

TWEED SHIRE COUNCIL MEETING TASK SHEET

User Instructions

If necessary to view the original Report, double-click on the 'Agenda Report' blue hyperlink above.

Action Item - PLANNING COMMITTEE MEETING Thursday, 7 August 2014

Action is required for Item 22 as per the Planning Committee Recommendation outlined below.

ATTENTION:

PLEASE NOTE THE ADOPTION OF THE COMMITTEE RECOMMENDATIONS BY COUNCIL AT ITS MEETING HELD Thursday, 7 August 2014 (Minute No 441 Refers)

TITLE: [PR-PC] LEP Amendment No. 8 - Correction of Mapping Anomaly in Tanglewood

Cr K Milne
Cr M Armstrong

RECOMMENDED that Council endorses:

1. A Planning Proposal to rezone part of Lot 2 DP 1084992 be prepared and submitted to the 'Gateway', as administered by the NSW Planning & Environment, for a determination;
2. The Minister for Planning and Infrastructure or his Delegate be advised that Tweed Council is not seeking plan making delegations for this planning proposal;
3. The Minister for Planning and Infrastructure or his Delegate be advised that public exhibition is not required in this instance; and
4. Where no public exhibition is conditioned by the Minister or their delegate, Council endorses the reclassification of Lot 2 DP 1084992, to the extent only shown in this report, without the need for any further report to Council.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

TITLE: [PR-PC] LEP Amendment No. 8 - Correction of Mapping Anomaly in Tanglewood

SUBMITTED BY: Planning Reforms

FILE REFERENCE: GTI/LEP/2014 Pt1



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- | | |
|-------|--|
| 1 | Civic Leadership |
| 1.2 | Improve decision making by engaging stakeholders and taking into account community input |
| 1.2.1 | Council will be underpinned by good governance and transparency in its decision making process |

SUMMARY OF REPORT:

This report seeks Council's resolution to prepare an amendment to the Tweed Local Environmental Plan 2014, by way of a planning proposal.

Council has been issued with a Summons (Judicial Review) filed on 4 July 2014, as second Respondent to the Minister for Planning, which is a Class 4 proceeding before the NSW Land and Environment Court, seeking a declaration that the RE2 Private Recreation zoning over Lot 2 DP 1084992 is invalid.

The RE2 zoning gazetted over Lot 2 DP 1084992 is an error. The purpose of the LEP amendment will be to restore the zoning from RE2 to the R5 Large Lot Residential that was exhibited in November 2012. This area of zoning of Lot 2 was unaffected by any later amendments resolved by Council, at its meeting of 31 May 2013.

NSW Planning & Environment staff have advised that a planning proposal is required and will be given a high priority.

RECOMMENDATION:

That Council endorses:

1. A Planning Proposal to rezone part of Lot 2 DP 1084992 be prepared and submitted to the 'Gateway', as administered by the NSW Planning & Environment, for a determination;
2. The Minister for Planning and Infrastructure or his Delegate be advised that Tweed Council is not seeking plan making delegations for this planning proposal;
3. The Minister for Planning and Infrastructure or his Delegate be advised that public exhibition is not required in this instance; and
4. Where no public exhibition is conditioned by the Minister or their delegate, Council endorses the reclassification of Lot 2 DP 1084992, to the extent only shown in this report, without the need for any further report to Council.

REPORT:

1. Zoning Error

During the post-exhibition review of the Tweed Local Environmental Plan 2014 (LEP), land in Tanglewood, part of Lot 2 DP 1084992, was incorrectly rezoned from R5 Large Lot Residential to the RE2 Private Recreation. This error occurred while the draft Land Zoning Map was undergoing significant amendments related with the application of environmental zones in coastal areas identified for koala habitats and ecological corridors.

The further mapping amendments occurred post public exhibition and in response to Council's resolution of 31 May 2013. The LEP was made by publication on the NSW Government's Legislation website on 4 April 2014.

