TWEED SHIRE COUNCIL MEETING TASK SHEET

User Instructions

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

Action Item - PLANNING COMMITTEE MEETING Thursday, 9 April 2015

Action is required for Item 8 as per the Planning Committee Recommendation outlined below.

ATTENTION: PLEASE NOTE THE ADOPTION OF THE COMMITTEE RECOMMENDATIONS BY COUNCIL AT ITS MEETING HELD Thursday, 9 April 2015 (Minute No 192 Refers)

TITLE: [PR-PC] PP10/0005 Hundred Hills, Murwillumbah Planning Proposal - Lot 1 DP 1046935 Old Lismore Road, Murwillumbah (Subject Site) and Housekeeping Review of the Hundred Hills Release Area

Cr P Youngblutt Cr W Polglase

RECOMMENDED that:

- 1. The Housekeeping review amendments as discussed within this report be included within the Planning Proposal PP10/0005;
- 2. The Planning Proposal PP10/0005 be referred to the NSW Planning and Environment for a Gateway Determination, in accordance with s56 of the *Environmental Planning and Assessment Act, 1979*;
- 3. The Minister for Planning and Environment be advised that delegation of the Plan making functions will not be sought in this instance; and
- 4. The planning proposal be publicly exhibited, where required in accordance with the Gateway Determination or for a period of not less than 28 days where the Gateway Determination is less than this time.

The Motion was **Carried**

FOR VOTE - Cr B Longland, Cr G Bagnall, Cr C Byrne, Cr W Polglase, Cr P Youngblutt AGAINST VOTE - Cr K Milne ABSENT. DID NOT VOTE - Cr M Armstrong TITLE: [PR-PC] PP10/0005 Hundred Hills, Murwillumbah Planning Proposal - Lot 1 DP 1046935 Old Lismore Road, Murwillumbah (Subject Site) and Housekeeping Review of the Hundred Hills Release Area

SUBMITTED BY: Strategic Planning and Urban Design

FILE REFERENCE: PP10/0005 Pt3



LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

1	Civic Leadership
1.5	Manage and plan for a balance between population growth, urban development and environmental protection and the retention of
	economical viable agriculture land
1.5.1	Sustainable management of the population in accordance with strategic decisions of previous councils, the NSW and Commonwealth
	Governments and the Far North Coast Regional Strategy, including provision of amenities, infrastructure and services

SUMMARY OF REPORT:

This report has a dual and related purpose. Firstly, it is a status report on the progress of Planning Proposal PP10/0005 for "Hundred Hills" and in particular the conclusions of the additional studies underpinning it. Secondly, is the inclusion of further rezoning amendments arising from a locality specific LEP 'housekeeping' review, which can be readily incorporated into the planning proposal without additional cost or impost on the proponent.

The Planning Proposal has now reached a stage in the evaluation where it is suitable for a Gateway Determination referral, which will enable the Department of Planning and Environment (DP&E) to evaluate the proposal and if appropriate issue a conditional determination notice. The planning proposal recommends public exhibition and if endorsed by DP&E will commence at the earliest time, for a period not less than that recommended in this report at 28 days.

In respect of the Proponent's request their land is recommended from a current zoning of R5 Large Lot Residential to R2 Low Density Residential, consistent with the development pattern emerging through the development of adjoin housing estates.

Council's endorsement for the additional rezoning and referral of the Planning Proposal to the DP&E for a Gateway Determination, and subsequent public exhibition, is sought.

RECOMMENDATION:

That:

- 1. The Housekeeping review amendments as discussed within this report be included within the Planning Proposal PP10/0005;
- 2. The Planning Proposal PP10/0005 be referred to the NSW Planning and Environment for a Gateway Determination, in accordance with s56 of the *Environmental Planning and Assessment Act, 1979*;
- 3. The Minister for Planning and Environment be advised that delegation of the Plan making functions will not be sought in this instance; and
- 4. The planning proposal be publicly exhibited, where required in accordance with the Gateway Determination or for a period of not less than 28 days where the Gateway Determination is less than this time.

