

DAC PLANNING PTY LTD
Suite 7, Corporate House
8 Corporation Circuit
Tweed Heads South NSW 2486
P: 07 5523 3611
F: 07 5523 3612
E: admin@dacplanning.com.au
W: www.dacplanning.com.au



+ REQUEST FOR SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

PROPOSED EXTRACTIVE INDUSTRY (CONSTRUCTION SAND)

Lot 18 DP 1168455 & Lot 57 DP 755701 Pacific Highway, Chinderah (Tweed LGA)

• Prepared For: Carbrook Sands Pty Ltd | • Prepared by: DAC Planning Pty Ltd | • May 2017 |

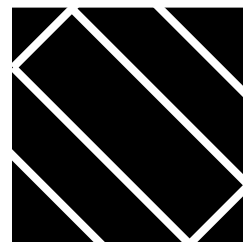


TABLE OF CONTENTS

| | | |
|-------|---|----|
| 1.0 | INTRODUCTION AND BACKGROUND | 4 |
| 2.0 | SITE DETAILS | 4 |
| 3.0 | DEVELOPMENT DESCRIPTION | 5 |
| 4.0 | PERMISSIBILITY AND STRATEGIC PLANNING | 6 |
| 4.1 | Regional Context | 6 |
| 4.2 | Tweed Local Environmental Plan 2014 | 7 |
| 4.3 | Far North Coast Regional Strategy 2006-2031 | 8 |
| 4.4 | North Coast Regional Plan 2036 | 9 |
| 4.5 | State Environmental Planning Policies | 9 |
| 4.5.1 | State Environmental Planning Policy No. 33 – Hazardous and Offensive Development | 9 |
| 4.5.2 | State Environmental Planning Policy No. 71 – Coastal Protection | 10 |
| 4.5.3 | State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 | 10 |
| 4.5.4 | State Environmental Planning Policy (State and Regional Development) 2011 | 13 |
| 4.5.5 | State Environmental Planning Policy (Infrastructure) 2007 | 15 |
| 4.6 | Designated Development | 17 |
| 4.7 | Integrated Development | 20 |
| 4.8 | Tweed Development Control Plan 2008, Section A3 – Development of Flood Liable Land and Tweed Shire Council Flood Policy | 23 |
| 5.0 | IMPACT IDENTIFICATION AND ASSESSMENT | 24 |
| 5.1 | Vehicular Access | 24 |
| 5.2 | Acid Sulphate Soils | 24 |
| 5.3 | Vegetation | 25 |
| 5.4 | Groundwater Vulnerability | 25 |
| 5.5 | Farmland Protection Project | 26 |
| 5.6 | Flooding | 27 |
| 5.7 | Bushfire | 28 |
| 5.8 | Contamination | 28 |
| 5.9 | Aboriginal Cultural Heritage | 28 |
| 5.10 | Water Quality | 28 |
| 5.11 | Tweed Coast Comprehensive Koala Plan of Management | 29 |
| 6.0 | JUSTIFICATION | 29 |
| 7.0 | CONSULTATION | 31 |
| 8.0 | CAPITAL INVESTMENT VALUE | 32 |

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

TABLE OF CONTENTS

ANNEXURES

| | |
|-------------------|--|
| ANNEXURE A | Site Location Plan – Aerial Photograph (Date of Photography, 2014) |
| ANNEXURE B | NSW Trade and Investment (Resources and Energy) Mapping (July 2014) |
| ANNEXURE C | Tweed Shire Council Email Advice Dated 9 August 2016 Regarding the Status of Existing Road Reserves |
| ANNEXURE D | Contour Survey and Concept Plans for Extractive Industry, Rev C (6 Sheets) – Landsurv Pty Ltd, 9 May 2017 |
| ANNEXURE E | State Agency and Tweed Shire Council Responses to Consultations |

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

REQUEST FOR SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS (SEARs)

PROPOSED EXTRACTIVE INDUSTRY (CONSTRUCTION SAND) LOT 18 DP 1168455 & LOT 57 DP 755701 PACIFIC HIGHWAY, CHINDERAH

1.0 INTRODUCTION AND BACKGROUND

Following preliminary investigations and consultations with key State Agencies and Tweed Shire Council, Carbrook Sands Pty Ltd has decided to proceed with a Development Application and Environmental Impact Statement for a proposed extractive industry involving approximately 10,889,405 m³ (16,143,048 tonnes) of construction sand to be extracted over a period of approximately 53 years.

This Report addresses the relevant matters contained in the Department of Planning and Environment's Online Lodgement Documents for requesting SEARs for State Significant Development. The proposal is state significant development pursuant to Clause 7(1)(d) of State Environmental Planning Policy (State and Regional Development) 2011. The capital investment value for the project is estimated at \$3 million.

2.0 SITE DETAILS

In real property terms, the subject land is described as Lot 18 DP 1168455 having an area of 22.46 hectares and a frontage to the Pacific Highway of approximately 740m and Lot 57 DP 755701 having an area of approximately 32.84 hectares (total approximately 55.3 hectares).

The site comprises mainly grassland and is currently used for agriculture. A small farm dam exists adjacent to the Pacific Highway together with an open, tree lined, drain through the central part of the property. The drain passes through the site and under the Pacific Highway west of the RMS Weights of Load Station and discharges to the Tweed River (Boyd's Channel) west of the Action Sands processing site on Lot 5 DP 565926 and Lot 9 DP 830659.

Contour Plans of the site and cross sections of the drain are provided at **Annexure D**.

Figure 1 shows the location of the land and its spatial relationship with adjoining land and infrastructure including Chinderah Wastewater Treatment Plant, Hanson's Sand Pit (Lot 22 DP 1082435) and Gales Holdings Sand Pit (Lot 2 DP 216705).

Legal access to the site is provided by the existing unformed Crown road reserve which links with Altona Road adjacent to the Chinderah Wastewater Plant. Altona Road is constructed from the Wastewater Plant to Crescent Street, Cudgen (see **Annexure A**).

To the north of the site is the Pacific Highway (M1) which also includes an RMS Weights of Loads Station, and further to the north is the Chinderah light industrial area, which includes a sand processing plant, being a component of extractive operations undertaken from the Tweed River. Further to the north are a caravan park and the village of Chinderah.

To the east of the site is a grazing paddock and further to the east is the Chinderah Golf Course and Tweed Coast Road.

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

To the southeast of the site is the Tweed Shire Council Kingscliff Waste Water Treatment Plant and to the south and west there are agricultural uses. No buildings or structures exist on the subject land.

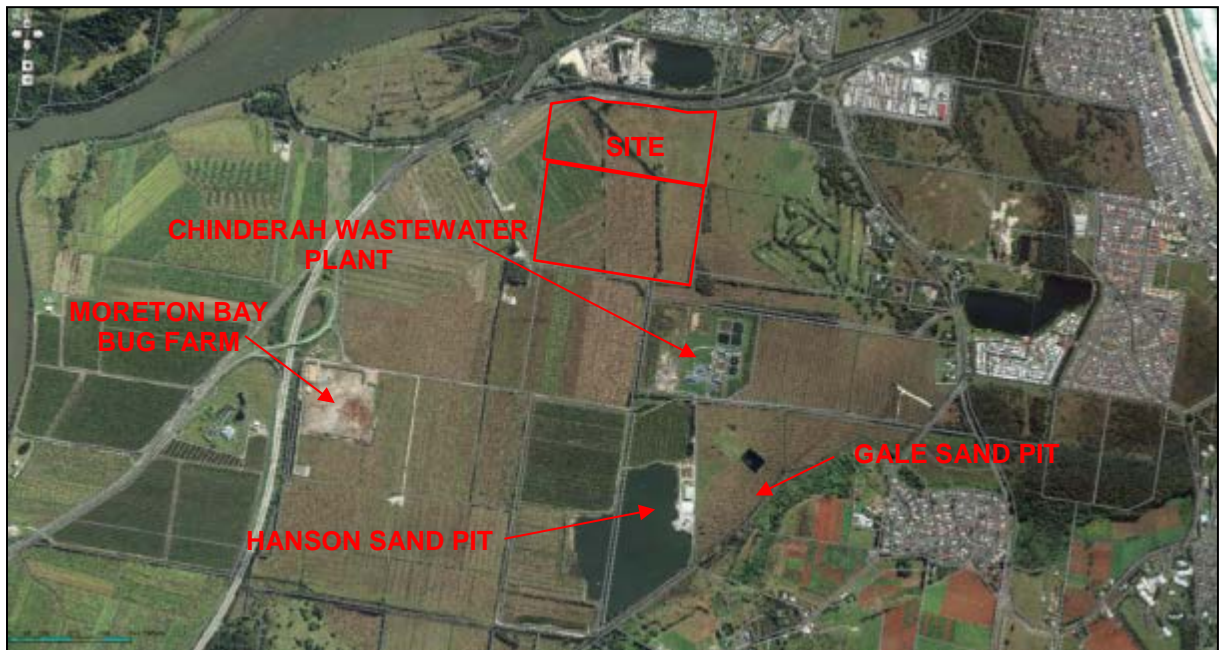


Figure 1 – Aerial Photograph
Source: Tweed Shire Council, Date of Photography 2012

3.0 DEVELOPMENT DESCRIPTION

Subject to detailed investigations and design, the proposal will involve the extraction and onsite processing of a total of approximately 10,889,405m³ (16,143,048 tonnes) of sand at a rate of approximately 300,000tpa over a period of approximately 53 years. A Concept Plan showing the extraction footprint, cross sections and processing site is attached at **Annexure D**.