2. Background

The preparation of the Tweed LEP 2014 concluded on 4 April 2014, when the LEP was published on the NSW Government legislation website. The Tweed LEP 2014 replaced the previous plan, LEP 2000, with the exception of areas deferred due to review of environmental zones, undertaken by the NSW Planning & Environment.

The preparation of the Tweed LEP 2014 was largely based on the principle of best fit conversion, which included conversion of the Land Zoning Map of the Tweed LEP 2000 into the required standard instrument template zones and format, where practical.

The public exhibition, carried undertaken from November 2012 to January 2013 resulted with several requests from the community for further amendment to the environmental zones, particularly with respect to protecting areas of importance for koala habitat, which occurs largely on the coastal corridor and areas such as Tanglewood.

Council responded to the community's call for further environmental zoning and resolved at its meeting of 31 May 2013 to introduce environmental zoning that it had first publicly exhibited in 2010. The zoning error over Lot 2 occurred during the reintroduction of certain environmental zoning, which in itself is not the subject of challenge.

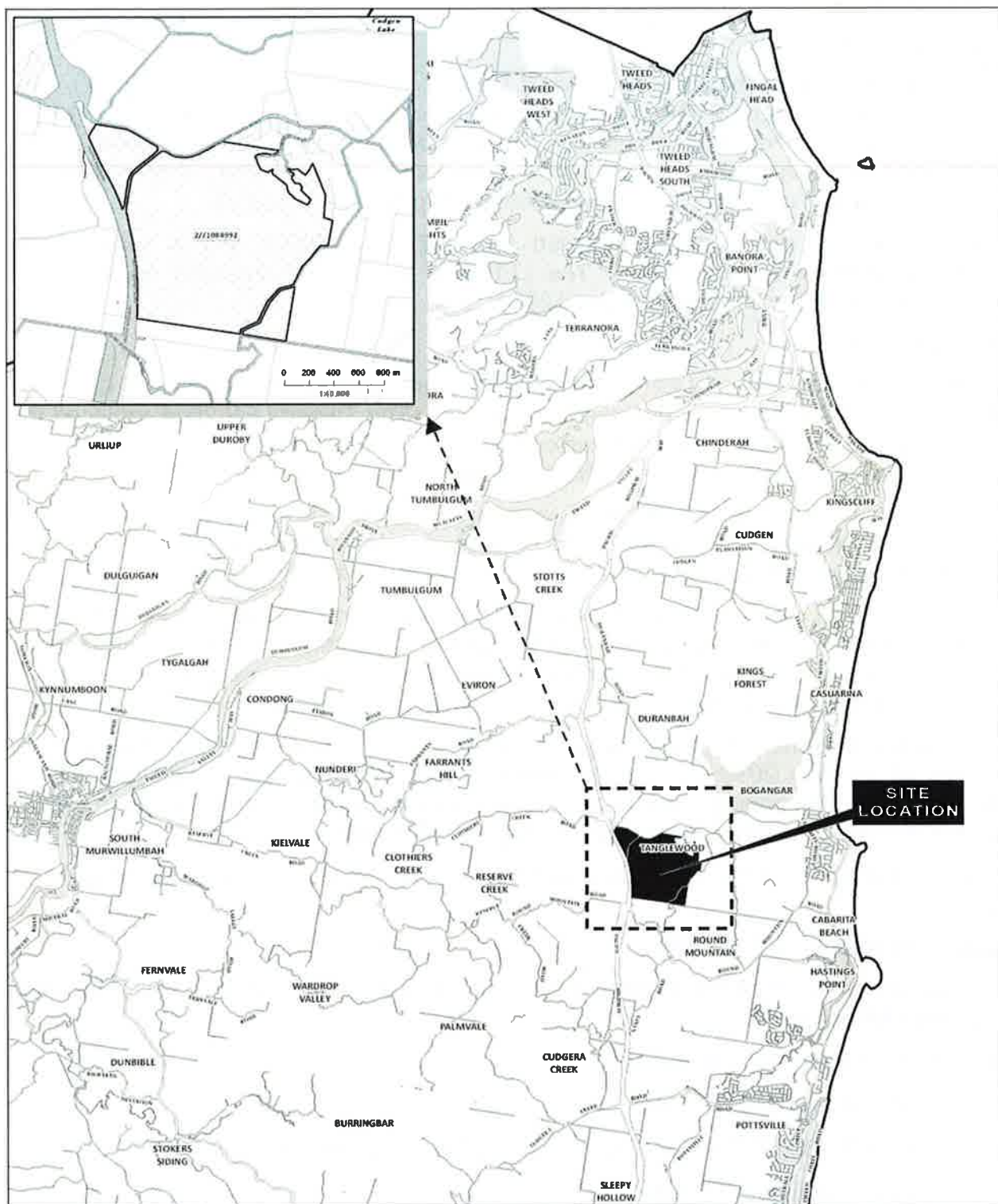
The Planning Proposal Version 1 - Gateway Determination is provided as Attachment 1 to this report.

