

[REDACTED]

From: Rebecca Sherman <[REDACTED]>
Sent: Wednesday, 28 November 2018 3:13 PM
To: DPE AEROTROPOLIS Mailbox
Cc: [REDACTED]
Subject: Submission on Western Sydney Aerotropolis Stage 1 Land Use and Implementation Plan:
Attachments: 01.Submission on LUUP - [REDACTED].pdf; 181101 1 Submission on LUUP [REDACTED].pdf
Follow Up Flag: Follow up
Flag Status: Completed

Hi [REDACTED]
As discussed earlier, please find attached our submission in relation to Western Sydney Aerotropolis Stage 1 Land Use and Implementation Plan.
I understand that this will be reviewed and will likely be included in Stage 2 submissions, however if at all possible we request it be considered as a Stage 1 submission.
I have attached here our letter submitted 1 November 2018, within the original submission period, requesting further time to prepare a more detailed submission.
Kind regards,

Rebecca Sherman
Client Manager



[REDACTED]
T [REDACTED]
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Our Ref: 16.094



1 November 2018

Penrith

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Mr Brett Whitworth
Director Aerotropolis Activation
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Dear Brett,

Re: **RSSB Australia**
Submission on Western Sydney Aerotropolis Stage 1 Land Use and Implementation Plan

I refer to the current exhibition of the Stage 1 Land Use and Implementation Report (LUIP) for the Western Sydney Aerotropolis and advise that we act on behalf of the owners of the above property, RSSB Australia (RSSB).

RSSB have owned the site for over 10 years and have, over that time, developed a large place of worship. It is our view that zoning and land use conflicts that have been imposed on this site since 2007 are unreasonably intensified through the exhibition material. We firmly believe that through this current process, the Department should take the opportunity to rectify any anomalies.

We are currently preparing a more detailed submission on this issue for RSSB and expect it to be completed before 16 November 2018, upon completion we will then forward to the Department.

We apologise for this delay but trust this will be acceptable to the Department.

Please contact me on [REDACTED] if you would like to discuss further.

Sincerely

Stimson & Baker Planning

[REDACTED]

Warwick Stimson RPIA

Director



**Stimson
& Baker**
P L A N N I N G

**Western Sydney Aerotropolis:
Land Use and Infrastructure Implementation Plan**

Submission on behalf of RSSB Australia


November 2018

Submission on Exhibition Material

Submission prepared by:

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Client and Land Details

Client: RSSB Australia
Subject Site: [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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Warwick Stimson RPIA
Director



Planning
Institute
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1 Introduction

1.1 Overview

Stimson & Baker Planning has been engaged by RSSB Australia (RSSB) to review the recently exhibited strategic planning document, *Western Sydney Aerotropolis Land Use and Infrastructure Plan: Stage 1: Initial Precincts* (the LUIIP). RSSB own land at [REDACTED] [REDACTED] for the purposes of a place of public worship and have developed the land accordingly over the past decade for that purpose.

Up until 4 April 2014 the entire site had been zoned and mapped *RU4 Primary Production Small Lots* under the *Liverpool Local Environmental Plan 2008* (LEP), this being the main environmental planning instrument (EPI) under which development had been considered by Liverpool Council for a number of Development Applications relating to the site.

The zoning maps attached to *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (SEPP) show, from between May 2008 to date, the site marked as Public Recreation – Regional. Our client advises they were not aware of any zoning change on the site, and that up until a bank valuation being recently commissioned, were under the impression the entire site was still zoned RU4 under the LEP.

To a large extent the actual timing of the rezoning, and whether the various instruments were considered correctly by Council is somewhat inconsequential in the context of the LUIIP. The concern is that the biodiversity boundaries established under the Growth Centres Commission *Growth Centres Conservation Plan*, around the time of December 2007, informed the eventual April 2014 rezoning, including the removal of the zoning of the southern part of the site from the LEP and transferred it to the SEPP. We are of the view that this zoning boundary was most likely determined at desktop level and was never properly 'ground truthed'. Indeed, significant concerns over the ground truthing were raised through the consultation process of that Plan by many people that made submissions at the time. The location of the zoning boundary resulted in heavily developed portions of the site being zoned Public Recreation – Regional, with these parts of the site (because of their development) unlikely to ever be able to achieve the regeneration objectives of the biodiversity certification imposed on it.