The sand will be extracted by dredging and screened/processed onsite following which the material will be stored in stockpiles.

Material will be transported by trucks from the site to the Pacific Highway via a proposed private driveway (and right of carriageway) within Lot 1 DP 1186419 from Altona Road to the site. The proposed driveway will cross the Crown public road on the southern side of Lot 57 DP 755701. The proposed driveway and right of carriageway is shown on Sheets 2 and 3 of the Concept Plan at **Annexure D**. Altona Road connects to the Pacific Highway via Crescent Street, Cudgen and the Tweed Coast Road.

The existing drain within the site will be relocated to the perimeter of the site, as shown on the Concept Plans at **Annexure D**.

The location of the site and its spatial relationship with adjoining land and proposed access routes are shown on the Site Location Plan (Aerial Photograph) at **Annexure A**.

DAC Planning Pty Ltd

A.C.N. 093 157 165
Town Planning & Development Consultants

4.0 PERMISSIBILITY AND STRATEGIC PLANNING

4.1 Regional Context

In a regional context, the site is located approximately 8 kilometres south of the New South Wales/Queensland border and approximately 2.5km west of Kingscliff beach. Tweed Heads South is located approximately 3.5 kilometres north of the site and Kingscliff is approximately 1.5 km east of the site. **Figure 2** shows the regional context of the site.

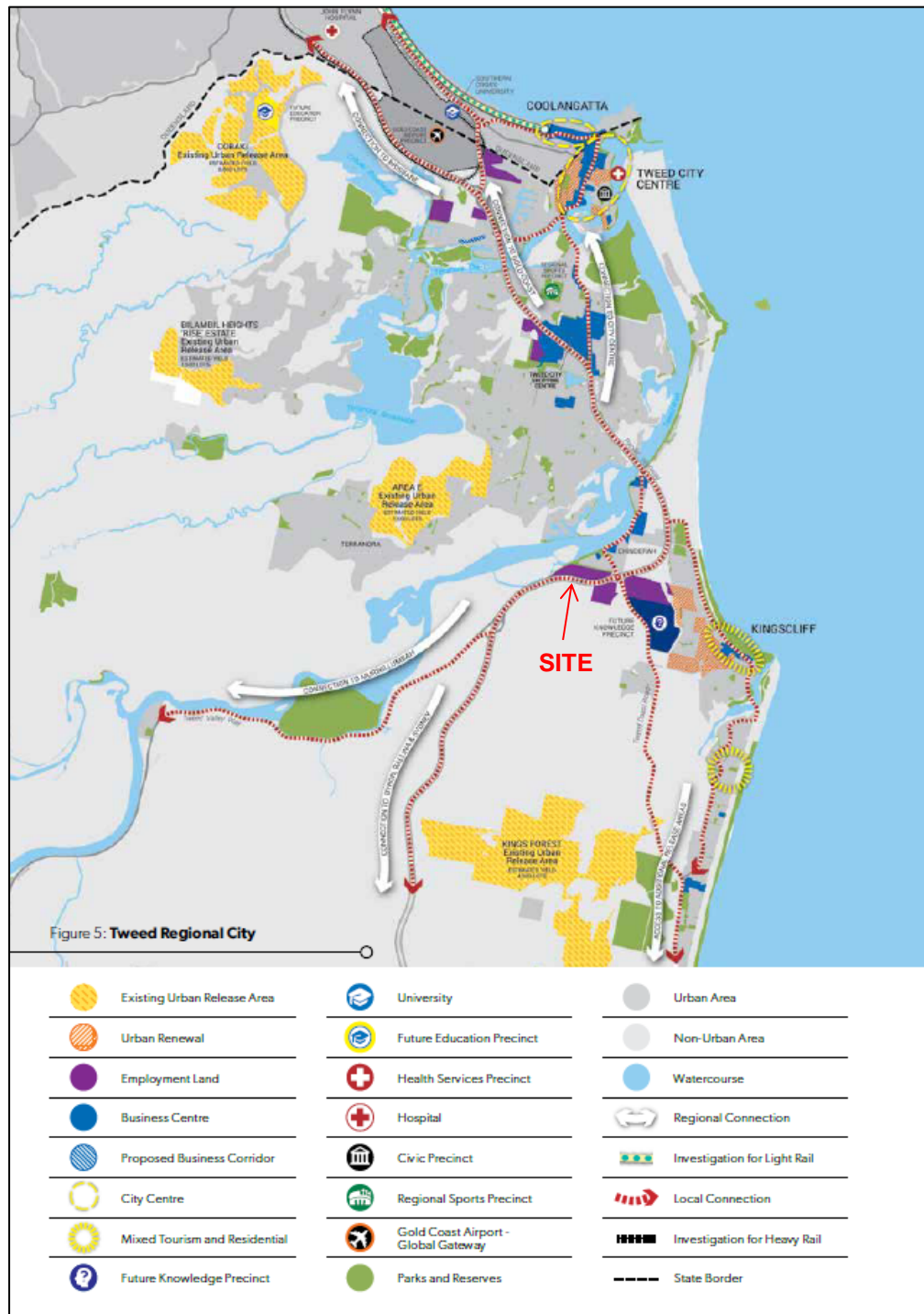


Figure 2 – Regional Context
Source: North Coast Regional Plan 2036

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

4.2 Tweed Local Environmental Plan 2014

Tweed Local Environmental Plan 2014 (TLEP2014) is the principal Planning Instrument regulating land use within the Tweed Local Government Area (TLGA). Under the provisions of this Plan, Lot 18 is zoned RU1 Primary Production, as indicated on **Figure 3**.

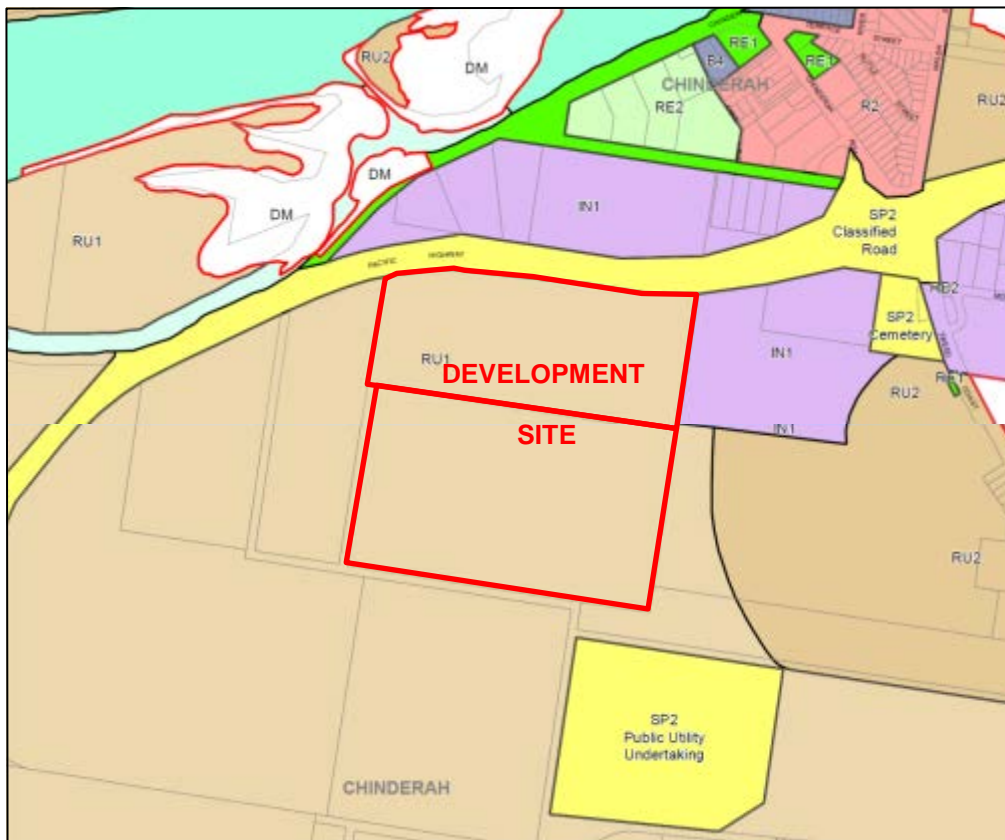


Figure 3 – Zoning Map
Source: Tweed Local Environmental Plan 2014

The objectives of the RU1 zone and Land Use Table are as follows:

"Zone RU1 Primary Production

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To protect prime agricultural land from the economic pressure of competing land uses.

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home occupations; Intensive plant agriculture

3 Permitted with consent

Agricultural produce industries; Animal boarding or training establishments; Aquaculture; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Cellar door premises; Dual occupancies (attached); Dwelling houses; Environmental facilities; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Group homes; Helipads; Home-based child care; Home businesses; Home industries; Industrial retail outlets;

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

Intensive livestock agriculture; Jetties; Open cut mining; Plant nurseries; Roads; Roadside stalls; Rural workers' dwellings; Turf farming; Water recreation structures; Water storage facilities

4 Prohibited

Any development not specified in Item 2 or 3"

Extractive industry is defined as follows:

*"**extractive industry** means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.*

Note. Extractive industries are not a type of **industry**—see the definition of that term in this Dictionary."

