

Draft LEP Amendment No. **3**

PLANNING PROPOSAL FOR MOOBALL

**Lot 2 in DP 534493 and Lot 7 in DP 593200, located at 5861
and 5867 Tweed Valley Way, Mooball**

Draft Tweed LEP 2014 Amendment No 3

Version 3 – for plan making

September 2016 - TSC File: PP10/0007

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Introduction

Purpose

Tweed Shire Council (Council) received a request to prepare a Planning Proposal from Planit Consulting on behalf of Jefferson Lane Pty Ltd, the proponent of the request for the Planning Proposal. The site encompasses Lot 2 in DP 534493 and Lot 7 in DP 593200, located at 5861 and 5867 Tweed Valley Way, Mooball.

The proponent seeks to provide additional residential dwellings adjacent to the existing Mooball village, consequently expanding the village footprint. The rezoning will allow for the orderly expansion of the village by ensuring the development permits village uses, including low and medium density residential development and non-residential development normally associated with a village.

Council has made a number of resolutions regarding the rezoning of the site. Refer

Attachment 1 - Copy of Council Report 21 November 2013;

Attachment 2 – Copy of Council Report 2 July 2015;

Attachment 3 – Copy of Council Report 6 August 2015;

Attachment 4 – Copy of Council report 22 August 2015;

Attachment 8 – Copy of Council report on the VPA 21 July 2016

A Gateway Determination was issued on 1 May 2014.

A request to extend the Gateway was approved and a revised gateway issued on 1 May 2015 and again on 2 february 2016.

The planning proposal was publicly exhibited from 30 July to 29 August 2014, in accordance with the Gateway Determination requirements.

This Planning Propsoal Version 3 updates the proposal following public exhibition and supports the making of the LEP Amendment No 3.

Subsequent to the public exhibition, a Voluntary Planning Areement (VPA) was prepared and publicly exhibited from 18 May to 17 June 2016. Council endorsed the VPA at their meeting of 21 July 2016 and the VPA was executed on 26 July 2016. The VPA is provided in Attachment 7.

The VPA requires registration on the Land's Title (Part 8), which at the time of writing remains to be completed.

It is the preference of Council that the rezoning not be made until such time as the applicant has provided evidence of the registration in satisfaction of Part 8 of the Deed.

Part 1 Objectives and Intended Outcomes

Objectives

To enable the orderly expansion of the Mooball village for residential housing, whilst seeking to protect areas of key ecological significance.

Intended outcome

The proposal explains the intent and sets out the justification for a Local Environmental Plan (LEP) amendment enabling the expansion of the existing Mooball village residential footprint.

Given the current zoning of the site, to expand the Mooball village the rezoning of part of the rural land to a residential zoning category is required. This will allow for the Mooball village to expand its residential footprint, enabling future economic growth.

Investigations have also identified areas of ecological significance, particularly in the site's west. The areas however are excluded from the Planning proposal and marked as a 'deferred matter', as a result of the environmental zones review that was conducted by the Department of Planning and Environment during implementation of the Standard Instrument LEP.

Council is preparing a staged LEP amendment now that the review has been finalised with view to introducing an appropriate environmental zoning or overlay to this land.

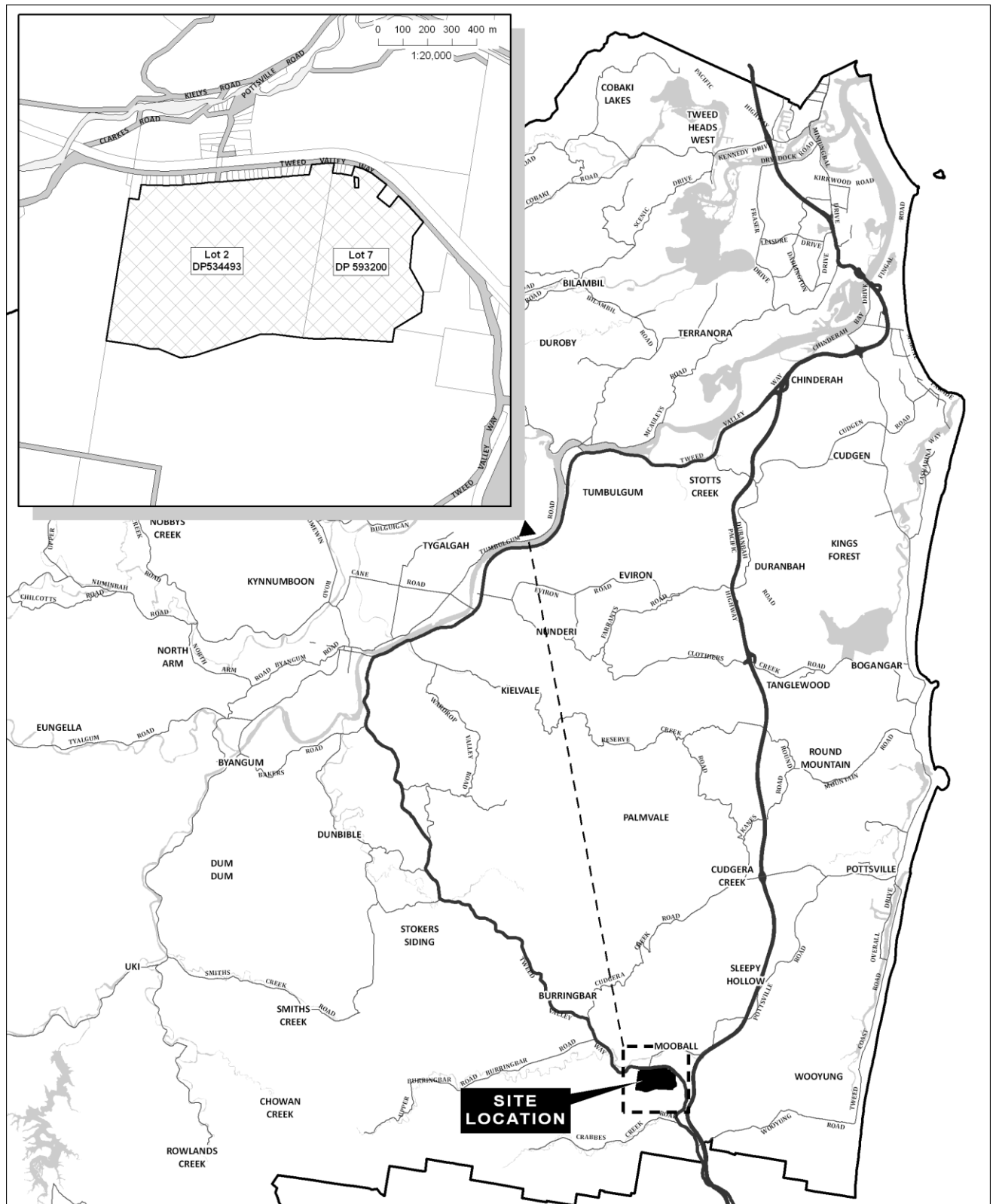
Site context and setting

The site is located in Mooball, with access afforded from both the east and west along Tweed Valley Way. Interchanges with the Pacific Highway are situated approximately 8 minutes from the site (for southbound traffic, via Tweed Valley Way) or 12 minutes from the site (for northbound traffic, via Pottsville Road and Cudgera Creek Road).

Within the immediate area is the village of Mooball. The village's composition primarily consists of a small number of residential dwellings and businesses fronting the southern side of Tweed Valley Way.

The site surrounds Lot B in DP419641. Lot B contains a residential dwelling and is also used for the keeping of a number of poultry including roosters. Figure 1 and Figure 2 illustrates the location of the site with regard to the surrounding area.

The total site is approximately 78.6 hectares and largely on an northerly facing slope.



Locality Plan

Amendment No.3

Lot 2 DP534493; No.5867 Tweed Valley Way, Mooball
Lot 7 DP593200; No.5861 Tweed Valley Way, Mooball

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Figure 1 Subject site locality plan

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Aerial Photo - taken May 2012

Planning Proposal PP10/0007 -- Lot 2 DP 534493 and Lot 7 DP 593200
Tweed Valley Way, Mooball

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Author: J Batchelor - Planning Returns Unit

Figure 2 Subject site properties overlaid with aerial photography

Zone Based Planning Controls

Under the Tweed Local Environmental Plan 2014, the majority of the site is currently zoned RU2 Rural Landscape, whilst a strip of land fronting Tweed Valley Way is currently zoned RU5 Village. Figure 3 illustrates the zonings over the site.

Land adjoining the site is also zoned RU2 Rural Landscape with the exception of most land that separates the site from Tweed Valley Way, which is zoned RU5 Village. Lot B in DP419641, surrounded by the site, is zoned RU2 Rural Landscape.

Amendment No.3
 Lot 2 DP534493; No.5867 Tweed Valley Way, Mooball
 Lot 7 DP593200; No.5861 Tweed Valley Way, Mooball

Tweed Local E LAND ZONING

LAND ZONING	
B1	Neighbourhood Centre
B2	Local Centre
B3	Commercial Core
B4	Mixed Use
B5	Business Development
B7	Business Park
E1	National Parks & Nature Reserves
IN1	General Industrial
IN4	Working Waterfront

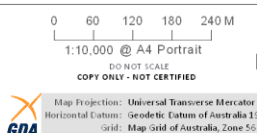
R1	General Residential
R2	Low Density Residential
R3	Medium Density Residential
R5	Large Lot Residential
RE1	Public Recreation
RE2	Private Recreation

RU1	Primary Production
RU2	Rural Landscape
RU5	Village
SP1	Special Activities
SP2	Infrastructure
SP3	Tourist

W1	Natural Waterways
W2	Recreational Waterways
W3	Working Waterways
DM	Deferred Matter
MD	SEPP (Major Development) 2005
TCC	Tweed City Centre LEP 2012

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Figure 3 Current Tweed LEP 2014 Zoning

Part 2 Explanation of Provisions

The intended outcome is to be achieved by an amendment to the land zoning within the Tweed LEP 2014 as described in

Table 1.

Table 1 Amendments required to Land Zoning Map

Lot	Address	Current Zoning	Proposed Zoning
Lot 2 in DP534493	5867 Tweed Valley Way, Mooball	Part RU2 Rural Landscape and RU5 Village	Part RU5 Village, R5 Large Lot Residential and part Deferred Matter (where an environmental zone would have been applied)
Lot 7 in DP593200	5861 Tweed Valley Way, Mooball	RU2 Rural Landscape	Part RU2 Rural Landscape, RU5 Village, and R5 Large Lot Residential

The intended outcome is also to be achieved by consequential amendments to other maps within the Tweed LEP 2014 that relate to lot size, height of buildings, and floor space ratio. The consequential amendments will assist development to meet the objectives of each zone, and are consistent with the provisions currently in effect within the Tweed LEP 2014.

The consequential amendments were not provided as part of the Gateway Determination request, as the Tweed LEP 2000 was in effect at that time.

Table 2 contains the details of the consequential amendments.

Table 2 Consequential amendments required to other maps

Lot	Address	Current Provisions	Proposed Provisions
Lot Size			
Lot 2 in DP534493	5867 Tweed Valley Way, Mooball	AB2 – 40 ha	Part: G – 450 m ² Q – 700 m ² Y – 1 ha AA – 5 ha Part Not applicable (deferred area)
Lot 7 in DP593200	5861 Tweed Valley Way, Mooball		
Height of Buildings			
Lot 2 in DP534493	5867 Tweed Valley Way, Mooball	K – 10 m	K-10m and Part not applicable (deferred areas)

Lot	Address	Current Provisions	Proposed Provisions
Lot 7 in DP593200	5861 Tweed Valley Way, Mooball	K – 10 m	K – 10 m and Part not applicable (deferred areas)
Floor Space Ratio			
Lot 2 in DP534493	5867 Tweed Valley Way, Mooball	Not applicable	Part E – 0.55:1 and Part not applicable (deferred areas)
Lot 7 in DP593200	5861 Tweed Valley Way, Mooball		

Note that parts of Lot 2 in DP534493 and Lot 7 in DP593200 are excluded from the Planning Proposal as those parts of the site may contain areas of environmental significance. The areas excluded from the Planning Proposal are marked as 'deferred matter' on Figure 4 – Proposed Land Application. For the areas marked as 'deferred matter', the Planning Proposal does not seek to amend other provisions (such as minimum lot sizes or height of buildings).

The reason for the exclusion of these sites from the Planning Proposal is due to the current review of environmental zones within the Standard Instrument which is being conducted by the Department of Planning and Environment and the subsequent requirement to undertake an E-zone implementation amendment based on the criteria. Council will, as part of this process, determine if the adopted environmental zoning criteria can be applied to these areas (along with the other deferred matter areas of the Shire).

Maps reflecting this approach are provided in:

- Figure 5 – Proposed land zoning
- Figure 6 – Proposed minimum lot sizes
- Figure 7 – Proposed maximum building height
- Figure 8 – Proposed maximum floor space ratio.

In addition the following mapping layers have been amended to remove land identified as deferred matter:

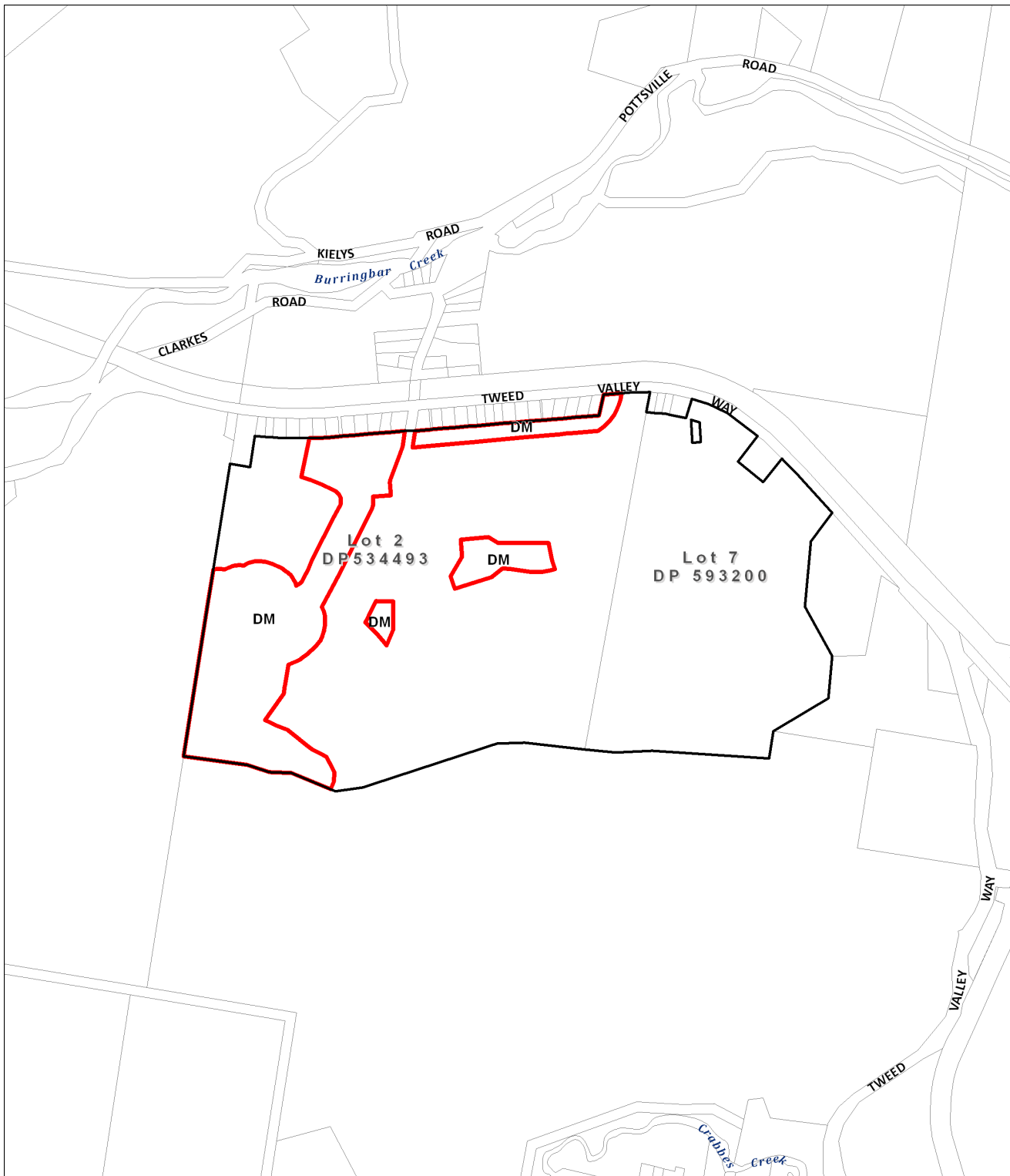
- Acid sulfate soils map;
- Land application map; and
- Flood planning map

The lot sizes listed in Table 2 are identified as appropriate for the release area as:

- The northern part of the site is adjacent to the existing village. A more compact urban form (resulting from increased densities) in this area supports a walkable community, the use of public transport services, and the efficient delivery of infrastructure;
- A variety of lot sizes encourages diversity in housing type and occupants; and

- Larger lot sizes are appropriate in areas where although there may be sufficient area for a dwelling, natural hazards (in particular bushfire hazard and steep terrain) are key constraints. The larger lot sizes enable housing to be provided whilst minimising the impact on environmentally sensitive areas.