During 2016/2017 enquiries were made with the Department of Planning and Environment (DPE) and GIPA searches lodged – the primary purpose of which was to identify the level of detailed assessment that had been undertaken in formulating the zoning under the SEPP and Biodiversity Certification as it directly related to this site. Meetings were held with DPE staff however no assessment report or record could be produced justifying the zoning boundary location in the context of development on the site. Quite simply, the zoning boundary appeared to be located literally as an extension of a paper road boundary on an adjoining parcel of land. No evidence of any 'ground truthing' was provided. Again, we note this concern was raised during the consultation process of the Plan by many of those who made submissions

The conclusion we have arrived at is that the location of the zoning boundary has been inaccurately positioned. The objectives of the area of the site that was zoned Public Recreation – Regional, yet had been developed, would never have been able to achieve the objectives of

the zone, or contribute in any meaningful way to the biodiversity corridor that had been established as a result. The impacts of this on RSSB are significant and have hampered the organisation financially.

The LUIP now on exhibition, unfortunately reinforces this error. Indeed, we are of the opinion that the situation is made worse through the errant corridor/zoning boundary now indicated. This will result in a further financial constraint on the Church and its ability to conduct its business.

This submission proposes that through this LUIP process, the error be rectified, and it outlines the changes that should be made. We trust it will be considered favourably by DPE.

1.2 Introduction to Client

Radha Soami Satsang Beas (RSSB) along with its international affiliates is a spiritual organization based on the teachings of all religions and dedicated to a process of inner development under the guidance of a spiritual teacher.

In the Indian language, Radha Soami means 'lord of the soul', *satsang* describes a group that seeks truth, and Beas refers to the town near which the main centre is located in northern India. There are a number of other contemporary movements that use the name 'Radha Soami' but Radha Soami Satsang Beas is not associated with any of them.

RSSB was established in India in 1891 and gradually began spreading to other countries. Today RSSB holds meetings in more than 90 countries worldwide. It is a non-profit organization with no affiliation to any political or commercial organizations.

RSSB have owned the site for many years, and its acquisition and development have been funded by donations.

2 The Site

The subject site and its surrounds has the following characteristics.

Site Address	[REDACTED]
Lot/DP	[REDACTED]
Site Area	[REDACTED]
Local Government Area	Liverpool City Council
Zoning/EPI	Split zoning: Front portion – RU4 under Liverpool LEP 2008 Rear portion – Public Recreation – Regional under State Environmental Planning Policy (Sydney Region Growth Centres) 2006
Current Land Use	The front portion of the site (approx. 75%) has been developed as a Place of Public Worship, and the rear of the site (approx. 25%) has been maintained as managed bushland.
Surrounding Land Uses	Surrounding lands are characterised with rural and rural-related land uses. There are also a number of extractive industries and waste management facilities present.
Topography	Generally flat.



Figure 1 Subject Site Aerial (Nearmap)



Figure 2 Subject Site Cadastre (SIX Maps)



Figure 3 Regional Context (Nearmap)

3 Planning History

3.1 Previous Approvals and Land Use Zoning

A number of development applications have been approved by Liverpool City Council over the years. Importantly, Council has referred applications to the DPE for concurrence, with that concurrence never being withheld.

Whilst historically it appears the relevant planning instruments required DPE to be consulted prior to an applications determination, those applications had been determined while the land still retained an RU4 zoning under the LEP.

Unfortunately, it appears to us that approved applications were not considered through the process determining the boundaries relating to the Biodiversity Certification and related land use zoning change.

4 Current Planning Environment

4.1 Land Use Zoning and Environmental Planning Instrument

Currently, the front portion of the site is zoned *RU4 Primary Production Small Lots* under *Liverpool Local Environmental Plan 2008*.