Extractive material is defined as follows:

*"**extractive material** means sand, soil, gravel, rock or similar substances that are not minerals within the meaning of the Mining Act 1992. "*

Development for the purposes of an extractive industry is permissible, with consent, in the RU1 zone.

4.3 Far North Coast Regional Strategy 2006-2031

Chapter 4 – Environment and Natural Resources of the Strategy refers to Natural Resources at Appendix 2. Appendix 2 includes an extractive industry known as No. 3 – Chinderah Road. Based on advice from the Department of Planning and Environment, Extractive Industry Site No. 3 – Chinderah Road appears to be within an Identified Resource Area, Potential Resource Area, Transition Area and Cudgen Potential Resource Area based on the NSW Trade and Investment (Resources and Energy) Mapping (July 2014) attached as Annexure B.

The subject land is within the Transition Area and Potential Resource Area, as indicated on Figure 4.

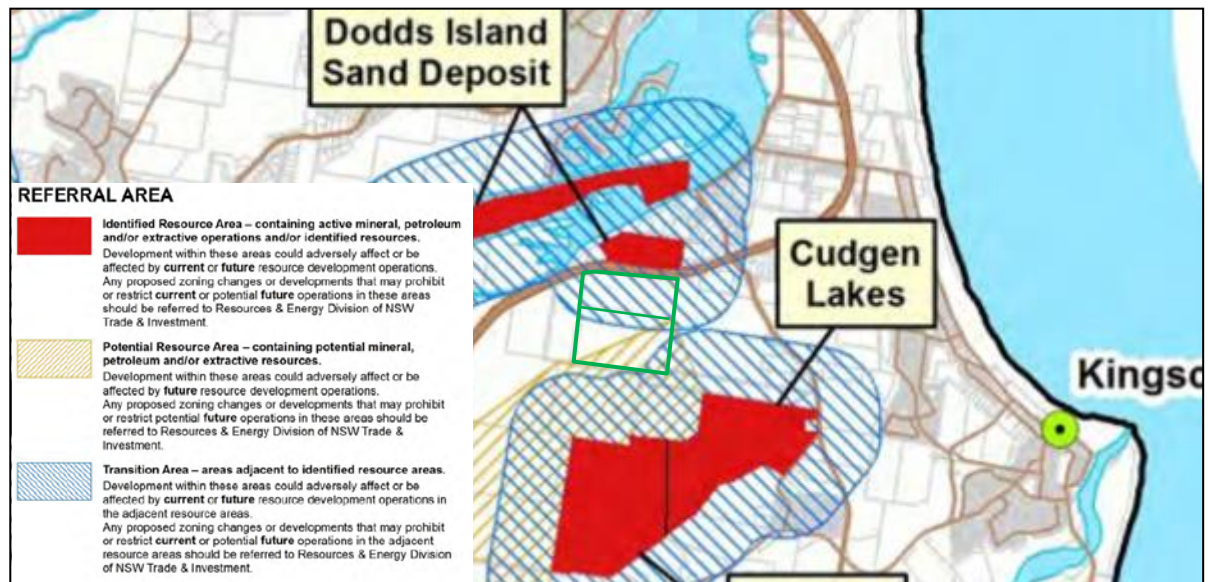


Figure 4 – Extractive Industry Site No. 3 – Chinderah Road
Source: NSW Trade & Investment (Resources and Energy) Mapping, July 2014

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

4.4 North Coast Regional Plan 2036

This Plan came into effect in March 2017 and replaces the Far North Coast Regional Strategy 2006-2031. Part of the site is mapped as Important Farmland on Figure 9 of the Plan. An extract from Figure 9 is reproduced below as **Figure 5**.

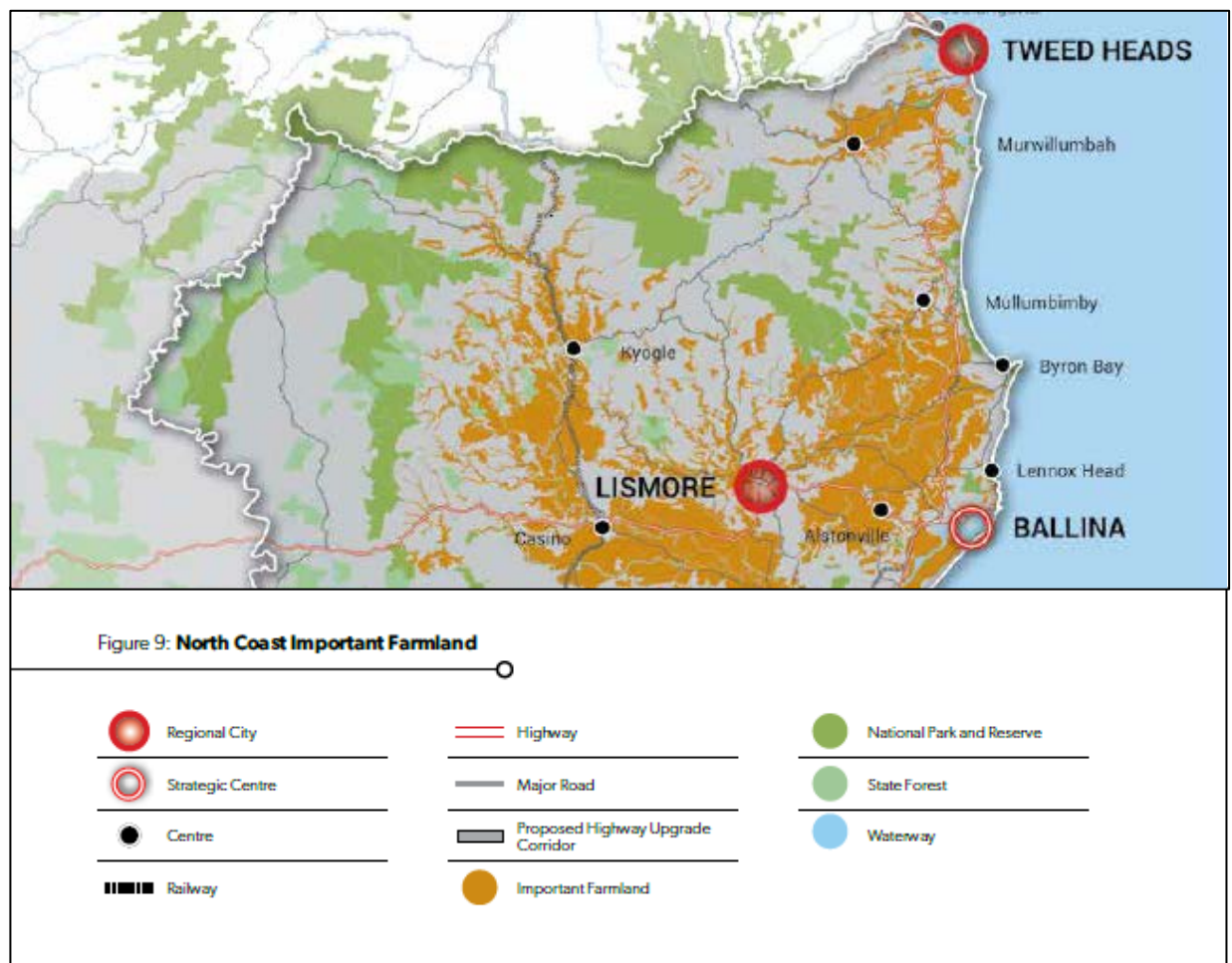


Figure 5 – Important Farmland Map
Source: Figure 9 of North Coast Regional Plan 2036

Whilst Direction 11 and Action 11.1 aim to protect prime agricultural land, Direction 13 and Action 13.2 also provide for the ongoing productive use of land with regionally significant construction material resources, which includes the subject site. The location of the sand resource is fixed and whilst extraction of the resource will preclude agricultural uses of the land, the proposal is an encroachment into the prime agricultural land rather than fragmentation. The land has not been used for intensive agricultural uses (including sugar cane production) for many years, apparently because of poor soil quality and marginal viability.

4.5 State Environmental Planning Policies

4.5.1 State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

In summary, this Policy requires a Preliminary Hazard Analysis of the development proposal against the Department of Planning and Environment's Circulars and Guidelines, to determine if the proposal is a hazardous or offensive industry.

DAC Planning Pty Ltd

A.C.N. 093 157 165
Town Planning & Development Consultants

If it is likely to be a potentially hazardous or offensive industry, a more detailed Multi Level Risk Assessment would be required.

4.5.2 State Environmental Planning Policy No. 71 – Coastal Protection

The subject land is in the coastal zone and therefore Clause 8 of the Policy applies. Clause 8 contains a number of matters which must be considered by the applicant in preparing a Development Application and by the consent authority in assessing the Development Application. Relevant matters will be addressed in the Environmental Impact Statement.

