
6. Local Plan Making			

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
<p>6.1 Approval and Referral Requirements</p>	<p>(4) A planning proposal must:</p> <ul style="list-style-type: none"> (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, referral or consultation of a Minister or public authority unless the relevant planning authority has obtained the approval of: <ul style="list-style-type: none"> (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning (or an officer nominated by the Director-General), <p>prior to undertaking community consultation in satisfaction of section 57 of the Act, and</p> (c) not identify development as designated development unless the relevant planning authority: <ul style="list-style-type: none"> (i) can satisfy the Director-General of the Department of Planning (or an officer nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and (ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act. 	<p>This planning proposal seeks to amend the Tweed LEP 2014 to the effect that development applications affecting land in the vicinity of the airport will be referred to the Murwillumbah Airfield Operator. At time of preparing this planning proposal, the role of Airfield Operator is performed by the economic development section of Tweed Shire Council. Council is expected to continue to act as Airfield Operator of the Murwillumbah Airfield in foreseeable future, therefore the intended outcome of this planning proposal will be an additional internal referral as part of the assessment process, aiming to ensure that new development will not impact on the safety of airfield operations.</p> <p>Consistency between this planning proposal and section (4)(a)(ii) of the Direction 5.1 will be sought through the Gateway Determination stage.</p>	<p>Consistency to be confirmed with the Department of Planning and Environment</p>

Section C Environmental, Social and economic impact

Question 7: 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?

The intended outcome of this planning proposal is to ensure preservation of the airspace surrounding the Bob Whittle Murwillumbah Airfield by preventing unsuitable development from encroaching into the take-off and approach surface slopes. More specifically, the proposed amendment would require applicants for development proposals that penetrate the OLS surrounding the airfield to submit a review by a suitably qualified professional of the impact the proposed development will have on the airspace in the vicinity of the airfield. This intended outcome is not expected to adversely impact critical habitat or threatened species, populations or ecological communities.

Question 8: Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Any restrictions on the height and location of development surrounding the airfield will be considered along with other assessment criteria already established, one of which will be potential impacts associated with vegetation.

No environmental impacts are anticipated. This planning proposal does not increase development potential or use of land to which it applies.

Question 9: How has the planning proposal adequately addressed any social and economic effects?

The Murwillumbah airfield is part of the transport infrastructure system of the region and should be considered as an economic asset supporting economic growth and prosperity of the Tweed Valley. This planning proposal seeks to ensure safe and ongoing operation of Murwillumbah airfield by limiting the height of buildings in designated areas surrounding the airfield. Currently, provisions regulating height of buildings near the airfield are limited to the default Height of Building development standard (10 metres).

This planning proposal does not propose an increase development potential or change permissibility of uses on land to which it applies therefore it is not likely to result in any social and economic effects, including impacts on the cultural heritage of the area.