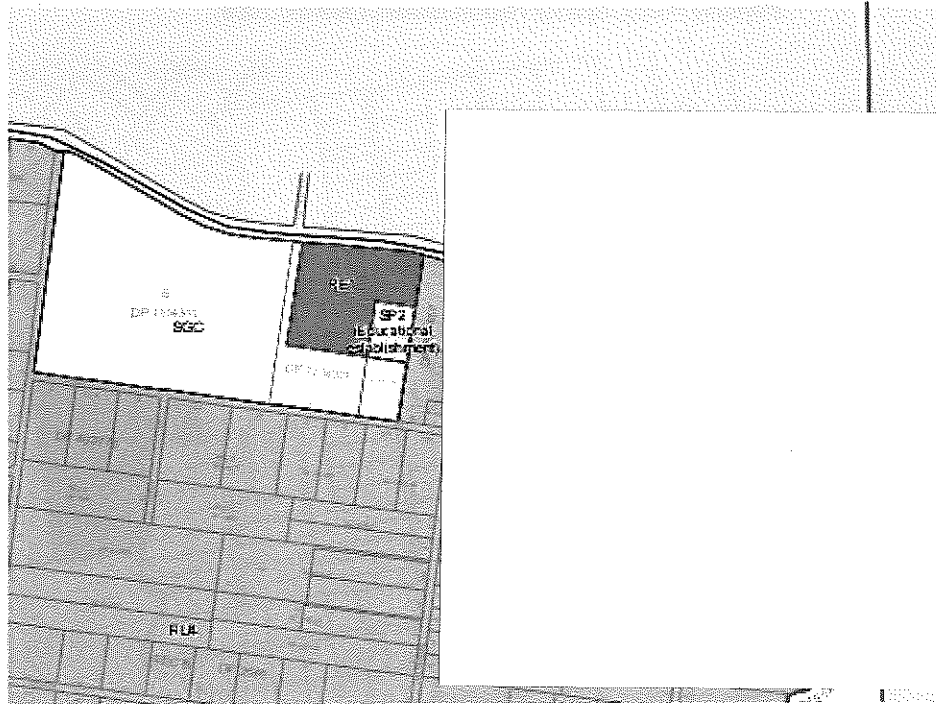


Figure 4 Extract from LEP Mapping (showing subject site) Map Tile LZN 005

The Land Use Zoning Table nominates the following in respect of the RU4 zone.

Zone RU4 Primary Production Small Lots

1 Objectives of zone

- To enable sustainable primary industry and other compatible land uses.
- To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

2 Permitted without consent

Extensive agriculture; Home-based child care; Home occupations

3 Permitted with consent

Agriculture; Animal boarding or training establishments; Bed and breakfast accommodation; Building identification signs; Business identification signs; Cemeteries; Community facilities; Crematoria; Dual occupancies; Dwelling houses; Entertainment facilities; Environmental facilities; Environmental protection works; Farm buildings; Farm stay accommodation; Flood mitigation works; Helipads; Home businesses; Home industries; Landscaping material supplies;

Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Roads; Roadside stalls; Rural industries; Rural supplies; Rural workers' dwellings; Secondary dwellings; Veterinary hospitals; Water recreation structures

4 Prohibited

Any development not specified in item 2 or 3

The rear portion of the site is zoned Public Recreation – Regional under *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*



Figure 5 Extract from SEPP Mapping (showing subject site) - extent of Public Recreation-Regional zoning

The Land Use Zoning Table nominates the following in respect of the Public Recreation zone:

Public Recreation—Regional Zone

(1) Permitted without consent

Development permitted by or under the National Parks and Wildlife Act 1974 (but only if the land is reserved under that Act); development for the purpose of eradicating noxious weeds in accordance with the Noxious Weeds Act 1993.

(2) Permitted with consent

Development for building identification signs, environmental facilities, environmental protection works, flood mitigation works, information and education facilities, kiosks, public entertainment, recreation areas, recreation facilities (outdoor), temporary structures.

(3) Prohibited

Any other development.

We also note Clause 14 and 15 which state the following:

14 Development for previously permitted uses of land

- (1) *Despite anything to the contrary in this Part, the consent authority may grant consent to the carrying out of development on land zoned under this Part that is not otherwise permitted by this Part if:*
- (a) *the development is of a kind that could be carried out on the land under an applicable environmental planning instrument immediately before the commencement of this Policy, and*
 - (b) *the relevant public authority referred to in clause 15 that may be required to acquire the land grants concurrence to the proposed development, and*
 - (c) *the development is consistent with the aims of this Policy.*
- (2) *In deciding whether to grant concurrence to proposed development under this clause, the relevant public authority must take the following matters into consideration:*
- (a) *the need to carry out development on the land for the purposes for which the land is zoned under this Part,*
 - (b) *the imminence of acquisition of the land by the public authority,*
 - (c) *the likely additional cost to the public authority resulting from the carrying out of the proposed development.*

15 Acquisition of land zoned under this Part

The authority of the State that will be the relevant authority to acquire any land zoned under this Part, if the land is required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991, is:

- (a) *in the case of land within the Environment Conservation Zone or the Public Recreation—Regional Zone—the corporation constituted under section 2.5 (1) of the Act, or*
- (b) *(Repealed)*
- (c) *in the case of land within the Public Recreation—Local Zone—the council of the area in which the land is situated.*

Whilst it is acknowledged that RSSB could utilise Clause 14 to progress any development on their site, the zoning itself has resulted in financial harm. Moreover, it is illogical and unreasonable to have the potential for acquisition sitting over a portion of the land that RSSB and its community have so heavily invested in.