4.5.3 State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

The aims of the Policy (SEPP (MPPEI)2007) are as follows:

"2 Aims of Policy

The aims of this Policy are, in recognition of the importance to New South Wales of mining, petroleum production and extractive industries:

- (a) to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State, and*
- (b) to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources, and*
- (b1) to promote the development of significant mineral resources, and*
- (c) to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources, and*
- (d) to establish a gateway assessment process for certain mining and petroleum (oil and gas) development:*
 - (i) to recognise the importance of agricultural resources, and*
 - (ii) to ensure protection of strategic agricultural land and water resources, and*
 - (iii) to ensure a balanced use of land by potentially competing industries, and*
 - (iv) to provide for the sustainable growth of mining, petroleum and agricultural industries."*

The following clauses of the Policy are relevant:

Clause 7 – Development Permissible with Consent

Clauses 7(3) and (4) are in the following terms:

"7 Development permissible with consent

(3) Extractive industry

Development for any of the following purposes may be carried out with development consent:

- (a) extractive industry on land on which development for the purposes of agriculture or industry may be carried out (with or without development consent),*
- (b) extractive industry in any part of a waterway, an estuary in the coastal zone or coastal waters of the State that is not in an environmental conservation zone.*

(4) Co-location of industry

If extractive industry is being carried out with development consent on any land, development for any of the following purposes may also be carried out with development consent on that land:

- (a) the processing of extractive material,*
- (b) the processing of construction and demolition waste or of other material that is to be used as a substitute for extractive material,*

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

-
- (c) facilities for the processing or transport of extractive material,
 - (d) concrete works that produce only pre-mixed concrete or bitumen pre-mix or hot-mix."

Development for the purposes of extensive agriculture and intensive plant agriculture is permissible, with consent, in the RU1 zone and therefore extractives industries are permissible, with development consent, under this Clause.

Clause 12 – Compatibility of Proposed Mine, Petroleum Production or Extractive Industry with Other Land Uses

Clause 12 is in the following terms:

"12 Compatibility of proposed mine, petroleum production or extractive industry with other land uses

Before determining an application for consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must:

- (a) consider:
 - (i) the existing uses and approved uses of land in the vicinity of the development, and
 - (ii) whether or not the development is likely to have a significant impact on the uses that, in the opinion of the consent authority having regard to land use trends, are likely to be the preferred uses of land in the vicinity of the development, and
 - (iii) any ways in which the development may be incompatible with any of those existing, approved or likely preferred uses, and
- (b) evaluate and compare the respective public benefits of the development and the land uses referred to in paragraph (a) (i) and (ii), and
- (c) evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a) (iii)."

Clause 13 – Compatibility of Proposed Development with Mining, Petroleum Production or Extractive Industry

Clause 13 is in the following terms:

"13 Compatibility of proposed development with mining, petroleum production or extractive industry

- (1) *This clause applies to an application for consent for development on land that is, immediately before the application is determined:*
 - (a) *in the vicinity of an existing mine, petroleum production facility or extractive industry, or*
 - (b) *identified on a map (being a map that is approved and signed by the Minister and copies of which are deposited in the head office of the Department and publicly available on the Department's website) as being the location of State or regionally significant resources of minerals, petroleum or extractive materials, or*
Note. At the commencement of this Policy, no land was identified as referred to in paragraph (b).
 - (c) *identified by an environmental planning instrument as being the location of significant resources of minerals, petroleum or extractive materials.*
Note. Sydney Regional Environmental Plan No 9—Extractive Industry (No 2—1995) is an example of an environmental planning instrument that identifies land as containing significant deposits of extractive materials.
- (2) *Before determining an application to which this clause applies, the consent authority must:*
 - (a) consider:
 - (i) the existing uses and approved uses of land in the vicinity of the development, and
 - (ii) whether or not the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials (including by limiting access to, or impeding assessment of, those resources), and

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

-
- (iii) any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery, and
 - (b) evaluate and compare the respective public benefits of the development and the uses, extraction and recovery referred to in paragraph (a) (i) and (ii), and
 - (c) evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a) (iii)."

Clause 14 – Natural Resource Management and Environmental Management

Clause 14 is in the following terms:

"14 Natural resource management and environmental management

- (1) Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at ensuring that the development is undertaken in an environmentally responsible manner, including conditions to ensure the following:
 - (a) that impacts on significant water resources, including surface and groundwater resources, are avoided, or are minimised to the greatest extent practicable,
 - (b) that impacts on threatened species and biodiversity, are avoided, or are minimised to the greatest extent practicable,
 - (c) that greenhouse gas emissions are minimised to the greatest extent practicable.
- (2) Without limiting subclause (1), in determining a development application for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider an assessment of the greenhouse gas emissions (including downstream emissions) of the development, and must do so having regard to any applicable State or national policies, programs or guidelines concerning greenhouse gas emissions.
- (3) Without limiting subclause (1), in determining a development application for development for the purposes of mining, the consent authority must consider any certification by the Chief Executive of the Office of Environment and Heritage or the Director-General of the Department of Primary Industries that measures to mitigate or offset the biodiversity impact of the proposed development will be adequate."

Clause 15 –Resource Recovery

Clause 15 is in the following terms:

"15 Resource recovery

- (1) Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider the efficiency or otherwise of the development in terms of resource recovery.
- (2) Before granting consent for the development, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at optimising the efficiency of resource recovery and the reuse or recycling of material.
- (3) The consent authority may refuse to grant consent to development if it is not satisfied that the development will be carried out in such a way as to optimise the efficiency of recovery of minerals, petroleum or extractive materials and to minimise the creation of waste in association with the extraction, recovery or processing of minerals, petroleum or extractive materials."

Part 4AA of the Policy relates to mining and petroleum development on Strategic Agricultural Land (SAL). As indicated on **Figure 6**, part of the subject land is mapped as BSAL.

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

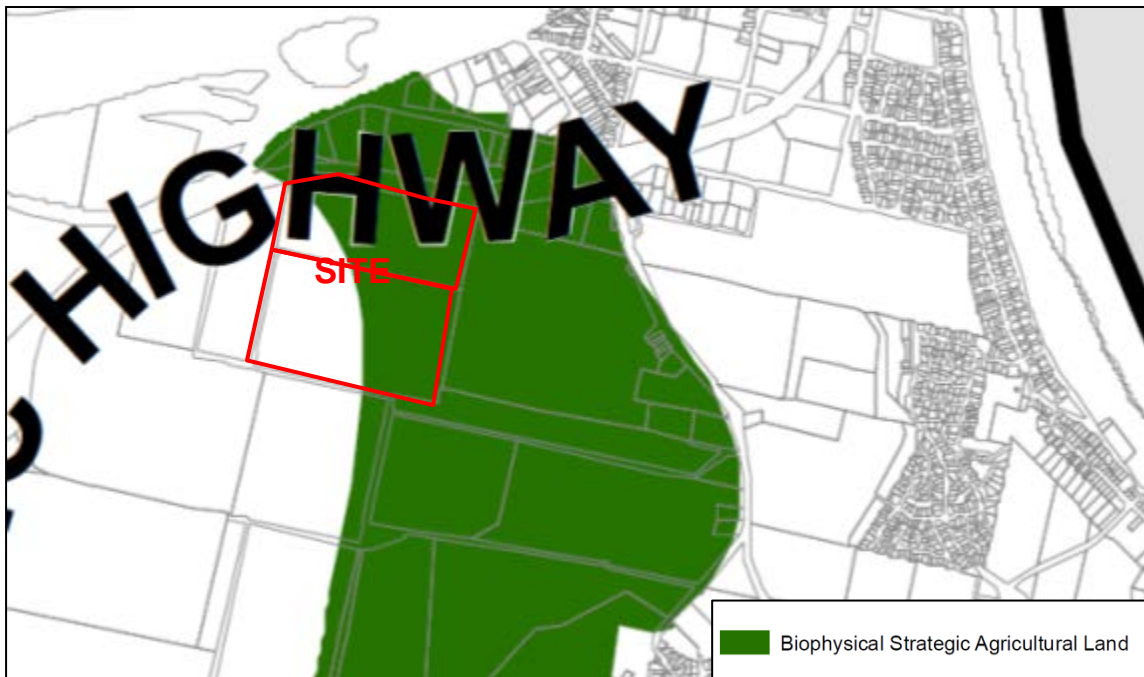


Figure 5 – SAL Land
Source: SEPP (Mining, Petroleum Production & Extractive Industries) 2007 Map 057

While Part 4AA does not apply to extractive industries, it would be prudent to consult with the NSW Department of Primary Industries in relation to the implications of the SAL Mapping for any extractive industry.

