

Planning Proposal for Hundred Hills
Lot 1 DP 1046935 Old Lismore Road, Murwillumbah (subject site)
and housekeeping review of the Hundred Hills release area
Draft LEP Amendment Number 13

March 2015 - File PP10/0005

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Introduction

Purpose

This planning proposal has been prepared by Tweed Shire Council to facilitate a westward extension to an existing low density residential development area of Murwillumbah, known as 'Hundred Hills'.

The origins of the Planning Proposal stem from a landowner submitted request for a planning proposal being received by Tweed Shire Council. Council formally resolved on 19 October 2010 to amend the then applicable Local Environmental Plan, the Tweed Local Environmental Plan 2000 (Tweed LEP 2000), as follows:

Resolved that Council:

- 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 a dialogue with the landowner of Lot 1 DP 10469357 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 gateway determination.*

Since the abovementioned resolution, the proponent has commenced the preparation of various supporting studies, including:

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

In addition to the supporting studies, Council has since implemented its Standard Instrument Order Local Environmental Plan for the Shire, being the Tweed Local Environmental Plan 2014 (Tweed LEP 2014). Council commenced preparation of its Tweed LEP 2014 in 2006, which was based on a 'best fit translation' of existing Tweed LEP 2000 provisions into the Standard Instrument Template. Given the significant timeline in preparing the Tweed LEP 2014, a number of surrounding lots were developed during the plan preparation and more suitable statutory provisions should be pursued for those previously greenfield sites, particularly where the 'Urban Expansion' zone was used. Accordingly this planning proposal also seeks to ensure a complementing statutory framework to development now constructed within the Hundred Hills estate to better reflect the land uses of the locality.

Part 1 Objectives and intended outcomes

Objective

This planning proposal explains the intent and sets out the justification for a Local Environmental Plan (LEP) amendment to expand the residential development footprint of the Hundred Hills to the west and undertake various housekeeping within the locality.

Intended outcome

To facilitate:

- The western expansion of the Hundred Hills residential estate.
- A statutory framework that reflects the current built environment throughout the existing Hundred Hills estate.

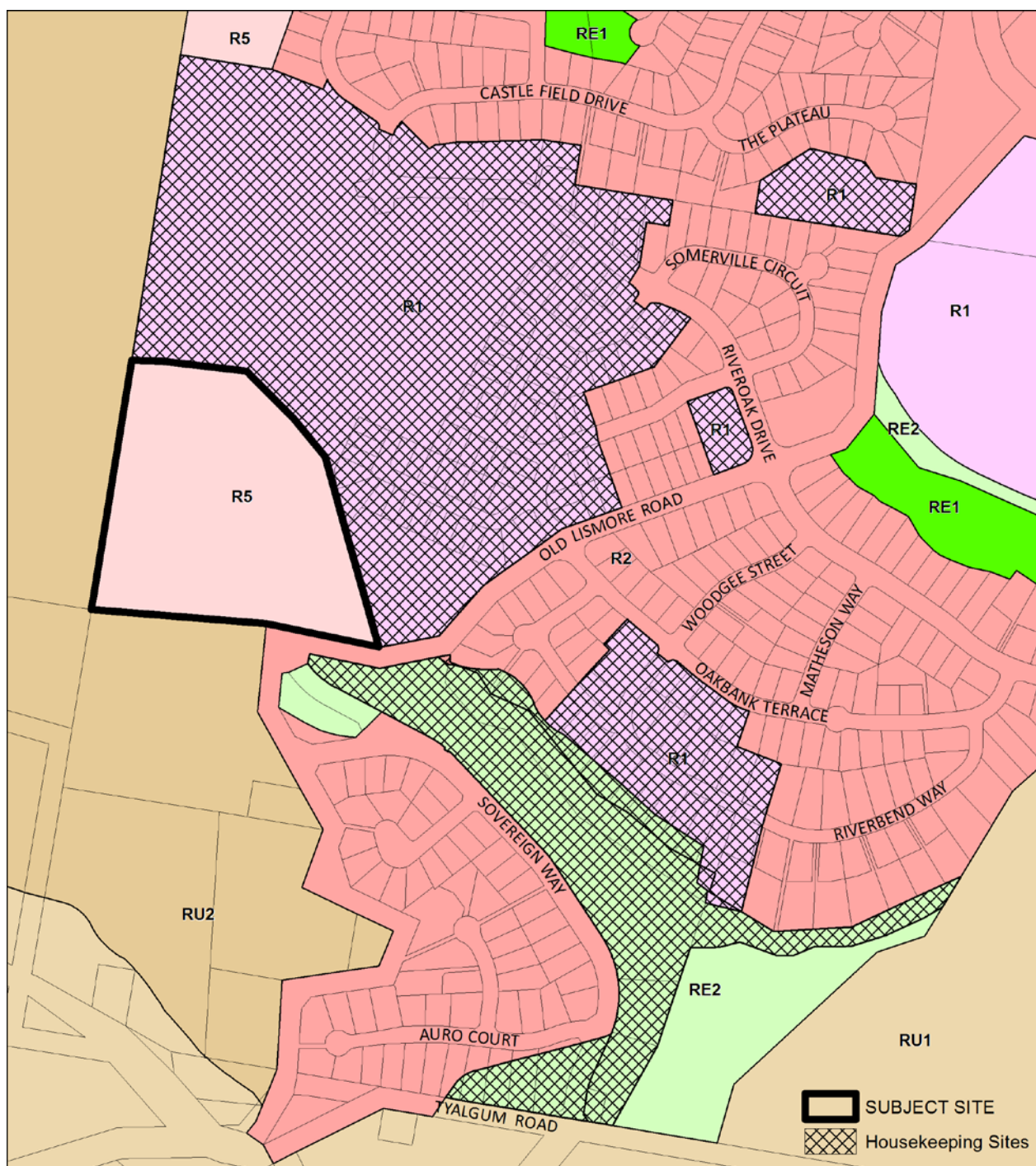
Site context and setting

The subject site is located approximately 4 kilometres to the west of the Murwillumbah Town Centre. Murwillumbah, is identified as a 'Major Town' within the NSW Far North Coast Regional Strategy and is supported by accommodation, retail, office, school and hospital infrastructure.

The proposal is known as Hundred Hills Planning Proposal. The primary site is located on Old Lismore Road (Lot 1 DP 1046935 and described as the subject site), to the south west of Murwillumbah, however a variety of other properties are also included (described as the house keeping review lots), as shown on Figure 1. Old Lismore Road connects the site with the Murwillumbah town centre and is accessed from Tyalgum Road and Kyogle Road. The subject site is located approximately 450m to the north of the Oxley River, a tributary of the Tweed River.