We also note the site is mapped as follows in respect of potential flood prone and creek lands.



Figure 6 SEPP mapping extract - Flood Prone area

4.2 Biodiversity Certification

Biodiversity certification was conferred on *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* on 11 December 2007.

Throughout the consultation process a number of concerns were raised over the 'ground truthing' of the ecological assessments. An extract from the 'Report on Public Submissions' stated:

Approximately one quarter (24%) of submissions raised concern about the level of ground truthing used, and its impact on the reliability/validity of the proposed biodiversity certification. In response to this, it is noted that all assessment methods have been developed in close consultation with DECC, and were based on guiding principles that have been developed by DECC. The assessment of the existing remnants was based on the best available information at a regional scale across the Cumberland Plain. The process to develop the original data by the National Parks and Wildlife Service involved modelling, remote sensing and field validation. On this basis, individual site surveys are not considered appropriate for a regional assessment. Some limited additional work was undertaken in response to the regional nature of the data, with a view to improving the reliability and consistency of the data at a regional scale, rather than a localised/ lot scale. This is considered acceptable because it provides the basis for regional conservation strategy, rather than a detailed local design. Any further refinement to this process is better suited to the precinct planning process, where the opportunity for refinement of the information may be available.

Related to the ground truthing issue, almost half (46%) of submissions received from landowners queried the validity of the ecological designation allocated to their property in the Draft Conservation Plan. In response to this, it is noted that mapping information should be considered as being approximate arising from the regional nature of the exercise and the scale of the mapping information. Again, this is considered acceptable in view of the regional nature of the exercise, and any further refinement to this is better suited to the precinct planning process. The 15% of landowners concerned about inaccuracies in the location of 'green' areas are advised that any future maps to be prepared are not proposed to include any green areas.

When the biodiversity conservation was ultimately conferred, it was done so conditionally.

Condition 1 of the certification allows for the Minister to amend the conditions to address anomalies, errors, boundary revisions and to take into account new information. We assume this was to cater for situations, such as this one, where a zoning boundary had been placed inaccurately.

4.3 Physical Development versus Zoning Boundary

The Figure below shows clearly the Public Recreation – Regional zoning imposed on the site, in comparison with the development that is on the site.