4.5.4 State Environmental Planning Policy (State and Regional Development) 2011

Clause 8 of the Policy and Clauses 7 and 9 of Schedule 2 of the Policy provide that certain extractive industries are State Significant Development. Clauses 7 and 9 are reproduced in the following **Table 1**.

| TABLE 1 – STATE SIGNIFICANT DEVELOPMENT | |
|--|--|
| MATTERS FOR CONSIDERATION | COMMENT |
| State Environmental Planning Policy (State and Regional Development) 2011 | |
| Clause 7 Extractive industries (1) Development for the purpose of extractive industry that: (a) extracts more than 500,000 tonnes of extractive materials per year, or (b) extracts from a total resource (the subject of the development application) of more than 5 million tonnes, or (c) extracts from an environmentally sensitive area of State significance. (2) Subclause (1) (c) does not apply to extraction: (a) by a public authority in maintenance dredging of a tidal waterway, or | Proposed extraction rate 300,000TPA. Total resource is estimated at 16,143,048 tonnes. The site is not an environmentally sensitive area of State significance. Not applicable. |

DAC Planning Pty Ltd

A.C.N. 093 157 165
Town Planning & Development Consultants

| TABLE 1 – STATE SIGNIFICANT DEVELOPMENT | |
|--|--|
| MATTERS FOR CONSIDERATION | COMMENT |
| <p>(b) in maintenance dredging of oyster lease areas, or adjacent areas, in Wallis Lake.</p> <p>(3) Development for the purpose of extractive industry related works (including processing plants, water management systems, or facilities for storage, loading or transporting any construction material or waste material) that:</p> <p>(a) is ancillary to or an extension of another State significant development project, or</p> <p>(b) has a capital investment value of more than \$30 million.</p> <p>(4) This clause does not apply to development for the purpose of extractive industry or extractive industry related works that is part of a single proposed development if any other part of the development is State significant infrastructure.</p> | <p>A small processing plant and other ancillary facilities will be included on the site.</p> <p>Not applicable.</p> <p>The estimated CIV is \$3 million.</p> <p>Noted.</p> |
| <p>Clause 9 Metal, mineral and extractive material processing</p> <p>Development that has a capital investment value of more than \$30 million for any of the following purposes:</p> <p>(a) metal or mineral refining or smelting, metal founding, rolling, drawing, extruding, coating, fabricating or manufacturing works or metal or mineral recycling or recovery,</p> <p>(b) brickworks, ceramic works, silicon or glassworks or tile manufacture,</p> <p>(c) cement works, concrete or bitumen pre-mix industries or related products,</p> <p>(d) building or construction materials recycling or recovery</p> | <p>Not applicable. The estimated CIV is \$3 million.</p> |

Section 89D of the Environmental Planning and Assessment Act, 1979 (the Act) provides that the Minister for Planning is the consent authority for State Significant Development. The Minister has delegated his powers as the consent authority to the Planning and Assessment Commission. As the total resource is estimated at greater than 5 million tonnes, the Minister for Planning would be the consent authority.

Table 2 identifies Regional Development referred to in Schedule 4(A) of the Act for which the Joint Regional Planning Panel is the determining authority rather than Tweed Shire Council.

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

| TABLE 2 – REGIONAL DEVELOPMENT (Schedule 4A, Environmental Planning & Assessment Act, 1979) | |
|---|---|
| MATTERS FOR CONSIDERATION | COMMENT |
| <p>Clause 3 General development over \$20 million</p> <p>Development that has a capital investment value of more than \$20 million.</p> <p>Clause 8 Particular designated development</p> <p>Development for the purposes of:</p> <p>(a) extractive industries, which meet the requirements for designated development under clause 19 of Schedule 3 to the <i>Environmental Planning and Assessment Regulation 2000</i>, or</p> <p>(b) marinas or other related land and water shoreline facilities, which meet the requirements for designated development under clause 23 of Schedule 3 to the <i>Environmental Planning and Assessment Regulation 2000</i>, or</p> <p>(c) waste management facilities or works, which meet the requirements for designated development under clause 32 of Schedule 3 to the <i>Environmental Planning and Assessment Regulation 2000</i>.</p> | <p>The CIV for the project is estimated at \$3 million.</p> <p>See comments at Section 4.6. The proposal meets the requirements for designated development.</p> <p>Not applicable.</p> <p>Not applicable.</p> |

In summary, the proposal is designated development and state significant development. Therefore an Environmental Impact Statement will be required and the Minister for Planning will be the consent authority and the Planning and Assessment Commission will determine the application.

4.5.5 State Environmental Planning Policy (Infrastructure) 2007

The following clauses of the Policy are relevant:

Clause 101 – Development with Frontage to Classified Road

"101 Development with frontage to classified road

- (1) *The objectives of this clause are:*
 - (a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
 - (b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*
- (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*
 - (a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road."

In summary, having regard to the provisions of Clause 101, consultations with RMS are considered to be appropriate prior to preparing detailed designs.

Clause 104 – Traffic-Generating Development

"104 Traffic-generating development

- (1) This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:
- (a) new premises of the relevant size or capacity, or
 - (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.
- (2) In this clause, **relevant size or capacity** means:
- (a) in relation to development on a site that has direct vehicular or pedestrian access to any road—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or
 - (b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.
- (3) Before determining a development application for development to which this clause applies, the consent authority must:
- (a) give written notice of the application to the RTA within 7 days after the application is made, and
 - (b) take into consideration:
 - (i) any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and
 - (ii) the accessibility of the site concerned, including:
 - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and
 - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and
 - (iii) any potential traffic safety, road congestion or parking implications of the development.
- (4) The consent authority must give the RTA a copy of the determination of the application within 7 days after the determination is made."

Schedule 3 – Traffic Generating Development to be Referred to the RTA

"Schedule 3 Traffic generating development to be referred to the RTA (Clause 104)

| Column 1 | Column 2 | Column 3 |
|---|--|---|
| Purpose of development Note. The development may be the erection of new premises or the enlargement or extension of existing premises | Size or capacity—site with access to any road | Size or capacity—site with access to classified road or to road that connects to classified road (if access within 90m of connection, measured along alignment of connecting road) |
| Apartment or residential flat building | 300 or more dwellings | 75 or more dwellings |

DAC Planning Pty Ltd

A.C.N. 093 157 165
Town Planning & Development Consultants

| | | |
|---|---|-----------------------------------|
| <i>Area used exclusively for parking or any other development having ancillary parking accommodation</i> | <i>200 or more motor vehicles</i> | <i>50 or more motor vehicles</i> |
| <i>Commercial premises</i> | <i>10,000m² in area</i> | <i>2,500m² in area</i> |
| <i>Commercial premises and industry</i> | <i>15,000 m² in area</i> | <i>4,000m² in area</i> |
| <i>Drive-in theatres</i> | <i>200 or more motor vehicles</i> | <i>50 or more motor vehicles</i> |
| <i>Drive-in take away food outlets</i> | <i>200 or more motor vehicles</i> | <i>Any size or capacity</i> |
| <i>Educational establishments</i> | <i>50 or more students</i> | |
| <i>Freight intermodal facilities and freight terminals</i> | <i>Any size or capacity</i> | |
| <i>Heliports, airports or aerodromes</i> | <i>Any size or capacity</i> | |
| <i>Hospital</i> | <i>200 or more beds</i> | <i>100 or more beds</i> |
| <i>Industry</i> | <i>20,000m² in area</i> | <i>5,000m² in area</i> |
| <i>Landfill, recycling facilities, waste transfer station</i> | <i>Any size or capacity</i> | |
| <i>Motor showrooms</i> | <i>200 or more motor vehicles</i> | <i>50 or more motor vehicles</i> |
| <i>Parking</i> | <i>200 or more motor vehicles</i> | <i>50 or more motor vehicles</i> |
| <i>Places of assembly or places of public worship</i> | <i>200 or more motor vehicles</i> | <i>50 or more motor vehicles</i> |
| <i>Premises licensed under the Liquor Act 1982 or the Registered Clubs Act 1976</i> | <i>200 or more motor vehicles</i> | <i>50 or more motor vehicles</i> |
| <i>Refreshment rooms</i> | <i>200 or more motor vehicles</i> | <i>300m²</i> |
| <i>Roadside stalls, where only primary products produced on the property on which the building or place is situated are exposed or offered for sale</i> | <i>200 or more motor vehicles</i> | <i>Any size or capacity</i> |
| <i>Service stations (including service stations which have retail outlets)</i> | <i>200 or more motor vehicles</i> | <i>Any size or capacity</i> |
| <i>Shops</i> | <i>2,000m²</i> | <i>500m²</i> |
| <i>Shops and commercial premises</i> | <i>4,000m²</i> | <i>1,000m²</i> |
| <i>Subdivision of land</i> | <i>200 or more allotments where the subdivision includes the opening of a public road</i> | <i>50 or more allotments</i> |
| <i>Tourist facilities, recreation facilities, showgrounds or sportsgrounds</i> | <i>200 or more motor vehicles</i> | <i>50 or more motor vehicles</i> |
| <i>Transport terminals, bulk stores, container depots or liquid fuel depots</i> | <i>8,000m²</i> | |
| <i>Any other purpose</i> | <i>200 or more motor vehicles</i> | |

In summary, given the scale and location of the project, consultations with the RMS are considered to be appropriate, notwithstanding that extractive industries are not specifically referred to in Schedule 3.

4.6 Designated Development

Clause 4(1) of the Environmental Planning and Assessment Regulations, 2000 is reproduced as follows:

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

"4 What is designated development?"

(cf clause 53C of EP&A Regulation 1994)

(1) Development described in Part 1 of Schedule 3 is declared to be designated development for the purposes of the Act unless it is declared not to be designated development by a provision of Part 2 or 3 of that Schedule."