The existing statutory zoning of land to the north, east and south east of the subject site is predominately a mixture of R1 General Residential and R2 Low Density Residential under the Tweed LEP 2014. Areas of RE1 Public Recreation and RE2 Private Recreation are present to reflect the use of those lands. Land to the west and south west of the site is zoned RU2 Rural Landscape and is currently used for low-impact agricultural pursuits.

The site is 5.18ha in size, irregular in shape and comprises open pastureland that is relatively void of vegetation. The site is characterised by mild to moderate , up to 12% (6-8 degrees), ground surface slopes to the northern areas with areas of steep slopes, up to 33% (greater than 18 degrees) predominately to the south of the site. A natural drainage channel runs east to west along the southern site boundary.



Tweed Local Environmental Plan 2014

Planning Proposal PP10/0005 -- Hundred Hills, West Murwillumbah
Subject Site - Lot 1 DP 1046935 and housekeeping review sites

LAND ZONING

B1 Neighbourhood Centre	E1 National Parks & Nature Reserves	R5 Large Lot Residential	SP1 Special Activities	DM Deferred Matter
B2 Local Centre	IN1 General Industrial	RE1 Public Recreation	SP2 Infrastructure	MD SEPP (Major Development) 2005
B3 Commercial Core	IN4 Working Waterfront	RE2 Private Recreation	SP3 Tourist	TCC Tweed City Centre LEP 2012
B4 Mixed Use	R1 General Residential	RU1 Primary Production	W1 Natural Waterways	
B5 Business Development	R2 Low Density Residential	RU2 Rural Landscape	W2 Recreational Waterways	
B7 Business Park	R3 Medium Density Residential	RU5 Village	W3 Working Waterways	

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Map Projection: Universal Transverse Mercator
Horizontal Datum: Geodetic Datum of Australia 1994
Grid: Map Grid of Australia, Zone 56

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Author: J. Batchelor - Planning Reform Unit

Date Printed: 12 March, 2015

Figure 2 Subject site (shown with heavy black edging) and housekeeping review lots (shown hatched) overlaid with Tweed LEP 2014 zoning



Aerial Photo - taken May 2012

Planning Proposal PP10/0005 -- Hundred Hills, West Murwillumbah
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Figure 3. ESR:PPV POLICIES & STRATEGIES LEP - 2009 AMENDMENTS TO PP10 Hundred Hills Figure 2. Aerial Photo used

Author: J Bacheler, Planning Reform Unit

Date Printed: 12 March, 2015

Figure 3 Subject site (shown with heavy black edging) and housekeeping review lots (shown hatched) overlaid with aerial photography (2012)

Part 2 Explanation of provisions

The outcomes of this planning proposal are to be achieved through an amendment of the Tweed Local Environmental Plan 2014 mapping suite, particularly:

For Lot 1 DP 1046935 (subject site)

- amendment to Land Zoning map from R5 Large Lot Residential to R2 Low Density Residential
- amendment to Minimum Lot Size map from 1ha (and identification of 'Area A' for the purposes of Clause 4.2A) to 450m²
- amendment to the Maximum Floor Space Ratio map from 0.55:1 to 0.8:1

Housekeeping review lots as follows:

Group 1: Currently zoned R1 General Residential and to be zoned R2 Low Density Residential, consistent with the surrounding low density residential area:

- amendment to the Land Zoning map to R2 Low Density Residential
- amendment to the Minimum Lot Size map to 450m² lot size;
- amendment to the Height of Buildings map to 9m; and
- amendment to the Floor Space Ratio map to 0.8:1

Group 2: Currently zoned R1 General Residential and to be zoned B1 Neighbourhood Centre, as this reflects the nomination of a neighbourhood centre within the Tweed DCP Section B6 West Murwillumbah and will permit the approved childcare centre:

- amendment to the Land Zoning map to B1 Neighbourhood Centre
- amendment to the Minimum Lot Size map to show no minimum lot size;
- amendment to the Height of Buildings map to 13.6m; and
- amendment to the Floor Space Ratio map to 2:1

Group 3: Currently part lots zoned R1 General Residential and part RE2 Private Recreation to be zoned R2 Low Density Residential, to correct the zone boundary and reflect the use of the land:

- amendment to the Land Zoning map to R2 Low Density Residential
- amendment to the Minimum Lot Size map to 450m² lot size;
- amendment to the Height of Buildings map to 9m; and
- amendment to the Floor Space Ratio map to 0.8:1

Group 4: Currently part lot zoned R2 Low Density Residential and part RE2 Private Recreation be zoned R2 Low Density Residential, to correct the zone boundary and reflect the use of the land, for the RE2 areas:

- amendment to the Land Zoning map to R2 Low Density Residential
- amendment to the Minimum Lot Size map to 450m² lot size;
- amendment to the Height of Buildings map to 9m; and
- amendment to the Floor Space Ratio map to 0.8:1

Group 5: Currently zoned RE2 Private Recreation: proposed to be fully zoned RE1 Public Recreation to reflect the public ownership and use:

- amendment to the Land Zoning map to RE1 Public Recreation
- amendment to the Height of Buildings map to 10m; and

The proponent submitted a request for the subject site 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 template. This request was 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, these land uses are not considered desirable. 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 considered the most appropriate for the site.

The southern portion of the subject site is identified as flood liable land and forms part of the local catchment drainage flow path. 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, it is proposed that the entire site be zoned as R2 as the boundaries of the residential land and the drainage channel are not yet adequately determined. This will be determined at the DA stage. This is consistent with the approach taken on the adjoining Hundred Hills release area, where the land was zoned to facilitate a the release area and subsequent to the development occurring, the zoning of the area has been amended to reflect the actual uses, as is also proposed within this proposal.

For the purposes of the Gateway Determination the planning proposal seeks a minimum lot size control of 450m² for the subject site, being the typical minimum lot size used by Council for urban zones. Whilst 450m² is being pursued at this stage further analysis is to be prepared to facilitate future public exhibition reviewing lot size to slope matrices to ensure the ultimate minimum lot size pursued can accommodate complying dwelling design.

The maximum floor space ratio is required to be increased for the subject site 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 abovementioned mapping amendments are detailed within the Part 4 Mapping suite.

Part 3 Justification

The site is surrounded to the north, east and south by land approved for residential development, which is now predominately constructed, and is a logical expansion of the current urban footprint. A low density residential zoning will allow development of the site consistent with the surrounding urban land.

Section A Need for the planning proposal

1 Is the planning proposal a result of any strategic study or report?

The site is not included in the Far North Coast Regional Strategy (FNCRS) 'Town and Village Growth Boundary'. The site is also not included in the Tweed Urban and Employment Land Release Strategy (TUELRS) 2009.