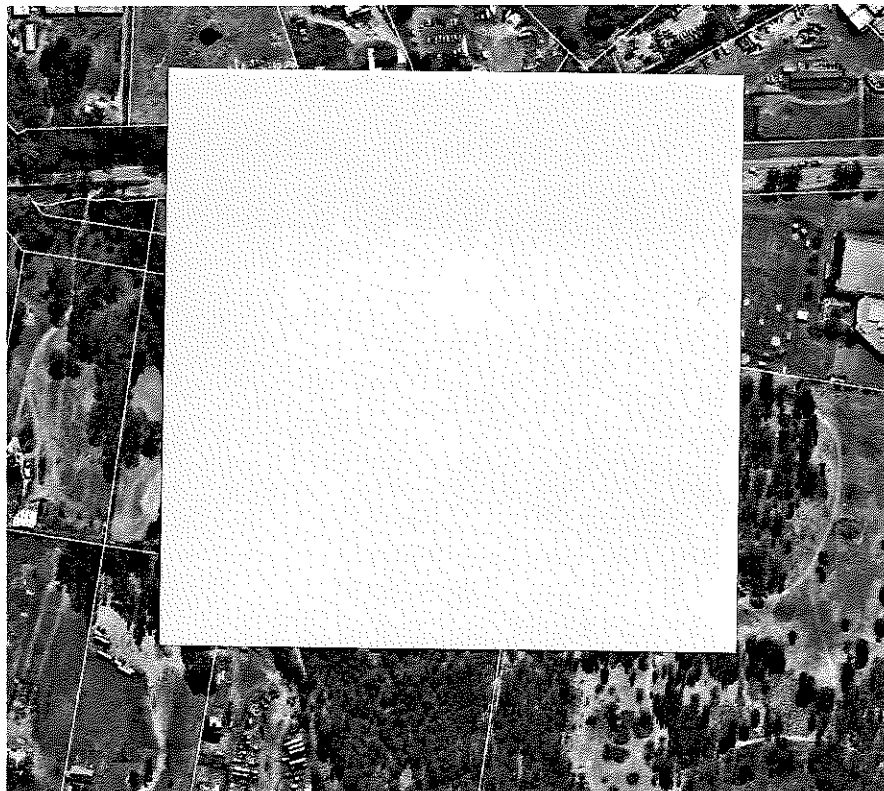


Figure 7 Subject site showing the existing open space zoning

The zone clearly imposed on parts of the land that have been heavily developed and have no conservation opportunities.

5 The LUIIP

The LUIIP provides an overview of proposed land uses and the sequence of development that will deliver Sydney's newest economic hub around the new Western Sydney Airport. Importantly for RSSB, this body of work will establish the future zone and zoning boundaries, and it is in that context this submission is made.

The following extract details how the LUIIP recognises the biodiversity certification work already applicable to the site.

4.3.4 Environmental conservation in the Cumberland Plain

Western Sydney is home to some of the last remaining critically endangered plant communities on the Cumberland Plain as well as other threatened flora and fauna.

Strategic biodiversity certification allows for biodiversity values to be considered early in the planning process. It protects areas of high conservation value, identifies areas suitable for development and offsets any residual impacts to biodiversity. Strategic biodiversity certification removes the need for site-by-site threatened species assessment, provides certainty for developers and landowners and enables better environmental outcomes.

The *Cumberland Plain Conservation Plan*, a strategic conservation plan, will support an application by the Department of Planning and Environment for the biodiversity certification of the Aerotropolis and other new development areas in Western Sydney under the *Biodiversity Conservation Act 2016*. It will also propose a range of conservation measures, including protection of high conservation value core and corridor areas, revegetation and renewal, protection using development controls and investment in species recovery initiatives.

The development of the *Cumberland Plain Conservation Plan* and the biocertification of the Aerotropolis and other new areas in Western Sydney will run concurrently with precinct planning. The Aerotropolis includes an area which was biodiversity certified in 2007 and the conditions and planning controls that apply in this area will continue.

The Department of Planning and Environment has carried out field surveys to identify the biodiversity values in the Aerotropolis so that precinct plans can avoid or minimise impacts to biodiversity. The Department has also undertaken preliminary mapping of core biodiversity sites.

This confirms that at this time, the biodiversity certification is intended to be retained in its current form.

The LUIIP divides the entire Aerotropolis precinct into several precinct as shown in Figure 8 below. The subject site sits within the Kemps Creek precinct.