Schedule 3 contains the following clauses relevant to extractive industries and processing of extractive material:

| TABLE 3 – ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATIONS 2000 | |
|--|--|
| CLAUSE | COMMENT |
| Schedule 3 | |
| Clause 16 Crushing, grinding or separating works (1) Crushing, grinding or separating works, being works <u>that process materials (such as sand, gravel, rock or minerals)</u> or materials for recycling or reuse (such as slag, road base, concrete, bricks, tiles, bituminous material, metal or timber) by crushing, grinding or separating into different sizes: (a) that have an intended processing capacity of more than 150 tonnes per day or 30,000 tonnes per year, or (b) that are located: (i) within 40 metres of a natural waterbody or wetland, or (ii) within 250 metres of a residential zone or dwelling not associated with the development. | Noted. The proposal has an intended capacity of 300,000 TPA. Not applicable – the site is approximately 150m from Boyds Channel (Tweed River). The nearest dwelling to the southwest is approximately 250m from the site. The caravan park to the north is approximately 300m from the site and is in the nearest land zoned Residential. |
| (2) This clause does not apply to development specifically referred to elsewhere in this Schedule. | Noted. |
| Clause 19 Extractive industries (1) Extractive industries (being industries that obtain extractive materials by methods including excavating, dredging, tunnelling or quarrying or that store, stockpile or process extractive materials by methods including washing, crushing, sawing or separating): (a) that obtain or process for sale, or reuse, more than 30,000 cubic metres of extractive material per year, or (b) that disturb or will disturb a total surface area of more than 2 hectares of land by: (i) clearing or excavating, or (ii) constructing dams, ponds, drains, roads or conveyors, or (iii) storing or depositing overburden, extractive material or tailings, or | Noted. The proposal has an intended capacity of 300,000 TPA. The proposal will disturb approximately 52 hectares. |

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

| TABLE 3 – ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATIONS 2000 | |
|---|--|
| CLAUSE | COMMENT |
| <p>(c) that are located:</p> <ul style="list-style-type: none"> (i) in or within 40 metres of a natural waterbody, wetland or an environmentally sensitive area, or (ii) within 200 metres of a coastline, or (iii) in an area of contaminated soil or acid sulphate soil, or (iv) on land that slopes at more than 18 degrees to the horizontal, or (v) if involving blasting, within 1,000 metres of a residential zone or within 500 metres of a dwelling not associated with the development, or (vi) within 500 metres of the site of another extractive industry that has operated during the last 5 years. | <p>The site is 150m from Boyds Channel and a mapped SEPP14 wetland to the west and is approximately 150m from the nearest environmentally sensitive area.</p> <p>Not applicable.</p> <p>The site is mapped as Class 2 and 3 acid sulphate soils.</p> <p>Not applicable.</p> <p>Not applicable – no blasting proposed.</p> <p>Existing extractive industries in the Tweed River at Dodds Island and Hanson's Pit are within 500m of the site.</p> |
| <p>(2) This clause does not apply to:</p> <ul style="list-style-type: none"> (a) extractive industries on land to which the following environmental planning instruments apply: <ul style="list-style-type: none"> (i) <i>Sydney Regional Environmental Plan No 11—Penrith Lakes Scheme</i>, (ii) <i>Western Division Regional Environmental Plan No 1—Extractive Industries</i>, or (b) maintenance dredging involving the removal of less than 1,000 cubic metres of alluvial material from oyster leases, sediment ponds or dams, artificial wetland or deltas formed at stormwater outlets, drains or the junction of creeks with rivers, provided that: <ul style="list-style-type: none"> (i) the extracted material does not include contaminated soil or acid sulphate soil, and (ii) any dredging operations do not remove any seagrass or native vegetation, and (iii) there has been no other dredging within 500 metres during the past 5 years, or (c) extractive industries undertaken in accordance with a plan of management (such as river, estuary, land or water management plans), provided that: | <p>Not applicable.</p> <p>Not applicable.</p> <p>Not applicable.</p> <p>Not applicable.</p> |

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

| TABLE 3 – ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATIONS 2000 | |
|---|---|
| CLAUSE | COMMENT |
| <p>(i) the plan is prepared in accordance with guidelines approved by the Secretary and includes consideration of cumulative impacts, bank and channel stability, flooding, ecology and hydrology of the area to which the plan applies, approved by a public authority and adopted by the consent authority and reviewed every 5 years, and</p> <p>(ii) less than 1,000 cubic metres of extractive material is removed from any potential extraction site that is specifically described in the plan, or</p> <p>(d) the excavation of contaminated soil for treatment at another site, or</p> <p>(e) artificial waterbodies, contaminated soil treatment works, turf farms, or waste management facilities or works, specifically referred to elsewhere in this Schedule, or</p> <p>(f) development for which <i>State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas</i> requires consent, or</p> <p>(g) maintenance dredging of alluvial material from oyster leases and adjacent areas in Wallis Lake, but only if the dredging is undertaken in accordance with the document entitled <i>Protocol for Wallis Lake Oyster Lease Maintenance Dredging</i> approved by the Secretary and published in the Gazette, as amended by the Secretary from time to time by publication of an amended Protocol in the Gazette.</p> | <p>Not applicable.</p> <p>Not applicable.</p> <p>Not applicable.</p> <p>Not applicable.</p> |

In summary, the proposal will be caught by multiple criteria in Schedule 3 and therefore would be designated development.

An Environmental Impact Statement prepared in the prescribed form and manner must accompany the Development Application for designated development.

4.7 Integrated Development

Section 91 of the Environmental Planning and Assessment Act, 1979 identifies the following development as integrated development.

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

| TABLE 4 – INTEGRATED APPROVALS | | | |
|--|-----------------------|---|--|
| ACT | PROVISION | APPROVAL | COMMENTS |
| <i>Fisheries Management Act 1994</i> | s 144 | Aquaculture permit | Not applicable. |
| | s 201 | Permit to carry out dredging or reclamation work | |
| | s 205 | Permit to cut, remove, damage or destroy marine vegetation on public water land or an aquaculture lease, or on the foreshore of any such land or lease | |
| | s 219 | Permit to:(a) set a net, netting or other material, or(b) construct or alter a dam, floodgate, causeway or weir, or(c) otherwise create an obstruction, across or within a bay, inlet, river or creek, or across or around a flat | |
| <i>Heritage Act 1977</i> | s 58 | Approval in respect of the doing or carrying out of an act, matter or thing referred to in s 57 (1) | Not applicable. |
| <i>Mine Subsidence Compensation Act 1961</i> | s 15 | Approval to alter or erect improvements within a mine subsidence district or to subdivide land therein | Not applicable. |
| <i>Mining Act 1992</i> | ss 63, 64 | Grant of mining lease | Not applicable. |
| <i>National Parks and Wildlife Act 1974</i> | s 90 | Consent to knowingly destroy, deface or damage or knowingly cause or permit the destruction or defacement of or damage to, a relic or Aboriginal place | No known relics subject to cultural heritage assessment. |
| <i>Petroleum (Onshore) Act 1991</i> | s 9 | Grant of production lease | Not applicable. |
| <i>Protection of the Environment Operations Act 1997</i> | ss 43 (a), 47 and 55 | Environment protection licence to authorise carrying out of scheduled development work at any premises. | Schedule 1, Clause 16 applies to crushing, grinding or separating. Schedule 1, Clause 19 applies to extractive activities. Subject to detailed design of the proposal, approvals are likely to be required under this Act. |
| | ss 43 (b), 48 and 55 | Environment protection licence to authorise carrying out of scheduled activities at any premises (excluding any activity described as a waste activity but including any activity described as a waste facility). | |
| | ss 43 (d), 55 and 122 | Environment protection licences to control carrying out of non-scheduled activities for the purposes of regulating water pollution resulting from the activity. | |

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

| TABLE 4 – INTEGRATED APPROVALS | | | |
|--------------------------------|---------------|---|--|
| ACT | PROVISION | APPROVAL | COMMENTS |
| Roads Act 1993 | s 138 | Consent to:(a) erect a structure or carry out a work in, on or over a public road, or(b) dig up or disturb the surface of a public road, or(c) remove or interfere with a structure, work or tree on a public road, or(d) pump water into a public road from any land adjoining the road, or(e) connect a road (whether public or private) to a classified road | Approvals would be required to construct any unformed road reserve. |
| Rural Fires Act 1997 | s 100B | Authorisation under section 100B in respect of bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes | Not applicable. |
| Water Management Act 2000 | ss 89, 90, 91 | Water use approval, water management work approval or activity approval under Part 3 of Chapter 3 | As the proposal will intercept the water table, an approval under this Act will be required. |

In summary, the proposal will be integrated development as approvals under the POEO Act, Roads Act and Water Management Act will be required.

Section 91A of the Act describes the following procedures for integrated development.