However, whilst the subject site is not specifically identified within an adopted strategy, the site does adjoin the identified Town and Village Growth Boundary area to the north, east and south east (as displayed by red outline on Figure 4. In addition, the subject site adjoins future potential urban land identified in the TUELRS, known as Area 3, to the south. This is shown orange on the map Figure 4.

Current and future urban expansion will surround the site to the north, east and south and the subject site will effectively become an infill area that connects the otherwise separated urban areas.

It is noted that the housekeeping review lots are located within the town and village growth boundary.

2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

This planning proposal is considered to be the most appropriate means of allowing residential development on the land. In this regard, whilst the Tweed Local Environmental Plan 2014, through Clause 4.6, enables the variation of development standards, which could allow site specific variations relating to FSR or minimum lot sizes, there is no scope to approve development which is not listed as permissible with consent. This limitation significantly limits the expansion of the adjoining residential development in an effective manner.

A planning proposal to implement the R2 Low Density Residential zone, along with complementing minimum lot size and maximum floor space ratio controls is considered appropriate to allow for urban development which is consistent with site conditions and surrounding land uses.

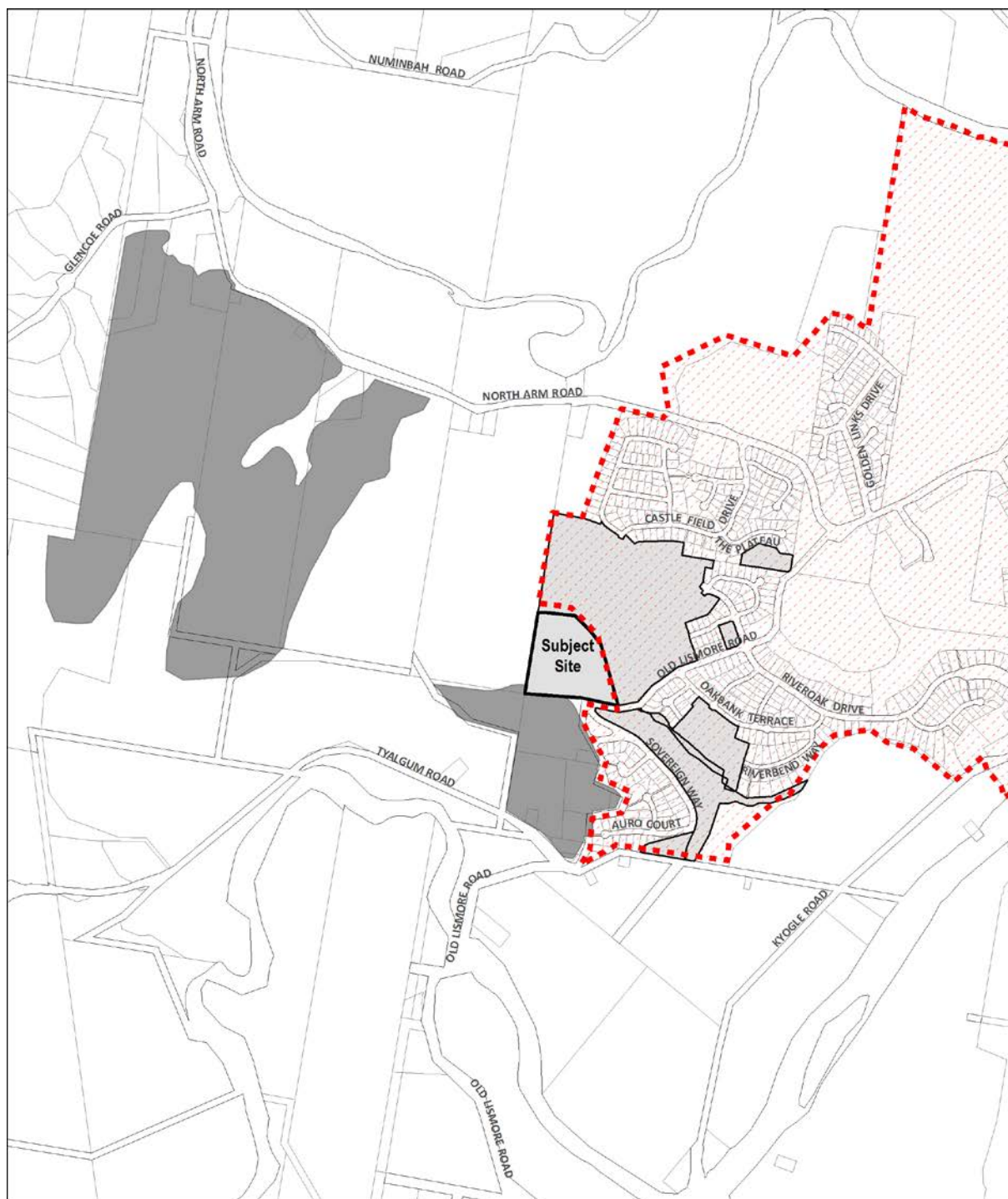
This locality is currently being developed for residential land uses. The subject site is relatively unconstrained and is predominantly not within the flood planning land area (with the exception of a small area to the south of the site). This drainage area is will create a linkage to the adjoining drainage in the residential release area to the east. It is proposed to zone this area as R2 as the boundaries of the residential land and the drainage channel are not yet adequately determined. This will be determined at the DA stage. This is consistent with the approach taken on the adjoining Hundred Hills release area, where the land was zoned to facilitate a the release area and subsequent to the development occurring, the zoning of the area has been amended to reflect the actual uses, as is also proposed within this proposal.

The site is currently zoned R5 Large Lot Residential (permitting approx 5-8 large lot residential allotments) and located adjacent the urban footprint. The higher use of the site

for approximately 40 residential allotments is considered a more sustainable use of the local infrastructure and more consistent with the logical expansion of the urban footprint.

The proposed amendments to the statutory framework and the future development generated from this amendment will provide the community a continuation and further connections of urban services such as roads and cycleway/pedestrian infrastructure.

The incorporation of the housekeeping review lots within this planning proposal is consistent with the context of the subject site and the Hundred Hills locality. The majority of the housekeeping review lots are approved for development. Their inclusion enables the statutory framework to better reflect these uses and boundaries



Location of site in relation to potential urban release lands

Planning Proposal PP10/0005 -- Hundred Hills, West Murwillumbah
Subject Site - Lot 1 DP 1046935 and housekeeping review sites

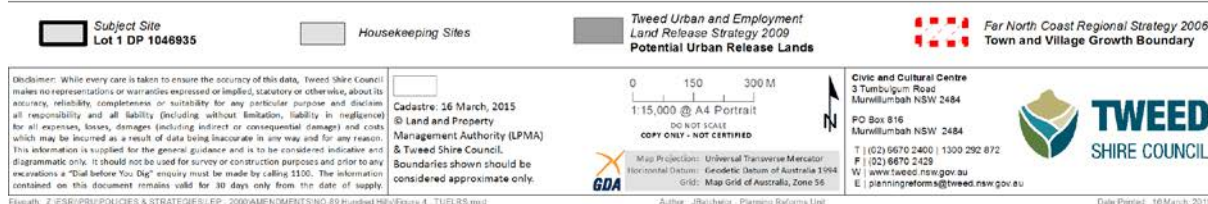


Figure 4 – Subject site (shown shaded with heavy black edging) and housekeeping review lots (shown shaded with light edging) in the context of the surrounding Tweed Urban and Employment Land Release Strategy areas and the FNCRS town and village growth boundary.