3. Location of Lot 2 DP 1084992

The subject site is a part of the property known as the Tanglewood Estate which includes the following allotments:

- Lots 154 and 156 DP 801121,
- Lots 530 and 533 DP 1003396,
- Lot 2 DP 1084992 (being subject to this planning proposal), and
- Lots 151 and 152 DP 630766.

FIGURE 1 - LOCATION OF LOT 2 DP 1084992



Locality Plan

Amendment No.8

Lot 2 DP1084992; No.1200 Clothiers Creek Road, Tanglewood

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Cadastral: 10 July, 2014
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Boundaries shown should be considered approximate only.

0 1 2 3 km
1:110,000 @ A4 Portrait
Scale only - NOT CERTIFIED
Map Projection: National Australian Map
Coordinate System: GDA94
Data: Map data of Australia, June 11



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File Path: \\tweed\GIS\MapData\LocalityPlan\AmendmentNo8\LocalityPlanAmendmentNo8.mxd

FIGURE 2 - SUBJECT SITE OVERLAID WITH AERIAL PHOTOGRAPHY (2012)



SOURCE
Aerial imagery was captured on
6th to 9th May 2012 © AAM Pty Ltd

Aerial Photo - taken May 2012

Amendment No.8

Lot 2 DP1084992; No.1200 Clothiers Creek Road, Tanglewood

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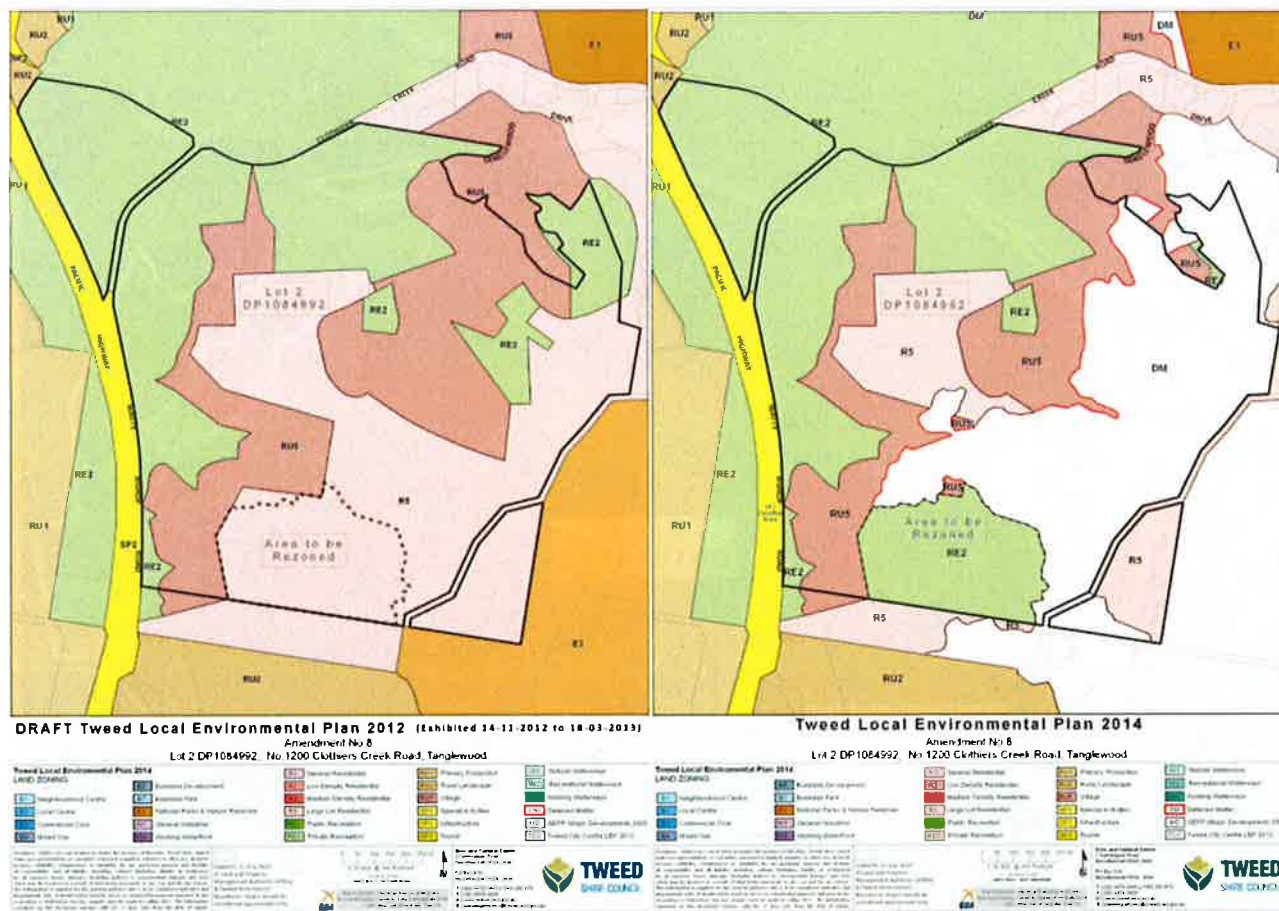
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Figure 3 (below left): Draft Tweed LEP 2012 during public exhibition, with subject land marked up with dotted line and zoned as R5 Large Lot Residential

Figure 4 (below right): Tweed LEP 2014 as published on legislation website, with subject land incorrectly zoned RE2 Private Recreation. Areas labelled as DM represent extent of the intended environmental zones deferred from the LEP by NSW Planning & Environment



4. Judicial Proceeding

On 1 July 2014, Tweed Shire Council received information about the landowner's intention to file a Summons (Judicial Review) against the application of the RE2 zone over the subject site seeking a declaration that the RE2 zoning was invalid.

Council staff concurred with the landowner that the zoning was an error.

The parties to the proceedings have agreed to seek to have the proceedings stood over (deferral) for a period of 6 months, to allow the error to be rectified.

At the time of preparing this report Council's Solicitors were preparing affidavits for a directions hearing with the Court on Friday 18 July.

OPTIONS:

1. Council prepares a planning proposal to rectify the zoning error detailed within this report; or
2. Council provides alternate advice on how the matter should be proceeded with.

The officers recommend Option 1.

CONCLUSION:

This Report recommends the preparation of an LEP amendment to correct an obvious zoning error.

In light of the court proceedings, Council has had no option but to engage their Solicitor to assist in the process.

All parties agree that the matter should be expedited as quickly as possible and that this can only occur by way of planning proposal.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

There are legal costs associated with the Court proceedings and the engagement of Council's legal services provider.

c. Legal:

Legal services have been obtained.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Planning Proposal PP14/0005 Gateway Determination V1 (ECM 3419163)