These principles have resulted in the proposed lot sizes (Figure 6) as appropriate to ensure the potential for inappropriate development is minimised. Additional information regarding these factors is outlined below.



Tweed Local Environmental Plan 2014 - Proposed Land Application

Amendment No.3

Lot 2 DP534493; No.5867 Tweed Valley Way, Mooball

Lot 7 DP593200; No.5861 Tweed Valley Way, Mooball

Tweed Local Environmental Plan 2014
LEP LAND APPLICATION



Deferred



Included

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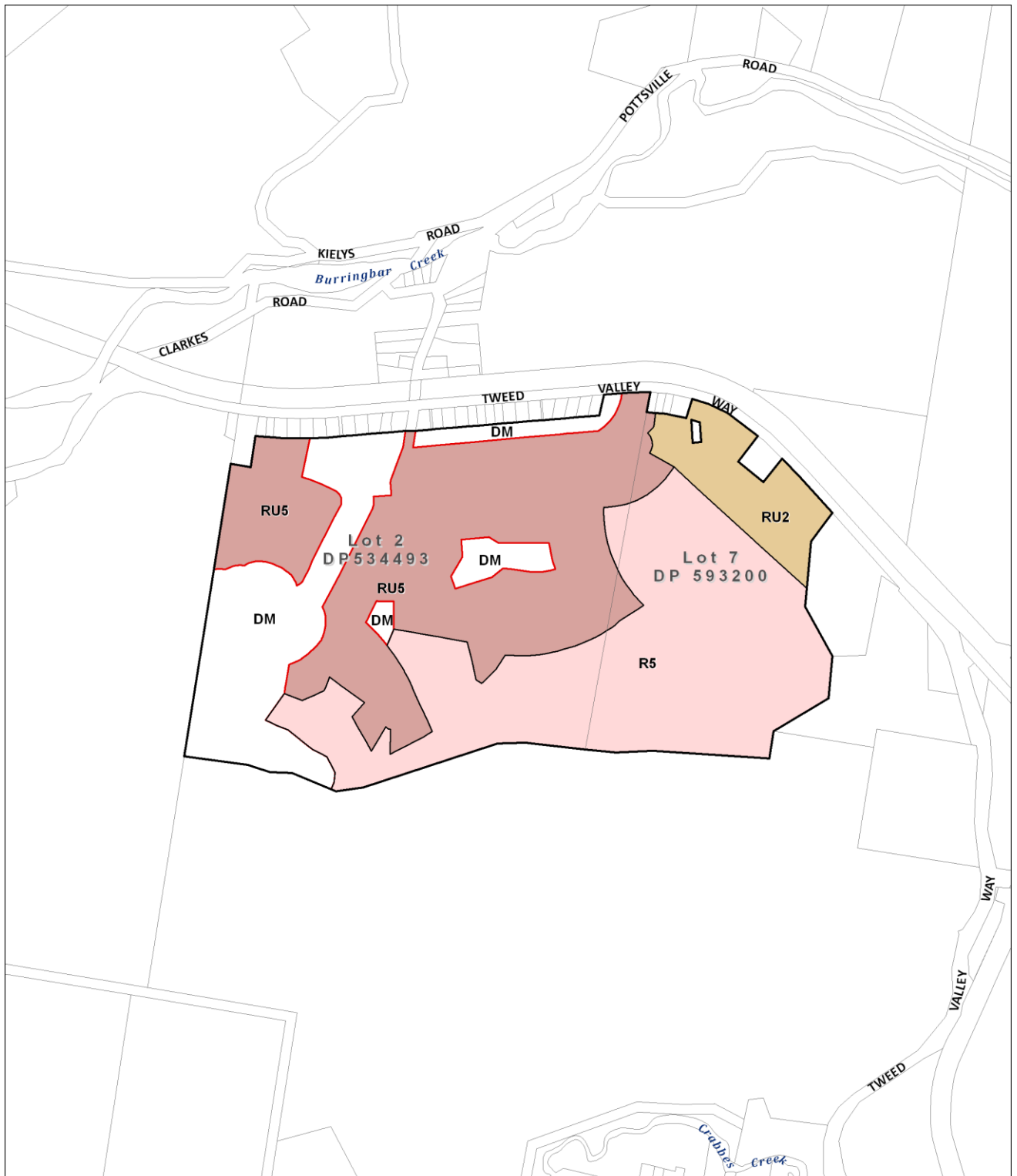


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Figure 4 Proposed LEP Land Application– Tweed LEP 2014



Tweed Local Environmental Plan 2014 - Proposed Land Zoning

Amendment No.3

Lot 2 DP534493; No.5867 Tweed Valley Way, Mooball
Lot 7 DP593200; No.5861 Tweed Valley Way, Mooball

Tweed Local Environmental Plan 2014 LAND ZONING

R5 Large Lot Residential **RU2** Rural Landscape **RU5** Village **DM** Deferred Matter

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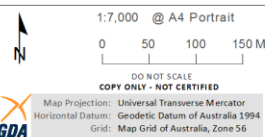
Figure 5 Proposed land zoning – Tweed LEP 2014



Tweed Local Environmental Plan 2014

Lot Size
Minimum Lot Size (sq m)

E	350	V	2000	AA	5 ha
G	450	Y	1 ha	AB1	10 ha
Q	700	Z	4 ha	AB2	40 ha



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Tweed Local Environmental Plan 2014 DRAFT Amendment No.20

LOT SIZE MAP

Affected Properties:

Lot 2 DP 534493 - No.5867 Tweed Valley Way, Mooball;
Lot 7 DP 593200 - No.5861 Tweed Valley Way, Mooball.

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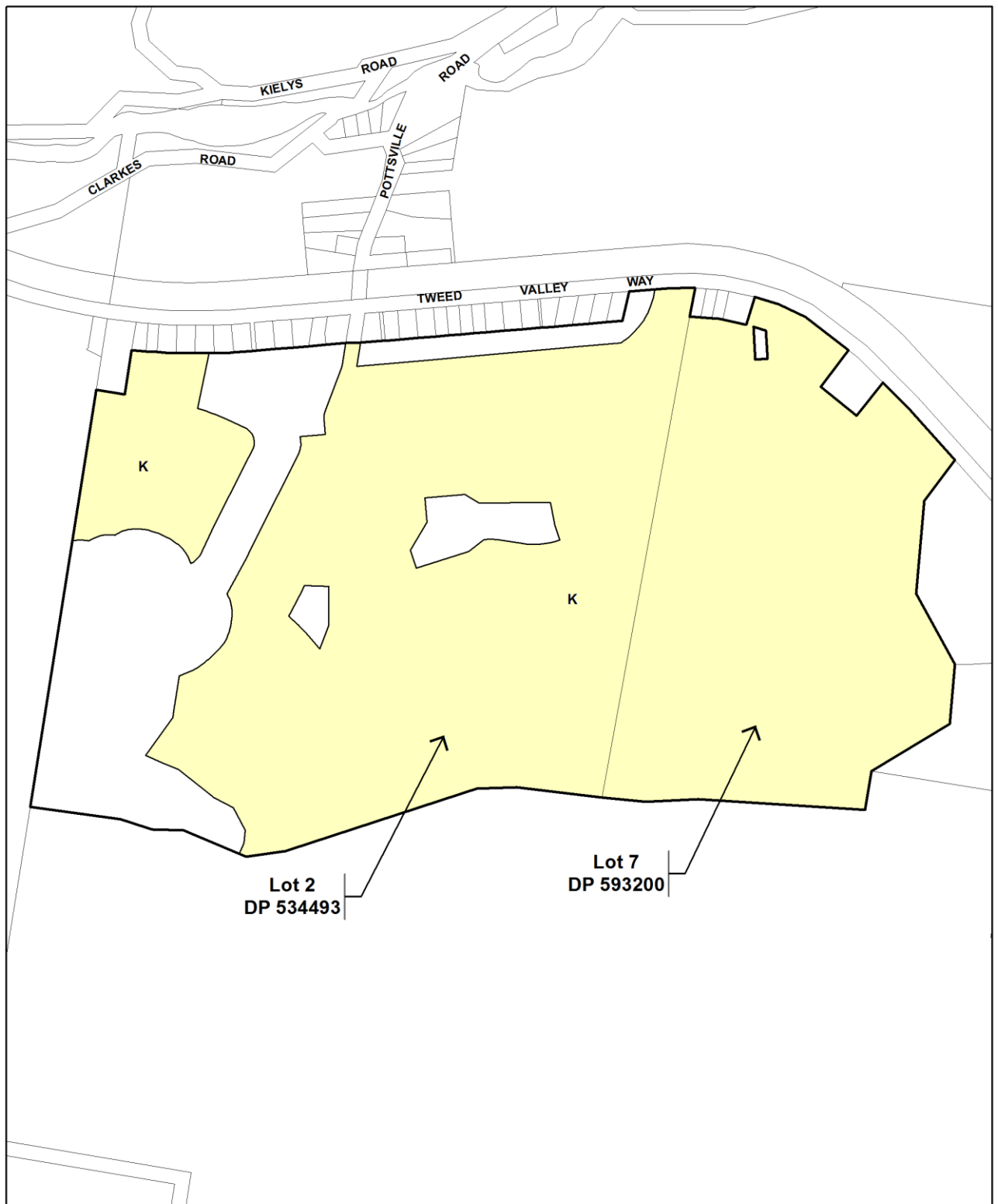
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Figure 6 Proposed minimum lot sizes – Tweed LEP 2014



Tweed Local Environmental Plan 2014

Height of Buildings
Maximum Building Height (m)

I 8	K 10	M 12.2	N2 13.6
J 9	L 11	N1 13	N3 14

Maximum Building Height (RL)
Heights shown on map in RL(m)

21

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HEIGHT OF BUILDINGS MAP

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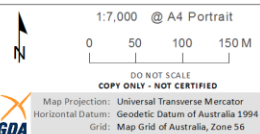
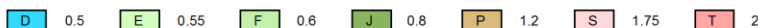
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Figure 7 Proposed maximum building height – Tweed LEP 2014



Tweed Local Environmental Plan 2014
 Floor Space Ratio
 Maximum Floor Space Ratio (n:1)



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Tweed Local Environmental Plan 2014 DRAFT Amendment No.3

FLOOR SPACE RATIO MAP

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Figure 8 Proposed maximum floor space ratio – Tweed LEP 2014

Part 3 Justification

Section A Need for the Planning Proposal

There is a need for the Planning Proposal to allow for the rezoning of part of the site from rural to residential. The population within the Council area is expected to grow to approximately 120,000 people by 2031 (Tweed Urban Land Release Strategy, 2009) resulting in a demand for approximately 1,350 ha of urban land. The rezoning will assist in meeting this demand for urban land.

Is the Planning Proposal a result of any strategic study or report?

The Tweed Urban and Employment Land Release Strategy 2009 (the TUELRS) Part 1 – Urban Land identifies a gross area of 46 ha as being ‘potential urban area’ within Mooball (designated as Area 9). The TUELRS recognises Area 9 is mostly cleared and is mainly used for grazing, however bananas have, and are still, produced. Approximately 40 ha of Area 9’s gross area is contained on Lot 2 in DP534493 and Lot 7 in DP593200.

The short-term timing for the rezoning of Area 9, under the TUELRS assumes that 80% of the site will yield lots. The TUELRS net area (being the assumed developable area once constraints are considered) of Area 9 is approximately 37 ha. Given the site of this Planning Proposal is similar in size to that of Area 9 as defined under the TUELRS, it can be assumed that the Planning Proposal will assist in meeting the required yield potential under the TUELRS.

The now superseded Tweed Strategic Plan 2004-2024 identified Mooball as being a high priority for possible expansion, which will be linked to the provision of improved infrastructure and services. The Community Strategic Plan 2011-2021 recognised this, however will ‘establish planning controls that balance the need for urban growth against the protection of agriculture, village character and the environment’ (Objective 3.3.1).

The current Community Strategic Plan 2013-2023 continues with a focus of balancing urban growth with the protection of the environment, strengthening the economy and providing well design and located urban centres which preserve the character of existing towns and villages.

Currently, Mooball is not serviced by a reticulated water supply system. It is proposed to incorporate this into any future development applications, through a private water utility appropriately licensed under the provisions of the *Water Industry Competition Act 2006* and *Protection of the Environment Operations Act 1997*.

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes, as the current zoning of RU2 Rural Landscape only allows dwelling houses or multi-dwelling housing if each is on an allotment of at least 40 hectares. This severely limits the potential for residential development to occur on the site and in proximity to the Mooball village..

While an enabling clause could be used as an alternative, it would bring no additional benefit and would only add to the ambiguity in the zoning schedule. Although a valid option in some cases, it is not seen to be the preferred approach in this instance given the desirability of securing the long-term identification and use of the site for this purpose.

A change in zoning will further rationalise the urban zones in this locality, is consistent with Council strategic policy, and therefore is considered to be the most appropriate means of enabling the development of the land.

Section B Relationship to strategic planning framework

Is the Planning Proposal consistent with the objectives and actions contained of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Far North Coast Regional Strategy 2006-2031 (FNCRS) is the current overarching framework for the management of growth for the Far North Coast.

The FNCRS identifies and promotes a settlement pattern that protects environmental values and natural resources while utilising and developing the existing network of major urban centres, reinforcing village character and requiring efficient use of existing services and major transport routes.

Among other things, the FNCRS aims to manage the region's projected population growth sustainably and protect the unique environmental assets, cultural values and natural resources of the region. This is planned to occur through responsive future development that retains the regional identity and local character of the area and fosters opportunities for greater economic activity and diversification.

The site is not located in the identified Town and Village Growth Boundary of the Tweed region, rather is identified as 'Environmental Assets and Rural Land, National Parks and State Forest'. Of this, Rural Land is the most relevant to the site's current use.

Rezoning part of the site would assist in meeting the population and housing challenges listed in the FNCRS, in particular through:

- Assisting in achieving the region's housing targets. The region is expected to require an additional 51,000 dwellings (including 19,100 additional new dwellings in the Tweed area to 2031).
- Limiting residential growth to areas that are not affected by on-site constraints, and minimise the impact of development on areas of environmental value
- The location of the development in a regional context. Much of the population growth pressure in this region is concentrated east of the Pacific Highway, and this site's location west of the Pacific Highway will assist in relieving some of the pressure of development on the coast.

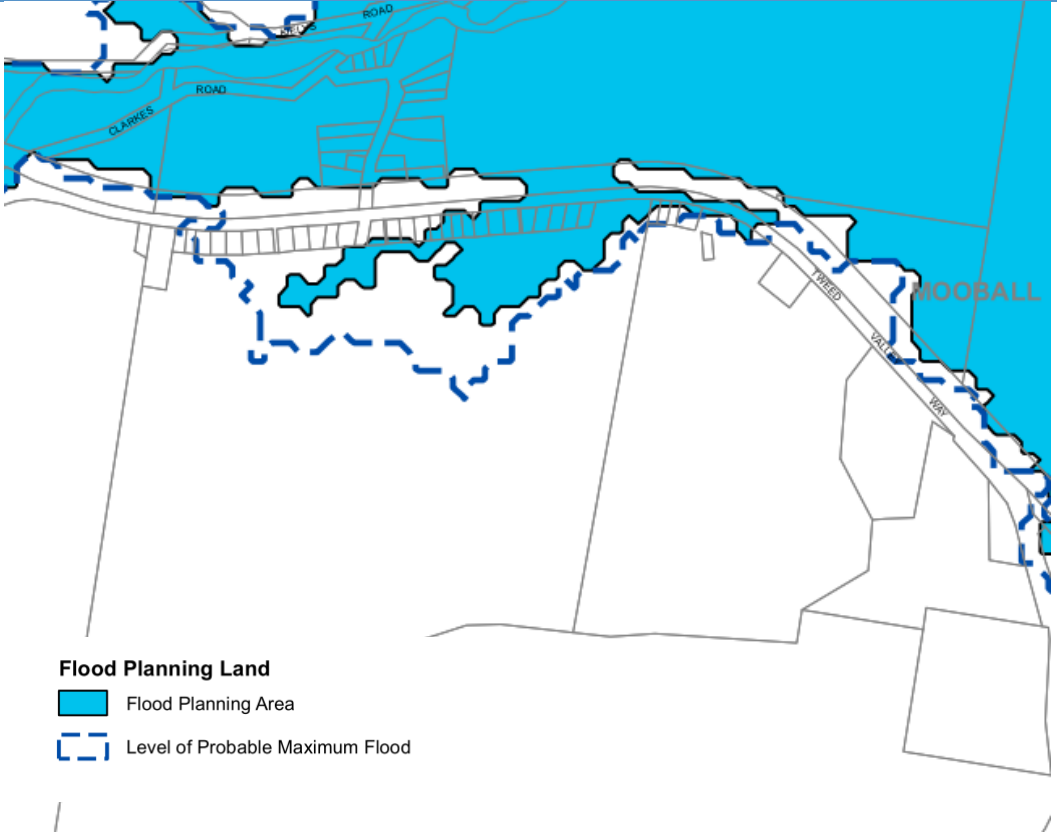
Appendix A1 of the Regional Strategy contains Sustainability Criteria, which represent a clear, transparent list of matters that any new Planning Proposal is assessed against. Table 3 documents the Sustainability Criteria and how the Planning Proposal complies with the Criteria.