Section B Relationship to strategic planning framework

1 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Far North Coast Regional Strategy (FNCRS) is the overarching framework for the management of growth for the Tweed local government area.

Rezoning the subject site for low residential development would assist in achieving the aims of the strategy. In particular:

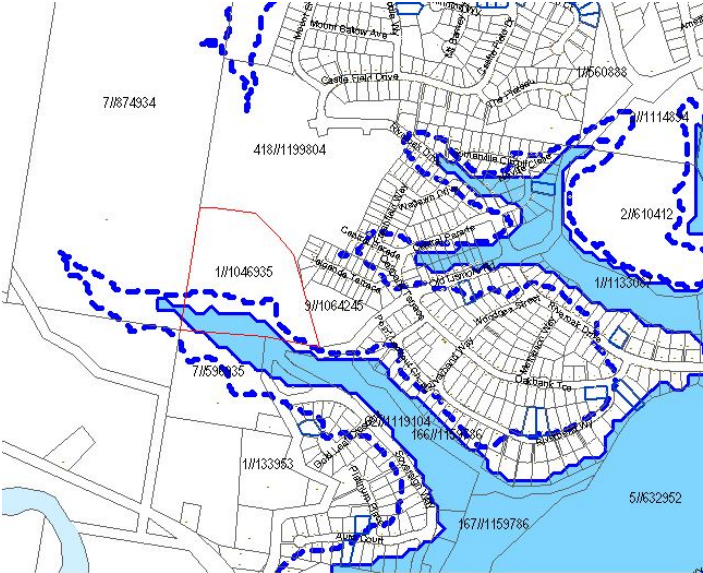
- Assist in achieving the region's housing target of 51,000 dwellings (19,100 additional new dwellings to 2031).
- Enabling development of a site which is unconstrained by coastal processes, is not important farmland and does not have a high scenic or conservation value.
- The site is located west of the Pacific Highway and outside of the 'Coastal Area' and would assist in relieving some of the pressure of development on the coast.
- The rezoning would assist in encouraging growth in a non-coastal town without compromising environmental values or quality of life. The site is not considered to be environmentally significant and is located with good access to services and infrastructure.
- The proposed residential use of the site will reinforce the role of Murwillumbah as a major town as identified within the FNCRS towns and centers hierarchy and will capitalise on access to existing infrastructure and services.

The subject site is located immediately adjacent the western edge of the identified 'Town and Village Growth Boundary' of Murwillumbah and Bray Park and therefore an assessment of the proposed urban development of this site against the Sustainability Criteria in the follows in Table1:

Table 1: Assessment against FNCRS sustainability criteria for the subject site

CRITERIA	RESPONSE
1. Infrastructure Provision Mechanisms in place to ensure utilities, transport, open space and communication are provided in a timely and efficient way	The subject site, being located adjacent to the urban area of Murwillumbah, benefits from access to existing services, including sewer, water, telecommunications and transport, with only minor augmentation required to service the site. The proposal is therefore consistent with the requirements of the Tweed LEP Clause 7.10 Essential Services.
2. Access Accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation to be existing or provided	The subject site (and housekeeping review lots) is located within 500 metres of the Murwillumbah and Bray Park 'Route 621a', a service along Riveroak Drive, operated by Murwillumbah Bus Company. The bus services the Murwillumbah town centre, which includes retail, office, school and medical facilities. The proposed development is co-located with adjoining residential development and may provide an expansion of this service should sufficient demand be present.

CRITERIA	RESPONSE
3. Housing Diversity Provide a range of housing choices to ensure a broad population can be housed	<u>Subject site</u> The proposed zone amendment from R5 Large Lot Residential to R2 Low Density Residential enables greater housing diversity across the site through additional permitted residential uses. In this regard, housing is limited within the R5 zone to dwellings and dual occupancies; whereas the R2 zone also permits a range low density forms of Residential Accommodation at a greater density. The spectrum of permitted housing types is further complimented by a reduced minimum lot size, allowing further variety. <u>Housekeeping review lots</u> These areas are approved for development and the zone reflects the uses.
4. Employment Lands Provide regional/local employment opportunities to support the Far North Coast's expanding role in the wider regional and NSW economies	<u>Subject site</u> The planning proposal maintains a residential zoning for the subject site, however some minor non-residential activities are permissible within the zone (i.e. Neighbourhood Centre). The site location is considered more suitable and compatible for residential uses when considering immediately surrounding land uses, the undulating nature of the site and the proximity to Murwillumbah, an existing Major Town as defined within the Far North Coast Regional Strategy. Employment lands are better located with access to transport and other traffic generating development. Adequate employment lands are catered for in the southeast Murwillumbah area. <u>Housekeeping review lots</u> A small area of the housekeeping review lots is proposed to be zoned as B1 Neighbourhood Centre. This is consistent with the Tweed DCP Section B6 Murwillumbah West and will provide land for local employment. A child care centre is approved for this site.
5. Avoidance of Risk Land use conflicts, and risk to human health and life, avoided	Part of the subject site is identified on the within the Tweed LEP 2014 Flood Planning Map as located within the 'flood planning area' and 'level of probable maximum flood', as shown in Figure 5 following. The area identified as flood prone is within the southeastern corner of the site, whilst the remainder is not affected by the flood planning area. This portion of the land has been identified within the supporting studies as unsuitable for residential development and is proposed for future drainage purposes. Notwithstanding, at this time the site is proposed to be zoned as R2 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

CRITERIA	RESPONSE
	area, the zoning of this area is likely to be amended at a future stage. Future development of the site will include earthworks to provide flood free building envelopes and integration within the wider road network will ensure flood-free evacuation routes are available.  <i>Figure 5 - Subject site, with red boundary, showing 'flood planning land'</i> The subject site contains slopes predominantly between 8 and 18 degrees, with some areas through the centre of the site greater than 18 degrees (33%) 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