Section D State and Commonwealth interests

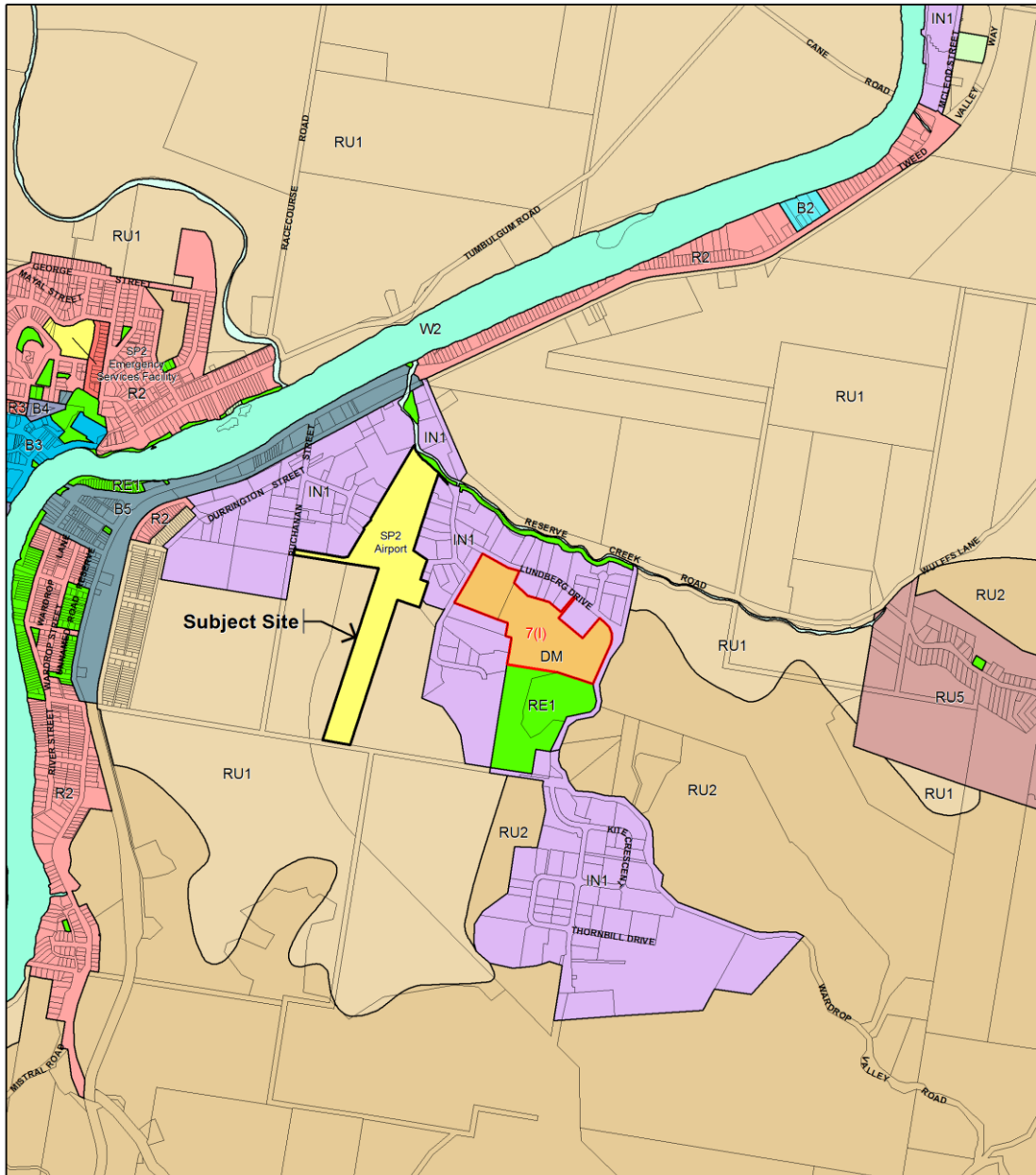
Question 10 Is there adequate public infrastructure for the planning proposal?

The intended outcome of this planning proposal is very unlikely to result in an increase in demand on public infrastructure.

Question 11 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

State and Commonwealth public authorities have not been formally involved in this particular planning proposal as it is yet to receive a Gateway Determination. Consultation with relevant State and Commonwealth agencies will be carried out in accordance with the Gateway Determination.

Part 4 Mapping



Tweed Local Environmental Plan 2000 - Land Zoning

7(i) Environmental Protection (Habitat)

Tweed Local Environmental Plan 2014 - Land Zoning

B2 Local Centre	B5 Business Development	R3 Medium Density Residential	RU1 Primary Production	SP2 Infrastructure
B3 Commercial Core	IN1 General Industrial	RE1 Public Recreation	RU2 Rural Landscape	W1 Natural Waterways
B4 Mixed Use	R2 Low Density Residential	RE2 Private Recreation	RU5 Village	W2 Recreational Waterways
				DM Deferred Matter

1:20,000 @ A4 Portrait
 0 100 200 300 400 500 M
 DO NOT SCALE
 COPY ONLY - NOT CERTIFIED
 Map Projection: Universal Transverse Mercator
 Horizontal Datum: Geoidetic Datum of Australia 1994
 Grid: Map Grid of Australia, Zone 56

Civic and Cultural Centre
 3 Tumbulgom Road
 Murwillumbah NSW 2484
 PO Box 816
 Murwillumbah NSW 2484
 T | (02) 6670 2400 | 1300 292 872
 F | (02) 6670 2429
 W | www.tweed.nsw.gov.au
 E | planning@tweed.nsw.gov.au