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Table 3 Assessment against Far North Coast Regional Strategy sustainability criteria

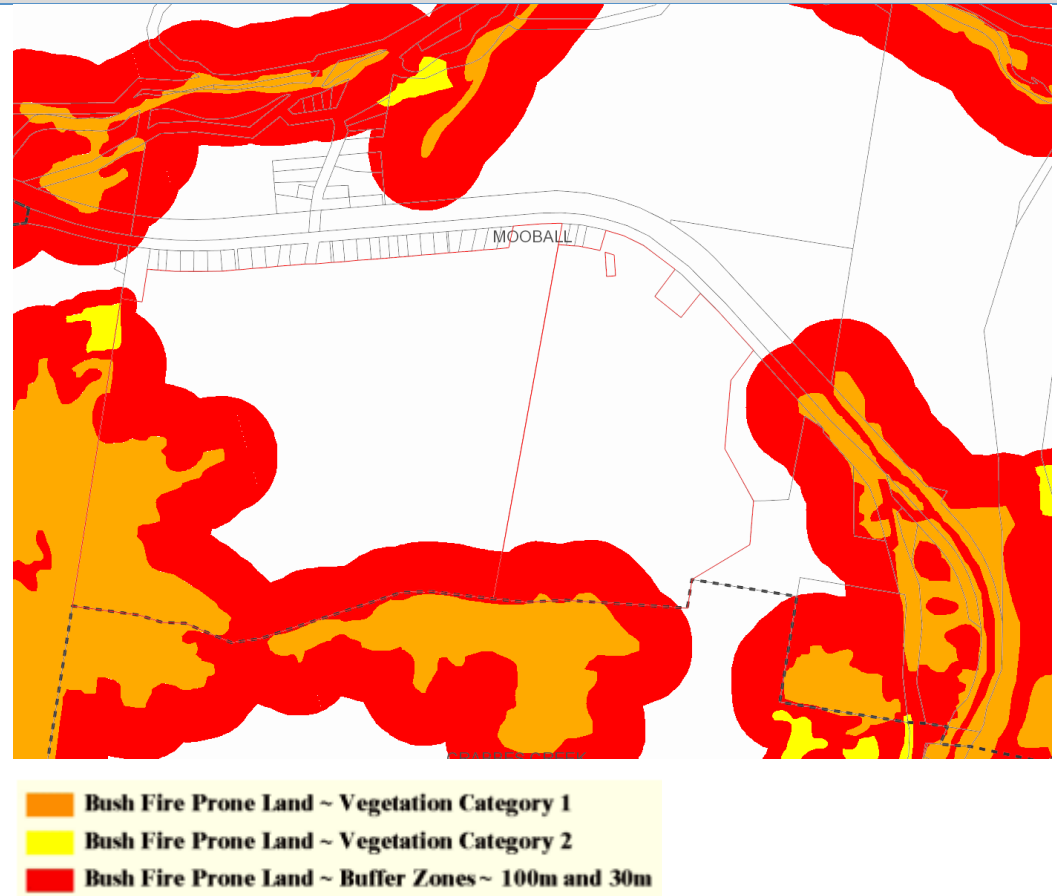
Threshold Sustainability Criteria	Measurable explanation of criteria	Response
1. Infrastructure Provision Mechanisms in place to ensure utilities, transport, open space and communication are provided in a timely and efficient way	- Development is consistent with the outcomes of the Far North Coast Regional Strategy, any subregional strategy, regional infrastructure plan and relevant section 117 direction/s. - The provision of infrastructure (utilities, transport, open space, and communications) is costed and economically feasible based on Government methodology for determining infrastructure development contributions. - Preparedness to enter into development agreement.	The proposal is consistent with the outcomes for infrastructure provision, with no additional State infrastructure provisions arising from this proposal. The site, being located adjacent to the Mooball village, benefits from access to existing infrastructure, including telecommunications and transport. At present Council does not have a wastewater system in Mooball which is capable of providing a service to the proposed development. The following options are available in respect of wastewater provision: - Service the development using a privately constructed and operated system on the site, under the <i>Water Industry Competition Act 2006</i> - Upgrade the existing Mooball wastewater treatment plant to accommodate flows from this development. A Planning Agreement has been prepared and executed [26 July 2016] that ensures that the development is connected to a wastewater network in accordance with any development consent and all relevant approvals. The water supply is able to be supplied by Council's existing systems, however certain works will be required including provision of a high level reservoir or a larger main from the nearby Cowell Park Reservoir. Section 64 Development Charges will still apply. Applicable Section 94 contributions will be levied in accordance with Council's s94 plans. Open space will be provided in accordance with the Tweed DCP Section A5 - Subdivision requirements and as outlined in the concept plans.
2. Access Accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation to be existing or provided	- Accessibility of the area by public transport and/or appropriate road access in terms of: - Location/land use – to existing networks and related activity centres. - Network – the area's potential to be serviced by economically efficient transport services. - Catchment – the area's ability to contain, or form part of the larger urban area which contains adequate transport services. Capacity	The site is situated adjacent to Tweed Valley Way, which provides access to Murwillumbah to the north-west, and the Pacific Highway to the east (subsequently providing access north and south to Tweed Heads and Byron Bay). Parsons Bus and Coach provide bus services connecting Mooball with Murwillumbah (616/618) and school bus services connecting Mooball with Murwillumbah and Pottsville on school days (616). The Planning Proposal enables the Mooball village footprint to logically expand, and also bring the area closer to Burringbar by sharing of services, including public transport. The Tweed Valley Way is recognised as being able to cater for higher levels of traffic, and subsequently access to and from the site and surrounding areas will not be impacted.

Threshold Sustainability Criteria	Measurable explanation of criteria	Response
	for land use/ transport patterns to make a positive contribution to achievement of travel and vehicle use goals. No net negative impact on performance of existing subregional road, bus, rail, ferry and freight network.	Given the site's location off the Pacific Highway, it is considered that the proposed development will not impact on the existing sub-regional transport networks.
3. Housing Diversity Provide a range of housing choices to ensure a broad population can be housed	Contributes to the geographic market spread of housing supply, including any government targets established for aged, disabled or affordable housing.	The Tweed LEP 2014 seeks a range of lot sizes that will enable housing choice for future residents; however given the built form character of Mooball it is anticipated that most residential development will be predominantly detached dwelling houses, with some potential for dual occupancy development.
4. Employment Lands Provide regional/local employment opportunities to support the Far North Coast's expanding role in the wider regional and NSW economies	- Maintain or improve the existing level of sub-regional employment self-containment. - Meets subregional employment projections. - Employment-related land is provided in appropriately zoned areas.	The Planning Proposal enables a range of land uses (including employment generating land uses) which are normally associated with a village to be permissible.
5. Avoidance of Risk Land use conflicts, and risk to human health and life, avoided	- No residential development within 1:100 floodplain. - Avoidance of physically constrained land, e.g. - High slope - Highly erodible. - Avoidance of land use conflicts with adjacent existing or future land use as planned under relevant subregional or regional strategy. - Where relevant available safe evacuation route (flood and bushfire).	The Planning Proposal seeks to rezone parts of the site currently zoned as RU2 Rural Landscape, to RU5 Village and R5 Large Lot Residential. Given the proposed rezoning, the following responses are provided to the issues of flooding, high slope and erodible land, bushfire, contaminated lands and acid sulfate soils. Flooding The Tweed LEP 2014 indicates the northern part of the site is affected by a probable maximum flood under current conditions (refer mapping extract below). Filling will be required in this area to raise residential development above the flood level contour. The impacts of filling and excavation work can be assessed at the development application stage.

Threshold Sustainability Criteria	Measurable explanation of criteria	Response
		 The cumulative impacts of flooding downstream of the site are a relevant consideration, given that habitable dwellings are located immediately downstream of the site. In the Tweed LEP 2014, flood mitigation works are permitted with consent in all zones. Further consideration of cumulative flooding impacts is required prior to the DA as required in Part 5 of the Planning Agreement.
		High Slope and Erodible Land The Cardno Bowler Broadscale Stage 1 Geotechnical and Slope Stability Assessment report submitted in support of the request for a Planning Proposal states that “No significant

Threshold Sustainability Criteria	Measurable explanation of criteria	Response
		geotechnical issues were noted that would preclude the site from being developed for its proposed usage. However, it must be noted that this assessment is based on very limited work over a large area and as such should be considered preliminary only and should be confirmed by a more detailed geotechnical investigation and assessment”. Mapping developed by the proponent indicates consolidated areas greater than 18 degrees over the site, primarily along the site’s southern boundary, and the eastern area of Lot 7 in DP593200. Steep area mapping developed by the proponent are recognised through proposed zonings, and are excluded from the Planning Proposal as ‘deferred matter’. These areas will be the subject of a separate environmental zones review and amendment, as they may require an environmental zoning. Minimum lot sizes are proposed over the site. The minimum lot sizes restricts development on the parts of the site with steeper slopes and reduce the level of landslide risk to future residents in those parts of the site subject to steeper slopes. Further consideration of geotechnical issues is required prior to the DA as required in Part 5 of the Planning Agreement.
		Bushfire hazard assessment The southern edge of the site, on the escarpment, is identified as being part of the 100 metre buffer zone, and an area of Vegetation Category 1 bushfire hazard is identified in the south-western corner of the site. The parts of the site designated as Vegetation Category 1 bushfire hazard are generally located within an area excluded from the Planning Proposal. The southern escarpment (subject to the 100 metre buffer zone) is proposed to be zoned R5 Large Lot Residential. An application for a Bush Fire Safety Authority will be required at the development application stage under the <i>Rural Fires Act 1997</i> Further consideration of bushfire risk is required prior to the DA as required in Part 5 of the Planning Agreement.

Threshold Sustainability Criteria	Measurable explanation of criteria	Response
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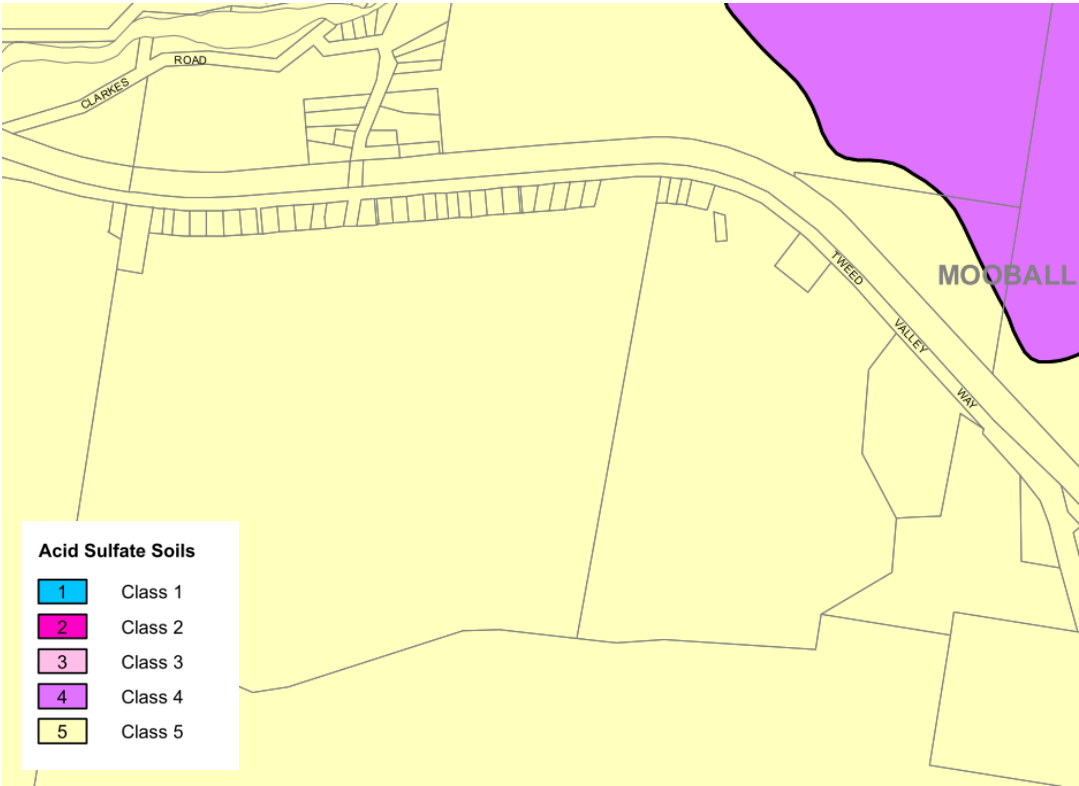
Contaminated Lands

The Precise Environmental Stage 1 Preliminary Site Assessment for contaminated lands, which was submitted in support of this Planning Proposal, identifies no broadscale contamination over the site, however there are traces of fuel, arsenic and pesticides dating from the previous use of the site as banana cultivation, mango and passionfruit plantations. The Stage 1 Preliminary Site Assessment recommends further detailed investigations prior

Threshold Sustainability Criteria	Measurable explanation of criteria	Response
		to redevelopment, in particular the central southern slopes area. A site contamination assessment was submitted and later updated, these documents were publically exhibited. The site investigation was required in satisfaction of cl.6 of the Contaminatd Lands SEPP, and Council's Environmental Health Unit are satisfied that the requirements have been fulfilled. Further contamination assessment once the actual lots are known will likely be required at the subdivision approval stage.

Acid sulfate soils

The subject land is identified as Class 5 on Council's Acid Sulfate Soils Planning Maps, and therefore there is a minimal probability of acid sulfate soils being present.



6. Natural Resources

Natural resource limits not exceeded / environmental footprint minimised

- Demand for water within infrastructure capacity to supply water and does not place unacceptable pressure
- Demonstrates most efficient / suitable use of land
 - Avoids identified significant agricultural land
 - Avoids productive resource lands – extractive industries, coal, gas and other mining, and

Water supply

As previously mentioned, water supply services can be augmented to service the proposed development.

Water supply can be provided from the existing Council network; however certain works will be required to ensure sufficient supply. Section 64 Development charges will apply.

The provision of wastewater supply to the site will be achieved through a private wastewater supply system under the WIC Act. The requirement to provide this infrastructure is enabled

quarrying.

- Demand for energy does not place unacceptable pressure on infrastructure capacity to supply energy-requires demonstration of efficient and sustainable supply solution.

through a Part 2 of the Planning Agreement.

Agricultural Land

The site has a majority of its area identified as land suitable for grazing but not cultivation, with portions towards the western boundary classified as land suitable for bananas. The south-western corner of the site is identified as not being suitable for agriculture, with the northern boundary recognised as grazing land or land well suited to pasture improvement.

Given the land is not being utilised to its full potential as agricultural land, it is considered suitable that the site be redeveloped to naturally expand the Mooball village residential footprint as is consistent with the Tweed Urban and Employment Land Release Strategy 2009.



-  Arable land suitable for intensive cultivation
-  Arable land suitable for regular cultivation of crops
-  Bananas
-  Grazing land or land well suited to pasture improvement
-  Horticulture
-  Land suitable for grazing but not cultivation
-  Land unsuitable for agriculture
-  National Parks, Nature Reserve and Recreation Areas
-  State Forest
-  Urban
-  Water

Resource lands

The site does not contain any known productive resources.

Energy

The site is not likely to result in an unacceptable impact of energy capacity/supply as it represents an expansion of the adjoining commercial and general business land uses. The required utilities and services may be expanded to service this proposal.