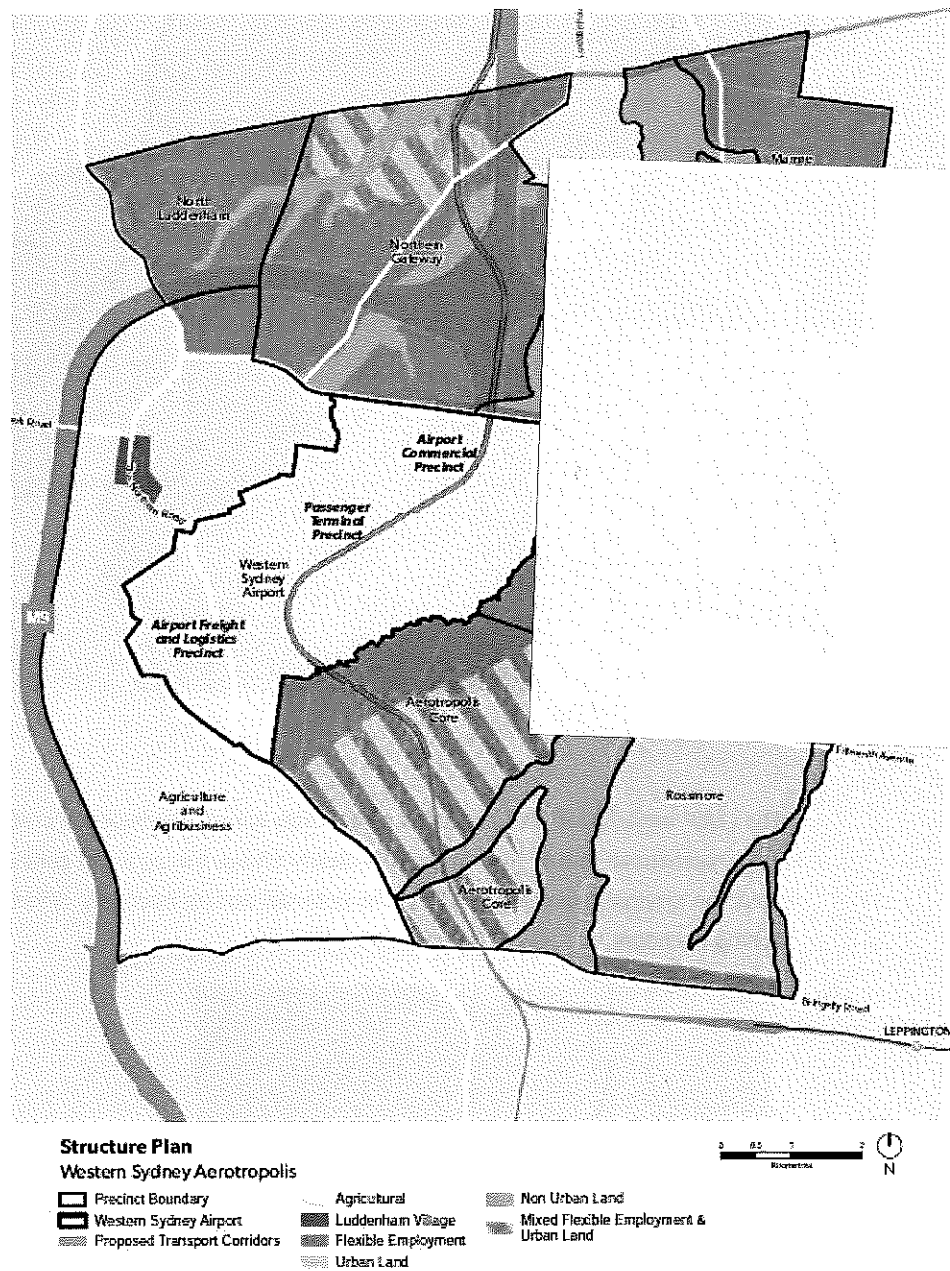


Figure 8 Overall Precinct Plan

Figure 9 shows the Structure Plan magnified and the subject site within it.

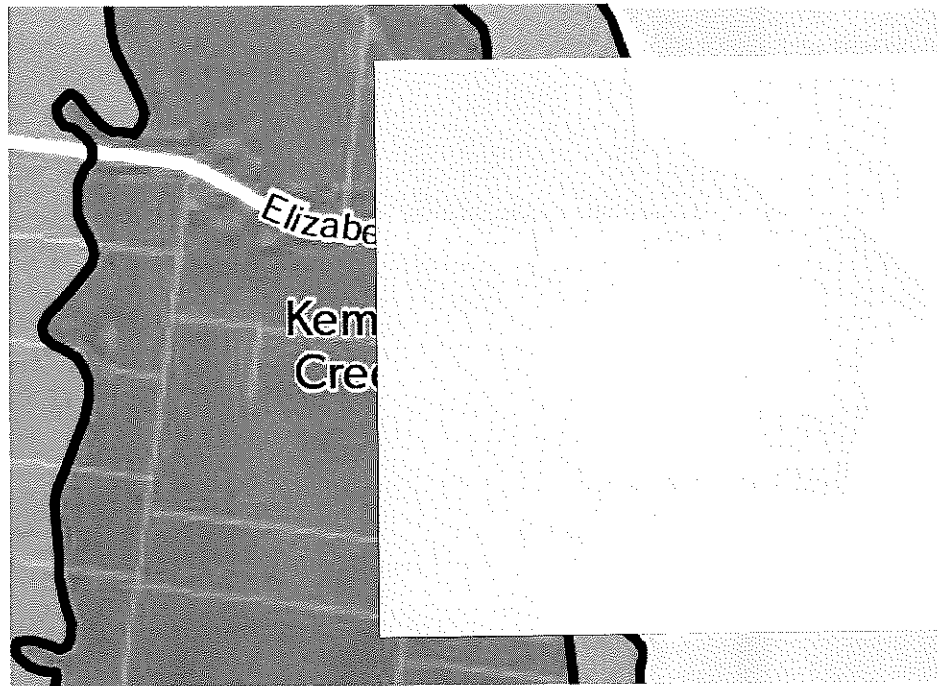


Figure 9 Kems Creek Precinct

The LUIIP exhibition material includes a lot overlay across the proposed precinct areas and we have reproduced that in Figure 10. This clearly shows the potential zoning boundaries that could be proposed under the LUIIP. The potential zoning boundary differs from the current zoning boundary.