“91A Development that is integrated development

- (1) This section applies to the determination of a development application for development that is integrated development.*
- (2) Before granting development consent to an application for consent to carry out the development, the consent authority must, in accordance with the regulations, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development. Nothing in this section requires the consent authority to obtain the general terms of any such approval if the consent authority determines to refuse to grant development consent.*
- (3) A consent granted by the consent authority must be consistent with the general terms of any approval proposed to be granted by the approval body in relation to the development and of which the consent authority is informed. For the purposes of this Part, the consent authority is taken to have power under this Act to impose any condition that the approval body could impose as a condition of its approval.*
- (4) If the approval body informs the consent authority that it will not grant an approval that is required in order for the development to be lawfully carried out, the consent authority must refuse consent to the application.*
- (5) If the approval body fails to inform the consent authority, in accordance with the regulations, whether or not it will grant the approval, or of the general terms of its approval:*
 - (a) the consent authority may determine the development application, and*
 - (b) if the consent authority determines the development application by granting consent:*
 - (i) the approval body cannot refuse to grant approval to an application for approval in respect of the development, and*
 - (ii) an approval granted by the approval body must not be inconsistent with the development consent, and*
 - (iii) section 93 applies to an approval so granted as if it were an approval the general terms of which had been provided to the consent authority, despite any other Act or law.*

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

Note. Under section 380A of the Mining Act 1992 and section 24A of the Petroleum (Onshore) Act 1991, a mining lease or production lease can be refused on the ground that the applicant is not a fit and proper person, despite this section.

- (6) If a development application is determined, whether or not by the granting of development consent, the consent authority must notify all relevant approval bodies of the determination.

Note. If a dispute arises under this section between a consent authority and an approval body, the dispute may be dealt with under section 121."

4.8 Tweed Development Control Plan 2008, Section A3 – Development of Flood Liable Land and Tweed Shire Council Flood Policy

Section A3 contains Council's Policy requirements in relation to the development of flood liable land. Section A3 indicates that the design flood level at the subject land is RL 3.2m AHD, the climate change level is RL 3.5m AHD and the probable maximum flood level is RL 8.1m AHD.

Section A3.10 relating to rural areas relevantly provides, in respect of commercial and industrial development on flood liable land, that adequate provision of flood free storage areas for stock and equipment susceptible to water damage be provided.

TSC has also adopted the Tweed Valley Floodplain Risk Management Study and Tweed Valley Floodplain Risk Management Plan relevant provisions of which are reproduced as follows:

*"TWEED VALLEY FLOODPLAIN
RISK MANAGEMENT STUDY*

Page 114

8.4.5.4 Rural Development Recommendations

Recommendation 39 (strategic planning):

- *Adopt as a development control a maximum filling threshold of 1% of flood prone land area outside of floodways ($VxD > 0.3 \text{ m}^2/\text{s}$), below which cumulative development assessment is generally not required."*

*"TWEED VALLEY FLOODPLAIN
RISK MANAGEMENT PLAN*

Page 42

11.6 Rural Areas Planning Measures

Due to prevailing topography, the rural floodplain consists of large areas of high hazard floodway, significant flood storage areas, and limited flood fringe around the steep sided river valleys. The rural floodplain is prone to rapid inundation even in minor flood events.

To streamline applications for future rural development, Council aimed to identify permissible filling /bundling thresholds below which cumulative development assessment would not be required. As the large scale urban development scenarios were already approaching predetermined acceptable limits of hydraulic impacts, only 1% of suitable rural zoned land could be filled in addition without adverse hydraulic impacts around Tumbulgum and Chinderah. Many rural areas are also subject to significant evacuation constraints.

FRMS Recommendations 39 and 40: Review and implement planning measures specific to rural areas."

On 17 March 2015, Council's Manager of Roads and Stormwater advised by email that the cumulative fill scenario applies to 1% of rural flood prone "low flow" land. Therefore any portion of the site which is classified as "high hazard" will need to be subtracted from the total site area for the purposes of determining 1%.

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

The site has a total area of approximately 55.3 hectares and a high flow area of approximately 0.46 hectares. The low flow area is therefore approximately 54.84 hectares. 1% of the low flow part of the site is 0.5484 hectares or 5484m² and it is therefore this amount of the site within the flood prone area which can be filled without flood modelling. It is considered that the excavation will have little or no effect on the ground water level which is currently believed to be approximately 400-500mm below the existing surface level. This will create substantial additional flood storage area on the site.

5.0 IMPACT IDENTIFICATION AND ASSESSMENT

5.1 Vehicular Access

Whilst the site has frontage to the Pacific Highway, it does not have an existing vehicular access to the Highway. As the Highway is designated as a "Motorway" under the Roads Act 1993, direct vehicular access is regulated.

As indicated in Section 3.0 and the Aerial Photograph at **Annexure A**, the only legal access available is via the existing Crown and Public road network to the south and east of the site.

Altona Road (Council public road) provides legal and practical access to the Chinderah Wastewater Treatment Plant. Altona Road joins with Crescent Street (Cudgen) and Crescent Street junctions with the Tweed Coast Road approximately 1.5 kilometres south of the Pacific Highway/Tweed Coast Road interchange at Chinderah (see **Annexure A**).

Tweed Shire Council has provided the advice at **Annexure C** in relation to the status of the existing roads. In summary, the proposed private driveway within Lot 1 DP 1186419 will cross a Crown public road. The proposal to construct a small part of the Crown public road to provide practical access would require approval from Crown Lands.

5.2 Acid Sulphate Soils

As indicated on **Figure 7**, the majority of the site is mapped as Class 3 with the western area mapped as Class 2.

Clause 7.1 of TLEP2014 requires any Development Application involving excavation below natural ground level (Class 2 land) and more than 1m below natural ground level (Class 3 land) to be accompanied by an Acid Sulphate Soil Management Plan.

Extraction will be undertaken by dredging and therefore the extraction pond will permanently contain water. In situ acid sulphate soils will not be exposed to oxygen and accordingly impacts are likely to be minimal. Extracted material will be processed onsite and fine silt containing acid sulphates will be separated and placed permanently in the bottom of the extraction pond. This will suitably manage generation of potentially acid sulphate soils entering the environment.



Figure 7 – Acid Sulphate Soils
Source: Tweed Shire Council

5.3 Vegetation

Based on the Tweed Vegetation Management Strategy 2009 and as indicated on **Figure 8**, the site is mapped as “highly modified/disturbed”. It should be noted that this is broad scale mapping and a detailed Flora and Fauna Assessment of the site would be required to accompany any Development Application.

The existing agricultural drain and dam through the site contains fringing vegetation which may have ecological values. A Flora and Fauna Assessment will address the conservation value of this vegetation and identify appropriate mitigation or offsetting measures.



Figure 8 – Vegetation Mapping
Source: Tweed Shire Council

5.4 Groundwater Vulnerability

As indicated on **Figure 9**, the site is mapped as “high groundwater vulnerability”.

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

As the material will be extracted by a dredge, it is considered that no significant lowering of the water table is likely to occur. The NSW Office of Water should be consulted in relation to groundwater.



Figure 9 – Groundwater Vulnerability
Source: Tweed Shire Council

5.5 Farmland Protection Project

As indicated on **Figure 10**, the site is mapped as “regionally significant farmland”. Most of the sugar cane land in the Tweed Valley is also mapped as “regionally significant farmland”. Given this mapping and the SAL designation of part of the site (see Section 4.5.3), it would be appropriate to undertake investigations into the agricultural values of the land and further consult the Department of Primary Industry.



Figure 10 – Farmland Protection Project
Source: Tweed Shire Council

The regionally significant farmland designation should be balanced against the fact that the site contains a mapped sand resource (see Section 4.3) and extractive industries are a permissible use, with development consent, in the RU1 zone under TLEP2014 and SEPP (MPP&EI)2007.

5.6 Flooding

As indicated on **Figure 11**, the land is subject to flooding in the design flood event (Q100). The design flood level is RL 3.2m AHD, the climate change level is RL 3.5m AHD and the probable maximum flood level is RL 8.1m AHD.



Figure 11 – Design Flood Mapping
Source: Tweed Shire Council

Part of the site is also mapped as a high flow area as indicated on **Figure 12**.

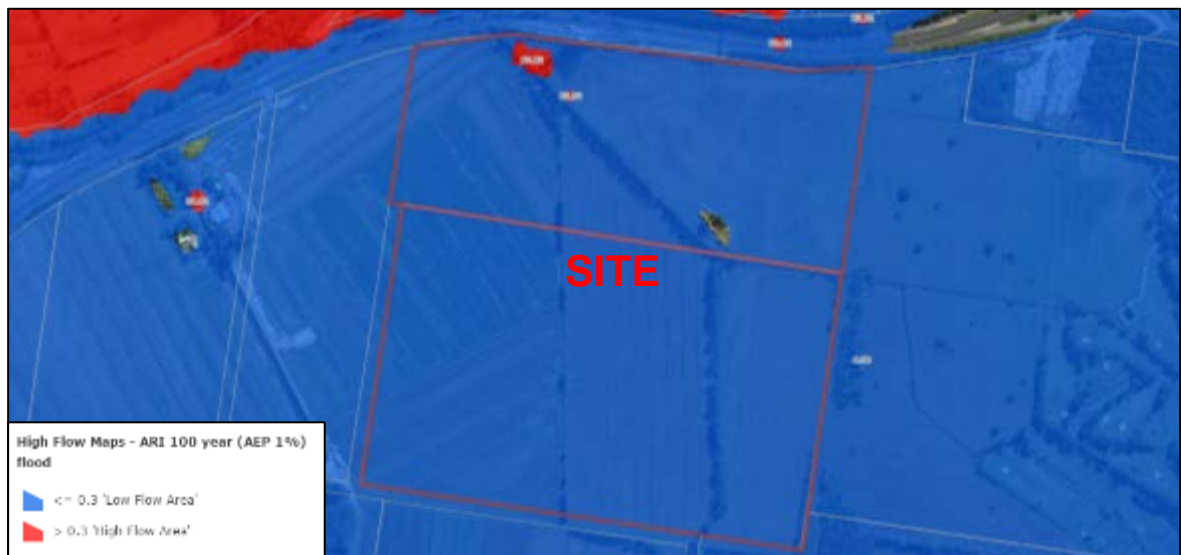


Figure 12 – High Flow Mapping
Source: Tweed Shire Council

See comments at Section 4.8 regarding Tweed Shire Council's Flood Policies and Controls.