Local Environmental Plans - Land Zoning

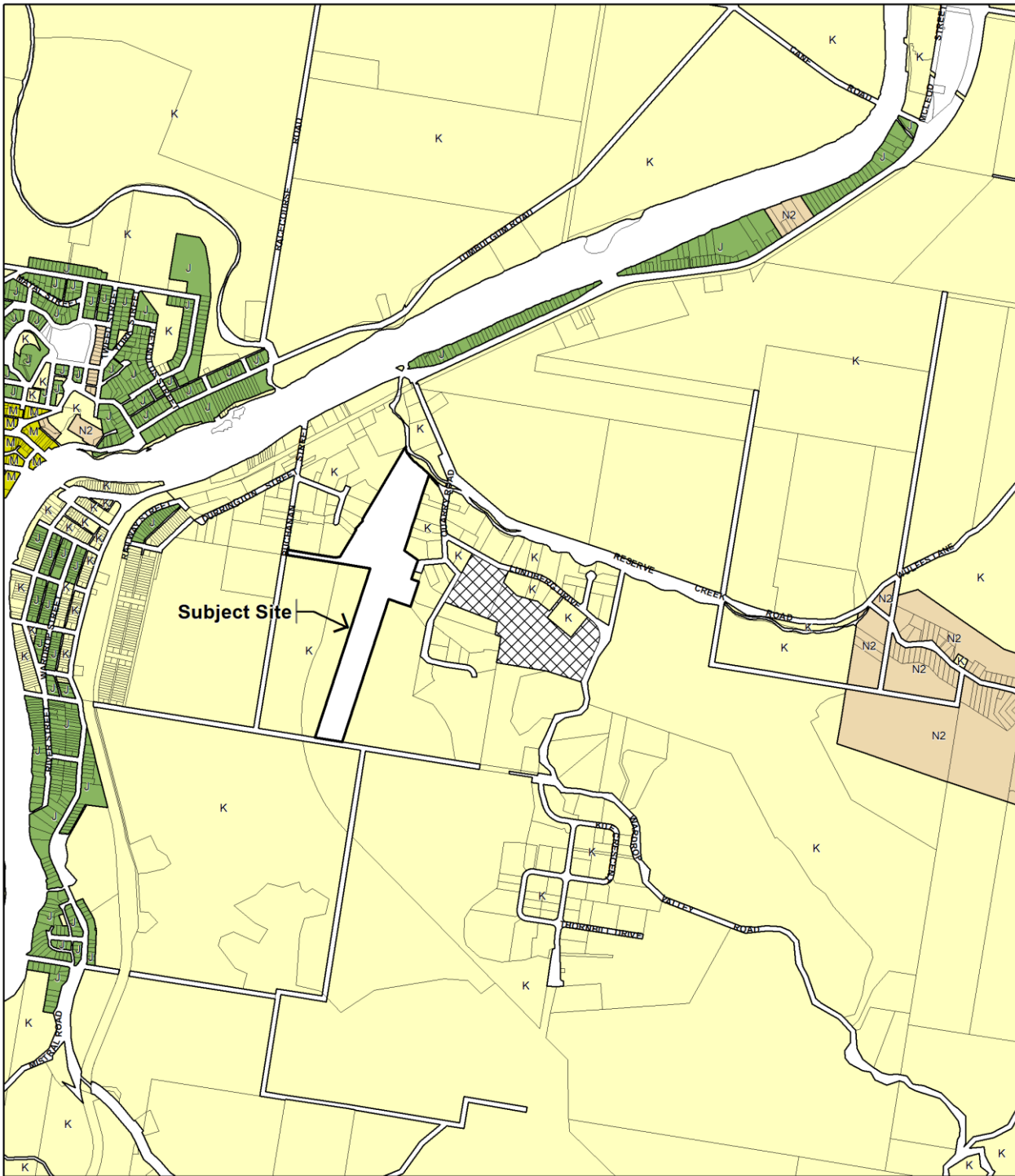
Planning Proposal for Bob Whittle Murwillumbah Airfield
 Affected Properties:
 Lot 17 DP 712954
 Quarry Road, South Murwillumbah

Council File | PP17/0003
 revised | 28/11/2017

Base Data 04/11/2017
 Land and Property Information (LPI)
 Addendum Data 28/11/2017
 © Tweed Shire Council
 Boundaries shown should be
 considered approximate only.