CRITERIA	RESPONSE
	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. 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. A Bushfire Hazard Assessment enclosed with the applicants original Planning Proposal request, dated 26 April 2010 prepared by Barry Eadie Consulting Pty Ltd has been undertaken for the site. This report has been used to inform the APZ buffers. It is noted that the report is some 4-5 years old now and the Bushfire Prone Land layers have been update (2012). The site is not impacted by the 2012 Bushfire Prone Land. Future development of the site will be required to provide the appropriate APZ buffers and compliance with the requirements as set out in <i>'Planning for Bushfire Protection'</i> (2006).
6. Natural Resources Natural resource limits not exceeded/environmental footprint minimised	The subject site is not currently serviced by sewer and reticulated water, however, this is provided to the adjacent development and there is the capacity to extend these services without unacceptable pressure on infrastructure capacity. In light of the location of the site immediately surrounded by urban residential development to the north, east and south, the current R5 Large Lot Residential zone does not allow for the most efficient use of the land and infrastructure. It is considered that the low density urban residential uses is a more efficient and suitable use of the subject land. The subject site is not identified as comprising significant agricultural land or productive resource land.

CRITERIA	RESPONSE
	The site adjoins rural land to the west. The adjoining land is open pasture grazing land and is not currently used or suitable for agricultural uses that will conflict with the proposed residential land uses. Nonetheless, future development applications for the site will provide further assessment regarding the specific buffers required to mitigate land use conflict. It is considered appropriate that these qualitative tests are undertaken outside of the LEP process, as opposed to seeking to utilise alternate zones for buffer areas.
7. Environmental Protection Protect and enhance biodiversity, air quality, heritage, and waterway health	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 (<i>Davidsonia jersyeana</i>), are located on the site. <i>Davidsonia jersyeana</i> 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. There are no known sites of Aboriginal Heritage cultural value as demonstrated in the Aboriginal Cultural Heritage Due Diligence, prepared by Everick Consulting, dated September 2013 and provided in Attachment 6. The recommendations of 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 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. A Conceptual Stormwater Assessment, prepared by Gilbert and Sutherland, dated December 2014, in Attachment 4, provides modeling of water quality. This report finds that the stormwater management will result

CRITERIA	RESPONSE
	in no adverse offsite impacts in respect of quantity or quality.
8. Quality and Equity in Services Quality health, education, legal, recreational, cultural and community development and other government services are accessible	The development of the subject site for residential purposes would result in a minor increase in population in the area. Adequate urban services exist within the locality, namely education, health, recreational and community services, located within the Murwillumbah Town Centre. The existing services are considered sufficient to meet the needs of the population increase proposed on the site. Consolidation of urban development within Murwillumbah will reinforce the centre's role as a Major Town within the Far North Coast Region.

Land comprising the housekeeping review lots is already approved for development and does not required assessment under the sustainability criteria.

The proposal for rezoning of the subject site to allow for low density residential uses will enable the more efficient and sustainable land use of the site without placing unacceptable pressure on State or local infrastructure services. The proposal balances the need for urban expansion and enabling good public access to housing and recreational opportunities whilst avoiding areas with identified hazards.

2 Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

The Tweed Community Strategic Plan (TCSP) 2013 –is based on four key themes, Civic Leadership, Supporting Community Life, Strengthening the Economy, Caring for the Environment. The TCSP was prepared with extensive community consultation and provides the overarching framework and vision for the Tweed for the next 10 years.

The relevant objectives of the TCSP 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 considered to be consistent with the abovementioned objectives and the TCSP as a whole. In this regard the subject site is already zoned R5 Large Lot Residential, which permits development, which is predominately residential in nature, within a rural setting. Accordingly, by amending the zone of the subject site to R2 Low Density Residential, greater housing choice opportunities are provided (through a wider variety of permitted housing types) whilst not impacting the amount of economically viable agricultural land.

It is acknowledged that the increased development intensity which could arise from the zone and minimum lot size amendments will need to have due regard to the agricultural pursuits

of the adjoining rural landscape to the West, however suitable interface treatments and buffers can be adequately resolved through the existing non-statutory framework (namely the subdivision provisions of the Tweed Development Control Plan 2008) and assessment of any future development applications. Further, it is considered better planning practice to intensify existing 'urban' land where not restricted by infrastructure or site constraints, as opposed to further eroding the agricultural or environmental land base.

3 Is the planning proposal consistent with the 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 planning proposal is of a scale and nature that will not trigger the application of *Schedule 3 Traffic generating development to be referred to the RTA of the SEPP (Infrastructure) 2007*.

The following SEPPs do apply to the subject site:

SEPP 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.

A Contamination Assessment report by Gilbert and Sutherland, dated November 2012, and is provided in Appendix 6.

The report found that the site has been predominantly used for low intensity grazing. The report finds that a small portion located adjacent the eastern boundary had been used to stockpile and burn green waste. The preliminary soil investigations showed a single shallow soil sample extracted from the location of the stockpile (designated BH4) contained residual black ash material up to 0.1m below Near Surface Level (NSL). Concentrations of arsenic in excess of the applicable HIL's were recorded within this soil-ash mixed material. Given the small area affected, it was considered efficient to remediate the area and validate as part of this preliminary assessment. The remediation has been carried out and the site is considered suitable for residential uses.

SEPP 44 – Koala Habitat Protection

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 subject site contains no known koala habitat or core koala habitat. A Terrestrial Flora & Fauna assessment of the site has been prepared by Planit Consulting, dated August 2012 and is provided in attachment 5. This assessment finds the koala preferred habitat is largely absent and no koalas were found during the survey period, therefore there is unlikely to be a significant impact by this proposal.

4 Is the planning proposal consistent with applicable Ministerial Directions (s117 Directions)?

The consistency of the Planning Proposal with the s117 Directions is assessed in Table 2, below.