REPORT:

Background

The Hundred Hills Planning Proposal PP10/0005 (the Proposal) was lodged with Council in August 2010 and initially reported to Council 19 October 2010, at which time Council resolved:

- "1. As the relevant planning authority (RPA), prepares a planning proposal for the site identified as Lot 1 DP 1046935 Old Lismore Road, Murwillumbah; and
- 2. Endorses the Planning Reforms Unit (PRU) to enter into dialogue with the landowners of Lot 1 DP 1046935 regarding the relevant supporting documentation and technical assessment to satisfy the RPA's requirements for preparing a planning proposal for subsequent lodgement of a planning proposal with the Department of Planning for a Gateway Determination."

As part of the preparation of the planning proposal it was identified that part of the adjoining lot (in the same ownership) had been omitted from the planning proposal and should have been included. This matter was reported to Council 19 July 2011, at which time Council resolved:

"1. That Planning Proposal PP01/0005 for Lot 1 DP 1046935 Old Lismore Road, Murwillumbah be amended to include that part of Lot 279 DP 1145129 currently zoned 1 (c) Rural Living, as shown on Map 3 within this [that] report."

A Memorandum of Understanding (MOU) to guide the scope and outcomes of the required additional studies was developed and signed by both parties in August 2011. The project then stalled, as was reported to Council a number of times within the Strategic Planning and Urban Design Unit (SP&UD). A report on the slow progress of the Proposal was considered by Council at the meeting of 4 September 2014, at which time Council resolved (in part):

"1. Council defers consideration of the Officers' recommendation to discontinue Planning Proposal PP10/0005 Hundred Hills, Murwillumbah until the October Planning Committee meeting."

Project update - the Proponent's Rezoning Request

The proponent has indicated a commitment to proceeding with this planning proposal within a timely manner and has subsequently lodged all required draft additional reports.

The study requirements of the MOU have now been submitted and included the following:

- Traffic: Castlefield Drive extension assessment;
- Geotechnical, engineering and stormwater;
- Flora and fauna;
- Aboriginal cultural heritage due diligence; and
- Contaminated land assessment.

Map 1 Locality plan - subject site shown edged in black and housekeeping review lots shown hatched.



Locality Plan Planning Proposal PP10/0005 -- Hundred Hills, West Murwillumbah





Map 2 Location of the sites proposed to be amended under this planning proposal with the subject site shown edged in black and housekeeping review lots shown hatched overlaid with the LEP 2014 current zoning.



Previously the planning proposal was extended to include both Lot 1 DP 1046935 (the subject site) and part of Lot 279 DP 1145129 to capture a slither of rural land which otherwise would have remained as rural 1(c) due to boundary alignments between the cadastre and the zoning layers. Under the LEP 2014, Lot 279 was zoned R1 General Residential as a translation of the previous 2(c) Urban Expansion zone. This included the slither of land to align with the property boundary.

The Proponent's request is for an R1 General Residential zoning, and related development controls, to enable a development consistent with existing and emerging development in the area.

The subject site, as shown on Map 1 above, is about 25 hectares and is currently zoned R5 Large Lot Residential under the Tweed LEP 2014. The neighbouring land to the North, East and South-east comprises residential housing, whereas to the West and South-west is zoned RU2 Rural Landscape as shown in the Planning Proposal, which is provided as Attachment 1 to this report.

General context review of the subject site

Far North Coast Regional Strategy

The subject site is not within but adjoins the Town and Village Growth Boundary of the Far North Coast Regional Strategy (FNCRS) and is not within but adjoins Potential Urban Release Area 3 - Byangum. Further urban release areas are also identified to the west of the site. The site is currently a residential land classification; however, the site also requires the additional sustainability assessment under the FNCRS requirements. This is outlined in the attached Planning Proposal.

Flood prone land

A small area of the southern section of the site is subject to the Flood Planning Area of the LEP 2014. As opposed to engineering an alternate stormwater system and filling the land, it is proposed to support the natural system and keep the area free of urban development.

Notwithstanding, at this time the site is proposed to be zoned as residential as the boundary of the zones is not yet adequately determined and will be through a future DA. As has occurred in the adjoining Hundred Hills release area, the zoning of this area is likely to be amended at a future stage.

Bushfire prone land

The site is not subject to bushfire prone land under the 2012 mapping, however, does adjoin bushfire prone land to the west, with vegetation along the western boundary. Appropriate asset protect zones (APZ) are to be applied to lots along the western and southern boundaries. The APZ will need to be carefully integrated with the requirements of the bulk earthworks in this locality, as discussed in the following section on additional studies.

The site is largely clear of vegetation with some scattered trees within the site and clusters of camphor laurel along the western boundary. A number of Davidson's Plums (*Davidsonia jersyeana*), are located on the site. This is addressed under the following additional studies section.

Rural land

Urban expansion is proposed through Areas 2 and 3 of the Tweed Urban and Employment Land Release Strategy (TUELRS). Notwithstanding, the site adjoins rural land to the west and south. Conflict has the potential to arise with the interface of rural land and residential development.

The *Living and Working in Rural Areas* publication by the NSW Department of Primary Industries nominates a minimum separation buffer of 50m to the rural land uses, which is to be provided within the land to be developed. Whilst this is not proposed to be a zoned buffer, the need for minimising rural land conflict will be a consideration at the future development application stage. This is likely to correlate with the APZ to the western boundary.

Heritage

There are no heritage items on or in the vicinity of the site.

Additional studies undertaken

In accordance with the requirements of the Memorandum of Understanding the following additional studies have been prepared to inform the suitability of the planning proposal.

Aboriginal cultural heritage

An Aboriginal Cultural Heritage Due Diligence Assessment (ACHDD), by Everick Heritage Consultants (Sept 2013) has been prepared to accompany the application. This report finds there is no known Aboriginal cultural heritage, though the site is identified as having potential Aboriginal cultural heritage through the preliminary work of the draft Aboriginal Cultural Heritage Management Plan.

The ACHDD recommends appropriate management, including: site monitoring and cultural inductions as part of future works and appropriate stop work procedures should remains or cultural material be revealed.

The proposal has been considered by the Aboriginal Advisory Committee (AAC) on a number of occasions who have no major objection and have requested that the developers understand that the Tweed Byron Aboriginal Land Council (TBALC) are to be advised prior to any disturbance to enable monitors on site. This should be a requirement of future development applications.

Flora and Fauna

A Terrestrial Flora and Fauna Assessment by Planit Consulting, dated August 2012 has been prepared.

The site is largely modified and cleared, however, contains remanent vegetation and rainforest species. No koala habitat was identified on the site.

Davidson's Plums (*Davidsonia jersyeana*), are located on the site. *Davidsonia jersyeana* is listed as Endangered under both the NSW Threatened Species Conservation Act, 1995 (TSCA) and the Commonwealth Environmental Protection and Biodiversity Conservation Act, 1999 (EPBCA). The Flora and Fauna assessment provides a Davidson's Plum Management Plan, which covers the wider Hundred Hills release area, and proposes a balance of retaining some trees on site and translocating others. There are four juvenile stems within this subject site proposed to be translocated under the Implementation of a Habitat Restoration Management Plan. The management plan concludes that, subject to following the recommendations, the success rate is high and the local population of the species will be retained.

Council's Natural Resource Management Unit (NRM) accepts the Flora and Fauna Assessment as meeting the requirements of the MOU.

Geotechnical, engineering and stormwater

The subject site is steep with gradients ranging between less than 8 degrees on the southern boundary to greater than 18 degrees through the northern half of the site.

A Geotechnical Investigation by Geotech, dated December 2014, Bulk Landforming Report by Mortons, dated February 2015 and Conceptual Stormwater Management Report by Gilbert and Sutherland, dated December 2014 have been prepared.

The bulk earthworks study identifies a significant batter interface, of up to 12 metres, along the western boundary between the future internal site roads (Springbrook Avenue and Sisters Place). A planning proposal process does not endorse future subdivision lot layout, rather it uses this indicative layout in order to assess impact. With this in mind the studies are considered suitable for the purpose of public exhibition and rezoning. However, given the earthworks proposed, the proposed lot layout, particularly for the western boundary, will need to be reviewed as part of further development to ensure that the lot arrangement, size and tenure is appropriate to accommodate the competing requirements of land/slope management, drainage and asset protection zones.

The planning proposal seeks a minimum lot size control of 450m², being the typical minimum lot size used by Council for urban zones. Whilst 450m² is being pursued at this stage, further analysis is being requested providing an assessment of lot size to slope matrices to ensure the ultimate minimum lot size pursued can accommodate a complying dwelling design, particularly for lots south of the internal Sisters Place.

The Conceptual Stormwater assessment demonstrates a level of confidence that flooding or stormwater runoff to surrounding development will not be impacted. Notwithstanding, additional assessment will be required at the future development stage to further manage potential water quality impacts, particularly for the area east of the Castlefield Drive extension.

With this in mind, it is noted that the final subdivision layout will need to respond to the constraints and that this will likely result in a review of the minimum lot size, arrangement of the lots and tenure of the constrained land and potentially fewer lots than proposed.

Castlefield Drive extension

A traffic assessment of the Castlefield Drive extension was undertaken by Cardno (Dec 2012). This report identifies the road widening of part of Castlefield Drive, extension through the site to join Old Lismore Road and Sovereign Way, closure of the portion of Old Lismore Road (between Sovereign Way and Oakbank Terrace) to form a pedestrian and cycleway link and left in/left out restrictions at the intersection of Old Lismore Road and Tyalgum Road. These traffic modifications are consistent with the Tweed Development Control Plan 2008 Section B6 Murwillumbah West and will improve the safety of Old Lismore Road.

The Castlefield extension is consistent with Council's road network and planning and the assessment identifies that the intersections in the locality will continue to operate within appropriate thresholds.

Contaminated land

SEPP 55 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.

A Contamination Assessment, by Gilbert and Sutherland (November 2012) was prepared.

The report finds that a small part of the site has been remediated, the soil sampling over the balance of the site has not identified any other potentially contaminating activity and that the site is suitable for its intended residential use.

Proposed LEP amendments

The proponent submitted a request for the use of the 2(c) Urban Expansion zone (as the previous Tweed LEP 2000 was in effect at that time) or the R1 General Residential zone under the Standard Instrument Order (Local Environmental Plans) 2006.

This request has been reviewed by Council's project team, concluding that the zone objectives of the R2 Low Density zone better encompassed the site conditions, desired built form and character extension of the existing residential estate. Whilst the R1 General Residential zone, is considered predominately suitable, it is not considered the ideal zone as it permits Residential Flat Buildings, as well as encouraging tourist accommodation and related facilities. In light of the site constraints, those more intensive kinds of land use are not preferred.

The R1 General Residential zone was applied as a translation of the 2(c) Urban Expansion zone of the LEP 2000 to areas under development but not yet finalised. Under the methodology of the LEP 2014 preparation, areas previously zoned 2(c) and developed in a low density residential form were translated as R2 Low Density Residential to better reflect their form and land uses. Applying the R2 zone is consistent with this methodology. This is discussed further in the following section on "housekeeping review lots".

Further, when considering the site attributes, namely its slope, immediate proximity to adjoining rural landscape pursuits and the approximate walking distance of 2 kilometres to the nearest local centre (Bray Park), the suite of permitted land uses within the low density zone are consider the most appropriate for the site.

For the purposes of the Gateway Determination the planning proposal seeks a minimum lot size control of 450m², being the typical minimum lot size used by Council for urban zones. As noted above, additional review of the minimum lot size(s) is to be undertaken.

The maximum floor space ratio is required to be increased to facilitate the range of permissible development types within the zone, namely as an increase in development potential and a decrease in minimum lot size will result from the desired zone change. A maximum floor space ratio of 0.8:1 is used widely throughout R2 Low Density zone within the Tweed Shire and has been derived from extensive urban design testing.

The maximum height of building is currently 9 metres. As this is consistent with the surrounding low density residential development it is proposed to retain the maximum building height without amendment.

Council originating 'housekeeping' zoning amendments

As discussed earlier in this report, the R1 General Residential zone was applied as a translation of the 2(c) Urban Expansion zone, which existed prior to the standard instrument LEP 2014. The surrounding Hundred Hills 'release area' was for urban expansion to facilitate its transition from rural lands to a viable residential suburb.

The 2(c) zoning, and to a lesser extent the R1 zoning, permits a very wide range of landuses, specifically tailored for use with larger Greenfield urban release sites where the ultimate development was not known in advance, but would likely comprise a broad range of development to service the new population; such as schools, parks, and employment development.

The future development of the subject site and approved residential housing estates is fairly well understood and is not planned to include those broader uses, consequently there is no longer a need or justification to maintain an urban expansion zone. The R2 Low Density Residential zoning provides for a much better and closely related zoning.

Given that the emerging development pattern is low density residential development and areas for other uses is well understood and set aside it is appropriate to review the current zoning and where appropriate bring about greater consistency with the application of the zones under the LEP. This planning proposal represents a good opportunity for the housekeeping amendments because it provides the local area context within which the land uses and scale of development has and is occurring.

For reference, the key difference between the R1 and R2 residential zones is one of scale and intensity. Unlike the low density zone the R1 zoning permits *Residential Flat Buildings, Tourist and Visitor Accommodation, and certain kinds of commercial premises.* When considering the site attributes as discussed above the suite of permitted land uses within the low density zone are consider the most appropriate for this locality.

The proposed amendments are termed "housekeeping review lots" and are as shown on Map 1 and Map 2. Amendments include the adjoining roadways consistent with the methodology of the LEP 2014. The proposed amendments are also discussed in the attached planning proposal, which may be summarised as:



Tweed Local Environmental Plan 2014 - CURRENT LAND ZONING Pervisig Proposition PP100005 - Hundred Hitk, West Nurvillandbat Behaviore Hau Let 19 P100015 - Hundred Hauter

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Subject site proposed zoning



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Group 1: Currently zoned R1 General Residential: Proposed to be zoned R2 Low Density Residential with 9m height of buildings; and 0.8:1 floor space ratio, consistent with the surrounding residential areas.

- 1. Lot 418 DP 1199804, currently owned by the same owner of the subject site (Stocklands PTY LTD) and approved for low density residential development.
- 2. Lot 9 DP1064245 off Old Lismore Road which is a large privately owned lot containing a single dwelling.
- 3. Lot 3 DP1104945 off Old Lismore Road which is a large privately owned lot containing a single dwelling.
- 4. 106 individually owned lots comprising both vacant land and single dwellings.
- 5. Lot 213 DP 1195219 owned by Tweed Shire Council.

Group 1 current zoning









Tweed Local Environmental Plan 2014 - PROPOSED LAND ZONING Planning Proposed PP100005 -- Hundred Hits, West Manufacturate



Group 2: Currently zoned R1 General Residential; proposed to be zoned B1 Neighbourhood Centre with no minimum lot size, a 13.6m height of buildings and a 2:1 floor space ratio. This reflects the nomination of a neighbourhood centre within the Tweed DCP Section B6 West Murwillumbah, will permit the approved childcare centre, and will, if required, allow other neighbourhood centre uses.

6. Lot 309 DP1170179 which has a current consent for a childcare centre.





Group 2 proposed zoning



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Group 3: Currently part lots zoned R1 General Residential and part RE2 Private Recreation: proposed to be fully zoned R2 Low Density Residential with a 450m2 lot size; 9m height of buildings; and 0.8:1 floor space ratio, consistent with the surrounding residential areas.



7. 11 lots in Riverbend Way and Point Lookout Chase.

Group 4: Currently part lot zoned R2 Low Density Residential and part RE2 Private Recreation: proposed to be fully zoned R2 Low Density Residential with a 450m2 lot size; 9m height of buildings; and 0.8:1 floor space ratio, consistent with the surrounding residential areas.

- 8. 4 lots in Point Lookout Chase.
- 9. 5 lots in Auro Court.

Group 4 current zoning





Planning Process PP10/0005 Hundred Hills, West Murwillumbah
Subject Sile - Lot 1 DP 1045935 and housekeeping review sites

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Group 5: Currently zoned RE2 Private Recreation: proposed to be fully zoned RE1 Public Recreation with no lot size; 10m height of buildings; and no floor space ratio, consistent with the surrounding public recreation areas.

10. Lots now owned by Tweed Shire Council including Lot 62 DP1119104; Lot 166 DP1159786; Lot 61 DP1119104; Lot 63 DP1119104.

The following lot within the Hundred Hills release area will remain as R1 General Residential and retain the current development standards.

• Lot 3 DP733865 and DP 70168 which are both crown land and contains a church and associated accommodation.

Group 5 also picks up one small section of R2 land and two small sections of R1 zoned land to tidy up the zone boundaries which do not match the cadastre.



These changes are seen to be minor as they reflect the actual use of the land. Whilst the housekeeping review amendments could be the subject of a separate planning proposal, including them within this planning proposal not only reduces the duplication of information, it also provides a greater contextual understanding of the type of development occurring within the locality, the suitability of both the proposed amended zoning and development standard for the subject site and the housekeeping review lots within the context of the LEP 2014 preparation methodology and is consistent with the Department of Planning and Environment guidelines.

Whilst consultation with the affected land owners has not occurred to date, all owners of affected properties will be directly notified by mail of the proposed changes during the public exhibition period.

OPTIONS:

That:

- 1. Council proceeds with the planning proposal for the subject site and the housekeeping review lot amendments by referring the proposal to the DP&E for a Gateway Determination; or
- 2. Council proceeds with the planning proposal for the subject site only at this time and refers the proposal to the DP&E for a Gateway Determination; or
- 3. Council defers the matter for further information.

Option 1 is recommended as this facilitates both the proponent's request and, within the Hundred Hills locality context, the housekeeping amendments.

CONCLUSION:

The additional assessments for the subject site (Lot 418 DP1046935) have been completed and used to inform the planning proposal for referral to the Department of Planning and Environment (DPE) for a Gateway Determination. The proposed zoning of the site for low density residential (R2) is consistent with the surrounding land uses and the sustainability criteria of the Far North Coast Regional Strategy. The supporting studies find that the future development of the subject site for low density residential use is suitable.

Due to the steepness of the subject site it is recommended further lot arrangement and lot size analysis be undertaken, prior to finalising the planning proposal and based on lot size to slope matrices to ensure the ultimate minimum lot size pursued can accommodate complying dwelling design.

In addition, a review of the wider Hundred Hills release area seeks to include a number of housekeeping amendments within the planning proposal to ensure a consistent approach to the application of the residential zones and better reflect the actual land uses of some sites.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable.

b. Budget/Long Term Financial Plan:

The continuation of the subject site planning proposal is on a cost recovery basis under a Costs Agreement. Housekeeping aspects of the proposal outside of the subject site will be undertaken within the Strategic Planning and Urban Design budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Consult - We will listen to you, consider your ideas and concerns and keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Hundred Hills Planning Proposal Version 1 LEP Amendment Number 13 (ECM 3623135)