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 Filepath: Z:\ESR\PRU\POLICIES & STRATEGIES\PLANNING PROPOSAL\PP17/0003 Bob Whittle Murwillumbah Airfield\MXD\DLN_ALL_Current.mxd Author: J Batchelor - Strategic Planning & Urban Design Unit Date Printed: 28 November, 2017

Figure 5 Extract of the existing Land Zoning Map (Tweed LEP 2014). No changes proposed.



Tweed Local Environmental Plan 2000 - Height of Buildings

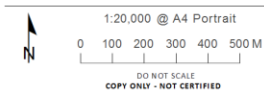
Maximum Number of Storeys

☒ 3 Storeys

Tweed Local Environmental Plan 2014 - Height of Buildings

Maximum Building Height (m)

J 9 K 10 M 12.2 N2 13.6



TWEED SHIRE COUNCIL
 Civic and Cultural Centre
 3 Tumbulgum Road
 Murwillumbah NSW 2484
 PO Box 816
 Murwillumbah NSW 2484
 T | (02) 6670 2400 | 1300 292 872
 F | (02) 6670 2429
 W | www.tweed.nsw.gov.au
 E | planning@tweed.nsw.gov.au

Local Environmental Plans - Height of Buildings

Planning Proposal for Bob Whittle Murwillumbah Airfield
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 Filepath: Z:\ESRI\PRIPOLICIES & STRATEGIES\PLANNING PROPOSALS\PP17-0003 Bob Whittle Murwillumbah Airfield\MXD\HOB_ALL_Current.mxd Author: J.Balchelor - Strategic Planning & Urban Design Unit Date Printed: 28 November, 2017

Figure 6 Extract of the existing Height of Buildings Map (Tweed LEP 2014). No changes proposed.