Table 2 Consistency with s117(2) 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 seek to 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).	<u>Subject Site</u> This planning proposal proposes to rezone R5 Large Lot Residential zoned land, which permits residential development within a rural setting, to R2 Low Density Residential. Traditionally the site has been viewed as a 'rural zone' in light of its rural setting and large lot size, however the R5 zone is formally a residential zone and aside from Horticulture, Agriculture is a prohibited land use. The planning proposal will support the creation of approximately 40 low density residential lots, which adjoins the town and village growth footprint, identified within the FNCRS. In addition, the subject site adjoins urban development to the north and east and adjoins land identified in the Tweed Urban and Employment Land Release Strategy 2009 for medium-term release (10 – 20 years) The proposal represents a small and logical expansion of urban development, which ultimately will conclude the urban footprint for West Murwillumbah.	YES

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		<u>Housekeeping review lots</u> Not applicable	
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 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.	<u>Subject Site</u> The subject site is currently zoned R5 Large Lot Residential, within which, aside from Horticulture, all agriculture, industries and extractive industries are prohibited. Whilst the permissibility of Horticulture is not considered to enable mining, petroleum production and extractive industries that require development consent, the proposed use of the R2 Low Density Residential zone will prohibit any such activity unless permitted without consent by the SEPP. Council's GIS indicates that no coal or other minerals of State or regional significance are located on the site, Council will consult further with NSW Department of Primary Industries if required post Gateway Determination. <u>Housekeeping review Lots</u> The remaining lots are predominantly zoned R1 General Residential, under the Tweed LEP 2014. Extractive industries are listed as prohibited within the R1 zone, as are industries and agriculture, accordingly the provisions of SEPP Mining, Petroleum Production and Extractive Industries 2007 do not apply, except to the extent that they prevail over the local environmental planning instrument.	YES

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		Permissibility remains the same under the R2 zone. Agriculture and extractive industries are permitted in the RE1 zone.	
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	<u>Subject Site</u> Despite Direction 1.5 not strictly being applicable to this Planning Proposal (as the Proposal seeks to amend the zoning from one residential zone to another), the following comments are provided as some agricultural pursuits (Horticulture) are permissible within the current R5 Large Lot Residential zone. The planning proposal is for a residential development of approximately 40 lots, which adjoins the urban growth area of the FNCRS, adjoins urban development to the north and east and adjoins land identified in the Tweed Urban and Employment Land Release Strategy 2009. The proposal represents a small logical expansion of urban development. The proposal is not located on, nor does it impact on,	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i> .	significant agricultural land. It is consistent with balancing settlement and housing needs with rural importance and the social economic and environmental interests of the community and broadly with the Rural Planning Principles. Beyond the planning proposal process, future development applications will be subject to the Tweed Development Control Plan 2008, which includes recommended buffers to agriculture, which are based on the Living and Working in Rural Areas Guideline. These DCP provisions will further manage the interface between the adjoining rural land and the proposed low density residential development. The proposal represents a more efficient use of the urban fringe land, is consistent with the character and scale of surrounding development, considers the constraints and opportunities of the land and does not create fragmentation of rural land. The change in lot sizes is consistent with the Rural Subdivision Principles. <u>Housekeeping review lots</u> Not applicable	
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	The planning proposal does not alter or remove any environmental protection zone.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	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> ".		
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 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	<u>Subject site</u> The site contains no identified heritage items under the current or draft LEP. An Aboriginal Cultural Heritage Due Diligence Assessment (ACHDD), by Everick Heritage Consultants (Sept 2013) has been prepared to accompany the application, as provided in Attachment 6. 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 recommendations of 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 on a number of occasions who	Yes

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	Aboriginal culture and people.	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.	
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 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>.	The proposal does not enable land to be developed for the purpose of a recreation vehicle area	N/A
3. Housing, Infrastructure and			

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
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. (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.	<u>Subject site</u> The planning proposal seeks to implement the R2 Low Density Residential zone, a reduced Minimum Lot Size (1ha reduced to 450m²), and increase the maximum Floor Space Ratio (from 0.55:1 increasing to 0.8:1) to the subject site. The use of this statutory framework is consistent with the surrounding residential development and its location on the outer boundaries of the urban footprint. The amendments sought will broaden the choice of housing types available, as well as allow greater variety in lot sizes and building form. Specifically, the current R5 zone restricts residential accommodation types to dwellings and dual occupancies (attached) only, however the R2 zone permits all residential accommodation types with consent, with the exception of residential flat buildings, which are not considered appropriate for this zone or this location. The proposal does make more efficient use of infrastructure and services than the current large lot residential zoning permits. The residential extension of the Hundred Hills release area has been assessed previously through the early stages and water and sewer servicing capacity has been provided accordingly within the existing infrastructure. This Planning Proposal does not include site specific design provisions, however Council's Tweed Development Control Plan 2008 will apply to future	YES

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		development to ensure future subdivision and dwelling designs exhibit a high quality to contribute positively to the character of the West Murwillumbah area. This Planning Proposal does not contain any specific provisions that reduce the permissible residential density of land. <u>Housekeeping review lots</u> The majority of the lots subject to the housekeeping review are proposed to be zoned R2. This retains the residential zoning and a wide diversity of housing options in a low density residential form. The amendment to the zoning will alter the permissibility of the (currently permitted) residential flat buildings and tourist and visitor accommodation. As noted previously, 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. The amended zoning is a better reflection of the uses of the approved use of the land and the form of development now occurring.	No, however, this is a minor variation as provided by Clause (6)(d)
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:	This 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
	(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 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 applicable land use table for the R2 zone within the Tweed LEP 2014 permits Home Occupations without consent.	YES
3.4 Integrating Land	Applies when a relevant planning authority prepares	The development of the site for residential purposes	YES

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
Use and Transport	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 – Planning Policy</i> (DUAP 2001).	would result in a minor increase in population in the area. Adequate services exist within the locality. In particular, Murwillumbah provides a wide range of education, health, recreational and community services which would be sufficient to service the site. Its role as a Major Town within the Far North Cost Region will continue to develop. The planning proposal does not propose any traffic generating business or services out of centre.	
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.	This proposal does not create, alter or remove a zone or provision relating to an airport.	N/A
4. Hazard and Risk			
4.1 Acid Sulfate Soils	Applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps. (4)	The subject site has been identified within the Tweed LEP 2014 'Acid Sulfate Soils' map as containing class 5 acid sulfate soils. The Tweed LEP 2014 includes Clause 7.1 Acid Sulfate Soils, which contains provisions to regulate the works undertaken on and in proximity to acid sulphate soils. While it is considered unlikely that this would be a significant issue, this would be addressed post Gateway determination consistent with the acid sulphate soils Manual.	YES

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
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.	This proposal does not impact on any mine subsidence area.	N/A
4.3 Flood Prone Land	Applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land. (5) 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>). (6) 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. (7) 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	An area of land along the western and southern boundaries of the site are identified as flood prone. This area is currently zoned R5 Large Lot Residential and is proposed to be zoned R2 consistent with the remainder of the site. This portion of the land has been identified within the supporting studies as unsuitable for residential development and is proposed for future drainage purposes. The supporting bulk earthworks study has been designed to leave the flood prone area (ie not fill) as a natural drainage area. Notwithstanding, at this time the site is proposed to be zoned as R2 as the boundary of the zones is not yet adequately determined and will determined be through a future DA subdivision based on more detailed information. In new Greenfield areas this approach allows flexibility for the additional detail to inform the boundary. As has occurred in the adjoining Hundred Hills release area, the zoning of this area is likely to be amended at a future stage.	No however, is a minor variation under the provisions of Clause (9) (b)

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	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. (8) 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 controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General). (9) 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).	The planning proposal does not seek to amend the flood prone land clauses of the Tweed LEP 2014 and therefore does not impose greater restrictions than the flood planning levels.	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
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. (10) 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, (11) 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. (12) A planning proposal must, where development is 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	The proposal contains does not contain areas of land identified within the NSW Rural Fire Service Bushfire Prone Land Map 2012 as being Bushfire Prone. A Bushfire Hazard Assessment (Appendix B) for the subject site, dated 26 April 2010 was prepared by Barry Eadie Consulting Pty Ltd and was submitted with the applicant's original planning proposal request in 2010. The report concludes that subject to the implementation of several design/layout based recommendations, development of the subject site could achieve the intent of the relevant legislation and in particular the requirements as set out in '<i>Planning for Bushfire Protection</i>' (2006). Council intends to refer a copy of the Planning Proposal to NSW Rural Fire Service for formal comment during post-Gateway public exhibition.	YES

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	(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.		
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 not identified as for urban growth in the FNCRS, however the planning proposal is broadly consistent with the planning objectives of the FNCRS. The proposal is not located in the 'coastal zone' and includes an assessment against the sustainability	No but consistent with (5) (a) as it is of minor significance

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		criteria, consistent with the FNCRS.	
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.	The proposal 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 is not subject to state significant farmland, regionally significant farmland, or significant non contiguous farmland.	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Applies when a relevant planning authority prepares a planning proposal for land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.	This proposal is not with 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
5.5	(Revoked 18 June 2010)		N/A
5.6	(Revoked 10 July 2008. See amended Direction 5.1)		N/A
5.7	(Revoked 10 July 2008. See amended Direction 5.1)		N/A
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.	N/A	N/A
6. Local Plan Making			
6.1 Approval and Referral Requirements	A planning proposal must: (d) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (e) 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 (f) not identify development as designated development unless the relevant planning	The planning proposal does not seek to include provisions that require; the concurrence, consultation or referral of development applications to a Minister or public authority.	YES

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	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.		
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 Department nominated by the Director-General).	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
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	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. The planning proposal does not contain schematic drawings.	YES

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	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.		
7. Metropolitan Planning			
7.1 Implementation of the Metropolitan Strategy	The objective of this direction is to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney.	N/A	N/A

Section C Environmental, Social and economic impact

1 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?

Within Council's Tweed Vegetation Management Strategy 2004 for both Ecological Status and Ecological Sensitivity, the subject site is identified as 'Not classified' with the exception of a North-South band of 'Low' value along the western boundary of the site and sporadic portions through the middle and southeast corners of the site. In addition, only minor portions of the site (western boundary line and south-eastern corner) were identified on the draft a Terrestrial Biodiversity overlay. (part of the draft Standard Instrument LEP exhibited 2012) and no environmental protection zone was proposed at this time.

The Terrestrial Flora and Fauna Assessment (TFFA) prepared by Planit Consulting, dated August 2012 and provided in Attachment 5 has identified Davidson's Plums (*Davidsonia jersyeana*), 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 three trees within this subject site proposed to be translocated. 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.

Review by Council's Natural Resource Management Unit (NRM) accepts the TFFA study for the purposes of the planning proposal, however, recommends the following additional investigations/actions will be required in association with future development:

- In association with the drainage areas, the proponent should be encouraged to limit the disturbance footprint, position any infrastructure 'offline' where practicable and undertake intensive ecological reconstruction activity to re-establish wetland/riparian habitat with appropriate species.
- NRM identified a multi-stemmed *Endiandra* sp. situated within the proposed development footprint (see Figure 1). From initial recognition the stem appeared to exhibit characteristics similar to that of the listed Endangered *Endiandra muelleri* subsp. *bracteata* (Green-leaved Rose Walnut) (under the TSC Act). It is noted however that the more common non-listed subspecies being *Endiandra muelleri* subsp. *muelleri* (Mueller's Walnut) exhibits similar physical features making differentiation difficult. As such NRM recommend that the proponent submit a sample to the NSW Herbarium prior to the design phase of any future development across the site. Where identified as *Endiandra muelleri* subsp. *bracteata* the proponent shall appropriately address threatened species assessment and management provisions during subsequent development application stages
- Whilst the TFFA recommends retention of these units which is reflected on the proposed layout and preliminary bulk earthworks plans NRM recommend that further investigation and assessment of Vegetation Community 2, having regard for the EEC listing advice be undertaken at any future development assessment stage. Where accepted as a candidate, EEC appropriate setbacks/buffers from building envelopes/disturbance footprint/s should be provided that may be additional to that proposed on the preliminary plans submitted with the planning proposal.

- Given the significance of a number of isolated mature ex-rainforest community trees remaining within existing pasture, the retention and incorporation into any future Lot layout should be explored at subsequent development assessment stage/s. Two *Flindersia australis* (Crows Ash) in particular occur within low lying sections of the site where there may be opportunity to enable retention through sensitive layout design.
- The protection of those areas described as supporting 'Tall Closed Camphor Laurel Forest +/- Early Regrowth Rainforest Species' and any other areas of ecological significance identified through assessment of any future development application should be afforded secure long term protection through an appropriate statutory mechanism such as an 88B instrument (under the *Conveyancing Act 1919*) where the area is to remain under freehold ownership.
- The proponent should prepare a modified *Revised Davidson's Plum Management Plan for Land at Old Lismore Road Murwillumbah dated December 2006 prepared by JWA* to incorporate management measures to address translocation of the two juvenile stems remaining within the proposed development footprint.
- The applicant is encouraged to modify the plan in a timely manner to avoid any further degradation of the stems through cattle grazing either through translocation or removal of cattle from the site. Degradation of the listed threatened species by cattle is not a defence under the *National Parks and Wildlife Act 1974*

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

As discussed previously in this planning proposal, the site is characterised by mild to moderate, up to 12% (6-8 degrees), ground surface slopes to the northern areas with areas of steep slopes, up to 33% (greater than 18 degrees), predominately to the centre and south of the site. A natural drainage channel runs east to west along the southern site boundary. In response to this, additional engineering based studies have been undertaken to ensure that the proposal can appropriately integrate within the wider locality, both through infrastructure provision (primarily connected road network and stormwater conveyancing network) and urban form.

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 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.

The planning proposal seeks a minimum lot size control of 450m², being the typical minimum lot size used by Council for urban zones. Council's urban design and planning and infrastructure engineers have identified that whilst the site may be appropriately engineered to accommodate future residential uses, some areas of the subject site will remain in excess of 12/18 degrees (post bulk earthworks carried out in accordance with Council's Subdivision

Manual guidelines). Generally these areas would require lot sizes in excess of 700m² to adequately site dwellings, ensure an appropriate range of construction types and provide suitable land area for supporting infrastructure. 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 Tweed Development Control Plan (DCP) provides a matrix of development construction types suitable to varying slopes. It is envisaged that future dwellings on these sites will need to be compliant with these provisions.