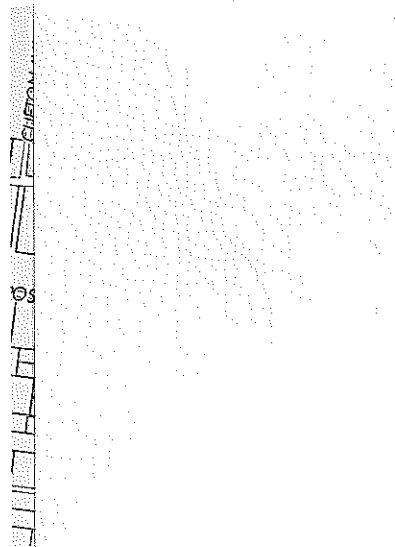


Figure 10 Precinct Overlay with Lot boundaries

We have applied the boundaries within Figure 10 onto an aerial photo within Figure 11 and this shows the potential zoning in respect of existing development on the site.

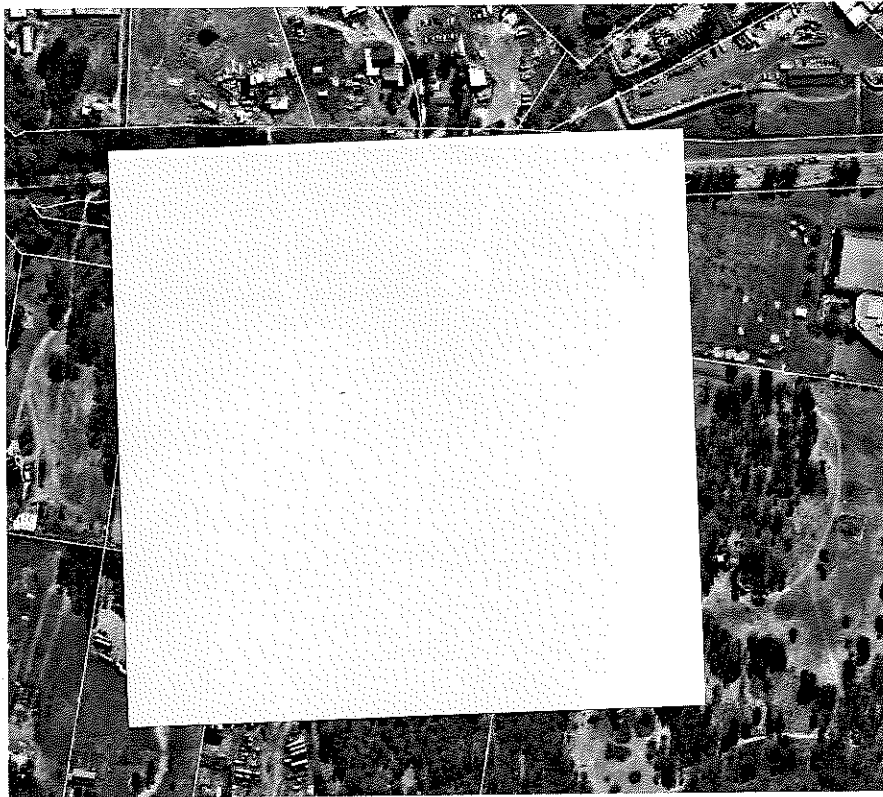


Figure 11 Subject site showing potential zoning under the LUHP

It is clear that the proposed boundaries constrain the site further than what the current zoning boundary does (as shown in Figure 7). Again, we consider this unnecessarily and unreasonably constrains the site.

6 Opportunities for the Site under LUIIP

The exhibition of the LUIIP will inform the future planning of the entire Aerotropolis. As it relates to the RSSB site, it is likely that further constraints would be imposed, with no justification whatsoever. With no explanation being provided by DPE to date about the mapping or the methodology behind its accuracy, it is timely that the mapping errors and anomalies are recognised and rectified.