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

5.7 Bushfire

As indicated on **Figure 13**, the northern and south eastern part of the site is mapped as bushfire prone. The bushfire hazard is the narrow strip of trees on the northern side of the Pacific Highway road reserve and the small remnant stand of trees adjacent to the southeast corner of the site. Given the location of the hazard and the asset protection zone provided by the Pacific Highway formation, bushfire risks are not considered to be a significant constraint.



Figure 13 – Bushfire
Source: Tweed Shire Council, Date of Photography, 2012

5.8 Contamination

The site has previously been used for sugar cane production and grazing. There have been no known intensive activities involving the mixing of chemicals or cleaning of chemical containers on the site and therefore the site is unlikely to be contaminated. However, the Environmental Impact Statement will be accompanied by a Contamination Assessment prepared in accordance with relevant Tweed Shire Council and Environmental Protection Authority Guidelines.

5.9 Aboriginal Cultural Heritage

In accordance with OEH and Tweed Shire Council's Policies, any Development Application would need to be accompanied by an Aboriginal Cultural Heritage Due Diligence Assessment. If that Assessment identified the existence of significant Aboriginal values on the site, it would be necessary to prepare a detailed Cultural Heritage Assessment, potentially including ground disturbance investigations, together with an Aboriginal Cultural Heritage Management Plan.

5.10 Water Quality

The dredge pond will be a closed system and will be fed by groundwater and runoff in storm and flood events. Excess water will flow to the relocated drain which flows to Boyds Channel. The dredge pond will act as a sediment basin by trapping sediments and nutrients prior to discharging to Boyds Channel. Water quality monitoring and reporting will be undertaken.

DAC Planning Pty Ltd

A.C.N. 093 157 165
Town Planning & Development Consultants

5.11 Tweed Coast Comprehensive Koala Plan of Management

The subject site occurs within the Southern Tweed Coast Koala Management Area (KMA) as defined in the Tweed Coast Koala Plan of Management (TCCCKPoM) (TSC 2015). The objectives of this KMA include:

- "a) To actively reduce threats to existing koalas and unoccupied koala habitat.*
- b) To increase the areas, quality and connectivity of koala habitat in the vicinity of existing koala populations sufficient to support a viable population of koalas.*
- c) To ensure that any development affecting koalas or their habitat mitigates any impacts and contributes positively to Koala recovery within the KMA.*
- d) To ensure that the community is fully engaged in the task of koala recovery."*

In accordance with Section 5.8 (Assessment of Koala Habitat) of the TCCCKPoM, a site inspection and report by an Ecologist will be required at the Development Application stage.

6.0 JUSTIFICATION

Action Sands Pty Ltd (a related Company to Carbrook Sands Pty Ltd) currently extracts sand from the Tweed River (DA91/0281) and processes the material (DA96/0248) at a land based site approximately 150m north of the subject land, being Lots 5 and 6 DP 565926 No. 204-218 Chinderah Bay Drive, Chinderah.

The extracted material is used for concrete production, brickies sand and general construction purposes. The remaining sand within the approved extraction area is limited to approximately 2 to 4 years supply and accordingly, Carbrook Sands Pty Ltd are proposing to continue extraction and processing material from the subject land to meet ongoing demand.

Material extracted from Hanson's Pit (Lot 22 DP 1082435 – see **Annexure A**) is used by Hanson for concrete production with limited use for general construction material.

Material extracted from the approved Gales Pit (Lot 2 DP 216705 – see **Annexure A**) is understood to be mainly intended for filling the Company's urban zoned land at West Kingscliff and therefore it is understood that none will be available for general use.

Holcim also operate a sandpit at Dunloe Park south of Pottsville on land described as Lot 162 DP 755701 and again that material is mainly used by Holcim for concrete production.

The subject land was chosen because it contains an identified sand resource which has been confirmed by preliminary geotechnical investigations. In addition, the site enjoys good accessibility to the Pacific Highway (M1) and Tweed Coast Road, being major roads which connect to existing and emerging communities including Tweed Heads, Tweed Heads South, Banora Point, Murwillumbah, Kingscliff, Tweed Coast Villages, Cobaki Lakes, Kings Forest, Tweed Area E and Bilambil Heights.

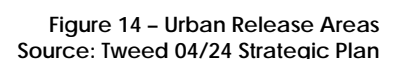
Suitable quality sand is a limited resource in the northern part of the TLGA with most of the material located on and adjacent to the subject land (see **Annexure B**). Therefore, there are no practical options other than to extract from the existing known resource.

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

The FNCRS, North Coast Regional Plan 2036 (NCRP) and Tweed Shire Council's Strategic Plan 2004-2024 (TSCSP) identify five major Urban Release Areas in the north eastern part of TLGA, as indicated on **Figure 14** and **Table 5**.



| TABLE 5 – MAJOR URBAN RELEASE AREAS WITH TLGA | | |
|---|----------------------|--|
| URBAN RELEASE AREA | ESTIMATED POPULATION | PLANNING STATUS |
| Cobaki Lakes | 10,000 to 12,000 | Zoned Urban and various consents/approvals issued for residential development including Concept Plan Approval No. 06_0316 for approximately 4500 dwellings. Bulk earthworks have been commenced. |
| Bilambil Heights | 6,000 to 8,000 | Zoned Urban and CP08_0234 issued for 1800 dwellings plus 9747m ² of commercial/ retail uses together with other urban uses. |
| Terranora Area E | 3,000 to 4,000 | Zoned Urban and MP09_0166 issued for 255 residential lots within Altitude Aspire being the eastern part of the release area. Bulk earthworks and civil works are in progress. |
| West Kingscliff | 4,000 | Zoned Urban – development not commenced. |
| Kings Forest | 10,000 to 12,000 | Zoned Urban and CP06_0318 issued for approximately 4500 dwellings together with a town centre, etc. MP08_0194 issued for Kings Forest Stage 1 bulk earthworks, 376 residential lots and Precinct 1 service station. Development not commenced. |
| TOTAL | 33,000 to 40,000 | |

In summary, the development proposal will generate approximately 5 fulltime equivalent employment positions, an estimated 8 additional indirect employment positions and will provide an essential resource to enable new subdivisions and buildings to be constructed within the approved urban release areas identified in Table 5. These release areas are intended to achieve the target of 11,600 additional dwellings in the TLGA by 2036, as foreshadowed in the NCRP, 2036.

The construction industry in the TLGA employs approximately 11.7% (3,300 jobs) of the workforce (Source: 2014/2015 ID Population Consultants) and therefore construction forms a significant part of the Tweed economy. A reliable and suitable supply of sand for concrete and general construction purposes is a key requirement for the construction industry.

7.0 CONSULTATION

As part of the due diligence process in relation to the development proposal, a number of State Agencies and Tweed Shire Council were consulted. **Table 6** identifies each of the Agencies consulted together with a summary of their responses. A copy of each Agencies response is contained at **Annexure E**.

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

| TABLE 6 – SUMMARY OF AGENCY RESPONSES | |
|---------------------------------------|---|
| AGENCY | SUMMARY OF RESPONSES |
| Tweed Shire Council | Concerns with loss of prime agricultural land and visual impacts. |
| Environmental Protection Authority | Air quality, noise, soil and water management and waste. |
| Industry NSW (GSNSW) | Thorough Geotechnical Assessment. |
| DPI Water | No response. |
| DPI Agriculture | Concerned with loss of regionally significant farmland. |
| Roads & Maritime Services | No direct access to Pacific Highway. Flood modelling required. Adequacy of existing drainage channel. |
| Land Use and Minerals | Sandstone not a prescribed mineral under the Mining Act. |
| DPI Fisheries | If new drain outlet DPI Fisheries approval required. |

Following the issue of SEARs, the proponent also intends to consult the following stakeholders:

- ♦ Chinderah Progress Association
- ♦ Condong Sugar Mill
- ♦ Tweed Canegrowers Association
- ♦ Adjoining Owners
- ♦ Essential Energy
- ♦ Telstra/NBN Co.

8.0 CAPITAL INVESTMENT VALUE

Based on the concept described in this submission, the CIV of the proposal is estimated at \$3 million. This estimate will be revised and amended if required when the development proposal is finalised and lodged.

Nothing turns on the accuracy of the CIV at this stage because the trigger for state significant development is Clause 7(1)(b) (ie. more than 5 million tonnes) of State Environmental Planning Policy (State and Regional Development) 2011. The CIV is well below the \$30 million threshold in Clause 7(3)(b) and Clause 9 of the Policy.

DAC Planning Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants