



Regulatory Framework

3.0 Regulatory Framework

3.1 Introduction

This chapter provides details of the consistency of the project with relevant Commonwealth, State and local planning provisions.

In addition this chapter of the report details key legislation to be addressed as part of the proposal includes the following:

- *Airports Act 1996;*
- *Airports Regulations 1997;*
- *Airports (Environment Protection) Regulations 1997;*
- *Airports (Building Control) Regulations 1996;*
- *Airports (Control of On-Airport Activities) Regulations 1997;*
- *Airport (Protection of Airspace) Regulations 1996;*
- *Air Services Act 1995;*
- *Environment Protection and Biodiversity Conservation Act 1999; and*
- *Civil Aviation Act 1988.*

3.2 Relevant Legislation

3.2.1 Airports Act 1996

Components of the ILS project situated on Commonwealth airport land are subject to the planning framework prescribed in the Airports Act. The Airports Act and associated Regulations are the statutory controls for ongoing regulation of activities on airport land for both aeronautical and non-aeronautical purposes. Part 5 of the Airports Act prescribes a number of controls over land use, planning and building at Commonwealth leased airports.

Under Part 5, Section 89 of the Airports Act a MDP is required for each major development at a Commonwealth leased airport. The project outlined in this MDP is defined as a 'major airport development' by virtue of Section 89:

(n) a development which affects an area identified as environmentally significant in the environment strategy; and

(na) a development of a kind that is likely to have a significant impact on the local or regional community.

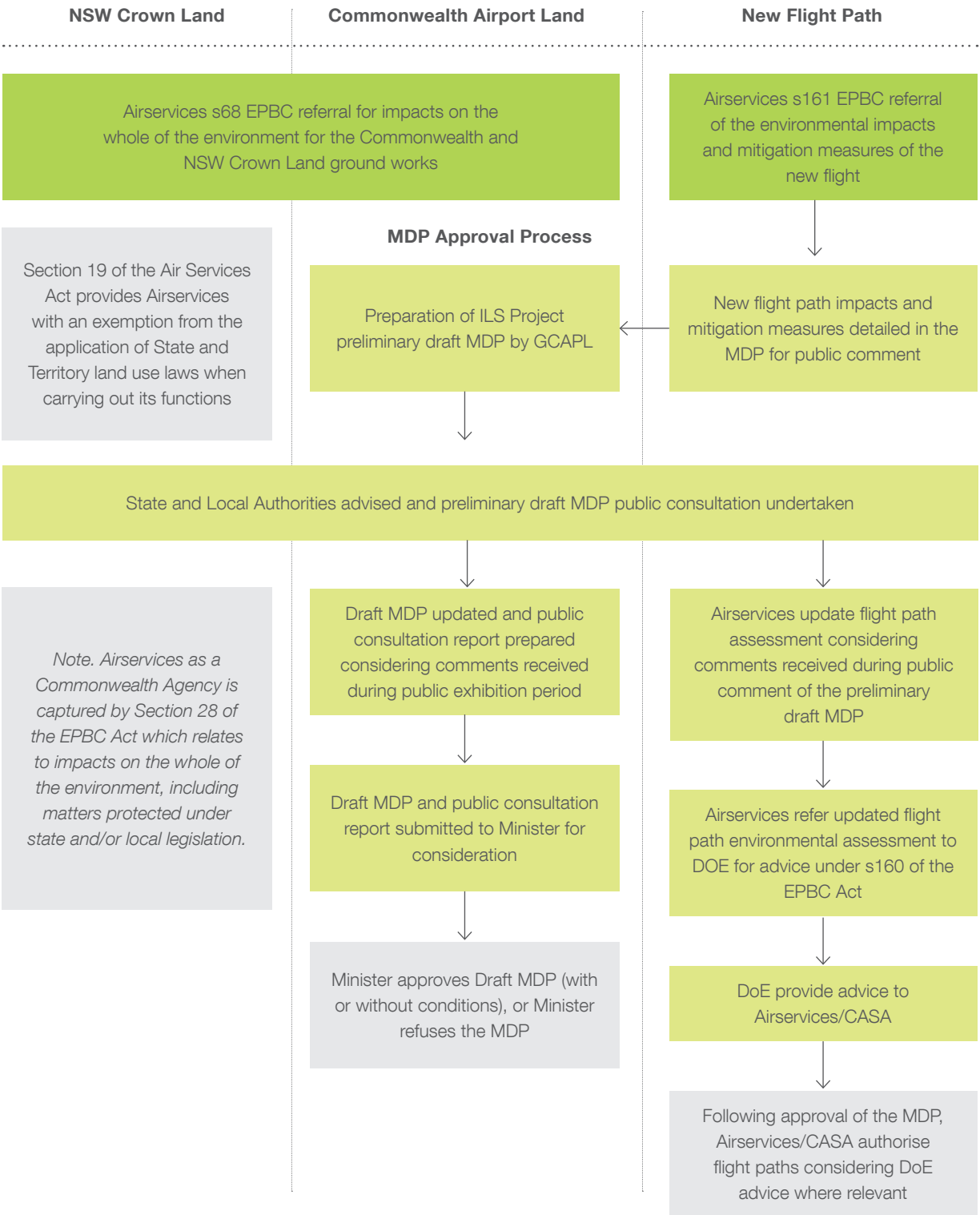
Although Airservices is the proponent of the project, Section 88 of the Airports Act requires MDP's to be prepared by the airport-lessee company which is GCAPL for Gold Coast Airport.

Section 91 of the Airports Act specifies elements that are to be addressed in the preparation of a MDP. Table 1.1 of this MDP provides a reference guide to demonstrate how each legislative requirement has been addressed within this MDP.

In developing a MDP, airports must publish a preliminary draft MDP and invite public comment for a period of 60 business days. A draft MDP and a supplementary report has been prepared and submitted to the Minister for Infrastructure and Regional Development for approval.

This MDP includes information on all elements of the ILS project for the purposes of a single public consultation process. The MDP seeks approval under the Airports Act for works on Commonwealth land. Changes to flight paths and potential noise impacts are subject of separate approvals obtained by Airservices in parallel to the MDP process. The formal regulatory approvals for the flight path and noise impact are dependent on the MDP being approved, and will follow an additional regulatory process under Section 160 of the EPBC Act and the Air Services Act. Comments received during the MDP public comment period relating to the flight path have been considered by Airservices as part of the flight path approval process. The key steps in the approval process for an MDP under the Airports Act and the separate approvals obtained by Airservices in accordance with the Air Services Act are presented in Figure 3.1.

Figure 3.1: ILS Approvals Process



3.2.2 Environment Protection and Biodiversity Conservation Act 1999

As Gold Coast Airport is situated on Commonwealth land, it is subject to the provisions of the Commonwealth EPBC Act.

The EPBC Act is administered by DoE, and contains provisions in relation to environmental impact assessment of projects on Commonwealth land which may have a significant impact on the whole of the environment and on matters of national environmental significance.

Chapter 5 of this MDP outlines the potential impacts from the project on the whole of the environment and Matters of National Environmental Significance (MNES). The relevant MINES for this project are:

- Listed threatened species and ecological communities;
- Migratory species protected under the international agreements;

Chapter 5 of this MDP also assesses ground impacts on the whole of the environment, both within the Commonwealth airport land and NSW State land. The ground impacts are not considered to result in a significant impact on the environment.

A referral under Section 68 of the EPBC Act was lodged by Airservices for the Commonwealth airport land and NSW State land component of the ILS project to determine whether or not the works were deemed a controlled action. DoE determined the works on NSW State land are not a controlled action and no approvals under the EPBC Act are required. In addition, DoE has advised DIRD under Section 161A of the EPBC Act that the action on Commonwealth airport land is unlikely to have a significant impact on the environment and that advice from the Minister for the Environment is not required.

Chapter 6 of this MDP outlines the potential noise impact arising from the new flight paths on the community. Airservices, as the designer of the flight path, has undertaken an environmental assessment of the flight paths for the ILS in accordance with its obligations under the Air Services Act and the EPBC Act.

The formal regulatory approvals for the flight path and noise impact are dependent on the MDP being approved, and will follow an additional regulatory process under Section 160 of the EPBC Act and the Air Services Act. Comments received during the MDP public comment period relating to the flight path will be considered by Airservices as part of the flight path approval process.

3.2.3 The Air Services Act 1995 (Cth)

The Air Services Act establishes Airservices as a Commonwealth corporation with functions and powers relating to aviation and related purposes. Under Part 171 of the Civil Aviation Safety Regulations 1998 (Cth) Airservices is the only organisation (aside from the Department of Defence) that is authorised to commission and maintain the ILS.