7. Environmental Protection

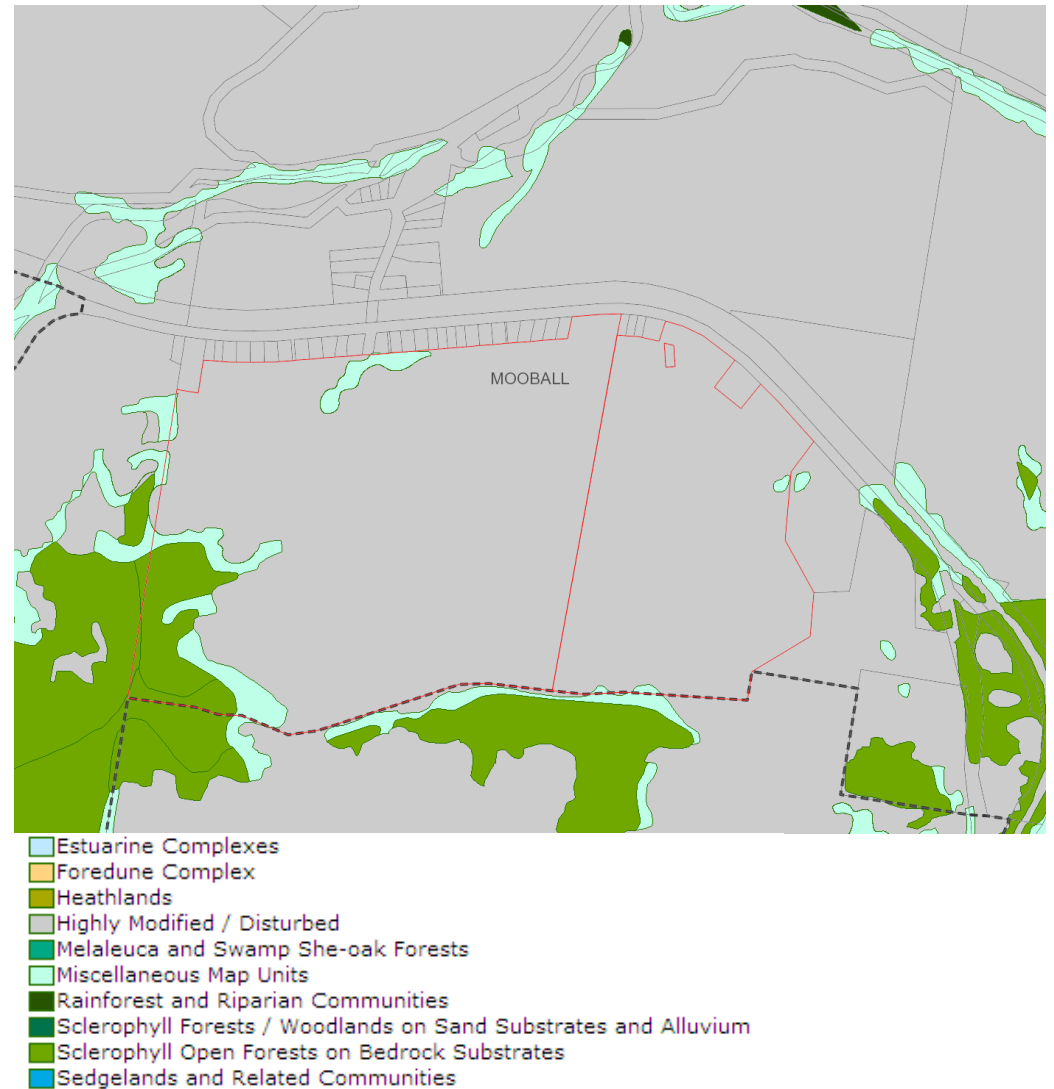
Protect and enhance biodiversity, air quality, heritage, and waterway health

- Consistent with government-approved Regional Conservation Plan (if available).
- Maintains or improves areas of regionally significant terrestrial and aquatic biodiversity (as mapped and agreed by DEC). This includes regionally significant vegetation communities, critical habitat, threatened species, populations, ecological communities and their habitats.
- Maintain or improve existing environmental condition for water quality:
 - Consistent with community water quality objectives for recreational water use and river health (DEC and CMA).
 - Consistent with catchment and stormwater management planning (Catchment Management Authority and council).
- Protects areas of Aboriginal cultural heritage value (as agreed by DEC).

Flora and fauna

The south-western corner of the site has an area of Sclerophyll Open Forests on Bedrock Substrates present. The Preliminary Review of Terrestrial Flora and Fauna Values report by Planit Consulting (prepared as part of the request for Planning Proposal) identifies ecologically significant areas being generally restricted to the southern and western forested portions of the site, with individual remnant rainforest trees (including 'vulnerable' species) on the northern flat areas. The areas are deferred from the Planning Proposal, however the zoning of these areas may be reconsidered following assessment under the criteria outlined in the Department of Planning and Environment review of environmental zonings under the Standard Instrument.

It is recommended that additional studies be completed before and at the development application stage.



Aboriginal and Cultural Heritage

A Cultural Heritage Assessment was undertaken by Everick Heritage Consultants, March 2011.

Two items identified on site (a boiler, and a historic road), are considered as having low

historic heritage significance.

The report finds that the site is situated within an area of low archaeological significance, and contains no features that make it particularly likely to contain Aboriginal objects.

Due to these findings, it is stated that the potential impact of the proposed development on Aboriginal objects, and significant historic heritage items must be considered low.

In summary, the results state the following:

- No Aboriginal Objects or Places were identified within the site.
- No areas were identified that were considered reasonably likely to contain Potential Archaeological Deposits (PADs).
- Consultation with the Tweed Byron LALC identified no places of cultural (spiritual) significance.
- No items of historic heritage significance were identified within the Project Area.

Following completion of the report, the Aboriginal Advisory Council resolved (via a meeting of 1 June 2012) that test pits be dug and soil tested for Aboriginal artefacts on one particular campsite over the site.

Further ACH test pit assessment is required prior to the DA as required in Part 5 of the Planning Agreement.

8. Quality and Equity in Services

Quality health, education, legal, recreational, cultural and community development and other government services are accessible

- Available and accessible services.
 - Do adequate services exist?
 - Are they at capacity or is some capacity available?
 - Has Government planned and budgeted for further service provision?
 - Developer funding for required service upgrade/access is available.

Murwillumbah provides the majority of commercial, retail, health, educational, civic and community services to the area, and it is not proposed to expand these into the village of Mooball through this Planning Proposal. Developer funding will be made available to these services through the applicable Section 94 contributions. These services currently have sufficient capacity available to service the expected future population of Mooball, with upgrades to be implemented when required.

The FNCRS provides a range of aims, outcomes and actions which guide development within the Tweed. The consistency of the proposal against the FNCRS aims, outcomes and actions when preparing an LEP is contained in Table 4:

Table 4 Assessment against Far North Coast Regional Strategy aims and actions

Assessment against the Far North Coast Regional Strategy Aims and Actions relating to the preparation of a local environmental plan	
Action	Assessment
Environment and Natural Resources	
Local environmental plans will protect and zone land with State or regional environmental, agricultural, vegetation, habitat, waterway, wetland or coastline values.	The site is currently not being utilised to its full capability as agricultural land, and has been identified as only being suitable for grazing but not cultivation. The site does not contain any land with State or regional environmental, vegetation, habitat, waterway, wetland or coastline values.
Local environmental plans will not zone land within the Environmental Assets and Rural Land area to permit urban purposes, other than rural residential development. Existing and future rural residential development will be located in this area, but not where it conflicts or coincides with the attributes or values listed above.	Whilst this Planning Proposal is outside of the Town and Village Growth area boundary, it is not within the Coastal area and is consistent with land identified for urban growth within the TUELRs. It should be noted that the TUELRs, developed in response to the FNCRS, designates the site as 'Potential Urban Release Lands' to help the Tweed area provide an additional 19,100 dwellings by 2031. The Planning Proposal facilitates the provision of additional dwellings, in an area which is appropriate for such development. Lot B in DP419641 contains a dwelling, with the landowners also keeping various poultry including roosters. Following development of a Land Use Conflict Risk Assessment, a minimum buffer of 50 metres from the common boundary of Lot B is proposed. The buffer area will be zoned RU2 Rural Landscape to ensure no encroachment of additional housing within the buffer area. Council resolved (through a meeting on 21 November 2013) that the existing land use on Lot B in DP419641 should be protected. A buffer requirement will be applied in favour of this property through Part 4 of the Planning Agreement.
Local environmental plans will identify and zone land of landscape value (including scenic and cultural landscapes) to protect those values.	The south western part of the site is identified as having scenic value to the area. This area is excluded from the Planning Proposal, however the zoning of this area may be reconsidered once as an amendment following Councils assessment and review against the criteria framework of the North Coast environmental zone review.
Local environmental plans will protect land identified as having extractive resources of regional significance.	The site does not contain areas of known extractive resources.
New development adjoining or adjacent to farmland, extractive resources, waterways, wetlands, and areas of high biodiversity value will incorporate	The site is adjacent to farmland, in particular an existing banana plantation along the eastern boundary of the site.

Assessment against the Far North Coast Regional Strategy Aims and Actions relating to the preparation of a local environmental plan

Action	Assessment
buffers to avoid land use conflict.	A buffer requirements will be applied in favour of this property through Part 4 of the Planning Agreement. In addition, the zoning plans which determine lot sizes, will ensure sufficient buffer zones are incorporate maximise distances between conflicting land uses. There are no extractive resources, waterways, wetlands or areas of high biodiversity value adjacent to the site.
Local environmental plans will: - include minimum subdivision standards for rural and environment protection zones - include provisions to limit dwellings in the rural and environmental zones - not include provisions to permit concessional allotments.	The Planning Proposal rezones part of the site from a rural zoning to a village zoning, with various minimum lot sizes ranging from 450 m² to 700m² (proposed Village zone) and a minimum of 1 hectare (for the Large Lot Residential zone) and located in areas that reflect constraints affecting the site. No additional dwellings or subdivision potential will be provided for in the remaining RU2 zone.
Local environmental plans will include provisions to encourage habitat and corridor establishment in future zoning of Environmental Assets and Rural Land area.	The Planning Proposal includes environmentally sensitive land which has been excluded from the planning proposal. This land will be reviewed in the context of the criteria as outlined by the DPE in the Far North Coast Environmental zone review and subject to a future amendment to apply an environmental zone where appropriate.
Local environmental plans will include provisions to limit the creation of additional water rights on land fronting watercourses.	The Planning Proposal does not create additional water rights.
Local environmental plans will not rezone land within town water supply catchments and significant groundwater areas if this has the potential to reduce the quality and quantity of these assets.	The site does not fall within the town water supply catchment.
Rezoning of land for future development within the catchments of coastal lakes (as defined in Schedule 1 of State Environmental Planning Policy No. 71—Coastal Protection) will consider the recommendation of any Coastal Lake Sustainability Assessment which has been prepared.	The site does not fall within a coastal lake catchment and is not restricted by SEPP 71.
Subdivision and dwelling standard provisions in local environmental plans will reflect the objectives of the relevant zone and the Regional Strategy.	Subdivision and dwelling standards will be in accordance with the Tweed DCP, which are reflective of the FNCRS.
Cultural Heritage	
Councils are to ensure that Aboriginal cultural and community values are considered in the future planning and management of their local government area.	An Aboriginal Due Diligence Assessment has been undertaken by Everick Heritage Consultants (March 2011). The assessment concludes the project area is situated within an area of low archaeological significance, and contains no features that make it particularly likely to contain Aboriginal objects, and subsequently minimises the potential for Aboriginal cultural heritage values to exist on the site. Following completion of the report, the Aboriginal Advisory Council resolved (via a meeting of 1 June 2012) that test pits be dug and soil tested for

Assessment against the Far North Coast Regional Strategy Aims and Actions relating to the preparation of a local environmental plan

Action	Assessment
	Aboriginal artefacts on one particular campsite over the site. Further ACH test pit assessment is required prior to the DA as required in Part 5 of the Planning Agreement.
Councils and the Department of Planning will review the scope and quality of the existing statutory lists of heritage items and ensure that all places of significance are included in the heritage schedules of local environmental plans.	There are two heritage listed properties in the vicinity of the subject site, being Kelly Bros Store and the Mooball Hotel adjoining on Tweed Valley Way. The site contains no heritage listing and will any potential impact on the heritage items may be managed at the DA stage. No further heritage listings are proposed.
The cultural heritage values of major regional centres and major towns that are to be the focus of urban renewal projects will be reviewed, with the aim of protecting cultural heritage.	Not applicable as the site is not within or part of a major regional centre or major town. Heritage is addressed through the Tweed DCP Section A18.
Natural Hazards	
In order to manage the risks associated with climate change, councils will undertake investigations of lands with the potential to be affected by sea level rise and inundation to ensure that risks to public and private assets are minimised.	Within the Tweed LEP 2014, the Flood Planning Map indicates the majority of the site is located outside the modelled inundation area of an ARI 100 year flood; however some areas are affected, towards the northern boundary of the site. Filling of affected areas above the ARI 100 year flood level, combined with flood modelling to ensure no adverse impacts upon the site or adjoining areas will address this risk. Further consideration of cumulative flooding impacts is required prior to the DA as required in Part 5 of the Planning Agreement.
Local environmental plans will make provision for adequate setbacks in areas at risk from coastal erosion and/or ocean based inundation in accordance with Coastal Zone Management Plans. Until these plans are made by the Minister for Natural Resources, councils cannot zone land or approve new development or redevelopment in potential hazard areas, unless assessed within a risk assessment framework adopted by the council.	Not applicable as the site is not subject to coastal erosion.
Local environmental plans will zone waterways to reflect their environmental, recreational or cultural values.	The major waterway in the western and northern part of the site is excluded from the Planning Proposal, however the zoning of these areas may be reconsidered following assessment under the criteria outlined in the Department of Planning and Environment review of environmental zonings under the Standard Instrument.
Local environmental plans will zone areas subject to high hazard to reflect the capabilities of the land.	The site contains areas of bushfire hazard areas and steep terrain, predominantly in western and southern parts of the site. Where ecological values are evident, those areas are excluded from the Planning Proposal, however the zoning of these areas may be reconsidered following assessment under the criteria outlined in the Department of Planning and Environment review of environmental zonings

Assessment against the Far North Coast Regional Strategy Aims and Actions relating to the preparation of a local environmental plan

Action	Assessment
	under the Standard Instrument. Where ecological values are not evident, the RU2 Rural Landscape or R5 Large Lot Residential zoning has been applied.
Settlement and Housing	
Local environmental plans, local growth management strategies and other statutory planning controls will align with the Regional Strategy's settlement network (as shown on the Housing Map) to contain the spread of urban development, efficiently utilise existing services and infrastructure, and protect areas of high conservation value.	The proposal will expand the existing village footprint of Mooball in line with Council's Urban Land Release Strategy.
Local environmental plans will ensure that all new development reinforces existing urban and rural centres, towns and villages.	The site is situated adjacent to the existing Mooball village, and subsequently reinforces the village identity and viability.
A land release staging program will be developed to ensure the orderly release of new housing.	The development will follow a structure of housing release to suit the current market conditions.
Where development or a rezoning increases the need for State infrastructure, the Minister for Planning may require a contribution towards the provision of such infrastructure.	The State Infrastructure Strategy for NSW 2012-2032 (Infrastructure NSW) does not identify any specific projects for the Tweed area.
Councils will plan for a range of housing types of appropriate densities, location and suitability that are capable of adapting and responding to the ageing of the population.	The proposed zoning includes provisions for a range of lot sizes including areas of minimum lot sizes of 450m ² to 700m ² (RU5 Village zone) and a minimum of 1 hectare (for the R5 Large Lot Residential zone). These lot sizes will ensure a range of housing types can be incorporated into the site. The range of lot sizes also provides varying degrees of density within the site, which will suit future adaptation to meet the needs of the ageing population.
Local government will consider a range of affordable housing strategies, including forms of low cost housing, suitable zonings and development controls to improve housing choice, and specific schemes. These strategies must be consistent with relevant State policies.	The Planning Proposal incorporates provisions that guide minimum lot sizes over the site, facilitating a range of housing diversity to occur within the development.
Local environmental plans generally should locate major health and educational facilities in urban areas.	Not applicable – no major health or education facilities are proposed.
Local environmental plans cannot use the Transition Zone in the Standard Instrument (Local Environmental Plans) Order 2006 to identify land for future urban investigation purposes.	The proposal does not use any transition zone for future urban investigation.
Local environmental plans will maintain interurban breaks between existing and new settlements.	The proposal is a continuation of the existing Mooball village, however preserves the existing interurban break between Mooball and Burringbar.

Assessment against the Far North Coast Regional Strategy Aims and Actions relating to the preparation of a local environmental plan

Action	Assessment
Town and Village Growth Boundary	
The Town and Village Growth Boundary is defined by the Town and Village Growth Boundary Map	The site is not located within the existing Town and Village Growth Boundary; however it is identified within the Tweed Urban Land Release Strategy as being 'potential urban release lands'. The Planning Proposal presents an orderly continuation of the existing Mooball village urban footprint.
No land in the Coastal Area will be released other than land identified within the Town and Village Growth Boundary or within an approved rural residential release strategy.	Not applicable – the site is not located within the Coastal Area.
Councils will prepare a Local Growth Management Strategy prior to zoning further land for urban, commercial and industrial uses in accordance with the Settlement Planning Guidelines.	The TUELRS was released in 2009, and identifies the land as being 'potential urban release lands' (Area 9). The short-term timing for the rezoning of Area 9, under this strategy, assumes that 80% of the site will yield lots. While the TUELRS is not a Local Growth Management Strategy, it provides strategic direction for future development within the Shire and this Planning Proposal implements this TUELRS. Further consideration of housing form and character is required prior to the DA as required in Part 5 of the Planning Agreement.
Councils will demonstrate through the Local Growth Management Strategy how dwelling targets (Table 1) for each local government area will be met in local environmental plans.	The rezoning of the site to allow for residential development will assist in meeting part of the 19,100 dwellings required to 2031 within the Tweed area.
Planning for urban land must be integrated with the supply of relevant infrastructure and transport provision.	The proposed development is situated adjacent to the Tweed Valley Way, which links the Pacific Highway from the south with Murwillumbah. The provision of wastewater supply to the site will be achieved through the augmentation of the existing wastewater supply system (servicing Mooball) or the provision of new trunk infrastructure including a new wastewater treatment plant. The requirement to provide these connections is enabled through Part 2 of the Planning Agreement.
Any development proposed for greenfield sites in the non-coastal area that is located outside of the Town and Village Growth Boundary will be subject to satisfying the Sustainability Criteria (Attachment 1).	An assessment against the FNCRS Sustainability Criteria has been completed above.
Settlement Character and Design	
Councils should prepare desired character statements for their localities that include provisions (through a development control plan) to ensure that new development enhances the desired character.	The Provisions of the Tweed DCP in apply. Further consideration of housing form and character is required prior to the DA as required in Part 5 of the Planning Agreement.