The opportunity exists to accurately identify an appropriate zoning boundary across the site, in the context of existing approvals, existing development, and importantly, existing vegetation.

We propose a zoning boundary consistent with Figure 12 below to be applied to the site.

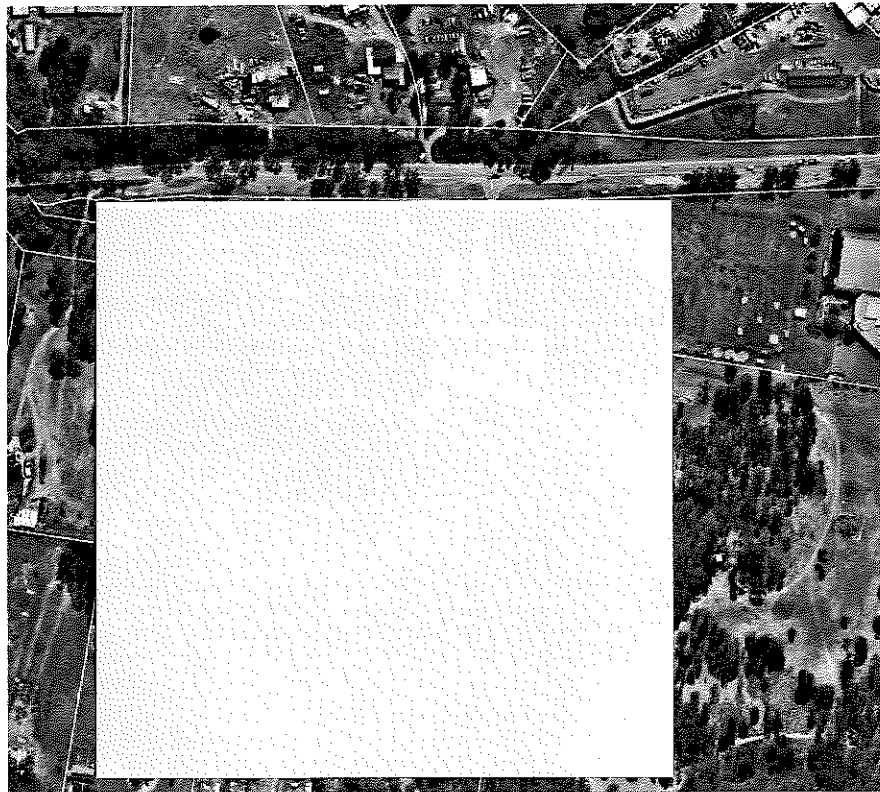


Figure 12 Subject site showing the accurate location of where the Open Space zone should be

7 Summary

The following provides a summary of this submission.

- RSSB acquired and developed the site through donations. The site accommodates a large place of public worship, as well as sealed car park and ancillary buildings.
- Several development applications have been approved on the site by Liverpool Council, with concurrence being granted by DPE.
- Until April 2014 the entire site had been zoned RU4 under Liverpool LEP 2008. Clauses within the LEP recognized the biodiversity nature of the site, requiring concurrence to be obtained from DPE for every development application. Concurrence has always been granted.
- In 2007, biodiversity certification was conferred on the site and the SEPP. This eventually informed and resulted in the April 2014 amendments to the LEP, where the zoning of the southern portion of the site was transferred to the SEPP.
- The mapping of the biodiversity certification was never reflective of the constraints of the site (natural and development) or the existing vegetation, but has within it mechanisms to rectify errors and anomalies.
- As a direct result of the unreasonable, inaccurate and unnecessary rezoning that has been imposed on their land, RSSB have been financially impacted.
- The LUIMP identified additional parts of the site as being part of the South Creek corridor, unnecessarily further constraining the site.
- The LUIMP will inform eventual new zoning boundaries.
- The process around the LUIMP should recognise the past decision and seek to rectify this unfair anomaly.
- Figure 12 represents a more suitable zoning boundary that accounts for existing vegetation with high value, existing development on the site, and potential flooding constraints. The zoning boundary in Figure 12 would limit financial impacts on RSSB.

RSSB therefore formally request that the subsequent zoning amendments to be made for the LUIMP consider this situation and amend the zoning boundary to reflect that shown in Figure 12.