Airservices is the proponent for the ILS project. Section 19 of the Air Services Act provides Airservices with an exemption from the application of state and territory land use laws when carrying out its functions. Section 19 of the Air Services Act will be relied upon by Airservices to manage any land use zoning restrictions or regulations that may otherwise apply on NSW State land where the localiser antenna array and associated infrastructure are to be installed.

Although exempt from these legislative instruments, the ILS installation will still be subject to relevant Commonwealth legislation, including the EPBC Act which considers the whole of environment including state and local significance. The assessment of on ground environmental impact from the ILS on NSW State land is detailed in Chapter 5.

Approvals associated with the changes to flight paths and associated noise impacts will be undertaken by Airservices in accordance with the Air Services Act, if the MDP is approved.

Airservices have prepared a preliminary draft design of a new flight path for the ILS and will be developing associated ILS operating procedures, including noise abatement procedures. In designing the flight path and the operating procedures, Airservices has assessed the environmental impact of the new flight path and determined the impact of the noise from the new flight path to the community is considered to be significant. The potential noise impact arising from the new flight path on the community and proposed noise abatement procedures are discussed within Chapter 6 of this MDP.

3.2.4 Civil Aviation Act 1988

Under the Civil Aviation Act 1988, CASA is the government-owned authority responsible for the regulation of civil aviation safety. The ILS will be installed, commissioned, operated and maintained in accordance with regulations administered by CASA.

3.3 Consistency with the Airport Lease

Section 91(1A)(b) of the *Airports Act 1996* requires that a major development is consistent with the airport lease for the airport.

The airport lease for Gold Coast Airport requires that GCAPL develops Gold Coast Airport, having regard to anticipated future growth in, and pattern of, traffic demand to a standard reasonably expected of such an airport and to “good business practice,” which amongst other matters requires GCAPL to provide facilities for the expeditious movement of passengers and other users. The provision of the ILS is consistent with the airport lease by providing a facility that improves the movement of passengers and aircraft catering for anticipated future growth.

3.4 Consistency with Gold Coast Airport Master Plan

3.4.1 General

The regulation of land use on the airport is achieved via the Master Plan prepared in accordance with the Airports Act and approved in May 2012 by the Federal Minister for Infrastructure and Regional Development. The Master Plan is subject to review every 5 years to ensure the plan meets the airports and communities requirements.

The Master Plan reflects the GCAPL land use strategy and considers the surrounding local and state government planning objectives. This strategic document details development for the 20 year horizon to the year 2031 and includes a 20 year development plan, as well as one for the immediate 5 year period. All development works at GCA are required to be undertaken in accordance with the Master Plan.

Section 10.5 of the 2011 Master Plan identifies that GCAPL has “....requested Airservices to investigate the benefits of installing an ILS.... ” and “... as a result of this request, Airservices has committed to the installation of an ILS to improve landing capability in marginal weather conditions. Any introduction of ILS will still be subject to technical assessment, industry acceptance and significant community consultation prior to implementation.”

The preliminary flight path design as described in Section 6.1 of this MDP is consistent with the indicative flight paths for the ILS as shown in Figure 12.8 of the 2011 Master Plan.

The Master Plan also contains assessment of potential environmental impacts and mitigation measures associated with the implementation of the plan along with an environment strategy, which provides the framework for environmental management at the airport. The environment strategy addressed matters such as identification of environmentally significant areas (ESAs), sources of environmental impact and mitigation measures, environmental legislative requirements and promotes continual improvement. The MDP demonstrates consistency with the environmental strategy described in the Master Plan.

3.4.2 Land Use in the Master Plan

The regulation of land use on the airport is achieved via the Master Plan which was prepared in accordance with the Airports Act and approved in May 2012 by the Federal Minister for Infrastructure and Regional Development.

The Master Plan reflects the Gold Coast Airport land use strategy and considers the surrounding local and state government planning objectives. This strategic document details development for the 20 year horizon to the year 2031 and includes a 20 year development plan, as well as one for the immediate 5 year period. All development works at GCA are required to be undertaken in accordance with the Master Plan.

The Master Plan identifies five precincts as described below:

- Runway Precinct;
- Terminal Precinct;
- General Aviation Precinct;
- Western Enterprise Precinct;
- Cobaki Environment Precinct.

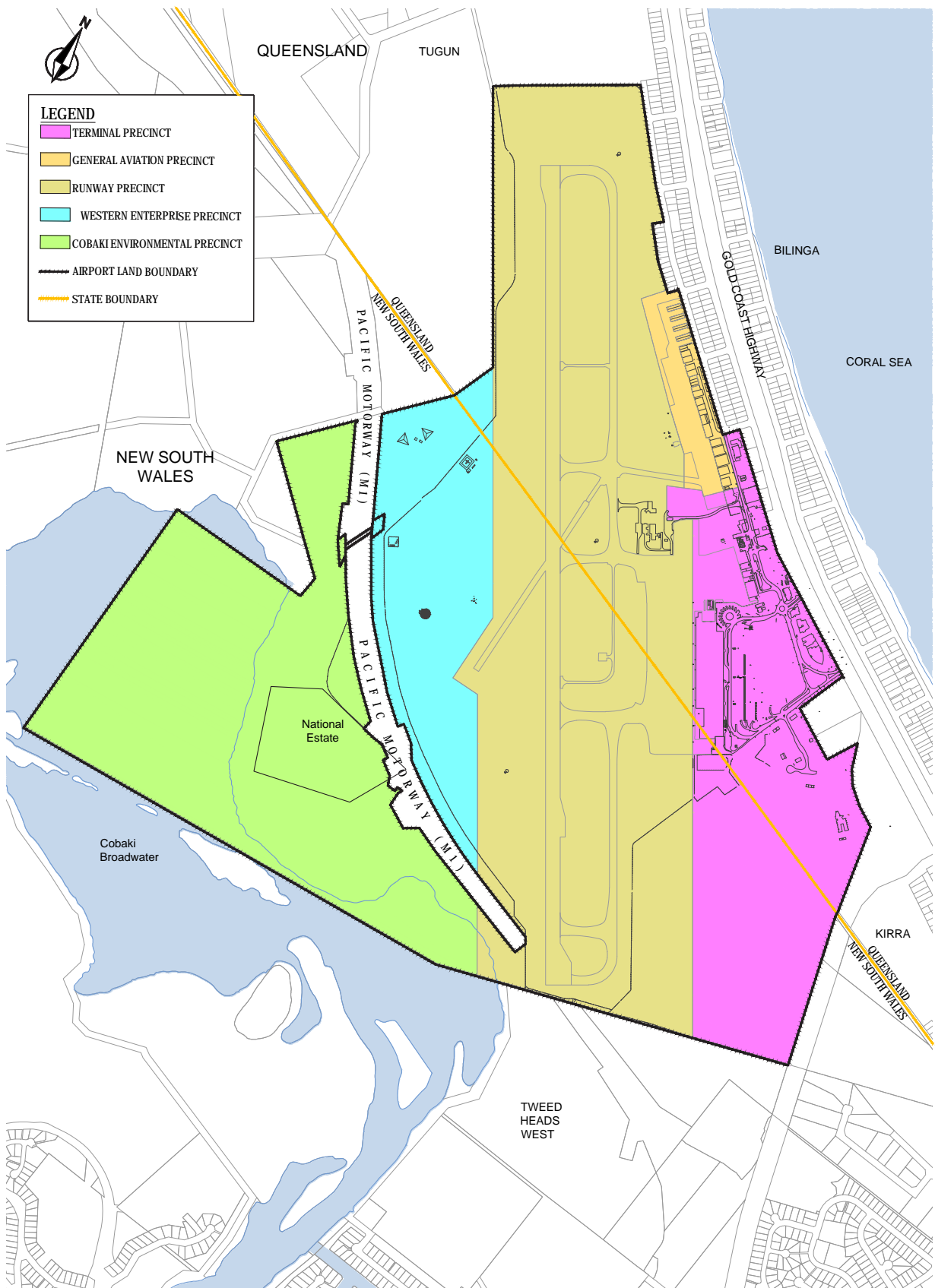
The widening of the runway strip from 150 metres to 300 metres and the ILS infrastructure are within the “Runway Precinct” of the Master Plan, as shown in Figure 3.2. The current and intended key development objectives for the runway precinct relevant to this project are:

- Safe aircraft landing, take off and taxiing operations;
- Aircraft navigation aids, radar and communications equipment; air traffic control, aviation rescue and firefighting and meteorological services;
- Other facilities to ensure safe operation of aircraft.

The runway strip widening from 150 metres to 300 metres and the ILS installation is therefore a compatible land use with the runway precinct as nominated in the Master Plan.

The Master Plan does not cover the component of the ILS infrastructure located on NSW State land.

Figure 3.2: 2011 Master Plan Land Use Plan



3.5 Consistency with Statutory Documents

A MDP must detail the extent of consistency with state and local government planning schemes in force where the airport is located. State and local legislation has been reviewed as part of the preparation of this MDP.

Gold Coast Airport straddles the state border and lies partly in New South Wales and partly in Queensland. The airport's vital role in the regional economy is acknowledged by regional and state planning documents on both sides of the border. Due to its location, the Airport lies partly in Tweed Shire and partly in Gold Coast City. Again the Airport's importance in the regional economy and the regional transport network is acknowledged in the strategic planning documents of both local government authorities. In each case the Airport property is included in special use zones in recognition of the presence of the airport.

3.5.1 State Planning Legislation

Queensland

The state significance of the Gold Coast Airport is acknowledged by the Queensland Government through the State Planning Policy (SPP) and the South East Queensland Regional Plan.

State Planning Policy

Gold Coast Airport is classified as a Strategic Airport under the SPP, and is thus protected by, and subject to, the provisions of the policy, in terms of local authority planning.

The SPP sets out the state interest concerning strategic airports and aviation facilities considered essential for the state's transport infrastructure and playing a key role in facilitating economic growth in Queensland.

The SPP provides direction for local governments preparing planning schemes to appropriately identify strategic airports and to facilitate development surrounding these airports, and includes a code with which local authority planning schemes are required to be consistent, and very comprehensive guidance material concerning strategic airports and aviation facilities for the assistance of local government.

The SPP applies to off airport developments that could:

- i. Encroach into the operational airspace of a strategic airport;
- ii. Encroach into the building restricted area of an aviation facility;
- iii. Increase the number of people that could work or live in areas affected by aircraft noise;
- iv. Increase the number of people or lead to the presence of dangerous materials within the public safety area; or
- v. Involve other potential hazards to aircraft operating in the airport's airspace.

As required, the draft Gold Coast City Plan 2015 reflects the provisions of the SPP by inclusion of a comprehensive airport code with the following overlays:

- Australian noise exposure forecast contours;
- Bird and bat strike zone;
- Light Intensity;
- Obstacle limitation surface;
- PANS-OPS; and
- Public safety area.

South East Queensland Regional Plan 2009 - 2031

The South East Queensland Regional Plan recognises that the Gold Coast Airport provides for economic and employment diversification on the Gold Coast and facilitates the growth of tourism, manufacturing, logistics, and freight distribution. The Regional Plan supports the Airport in terms of economic and employment growth, and supports the protection of the Airport from incompatible development.

The Airport is recognised as a key element of the region's transport system servicing the regional population and business/industry.

New South Wales

Far North Coast Regional Strategy

The Far North Coast Regional Strategy (the Strategy) applies to the six local government areas of Ballina, Byron, Kyogle, Lismore, Richmond Valley and Tweed, and is one of a number of regional strategies that have been prepared by the New South Wales Department of Planning and Environment. The Strategy's purpose is to manage the region's expected high growth rate in a sustainable manner and to protect the unique environmental assets, cultural values and natural resources of the region while ensuring that future planning maintains the character of the region and provides for economic opportunities.

The Strategy identified a number of planning objectives, these are:

- Environmental (protecting land with environmental, agricultural, vegetation, habitat, waterway, wetland or coastline values);
- Population and housing (managing population and providing a variety of housing);
- Economic (strengthen economic activity by promoting sectors in infrastructure, transport, and construction).

The project is in keeping with these aims.

3.6 Consistency with Local Planning Regimes

3.6.1 Land Use and Zoning in Tweed Shire

Located directly south of the Airport is the NSW State land leased to GCAPL. The works under the Air Services Act that consist of a localiser antenna, new access road, security fencing, vegetation clearing, and enabling works are all located on the NSW State land. Those works are outside this MDP application.

Lot 1 DP 1092051 is generally undeveloped with partial use by the Tweed Heads Pony Club. The licensed area over Lot 112 is located over the Tugun Bypass tunnel. South of the Pony Club, there is a large vacant parcel zoned industrial, for which an industrial subdivision was approved around 2004, but has not yet proceeded. Adjoining to the west of that property, and directly beyond and in line with the runway centreline, is the Tweed Shire Council sewage treatment plant and depot. Adjoining on Parkes Drive is the recently approved Masters Hardware development.

Regulation of land use and development within the Tweed Shire (New South Wales) is achieved via the Tweed Local Environmental Plan 2014 (LEP 2014) that reflects the state government planning objectives as set out in the *Environmental Planning and Assessment Act 1979* and is consistent with the statewide standard instrument LEP.

The key aim of the LEP 2014 is to “*encourage a sustainable local economy and small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed*”.

To a large extent, zoning of land surrounding the Airport within the Tweed Shire is reflective of the current land use pattern. However, adjacent to the Airport to the south and west, the land is classified as “Deferred Matter”, in which there is no specified zoning. For these areas, the previous zones in the superseded LEP 2000 will continue to apply, for most of the affected land, this is due to deferral by the state government of former Environmental Protection Zones, although in the case of the NSW State land leased by GCAPL immediately south of the airport, it is so as to not preclude development of aeronautical facilities. The NSW State land leased by GCAPL is the area where the localiser footprint is proposed.

The airport is zoned Special Purposes - SP1 Airport. The key objective of the SP1 zone is to “*provide for special land uses that are not provided for in other zones*”. Although the airport land use is not regulated by the LEP 2014, the zoning does nevertheless specifically designate the airport as the intended usage.

The LEP contains zonings and overlays that reflect the nature of existing land uses and impacts from the Airport, both in its current and proposed form, have on the surrounding land. The ILS project is consistent with the intent of the LEP 2014 and will not impact on zoning at and in the vicinity of the Airport.

3.6.2 City of Gold Coast Land Use and Zoning

Located to the north-west of the Airport is the Tugun Commercial and Domestic Waste Land Fill and Desalination plant and the Betty Diamond Sporting Complex.

Regulation of planning and land use within the City of Gold Coast (Queensland) is currently under the Gold Coast Planning Scheme 2003. However the council's new planning scheme, City Plan 2015, is at an advanced stage of preparation and expected to be in place prior to commencement of the project. Therefore, the following description is based on the forthcoming new planning scheme, rather than the current, effectively superseded one.

The Airport is zoned "Special Purpose" under City Plan 2015, which relates to activities regulated by other legislation (in this case, the Commonwealth Airports Act), or otherwise not subject to planning and development control under the local planning scheme.

The City Plan 2015 identifies the Airport as providing key transport infrastructure that will contribute to developing Gold Coast as a world-class city. In addition, the City Plan 2015 envisages growth in airport support services and tourist accommodation in close proximity to the Airport to further advance economic productivity and prosperity.

A specific outcome of the City Plan 2015 is that existing or planned noise-sensitive uses surrounding the Airport manage aircraft noise through appropriate design and location of new development, including appropriate noise mitigation techniques. A comprehensive Overlay Code is included in the City Plan dealing with all relevant airport and aircraft-related topics, including avoidance of adverse impacts of aircraft noise, protection against intrusions into the Airport's airspace in the form of buildings or otherwise, as well as other potential effects on pilots of aircraft operating in the airspace. The Code is modelled on the mandatory requirements of the SPP.

The project will have no impacts on zoning at and in the vicinity of the Airport and will not result in a change to the existing Australian Noise Exposure Forecast (ANEF) Contours, Bird and Bat Strike Zone, Light intensity, Obstacle Limitation Surface (OLS), and Public safety areas that impact the surrounding land use. In addition, the Airport Environs - ANEF contour overlay within the City Plan 2015 has taken in to account the 2031 ANEF of the 2011 Master Plan that includes an ILS.

3.7 Development and Building Approvals

In addition to any MDP requirements, construction of the project is subject to:

- The submission of an application for an Airspace approval under Part 12 of the Airports Act and *Airport (Protection of Airspace) Regulations 1996* for the installation of the glidepath footprint that will infringe the airport's prescribed airspace;
- The submission of an application for a Building Approval to the Airport Building Controller in accordance with the *Airports (Building Control) Regulations 1996*; and
- The submission and acceptance of a Construction Environmental Management Plan (CEMP).