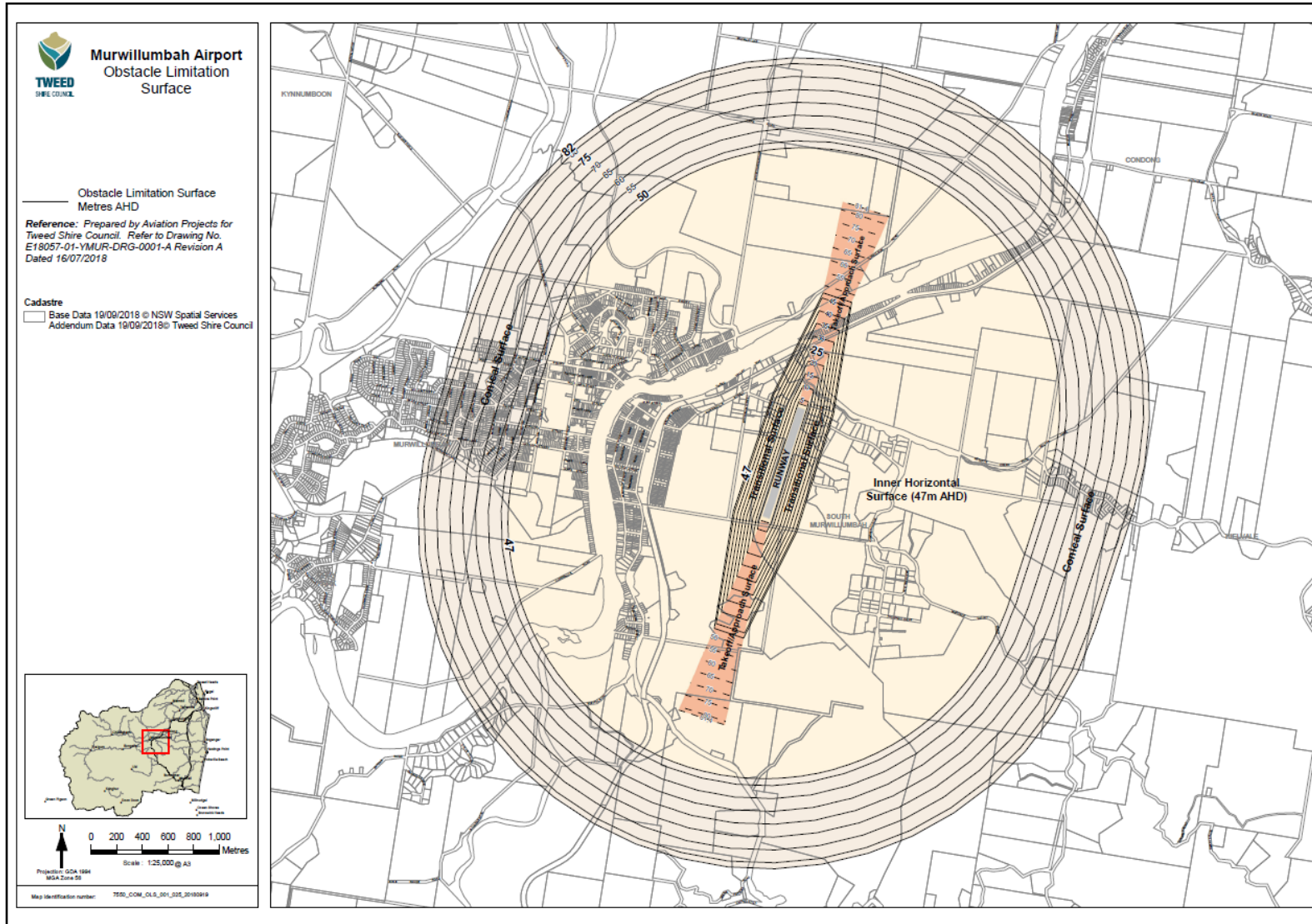


Figure 7 Indicative Obstacle Surface Limitation Mapping for Murwillumbah Airfield

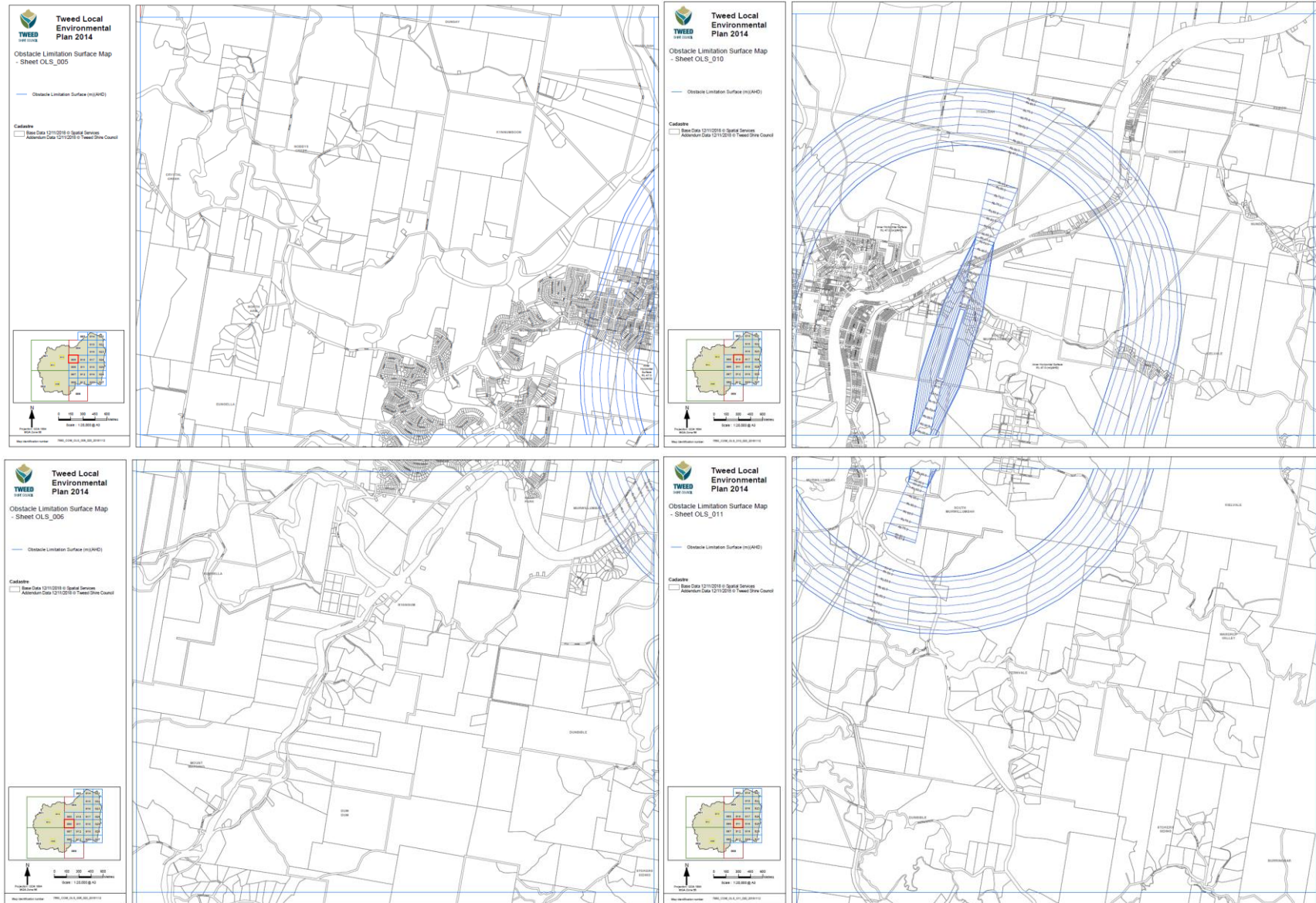


Figure 8 New Obstacle Limitation Surface mapping for Murwillumbah Airfield proposed within the Tweed LEP 2014.

Part 5 Consultation

The planning proposal was publically exhibited from Tuesday 25 September to Friday 26 October 2018, in accordance with the Council resolution of 20 July 2017 and the conditions of the Gateway Determination (issued on 27 June 2018 and amended on 13 August 2018), which required specific consultation with the NSW Rural Fire Service, the Licensee of the Murwillumbah Airfield (Tweed Shire Council Economic Development Unit) and the Local Aero Club. All three bodies were provided with a copy of the Planning Proposal and given 21 days to provide comment.

23 surrounding landowners were notified in writing of the planning proposal.

The public exhibition and community consultation process included all relevant documents being made available in digital format on Council's website and in hard copy at Council's administration offices in Murwillumbah and Tweed Heads. Notification of the planning proposal was made in the Tweed Link on 25 September 2018.

7 submissions were received. All were in support of the planning proposal as exhibited.

Submissions comprised one from a government agency (NSW RFS), one from the Airfield Licensee and 5 from the general public, with the latter 5 consisting of 1 adjoining land owner and 4 persons associated with the airfield as pilots, hanger owners or members of the aero club.

Advice received from the NSW Rural Fire Service on 2 November 2018 confirmed "no specific recommendations or comment with regards to bushfire protection".

The Murwillumbah Aero Club was notified as required by the Gateway, however no submission was received addressed from the organization itself.

In principle, all seven submissions were in favour of the proposal and provided support for the amendment to the LEP.

Submissions were reported to Council and considered at their meeting 6 December 2018 where Council unanimously resolved to forward the planning proposal to the Department of Planning for making with no major changes as recommended.

Part 6 Project timeline

The table below outlines the indicative timeframe for this planning proposal:

Task	Estimated timeframe
Gateway Determination	June 2018
Amended Gateway Determination	August 2018
Finalisation of additional information as requested by Gateway Determination	August 2018
Review and update of the planning proposal	September 2018
Public exhibition of PP for not less than 28 days	September/October 2018
Agency consultation	September/October 2018
Review submissions	November 2018
Report to Council	December 2018
Final Planning Proposal to the Department of Planning & Environment requesting the LEP amendment to be made	December 2018
Anticipated date plan is published and effective (within 9 months of Gateway)	January – February 2019

Part 7 Summary and conclusions

This planning proposal has been initiated by Tweed Shire Council to provide controls ensuring that potential development in the vicinity of Murwillumbah Airfield will not affect safety or the ongoing operation of the airfield. At the time of drafting this planning proposal Tweed Shire Council is also the operator of the airfield.

Currently, building heights in the vicinity of the airfield are controlled through the Height of Building Map, with a default maximum height of 10 metres.

It is proposed that provisions be incorporated into Tweed LEP 2014 which ensure that height of proposed development surrounding the airfield be further controlled to protect operation of the airfield. The proposed amendment would not unreasonably deny future development upon affected lands, but would ensure due consideration of the impact of future development can be made, and where necessary, appropriate conditions of consent be applied to mitigate any safety concerns regarding the safe and effective operation of the airfield.

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.

The public exhibition and agency consultation period has not identified any required amendments to the exhibited planning proposal beyond inclusion of a submissions summary.