Assessment against the Far North Coast Regional Strategy Aims and Actions relating to the preparation of a local environmental plan

Action	Assessment
New development should be designed to respond to the subtropical climate of the Region through best practice in water and energy efficient design, and use of landscaping and building materials.	The Provisions of the Tweed DCP in apply. Further consideration of housing form and character is required prior to the DA as required in Part 5 of the Planning Agreement.
New development should be designed to reflect and enhance the natural, cultural, visual and built character and values of the local and regional landscape.	The Provisions of the Tweed DCP in apply. Further consideration of housing form and character is required prior to the DA as required in Part 5 of the Planning Agreement.
New and changing urban areas should provide access to natural features such as coastal foreshore and riparian land in a manner that is consistent with the maintenance of their ecological values.	Not applicable. The site is not located within a coastal foreshore or riparian land area.
New and changing settlement areas should incorporate open space that is accessible to the public, which provides opportunities for recreation, nature conservation, social interaction, and for visual enhancement and amenity.	The subject land will allow for the orderly expansion of the Mooball village. As part of the concept plan submitted as part of the request for Planning Proposal, there are various spaces for recreational purposes proposed, which are connected to pathways providing linkages throughout the site.
Local environmental plans will set building heights in urban areas that reflect the landscape character, function and hierarchy of the future settlement and visual and cultural amenity of its location.	Building height controls are consistent with the Tweed LEP 2014 for this and similar regional villages.
Local environmental plans for areas subject to the NSW Coastal Policy (NSW Government 1997) will incorporate provisions to achieve the outcomes of the Coastal Policy in respect to overshadowing. Generally, development on urban land in Tweed Heads, Kingscliff, Byron Bay and Ballina will not result in the beach or adjoining open space being overshadowed before 3.00 p.m. midwinter (standard time) or 6.30 p.m. midsummer (daylight savings time). For other beaches or waterfront open space in the Region, development will not result in overshadowing before 4.00 p.m. midwinter or 7.00 p.m. midsummer (daylight saving time).	The subject land is not within the coastal zone and is therefore not subject to the NSW Coastal Policy.
Local environmental plans and development control plans (and subsequent land release development) will be consistent with the Settlement Planning Guidelines, and the Government's <i>Coastal Design Guidelines for NSW</i> (2003) as applicable.	The proposal is broadly consistent with the Settlement Planning Guidelines. As the site is not a coastal site, it is not considered necessary to comply with the Government's Coastal Design Guidelines.

Water and Energy Resources

Councils are to complete Integrated Water Cycle Management Plans.	Council has an existing Integrated Water Cycle Management Plan in place, which is periodically updated.
Local environmental plans will recognise and protect the regional water supply system through appropriate planning provisions.	The site is not within a water supply catchment; therefore, this this proposal requires no protections measures.
In preparing local environmental plans councils will liaise with water and energy providers and make provision for any regional gas, water and electricity infrastructure corridors that may be required.	Servicing has been assessed through the Planning Proposal and will continue to be assessed with future DAs. There are no known capacity constraints. Water and waster water are addressed further through Part 2 of the Planning

Assessment against the Far North Coast Regional Strategy Aims and Actions relating to the preparation of a local environmental plan

Action	Assessment
	Agreement.
All future development is to apply water sensitive urban design principles, including the use of dual use reticulation systems in releases of adequate scale, and meet storm water management targets that support the environmental values of the catchments.	Water Sensitive Urban Design Principles will apply to any future development on the land to which this Planning Proposal applies.
Regional Transport	
Local environmental plans will provide for passenger interchanges in all major regional centres, major towns and towns. These interchanges will be well connected to pedestrian and cycle ways	Mooball is not identified as, nor expected to grow into, a major regional centre, major town or town. The area is recognised in strategic documents as a village. Pedestrian and cycleways will be incorporated into the subdivision as provided by the Tweed DCP.
Land use and transport planning must be integrated to minimise the need to travel, and to encourage energy and resource efficiency.	With the expansion of the Mooball village footprint, and the inclusion of local community facilities proposed within the development, the area can become self-sufficient in terms of basic services, subsequently reducing dependence on larger population centres. The site is afforded access to the Pacific Highway via Tweed Valley Way, with the former allowing north and south transit to Tweed Heads and Byron Bay respectively.
Local environmental plans are to recognise and protect the regional transport network through appropriate planning provisions.	The proposal will not impact on the regional transport networks.
Implementation	
This Regional Strategy will be implemented primarily through local environmental plans, development control plans, the State Infrastructure Strategy and funds collected as development contributions.	This Planning Proposal is broadly consistent with the Housing and Settlement provisions of the FNCRS and the sustainability criteria contained in Attachment 1 of the Strategy.
The State Infrastructure Strategy 2006–07 to 2015–16 identifies infrastructure projects in the short to medium-term that (among other things) support population growth and demographic change in the Far North Coast. A list of projects from this Strategy is contained in Attachment 3 of the FNCRS.	There are no applicable infrastructure projects for Mooball identified in the State Infrastructure Strategy.
The Regional Strategy sets out the agreed position of the NSW Government on the future of the Far North Coast Region. The Regional Strategy is recognised by the State Infrastructure Strategy as a long term planning strategy to be used by State agencies and public trading enterprises to understand the future infrastructure needs of the Region.	The Planning Proposal is considered to be consistent with the relevant provisions of the Far North Coast Regional Strategy as discussed above.
Where development or rezoning increases the need for state infrastructure, the Minister for Planning may require a contribution towards the provision of such infrastructure.	There are no applicable state infrastructure items identified for Mooball.

Is the Planning Proposal consistent with a Council's local strategy or other local strategic plan?

The Tweed Community Strategic Plan (TCSP) 2013-23 was adopted on 21 March 2013.. The plan is based on 4 key themes, Civic Leadership, Supporting Community Life, Strengthening the Economy, Caring for the Environment.

This plan, prepared with extensive community consultation, provides the overarching framework and vision for the Tweed for the next 10 years.

The relevant objectives of the plan include:

Objective 1.5. Manage and plan for a balance between population growth, urban development and environmental protection and the retention of economically viable agricultural land.

Objective 2.2 Improve opportunities for housing choice.

Objective 3.3.1 Establish planning controls that balance the need for urban growth against the protection of agriculture, village character and the environment.

The Planning Proposal is consistent with the Community Strategic Plan as it seeks to balance urban growth and environmental and agricultural protection. The locality adjoins the established Mooball village footprint. Despite the site being zoned rural, the site is presently not utilised for agricultural purposes. It should be noted that Lot B in DP419641 (surrounded by the site) contains a dwelling, where poultry including roosters are kept on this lot. A Land Use Conflict Risk Assessment has recommended the provision of a buffer from the common boundary of Lot B of at least 19 metres in width (a minimum 50 metre wide buffer is proposed), which will be zoned RU2 Rural Landscape and enforced through Part 4 of the Planning Agreement.

The Planning Proposal represents the natural expansion of the village footprint which will provide further housing choice within the region. Buffers the agricultural land to the east of the site are enforced through Part 4 of the Planning Agreement.

Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

This site is not subject to the application of *SEPP 14 Coastal Wetlands*, *SEPP 26 Littoral Rainforest* or *SEPP 71 Coastal Protection*.

The Planning Proposal is of a scale and nature that will not trigger the application of *SEPP (Major Development) 2007*.

The following SEPPs, discussed in Table 5, apply to the site:

Table 5 Assessment against State Environmental Planning Policies

State Environmental Planning Policy Assessment	
State Environmental Planning Policy	Comments / Assessment
State Environmental Planning Policy (North Coast Regional Environmental Plan)	This SEPP applies to the site and the following clauses are particularly relevant to this Planning Proposal:

State Environmental Planning Policy Assessment	
State Environmental Planning Policy	Comments / Assessment
Clause 12 – Development control – impact of development on agricultural activities	The Planning Proposal rezones rural land to a mixture of zones which permit residential development, resulting in the expansion of the existing Mooball village footprint. An existing banana plantation is located adjacent to the eastern boundary of the site. In addition, Lot B in DP419641 contains a dwelling with some poultry including roosters kept within the curtilage of the lot. A Land Use Conflict Risk Assessment identifies a buffer of approximately 19 metres from the common boundary should be provided to effectively manage potential conflicts between the existing uses of Lot B and the future residential development. A minimum buffer width of 50 metres is provided and will be zoned RU2 Rural Landscape. Neighbouring property buffers are required in Part 4 of the Planning Agreement.
Clause 38 – Urban Release Strategy	The site is adjacent the Far North Coast Regional Strategy urban area of Mooball. Consistency with the Far North Coast Regional Strategy sustainability criteria is addressed above, and subsequently it is considered suitable that this proposal be supported, as the rezoning allows for the expansion of the Mooball village. Further consideration of housing form and character is required prior to the DA as required in Part 5 of the Planning Agreement.
Clause 43 – Development control – residential development	The Planning Proposal incorporates a variety of minimum lot sizes in response to the environmental constraints affecting the site, and the proximity of the northern part of the site to existing business and community infrastructure. The existing road network has capacity to support the future development of the site to its full extent.
Clause 45 – Hazards	Of the listed hazards, the site has the potential for contaminated land and geological or soil instability. These findings are from preliminary investigations only, which indicate the potential for these hazards. SEPP 65 Contaminated Land evaluation for planning proposals has been satisfied and further testing may be required at the subdivision approval stage. Geotechnical investigation is listed as an item in the s93F Planning Agreement and additional investigation is required once the actual subdivision layout is known. Council's bushfire mapping indicates a bushfire hazard due to Category 1 Vegetation in the south-western corner of the site. Further investigation of bushfire is required prior to the DA as required in Part 5 of the Planning Agreement.
Clause 45A – Flood liable land	The Tweed LEP 2014 indicates the northern part of the site is affected by a probable maximum flood under current conditions (refer mapping extract below). Filling will be required in this area to raise residential development above the flood level contour. The impacts of filling and excavation work can be assessed at the development application stage. The cumulative impacts of flooding downstream of the site are a relevant consideration, given that habitable dwellings are located immediately downstream of the site. In the Tweed LEP 2014, flood mitigation works are permitted with consent in all zones. Further consideration of cumulative flooding impacts is required prior to the DA as required in Part 5 of the Planning Agreement.
State Environmental Planning Policy No. 44 – Koala Habitat	This SEPP aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas. It requires the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat. The site does not contain any mapped primary or secondary Koala habitat areas.

State Environmental Planning Policy Assessment	
State Environmental Planning Policy	Comments / Assessment
State Environmental Planning Policy No. 55 – Remediation of Land	This SEPP introduces planning controls for the remediation of contaminated land. The policy states that land must not be developed if contamination renders it unsuitable for a proposed use. If the land is unsuitable, remediation must take place before the land is developed. Studies undertaken by the proponent note there are traces fuel, arsenic and pesticides dating from the previous use of the site as banana cultivation, mango and passionfruit plantations. There is a requirement that Council must be satisfied of under cl.6 and this has been met. Further detailed investigations may nevertheless be required as part of the subdivision approval.
State Environmental Planning Policy (Major Development) 2005	The Major Development SEPP applies to State significant projects and those to which Part 3A (now repealed) applied. The site is not affected by any Major Development criteria nor does the development proposed trigger any state significance.
State Environmental Planning Policy (Infrastructure) 2007 – Schedule 3	The SEPP for Infrastructure allows for greater flexibility in the location of infrastructure and service facilities along with providing consultation with the relevant public authorities during the assessment process. In this case, this SEPP is not applicable to this proposal.
State Environmental Planning Policy No. 71 – Coastal Protection	This SEPP aims to protect the NSW coast. The site is not located within the coastal zone, and is also not affected by the NSW Coastal Policy 1997.
State Environmental Planning Policy No. 60 – Exempt and Complying Development	This SEPP provides streamlined assessment provisions for certain types of development. The Planning Proposal does not affect the ability of the SEPP to be implemented.
State Environmental Planning Policy (Rural Lands) 2008	This SEPP applies to land which is zoned as rural land for the purpose of promoting the State's social, economic and environmental welfare. The site does not contain any state or regionally significant farmland. The SEPP provides a range of rural subdivision and dwelling principles to minimise the fragmentation of rural land. The site has been identified in the Tweed Urban and Employment Land Release Strategy, developed in response to the FNCRS, as 'Potential Urban Release Lands' to help the Tweed area provide an additional 19,100 dwellings by 2031. The Planning Proposal facilitates the provision of additional dwellings, in an area which is appropriate for such development. The rezoning of the site is consistent with this strategic intent for the ruralland.

Is the Planning Proposal consistent with applicable Ministerial Directions (s117 Directions)?

Consistency with the s117 Directions is assessed in Table 6.

Table 6 Consistency with s117(2) Ministerial Directions

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
1. Employment and Resources			
1.1 Business and Industrial Zones	Applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	This Planning Proposal does not affect business or industrial zones.	N/A
1.2 Rural Zones	Applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). Under this direction a Planning Proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).	The Planning Proposal is inconsistent with this direction, however can be justified by the following: - The site is located directly adjacent to the identified existing urban footprint of Mooball within the Far North Coast Regional Strategy. Subsequently, the rezoning will produce a natural expansion of the Mooball village footprint. Development on this site will assist in achieving the required 19,100 additional new dwellings to 2031 within the Tweed area, as stated within the Strategy. - The site is also located within a 'Potential Urban Release Land' within the Tweed Urban Land Release Strategy, and is suitable for residential development. - The vast majority of the site is classified as agricultural land suitable for grazing but not cultivation, and bananas. The existing banana plantation (outside of the site) is to remain, however given the lack of agricultural merit the site has, redevelopment to expand the village footprint is highly suitable.	Minor variation justified by a strategy, Tweed Urban Land Release Strategy (part (e))
1.3 Mining, Petroleum Production and Extractive Industries	Applies when a relevant planning authority prepares a Planning Proposal that would have the effect of: (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining	The proposal does not seek to allow for extractive industry within the area. However, mining is subject to the controls of the SEPP Mining, Petroleum Production and Extractive Industries 2007.	Consistent

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
	of extractive materials, or (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.		
1.4 Oyster Aquaculture	Applies when a relevant planning authority prepares any Planning Proposal that proposes a change in land use which could result in: (a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”; or (b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate” and other land uses.	This Planning Proposal does not impact on a Priority Oyster Aquaculture Area.	N/A
1.5 Rural Lands	Applies when: (a) a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or (b) a relevant planning authority prepares a Planning Proposal that changes the existing minimum lot size on land within a rural or environment protection zone. A Planning Proposal to which clauses (a) and (b) apply must be consistent with the Rural Planning Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>. A Planning Proposal to which clause (b) applies must be consistent with the Rural Subdivision Principles listed in <i>State Environmental Planning Policy (Rural</i>	The Planning Proposal seeks to rezone land from a rural zoning to a residential and environmental protection zone, to allow for the natural expansion of the Mooball village footprint. This rezoning is not inconsistent with the <i>State Environmental Planning Policy (Rural Lands) 2008</i>, which states that councils can exercise their functions relating to local environmental plans in accordance with the Rural Planning Principles. The TUELRS identifies the site as ‘Potential Urban Release Lands’ to help the Tweed area provide an additional 19,100 dwellings by 2031. The Planning Proposal facilitates the provision of additional dwellings, in an area which is appropriate for such development. As previously identified above: The site is located directly adjacent to the identified existing urban footprint of Mooball. Subsequently, the	Minor variation justified by the Tweed Urban and Employment Land Release Strategy.

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
	<i>Lands) 2008.</i>	rezoning will produce a natural expansion of the Mooball village footprint. Development on this site will assist in achieving the required 19,100 additional new dwellings to 2031 within the Tweed area, as stated within the TULR Strategy. The site is also located within a 'Potential Urban Release Land' within the Tweed Urban Land Release Strategy, and is suitable for residential development. Given the lack of agricultural importance the site has, redevelopment to expand the village footprint and viability is appropriate.	
2. Environment and Heritage			
2.1 Environment Protection Zones	(4) A Planning Proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. (5) A Planning Proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 <i>"Rural Lands"</i>.	Parts of the site are ecologically sensitive. Where ecological values are evident, those areas are excluded from the Planning Proposal, however the environmental zoning of these areas may be reconsidered following assessment under the criteria outlined in the Department of Planning and Environment review of environmental zonings under the Standard Instrument.	Consistent
2.2 Coastal Protection	Direction applies when a relevant planning authority prepares a Planning Proposal that applies to land in the coastal zone.	This proposal is not located within the coastal zone.	N/A
2.3 Heritage Conservation	A Planning Proposal must contain provisions that facilitate the conservation of: (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage	The site contains no identified heritage items under the Tweed LEP 2014 however, adjoins 2 heritage items. Potential impacts on the heritage items may be assessed at the DA stage.	Consistent

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
	significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.	The proposal is supported by an Aboriginal Cultural Heritage Due Diligence Assessment.. This report finds: • no known Aboriginal objects or places were identified within the site; • the possibility of significant Aboriginal cultural heritage being located within the site can be eliminated; • there are no historic (non-indigenous) listed cultural heritage places within the site; • the site has seen complete ground disturbance, having previously been cleared and subject to sugar cane cultivation; and • the report provides cautionary recommendations for proceeding should Aboriginal cultural heritage relics be revealed during development. Following completion of the report, the Aboriginal Advisory Council resolved (via a meeting of 1 June 2012) that test pits be dug and soil tested for Aboriginal artefacts on one particular campsite over the site. Further ACH test pit assessment is required prior to the DA as required in Part 5 of the Planning Agreement.	
2.4 Recreation Vehicle Areas	A Planning Proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>): (a) where the land is within an environmental protection zone, (b) where the land comprises a beach or a dune adjacent to or adjoining a beach, (c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into	The proposal does not enable land to be developed for the purpose of a recreation vehicle area.	N/A

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
	consideration: (i) the provisions of the guidelines entitled <i>Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985</i>, and (ii) the provisions of the guidelines entitled <i>Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985</i>.		
2.5 Application of E2 and E3 zones and environmental overlaufs in Far North Coast LEPs	(2) This direction applies when a relevant planning authority prepares a planning proposal: (a) that introduces or alters an E2 Environmental Conservation or E3 Environmental Management zone; (b) that introduces or alters an overlay and associated clause. A planning Proposal that introduces an environmental zone must apply that zone consistent with the Far North Coast E Zones Review Final Recommendations.	This planning proposal has been developed during the period the E zones were not permitted to be used. Council is currently reviewing the E zones Shire wide to prepare a planning proposal to reintroduce the E zones consistent with the final recommendations of the E zones review. The environmental areas identified within this planning proposal have been deferred, consistent with previous planning proposal, until such time as the TSC review is complete. E zones will then be introduced consistent with this review.	Consistent
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	(3) This direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within: (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted.	The Planning Proposal facilitates a variety of housing types and sizes in response to the opportunities and constraints affecting the site, through a minimum lot size plan under the LEP. Smaller lot sizes are promoted adjacent to the existing Mooball village footprint, encouraging a greater proportion of housing adjacent to the existing village. The site's proximity to the existing Mooball village footprint enables the efficient use of infrastructure servicing the site. Residential design will be undertaken in accordance with	Consistent

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
	(4) A Planning Proposal must include provisions that encourage the provision of housing that will: (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design. (5) A Planning Proposal must, in relation to land to which this direction applies: (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land.	relevant standards. Provision exists for innovative solutions for housing in the southern parts of the site where the slope is steeper. Further consideration of housing form and character is required prior to the DA as required in Part 5 of the Planning Agreement.	
3.2 Caravan Parks and Manufactured Home Estates	Applies when a relevant planning authority prepares a Planning Proposal. (1) In identifying suitable zones, locations and provisions for caravan parks in a Planning Proposal, the relevant planning authority must: (a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and (b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would	The Planning Proposal does not seek development for the purposes of a caravan park or manufacture homes estate nor does it impact upon any land that does permit development for the purposes of a caravan park or manufacture homes estate.	N/A

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
	facilitate the retention of the existing caravan park. (2) In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a Planning Proposal, the relevant planning authority must: (a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located, (b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and (c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the <i>Community Land Development Act 1989</i> be permissible with consent.		
3.3 Home Occupations	Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.	The rezoning of part of the site to RU5 Village under the Tweed LEP 2014 permits home occupations without consent.	Consistent
3.4 Integrating Land Use and Transport	Applies when a relevant planning authority prepares a Planning Proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. (3) A Planning Proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of: (a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and (b) <i>The Right Place for Business and Services –</i>	The development of the site for village purposes will result in an increase in population in the area. Mooball is serviced by an infrequent bus service operated by Parsons Buslines, connecting the village with Murwillumbah and Pottsville. The Planning Proposal does not propose any traffic generating business, as this will be assessed at the development application stage. Under SEPP (Infrastructure) 2007 any proposal is required to be referred to the RTA if it meets the requirements under Schedule 3. It is considered that due to the number of dwellings proposed within the development, the number of motor vehicles	Consistent

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
	<i>Planning Policy</i> (DUAP 2001).	present will be greater than 200, which triggers consultation with Roads and Maritime Services.	
3.5 Development Near Licensed Aerodrome	Applies when a relevant planning authority prepares a Planning Proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.	The Planning Proposal does not create, alter or remove a zone or provision relating to an airport.	N/A
3.6 Shooting ranges	This direction applies when a relevant planning authority prepares a Planning Proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.	The Planning Proposal does not create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.	N/A
4. Hazard and Risk			
4.1 Acid Sulphate Soils	Applies when a relevant planning authority prepares a Planning Proposal that will apply to land having a probability of containing acid sulphate soils as shown on the Acid Sulphate Soils Planning Maps. (4) The relevant planning authority must consider the Acid Sulphate Soils Planning Guidelines adopted by the Director-General of the Department of Planning (5) When a relevant planning authority is preparing a Planning Proposal to introduce provisions to regulate works in acid sulphate soils, those provisions must be consistent with: (a) the Acid Sulphate Soils Model LEP in the Acid Sulphate Soils Planning Guidelines adopted by the Director-General, or (b) such other provisions provided by the Director-General of the Department of Planning that are consistent with the Acid Sulphate Soils Planning Guidelines.	The site is identified on the Tweed LEP 2014 Acid Sulfate Soils (ASS) Map as containing Class 5 ASS and therefore there is a low probability of the site containing ASS. This is supported by the submitted contaminated report by Precise Environmental supporting the Request for Planning Proposal, which states that while Council mapping indicates Class 5 ASS, the NSW Natural Resource Atlas database does not indicate the site is subject to ASS risk. It is considered appropriate that this issue be addressed with the correct reporting and identification processes at the development application phase for the future development of the site.	N/A

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
	(6) A relevant planning authority must not prepare a Planning Proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulphate soils on the Acid Sulphate Soils Planning Maps unless the relevant planning authority has considered an acid sulphate soils study assessing the appropriateness of the change of land use given the presence of acid sulphate soils. The relevant planning authority must provide a copy of any such study to the Director-General prior to undertaking community consultation in satisfaction of section 57 of the Act. (7) Where provisions referred to under paragraph (5) of this direction have not been introduced and the relevant planning authority is preparing a Planning Proposal that proposes an intensification of land uses on land identified as having a probability of acid sulphate soils on the Acid Sulphate Soils Planning Maps, the Planning Proposal must contain provisions consistent with paragraph (5).		
4.2 Mine Subsidence and Unstable Land	Applies when a relevant planning authority prepares a Planning Proposal that permits development on land that: (a) is within a mine subsidence district, or (b) has been identified as unstable in a study, strategy or other assessment undertaken: (i) by or on behalf of the relevant planning authority, or (ii) by or on behalf of a public authority and provided to the relevant planning authority.	The Planning Proposal does not impact on any mine subsidence area.	N/A
4.3 Flood Prone	Applies when a relevant planning authority prepares a Planning Proposal that creates, removes or alters a	The majority of the site is located outside of an ARI 100 year flood area, however the northern part of Lot 2 in	Minor variation justified against a floodplain risk

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
Land	zone or a provision that affects flood prone land. (4) A Planning Proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>). (5) A Planning Proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone. (6) A Planning Proposal must not contain provisions that apply to the flood planning areas which: (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the development of that land, (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development. (7) A Planning Proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those	DP534493 is identified within Council's mapping as being subject to flooding under a Probable Maximum Flood (PMF). This northern area is also subject to flooding, with a flood contour level of 12.2m AHD. The inconsistency with the direction is justified as Section 1.5 of Council's 'Policy – Flood Risk Management', developed in accordance with the NSW Floodplain Development Manual, identifies that residents within flood-prone areas can relocate to flood free areas as a result of the natural topography of the site (refer to Table 1, Land Type 2a within the Policy), resulting in the Planning Proposal being acceptable for further consideration. The cumulative impacts of flooding downstream of the site are a relevant consideration, given that habitable dwellings are located immediately downstream of the site. In the Tweed LEP 2014, flood mitigation works are permitted with consent in all zones. Further consideration of cumulative flooding impacts is required prior to the DA as required in Part 5 of the Planning Agreement.	management plan

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
	controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General). (8) For the purposes of a Planning Proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).		
4.4 Planning for Bushfire Protection	Applies when a relevant planning authority prepares a Planning Proposal that will affect, or is in proximity to land mapped as bushfire prone land. (9) In the preparation of a Planning Proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made, (10) A Planning Proposal must: (a) have regard to <i>Planning for Bushfire Protection 2006</i>, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. (11) A Planning Proposal must, where development is	The southern edge of the site, on the escarpment, is identified as being part of the 100 metre buffer zone, and an area of Vegetation Category 1 bushfire hazard is identified in the south-western corner of the site. The parts of the site designated as Vegetation Category 1 bushfire hazard are generally located within an area excluded from the Planning Proposal. The southern escarpment (subject to the 100 metre buffer zone) is proposed to be zoned R5 Large Lot Residential. An application for a Bush Fire Safety Authority will be required at the development application stage under the <i>Rural Fires Act 1997</i> A Further consideration of bushfire risk is required prior to the DA as required in Part 5 of the s93 Planning Agreement.	Minor variation justified

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
	proposed, comply with the following provisions, as appropriate: (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the Planning Proposal permit Special Fire Protection Purposes (as defined under section 100B of the <i>Rural Fires Act 1997</i>), the APZ provisions must be complied with, (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks, (d) contain provisions for adequate water supply for firefighting purposes, (e) minimise the perimeter of the area of land interfacing the hazard which may be developed, (f) introduce controls on the placement of combustible materials in the Inner Protection Area.		

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
5. Regional Planning			
5.1 Implementation of Regional Strategies	Planning proposals must be consistent with a regional strategy released by the Minister for Planning.	The site is identified as being located outside the urban growth boundary of the FNCRS, however is identified within the Tweed Urban and Employment Land Release Strategy 2009 (prepared in response to the FNCRS) as an area for future urban development (Area 9). This Planning Proposal includes an assessment against the sustainability criteria, indicating consistency with the FNCRS.	Consistent
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a Planning Proposal that applies to the hydrological catchment.	The site is not within this catchment.	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Applies (to Tweed) when a relevant planning authority prepares a Planning Proposal for land mapped as: (a) State significant farmland, or (b) regionally significant farmland, or (c) significant non-contiguous farmland, on the set of four maps held in the Department of Planning and marked "Northern Rivers Farmland Protection Project, Final Map 2005 (Section 117(2) Direction)". A Planning Proposal must not: (a) rezone land identified as "State Significant Farmland" for urban or rural residential purposes. (b) rezone land identified as "Regionally Significant Farmland" for urban or rural residential purposes. (c) rezone land identified as "significant non-contiguous farmland" for urban or rural residential purposes.	The site does not contain land identified as state significant farmland, regionally significant farmland, or significant non-contiguous farmland.	N/A
5.4 Commercial and Retail	Applies when a relevant planning authority prepares a Planning Proposal for land in the vicinity of the	This proposal is not within the alignment of the Pacific Highway, nor does it propose a highway service centre.	N/A

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
Development along the Pacific Highway, North Coast	existing and/or proposed alignment of the Pacific Highway.		
5.8 Second Sydney Airport: Badgerys Creek	Planning proposals must not contain provisions that enable the carrying out of development, either with or without development consent, which at the date of this direction, could hinder the potential for development of a Second Sydney Airport.	The site is not situated near any potential second Sydney Airport site.	N/A
5.9 North West Rail Link Corridor	This Direction applies to Hornsby Shire Council, The Hills Shire Council and Blacktown City Council.	N/A	N/A
5.10 Implementation of Regional Plans	Applies where there is a regional plan. (3) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment (or an officer of the Department nominated by the Secretary), that the extent of inconsistency with the Regional Plan: (a) is of minor significance, and (b) the planning proposal achieves the overall intent of the Regional Plan and does not undermine the achievement of its vision, land use strategy, goals, directions or actions.	This proposal is consistent with the Far North Coast Regional Plan as outlined in <i>Table 5 Assessment against Far North Coast Regional Strategy sustainability criteria</i> above	Consistent
6. Local Plan Making			
6.1 Approval and Referral	A Planning Proposal must: (c) minimise the inclusion of provisions that require	The Planning Proposal will not include provisions that require; the concurrence, consultation or referral of	Consistent

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
Requirements	the concurrence, consultation or referral of development applications to a Minister or public authority, and (d) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and (e) not identify development as designated development unless the relevant planning authority: (i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and (ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.	development applications to a Minister or public authority.	
6.2 Reserving Land for Public Purposes	(4) A Planning Proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the	The Planning Proposal does not create, alter or reduce land reserved for a public purpose. There has been no request from the Minister or public authority to reserve land for a public purpose at this stage.	Yes

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
	Department nominated by the Director-General).		
6.3 Site Specific Provisions	Applies when a relevant planning authority prepares a Planning Proposal that will allow a particular development to be carried out. (4) A Planning Proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either: (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. (5) A Planning Proposal must not contain or refer to drawings that show details of the development proposal.	The Planning Proposal seeks to zone the land appropriate to the land uses proposed and does not seek to include additional uses beyond what is permitted with the land use table.	Yes
7. Metropolitan Planning			
7.1 Implementation of the Metropolitan Strategy	This direction applies to Sydney metropolitan councils only.	N/A	N/A
7.2 Implementation of Greater	This direction applies to Campbelltown City Council and Wollondilly Shire Council.	N/A	N/A

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with direction
Macarthur Land Release Investigation			

Section C Environmental, Social and Economic Impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal?

Tweed Shire Council Vegetation Management Plan Mapping identifies various parts of the site, including an area in the south-western corner of the site as an endangered ecological community (EEC). Significant tree groupings are also located in the centre of the site. The Planning Proposal defers these areas due to the Far North Coast E zones review. However the zoning of these areas will be reviewed in the context of the shire wide review of E zones consistent with the final recommendations of the Department of Planning and Environment review of environmental zonings.

The northern and eastern part of the site contains three isolated and vulnerable Durobby trees. Council is currently preparing a Biodiversity development control plan which will address these types of environmental consideration. Currently, whilst not captured within the deferred area (for future environmental zoning) the significance and protection of these trees will be captured through normal DA and natural resource management processes.

Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

- The north western part of the site excluded from the Planning Proposal will require a road connecting the two adjacent areas of RU5 Village.
- Parts of the site excluded from the Planning Proposal will also require swales for stormwater conveyance, and stormwater treatment devices.

At the development application stage, further design will be required of road crossings and stormwater infrastructure to ensure those features do not cause any adverse impact upon the surrounding environment.

How has the Planning Proposal adequately addressed any social and economic effects?

The current population of Mooball is estimated at 170 persons, with the development once fully completed expected to increase the population of approximately 750 person. At present the village contains mainly convenience services which have been declining since the Pacific Highway Tweed Valley Way bypass was opened.

The zonings proposed as part of the Planning Proposal have the capacity to accommodate small convenience facilities to complement the existing uses. Convenience facilities are identified within plans developed by the proponent to allow for the strengthening of the existing services. It should be noted that there are currently no specific plans for convenience facilities and they will be subject to further assessment at the development application stage.

Regionally, further services and facilities are provided in Burringbar, Murwillumbah, Brunswick Heads and Tweed Heads, including health, fire, child-care, educational and public recreation facilities. While the proposal includes internal recreation sites, larger and more formalised sites are provided in the abovementioned higher population centres. Subsequently, as the ultimate population of the expanded Mooball village is not expected to be that of Murwillumbah for example, it is considered suitable that the existing services be strengthened by the proposed additional community services to enhance the Mooball village.

Section D State and Commonwealth Interests

Is there adequate public infrastructure for the Planning Proposal?

Transport

The Tweed Valley Way runs directly through the Mooball village. Tweed Valley Way provides access to Murwillumbah to the north-west and by also using the Pacific Highway, Byron Bay in the south. Pottsville Road (which intersects with Tweed Valley Way at Mooball) and Cudgera Creek Road provides access to Tweed Heads via the Pacific Highway. Tweed Valley Way used to cater for significantly higher levels of traffic through Mooball as the old Pacific Highway.

Water Supply

Water supply can be provided by Council's existing network, however certain works will be required including provision of a high-level reservoir, or a larger main from the nearby Cowell Park Reservoir.

Wastewater

At present, Council does not have a wastewater system in Mooball which is capable of providing a service to the development. Wastewater can be provided by:

- Servicing the development using a privately constructed and operated system on the site, under the *Water Industry Competition Act 2006*
- Upgrading the existing Mooball wastewater treatment plant, to accommodate flows from the development.

A Planning Agreement will need to be developed between Council and the proponent to ensure the development is connected to a wastewater network.

Power

Sufficient capacity has been designed into the existing system to accommodate the proposed expansion of the village zone.

Telephone

Sufficient capacity has been designed into the existing system to accommodate the proposed additional lots to be created from the area to be rezoned village.

What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Consultation with the Office of Environment and Heritage and the NSW Rural Fire Service (RFS) was undertaken in accordance with Condition 5 of the Gateway determination.

The NSW RFS submission dated 29 August 2014, during the public exhibition public exhibition, is provided in Attachment 5 and advised:

"1. The Planning Proposal and reports do not address the specific requirements of S117 Direction 4.4 'Planning for Bush Fire Protection'. Council is required to submit a report to the RFS that addresses S177 Direction 4.4.

The S117 report shall also be included in any public consultation of the Planning Proposal.

2. The Planning Proposal and reports included a Concept Masterplan for the future development of the subject land. That plan reflects the proposed draft LEP and land use zones. Council is requested to submit a bush fire report to

the RFS, that identifies the proposal's compliance or non compliance with the specifications and requirements of the NSW RFS document titled 'Planning for Bush Fire Protection 2006'.

The bush fire report shall also be included in any public consultation of the Planning Proposal.”