Attachment 1 – Copy of Council Resolution to prepare and exhibit

Council Meeting Date: THURSDAY 20 JULY 2017

15 [GM-CM] Development Controls Surrounding the Murwillumbah Airfield

311

**Cr K Milne
Cr C Cherry**

RESOLVED that:

1. The Planning Proposal for Bob Whittle Murwillumbah Airfield be prepared and submitted to the NSW Department of Planning and Environment for a Gateway Determination, in accordance with s56 of the Environmental Planning and Assessment Act.
2. The Minister for Planning and Environment or his Delegate be advised that Tweed Shire Council is not seeking plan making delegations for this planning proposal.
3. The Minister for Planning and Environment or his Delegate be advised that public exhibition is not required in this instance.
4. On receipt of the Minister's Gateway Determination Notice to proceed, any 'conditional' requirements of the Minister and any other study or work are to be completed, and included within the public exhibition material.
5. Following receipt of the Gateway Determination the planning proposal be publicly exhibited in accordance with the Gateway Determination and a further report is to be submitted to Council detailing the content of submissions received and any proposed amendment(s).

The Motion was **Carried**

**FOR VOTE - Unanimous
ABSENT. DID NOT VOTE - Cr J Owen**

Attachment 2 - Copy of Gateway Determination



Gateway Determination

Planning proposal (Department Ref: PP_2018_TWEED_004_00): to regulate development in the vicinity of Bob Whittle Murwillumbah Airfield.

I, the Director Regions, Northern at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Tweed Local Environmental Plan (LEP) (2014) to regulate development in the vicinity of Bob Whittle Murwillumbah Airfield should proceed subject to the following conditions:

1. The planning proposal is to be updated prior to community consultation to:
 - a) provide a clear outline 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. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal and must be made publicly available for a minimum of 28 days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).

3. Consultation is required with the following public authorities and / organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
 - NSW Rural Fire Service;
 - Licensee of the Airfield (Economic Development – Tweed Shire Council); and
 - Local Aero Club.

PP_2018_TWEED_004_00 (IRF18/2416)

Each public authority/organisation is to be provided with a copy of the Planning Proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The time frame for completing the LEP is to be 9 months following the date of the Gateway determination.

Dated 27 day of June 2018.



27-6-2018

Jeremy Gray
Director Regions, Northern
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning



Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2018_TWEED_004_00)

I, Director Regions, Northern at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 27 June 2018 for the proposed amendment to the Tweed Local Environmental Plan (2014) as follows:

1. Delete:

"condition 1(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".

and replace with:

new condition "1(b) provide updated Obstacle Limitation Surface mapping within the planning proposal so the community can understand where this clause applies".

Dated 13 day of August 2018.

A handwritten signature in black ink, appearing to read 'Jeremy Gray'.

Jeremy Gray
Director Regions, Northern
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning

PP_2018_TWEED_004_00 (IRF18/4267)

Attachment 3 – Copy of Council Resolution to finalise

TO BE INSERTED

Attachment 4 – Copy of NSW Rural Fire Service advice

All communications to be addressed to:

Headquarters
15 Carter Street
Lidcombe NSW 2141

Headquarters
Locked Bag 17
Granville NSW 2142

Telephone: 1300 NSW RFS
e-mail: records@rfs.nsw.gov.au

Facsimile: 8741 5433



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

Your Ref: PP17/0003
Our Ref: R18/293
DA18110215873 AB

ATTENTION: Louise Bennett

2 November 2018

Dear Ms Bennett

Planning Proposal - Tweed LEP 2014 -Bob Whittle Murwillumbah Airfield, Quarry Road South Murwillumbah

I refer to your correspondence dated 31 October 2018 seeking advice for the above Planning Proposal in accordance with the 'Environmental Planning and Assessment Act 1979'.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and has no specific recommendations in relation to bush fire protection.

Should you wish to discuss this matter please contact Alan Bawden on 1300 NSW RFS.

Yours sincerely

A handwritten signature in black ink that reads 'John Ball'. The signature is written in a cursive style with a large, looping 'J' and 'B'.

John Ball
Manager

For general information on bush fire protection please visit www.rfs.nsw.gov.au



Customer Service | 1300 292 872 | (02) 6670 2400

tsc@tweed.nsw.gov.au

www.tweed.nsw.gov.au

Fax (02) 6670 2429

PO Box 816

Murwillumbah NSW 2484