A response to the submission was prepared by Parsons Brinkerhoff (the assessing consultants) as follows:

A Planning Proposal is required to consider the implications of a potential bushfire hazard. This is reinforced through the:

- *Far North Coast Regional Strategy, and in particular:*
 - *Threshold sustainability criteria (“land use conflict, and risk to human health and life, are avoided”)*
 - *Aims and actions relating to the preparation of a LEP (“local environmental plans will zone areas subject to high hazard to reflect the capabilities of the land”)*
- *State Environmental Planning Policy (North Coast Regional Environmental Plan), and in particular clause 45 – hazards*
- *Section 117 Direction 4.4 – Planning for Bushfire Protection.*

The proponent identified areas of potential bushfire hazard in its Request for Planning Proposal, derived from Council mapping.

Regard has been given to Planning for Bushfire Protection 2006 along with Clause 4.4 of the Section 117 Directions. In particular:

- *Setbacks from future building envelopes are provided to account for the provision of asset protection zones.*
- *Consideration has been given to minimise the amount of exposure given to bushfire hazard areas, by the development accommodating perimeter roads and reserve areas where possible.*
- *Bushfire protection measures are contained within the overall development and do not rely on adjoining properties.*
- *Any potentially inappropriate uses on the site would be subject to a consent application under the LEP 2014 or LEP 2000.*
- *The likelihood of combustible materials on the site is very low, but notwithstanding items such as covenants can play a role if necessary to ensure such items are not kept on site.*

NSW Rural Fire Service have also provided comment to Council via letter dated 5 December 2014. The comment advises the RFS has no objection to the Planning Proposal. It also advised:

- *A future subdivision development application will be required to comply with the ‘specifications and requirements’ of Planning for Bush Fire Protection 2006.*
- *The concept residential subdivision plan is not endorsed as part of their advice.*

In conclusion, the information supplied in regard to bushfire hazard is not considered to warrant amendment of the Planning Proposal.

Recommendation: *No further action or amendment required for Planning Proposal.*

The Office of Environment and Heritage submission, dated 27 August 2014, during the public exhibition, is provided in Attachment 6 and advised:

The Subject land does not appear to be within the urban growth area and must be in accordance with the Sustainability Criteria of the FNCRS.

“Although OEH supports the proposal in principle it emphasises that the deferral of the proposed E3 zone, the extent of studies to be completed after exhibition and the lack of consultation prior to exhibition has made specific comment on the subdivision detail difficult at this stage. OEH requests that Council consult further with OEH once these matters are resolved and concept planning or Development Control Planning is more advanced

In particular, OEH considers that the Concept Plan suggested in Attachment 2 of the Ecological Report (Planit Consulting, October 2010) and in the Structure Plan (Appendix A of the Planning Proposal) is not fully reflected in the zoning intent. OEH supports these plans since they provide adequate protection in conservation zones and public open space for isolated threatened and significant plants and the lowland rainforest Endangered Ecological Community in the south western corner of the planning area. OEH also supports the intent to rehabilitate those lands within the deferred area with suitable riparian vegetation.

However, the plans also recommend a wildlife corridor on steep slopes traversing the southern boundary of the site. OEH recommends that the E3 deferred area as shown on Figure 5 of the Planning Proposal be extended to include this corridor rather than zoning it R5 large lot residential.

OEH also notes that the northern part of the site is susceptible to flooding and is identified in Council's flood planning area maps (page 19 of proposal). The proposal indicates that fill will be imported to raise this area to mitigate flooding (page 30) however further consideration of cumulative impacts is intended to be addressed after exhibition. OEH recommends that Council be satisfied that this aspect has been satisfactorily addressed prior to the making of the LEP Amendment to ensure that downstream impact on existing residences and land is not adversely affected.”

A response to the submission was prepared by Parsons Brinkerhoff (the assessing consultants) as follows:

The intent of the Planning Proposal is to demonstrate the strategic merit of the proposal proceeding to the next stage of the plan-making process. This includes the resolution of zoning matters.

An independent review of environmental zones within five local government areas on the Far North Coast, including Tweed Shire Council, recommended draft criteria to the Minister for Planning for applying the E2 Environmental Conservation zone and the E3 Environmental Management zone in affected Standard Instrument LEPs. The Minister for Planning is yet to finalise this review.

A study prepared by the proponent (Preliminary Review of Terrestrial Flora and Fauna Values) identified the vegetation along the southern boundary as being very tall eucalypt open forest to woodland (E. Pilularis and mixed eucalypt species). The attributes of the area adjacent to the site's southern boundary do not appear to satisfy any of the draft criteria within the review of environmental zones. On this basis, and at this point in time with regard to the status of the environmental zones review, the most appropriate zoning for this area is considered to be R5 Large Lot Residential.

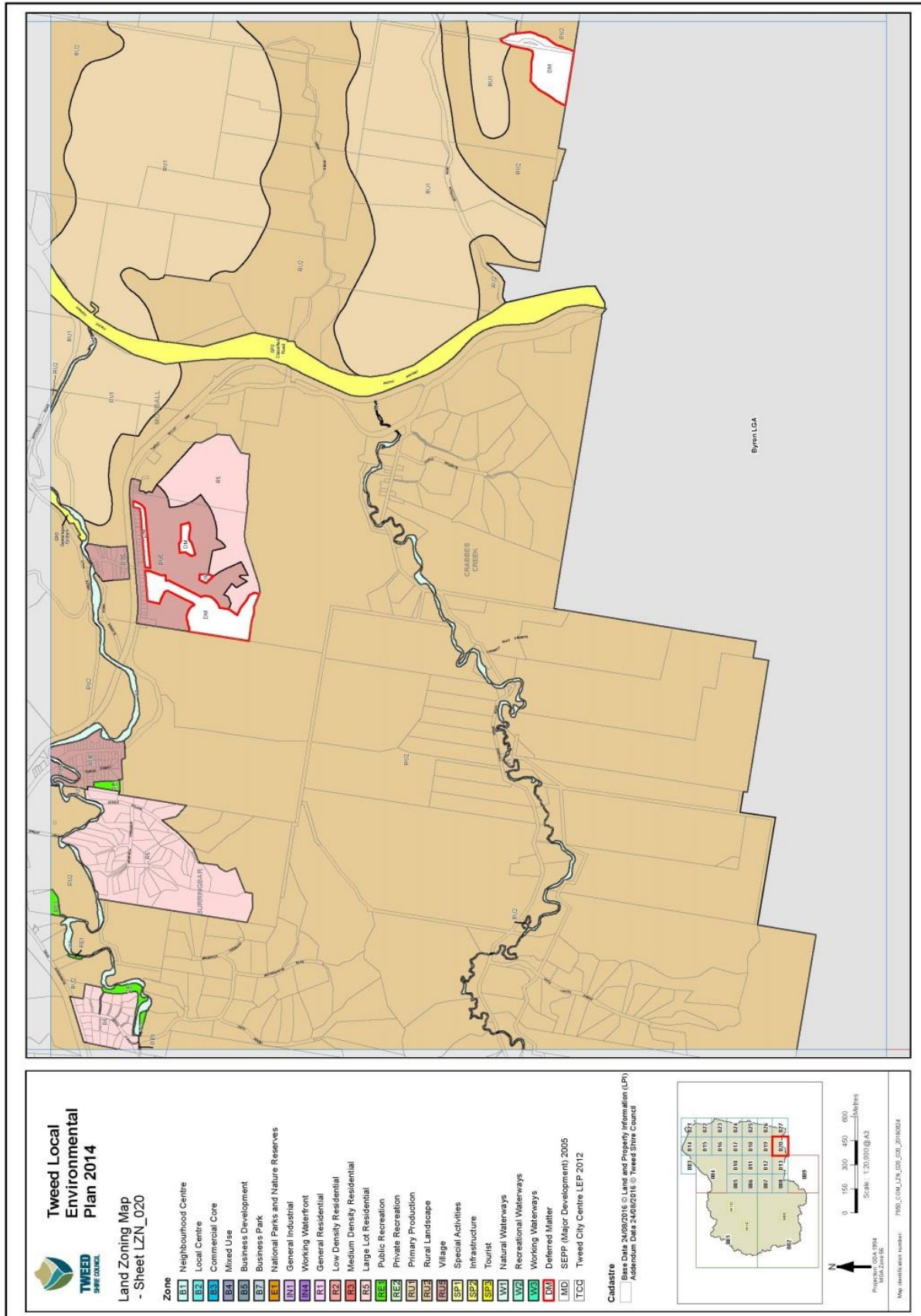
Areas of environmental significance over the site (in this instance, areas marked as ‘Deferred Matter’) may be captured through other means as enabled under the LEP's suite of available zones. It is understood this is addressed elsewhere by Council in a discussion on whether to make the plan.

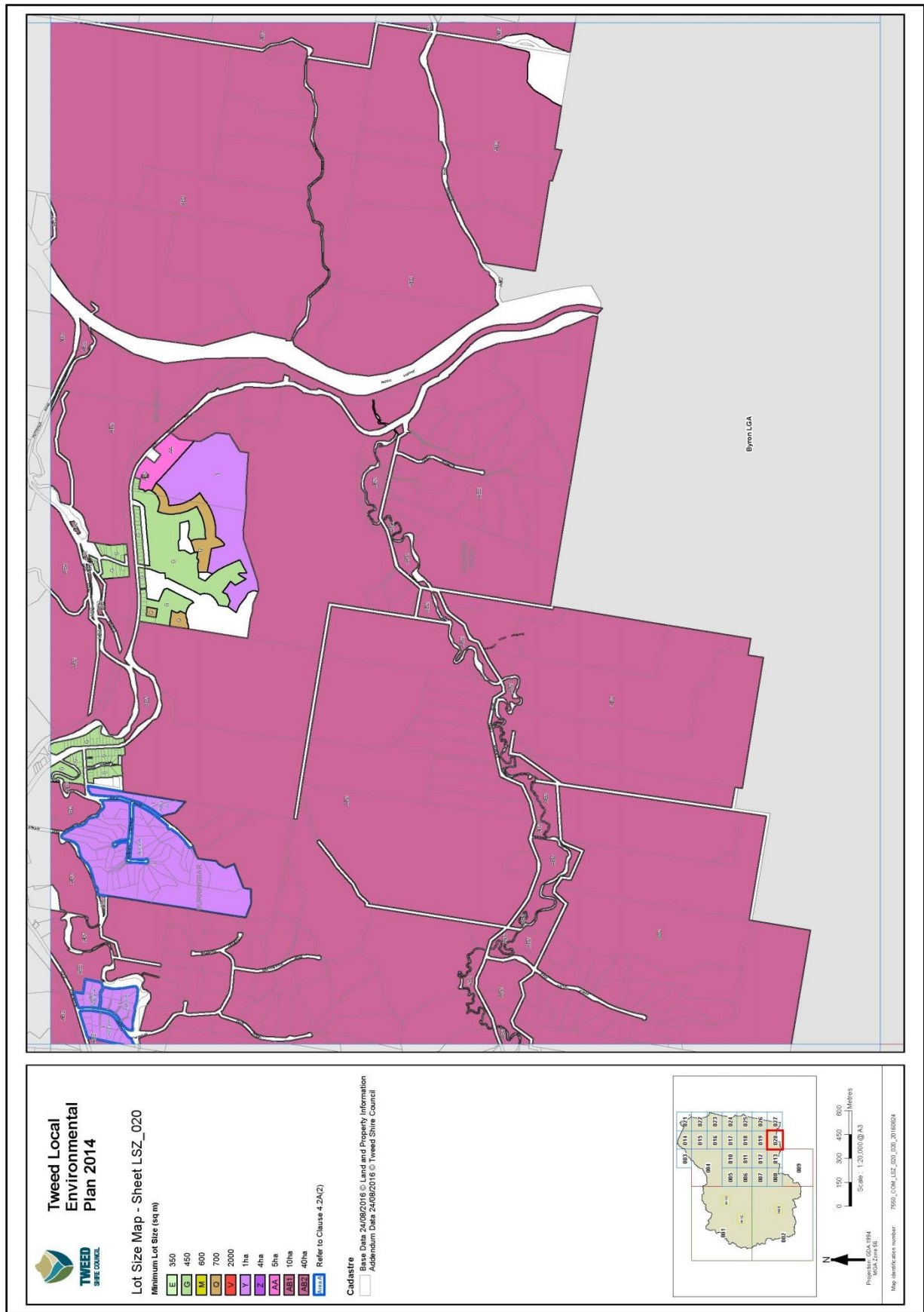
Recommendation: No further action or amendment required for Planning Proposal.

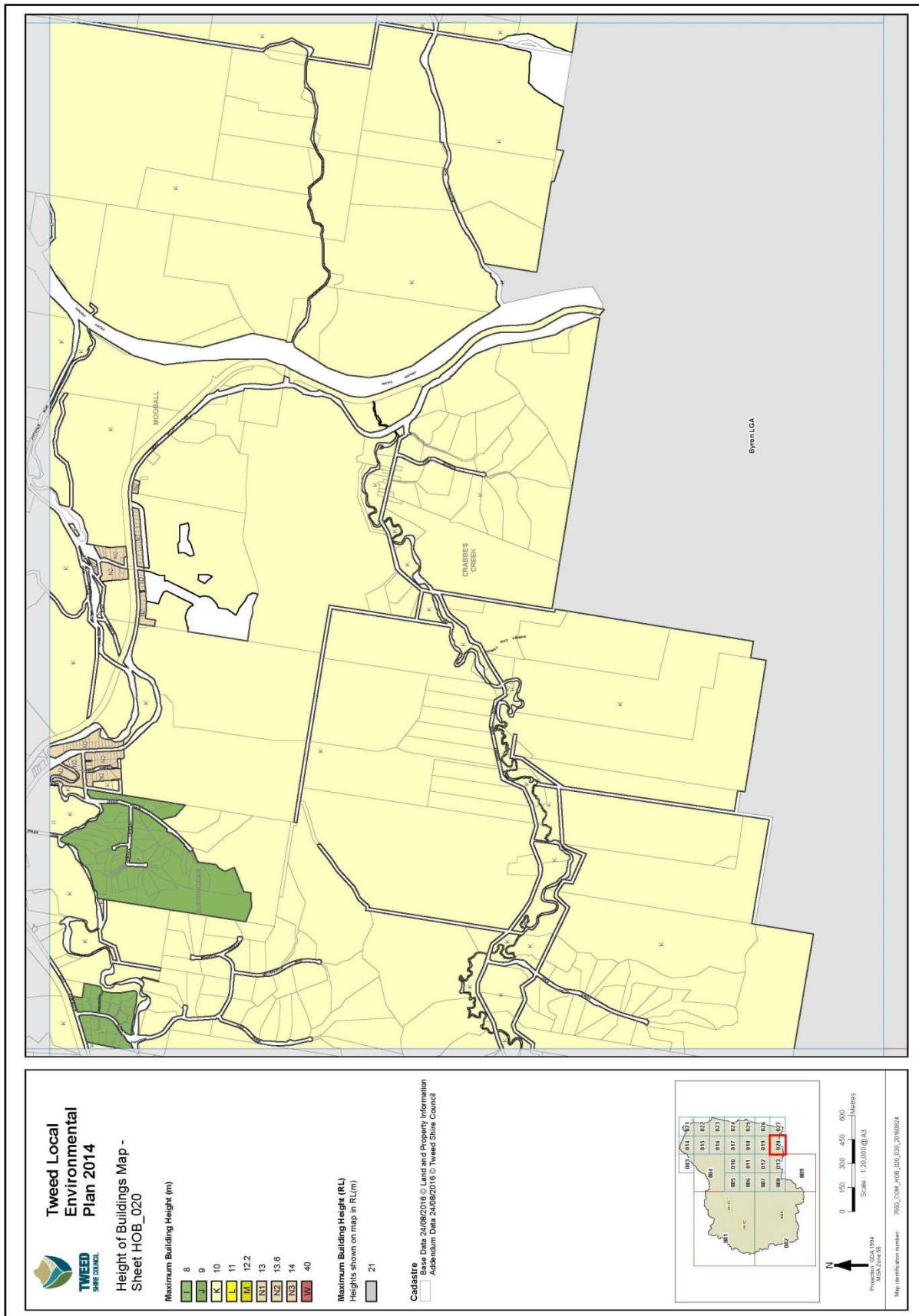
Subsequently to the public exhibition and submission period the DPE has finalised the review of E zones on the Far North Coast. Consistent with Council's approach for planning proposals, the areas of environmental significance have been deferred and will be reviewed again through an E zones planning proposal consistent with the DPE criteria framework.

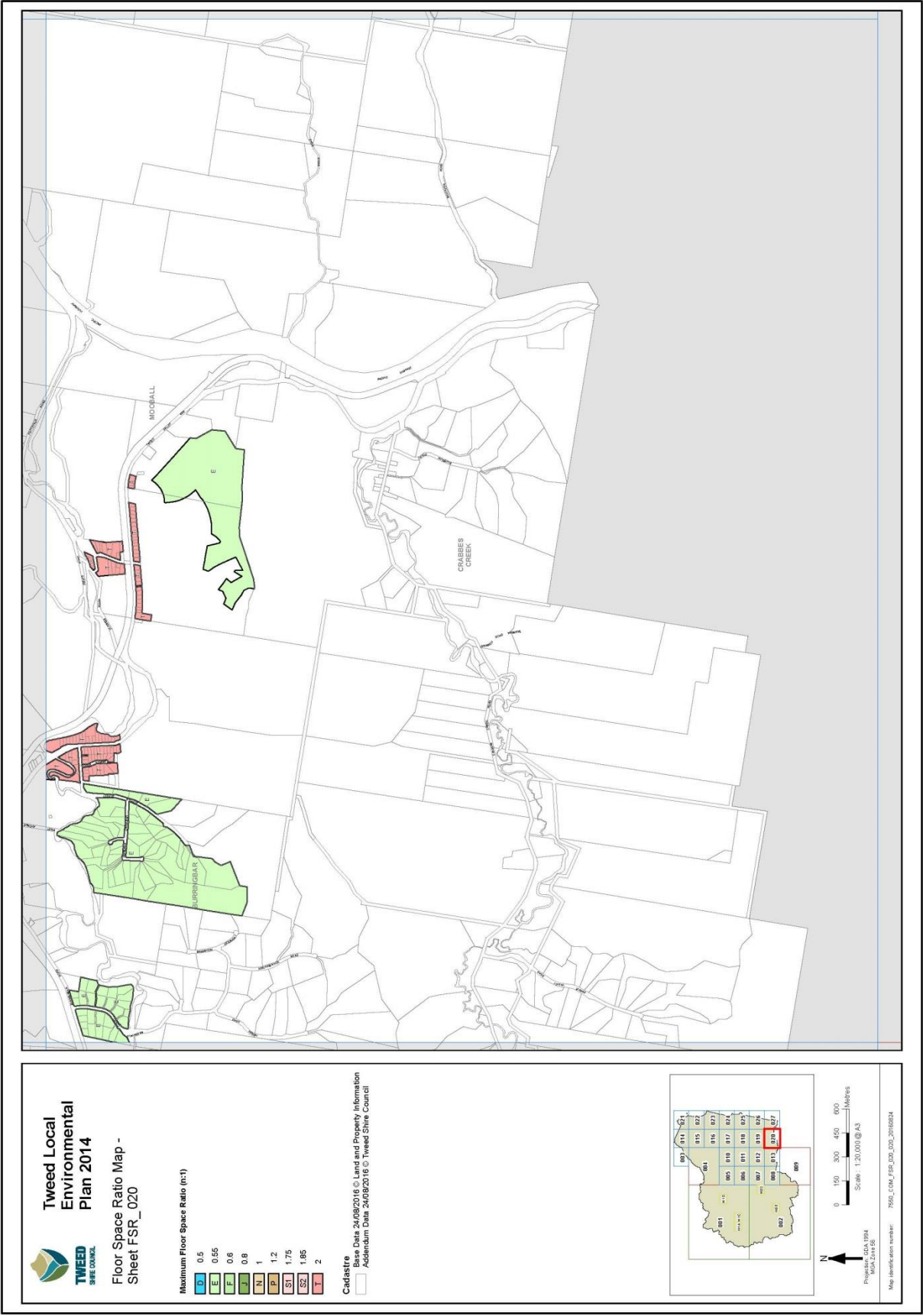
Part 4 Maps

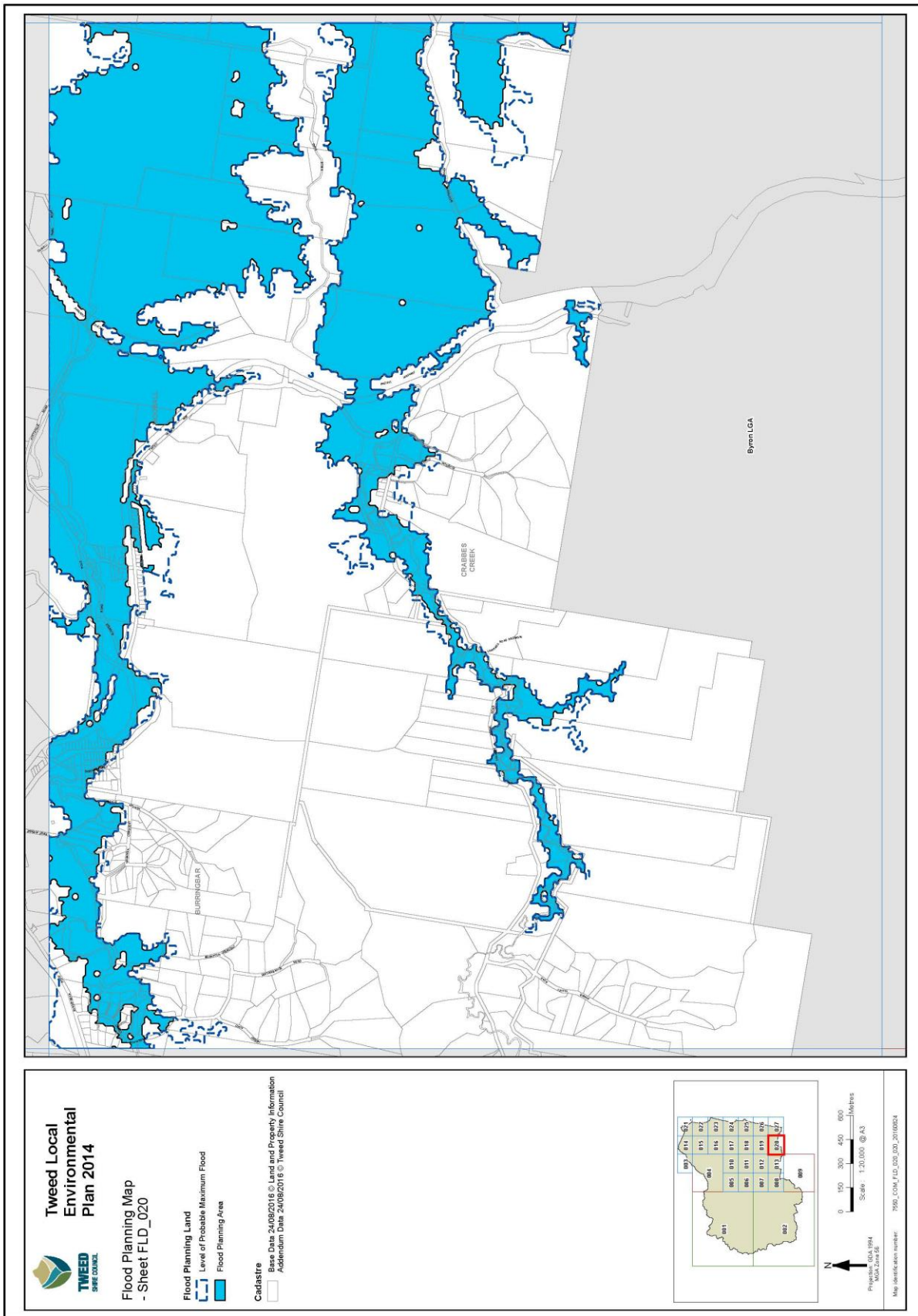
Statutory maps containing the proposed amendment to the Tweed LEP 2014 are contained following:

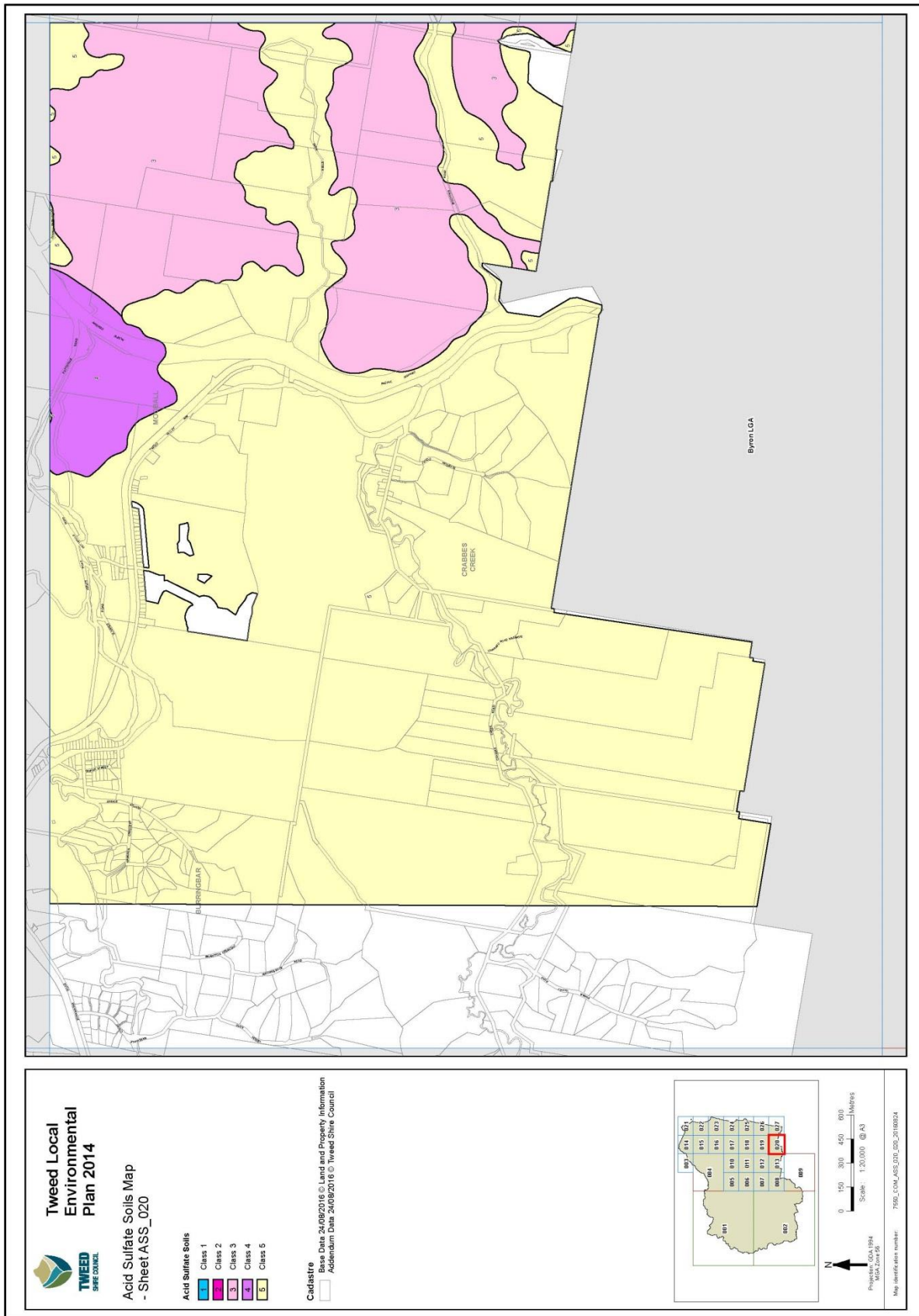












Part 5 Community Consultation

Assessment of Consultation Requirement

The Gateway Determination will specify the community consultation that must be undertaken on this Planning Proposal.

In accordance with the Gateway Determination (dated 1 May 2014 and as amended 1 May 2015 and 2 February 2016), the proposal was publicly exhibited from 30 July to 29 August 2014.

The planning proposal was referred to the NSW Rural Fire Service and the Office of Environment and Heritage as required. Submissions from the NSW RFS and OEH are provided in Attachments 5 and 6 respectively.

A total of 36 submissions were received, including the two state agency submissions. The submissions summary table is provided in Attachment 7.

The themes of rural land use and character were the key concerns raised. Council's response to the submissions and amendments to the planning proposal is outlined in the Attachment 7 and the Council report of 2 July 2015 (Attachment 2) and 22 August 2015 (Attachment 4).

Part 6 Project timeline and information checklist

Expected Timeframe Requirements

Upon receipt of a Gateway Determination (1 May 2014 and subsequent extensions dated 1 May 2015 and 2 February 2016), the breakdown of the anticipated work program follows in Table 7:

Table 7 Expected work program

Anticipated timeframe weeks(s)	Task(s)	Status
1	Review Gateway Determination	1 May 2014 and as extended 1 May 2015 and 2 February 2016
2 to 17	- Complete the Planning Agreement - Complete additional studies	Exhibited 18 May – 17 June 2016 Executed 26 July 2016
18 and 19	Prepare public exhibition materials	Completed July 2014
20 to 25	Undertake public exhibition	30 July – 29 August 2014
20 to 25	Undertake State agency consultation	30 July – 29 August 2014
25 to 31	Review submissions	Completed July 2015
31 to 40	Investigate necessary amendments and draft final Planning Proposal	Completed July 2015 – July 2016
41 to 46	Complete Council reporting	20 August 2015
47 to 48	Issue to NSW Planning and Environment for finalisation and publication of Planning Proposal	August 2016 (following execution of the VPA)

INFORMATION CHECKLIST**STEP 1: REQUIRED FOR ALL PLANNING PROPOSALS***(under s55 (a)-(e) of the EP&A Act)*

- | | |
|--|--|
| <ul style="list-style-type: none"> Objectives and intended outcome Mapping (including current and proposed zones) Community consultation (agencies to be consulted) | <ul style="list-style-type: none"> Explanation of provisions Justification and process for implementation (including compliance assessment against relevant Section 117 Direction/s) |
|--|--|

STEP 2: MATTERS – CONSIDERED ON A CASE BY CASE BASIS*(Depending on complexity of planning proposal and nature of issues)*

PLANNING MATTERS OR ISSUES	TO BE CONSIDERED	N/A	PLANNING MATTERS OR ISSUES	TO BE CONSIDERED	N/A
Strategic Planning Context			Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining)	✓	
Demonstrated consistency with relevant Regional Strategy	✓		Sea level rise		✓
Demonstrated consistency with relevant Sub-regional, Strategy		✓	Urban Design Considerations		
Demonstrated consistency with or support of relevant DG endorsed local strategy		✓	Existing site plan (buildings, vegetation, roads, etc)	✓	
Demonstrated consistency with Threshold Sustainability Criteria	✓		Building mass/block diagram study (changes in building height and FSR)	✓	
Site Description / Context			Lighting impact		✓
Aerial photographs	✓		Development yield analysis (potential yield of lots, houses, employment generation)	✓	
Site photos / photomontage	✓		Economic Considerations		
Traffic and Transport Considerations	✓		Economic impact assessment		✓
Local traffic and transport	✓		Retail centre hierarchy		✓
TMAP			Employment land		✓
Public transport	✓		Social and Cultural Considerations		
Cycle and pedestrian movement	✓		Heritage Impact		✓
Environmental Considerations			Aboriginal archaeology	✓	
Bushfire hazard	✓		Open space management	✓	
Acid Sulphate soils	✓		European archaeology		✓
Noise impact	✓		Social & cultural impacts	✓	
Flora and/or fauna	✓		Stakeholder engagement	✓	
Soil stability, erosion. Sediment, landslip assessment, and subsidence	✓		Infrastructure Considerations		
Water quality	✓		Infrastructure servicing and potential funding arrangements	✓	
Stormwater management	✓		Miscellaneous / Additional Considerations Undertaken		
Flooding	✓		Concept masterplan		

• Traffic and access Report			• Aboriginal Cultural Heritage Due Diligence		
• Geotechnical and slope stability Assessment			• Ecological Report		
• Visual analysis			• Engineering		
• Community Benefit Statement			• Concept Stormwater and Sewer Assessment		
• Contaminated Land Assessment and Update					

Summary and Conclusions

The Planning Proposal involves an expansion of the existing Mooball village footprint, by rezoning Lot 2 DP 534493 and Lot 7 DP 593200 Tweed Valley Way, Mooball. Parts of the site are to be zoned for village purposes (RU5) and large lot residential (R5), whilst ecologically significant areas proposed to be zoned for environmental protection have been deferred. The balance of the site is to be generally zoned for rural purposes (RU2), including an area around Lot B in DP419641 with this lot not forming part of the Planning Proposal.

The site is located directly adjacent to the existing Mooball village, and is identified as a potential urban area within Council's Tweed Urban and Employment Land Release Strategy.

The Planning Proposal complies with the high level strategic provisions, and through the provision of detailed documentation at the Development Application stage, will have the ability to comply with detailed provisions pertaining to the site. Inconsistencies with section 117 Directions 1.2, 1.5, 4.3 and 4.4 are justified, and in the case of 4.4, can be resolved through consultation with the NSW Rural Fire Service.

A Voluntary Planning Agreement (VPA) has been executed 26 July 2016 following public exhibition, as provided in Attachment 8. The VPA places commitment on a range of further information and requirements, including:

- addressing wastewater infrastructure;
- revegetation works (including buffering to Lot B);
- further assessment of Aboriginal cultural heritage significance (test pits);
- A Bushfire Hazard Assessment;
- A Geotechnical and Slope Stability Assessment;
- A Flood Impact Study; and
- Development design guidelines.

The VPA requires registration to title commitments (Part 8), which at the time of writing have not been met. It is the preference of Council that the rezoning not be made until such time as the applicant has provided evidence of the registration commitments of Part 8.

Subject to the above the planning proposal is considered suitable for making.

Attachment 1 – Copy of Council Resolution 21 November 2013

Attachment 2 – Copy of Council Report 2 July 2015

Attachment 3 – Copy of Council report 6 August 2015

Attachment 4 – Copy of Council report 20 August 2015

Attachment 5 - NSW Rural Fire Service submission

Attachment 6 – Office of Environment and Heritage submission

Attachment 7 – Voluntary Planning Agreement

Attachment 8 – Copy of Council report on the VPA 21 July 2016