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.

3 How has the planning proposal adequately addressed any social and economic effects?

Murwillumbah possesses a range of land uses and facilities befitting of its identification as a Regional Town Centre, namely multiple primary and secondary schools, hospital, retail and commercial space and public transport network. With an existing population of 9,594 people (2011 Census Data), the planning proposal for the subject site, which is identified as potentially creating a further 40 lots, is unlikely to have a significant impact on those facilities. Whilst the additional population benefits of the proposal will be minor, as Murwillumbah's population is projected to reach beyond 12,000 people, the planning proposal will contribute to this critical population mass and enable many of the existing commercial, community and infrastructure facilities to function efficiently.

Development proceeding the planning proposal will create numerous short-term construction-based jobs, whilst the additional population is likely to generate the demand for an additional 192m² of retail floorspace (based on NSW Department of Planning's Draft Centres Policy - Planning For Retail And Commercial Development April 2009), equating to approximately 5 jobs. Demographic analysis of the Murwillumbah area indicates a higher proportion of elderly persons (75 years old and higher) and household incomes below \$1,000 per week. Should these trends continue within the planning proposal area access to services available within the Murwillumbah Town Centre will be critical, as will be providing suitable housing types, particularly in light of the undulating nature of the site.

Whilst the planning proposal does not specifically seek any community facilities, any future subdivision will require the provision, or a contribution towards both passive and active open space. Discussions with the proponent to-date indicate that future subdivision will include the open space alongside the existing creek line, retaining public access to the creek and providing a logical path for overland flow of stormwater. Formal community facilities, including community halls, community support facilities and schools are all located within Murwillumbah Town Centre, which is accessible via bus route 621a.

As discussed previously, the subject site is undulating and involves significant slopes. Resulting from urban design analysis and engineering considerations a variety of lot sizes will be required in order to achieve a balance between efficient urban development and maintaining the character integrity of the rolling topography and afford views to future residents. The variety in lot sizes and retention of undulating slope will contribute to the diversity in the local housing stock, particularly within the immediately estate, which predominately involves homogenous lot and dwelling design.

In light of the above, the proposal is considered to have positive socio-economic impacts to the locality.

Section D State and Commonwealth interests

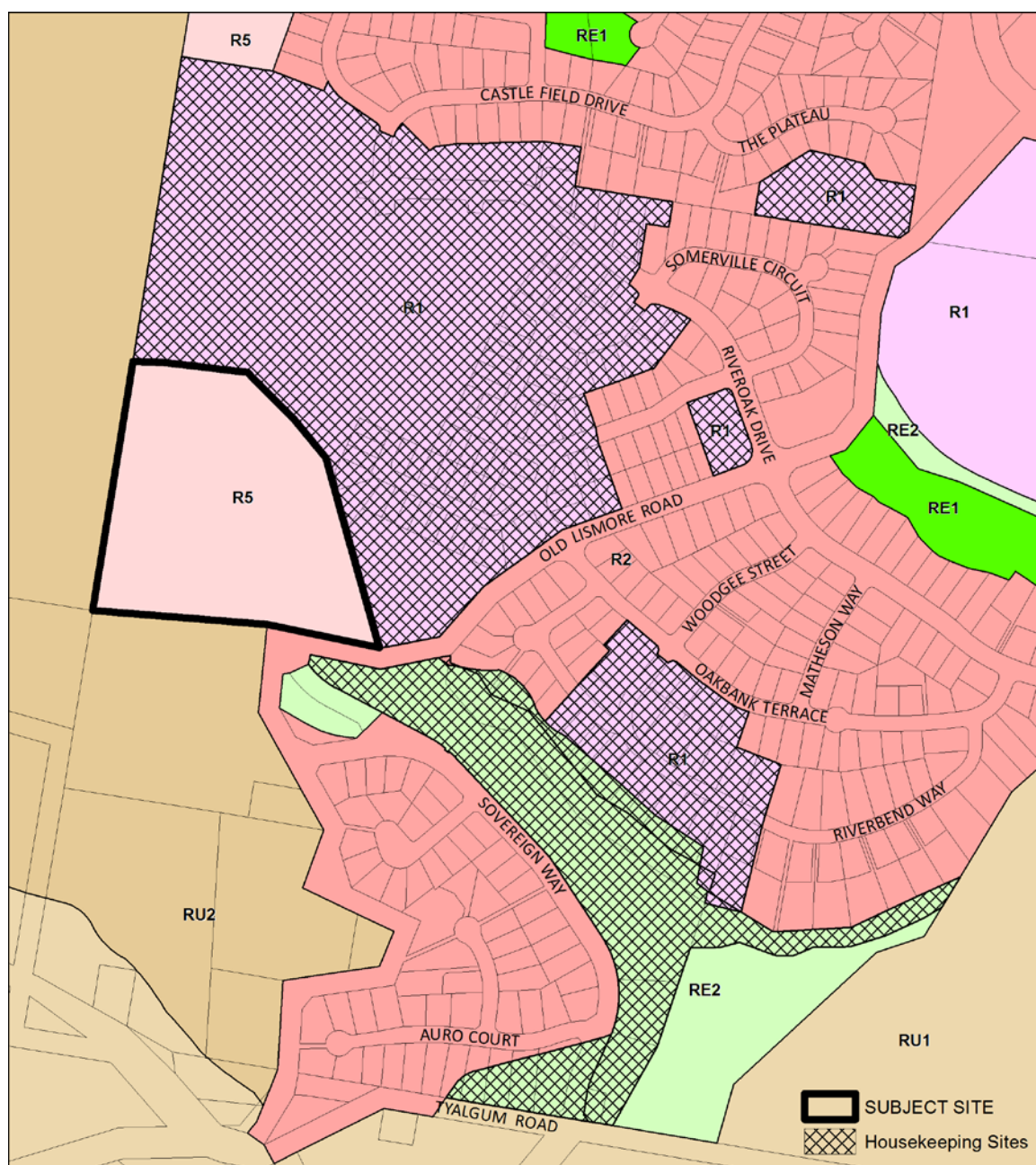
1 Is there adequate public infrastructure for the planning proposal?

The planning proposal footprint is serviced by existing roads, water, wastewater, telecommunication and power services. In addition, Murwillumbah is serviced by public transport routes via private operators. The PP does not trigger the provision of any significant additions to infrastructure within the area, rather, minor augmentation of existing local systems. Roads, water and wastewater services to the site comprise Local, rather than State, infrastructure.

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

Consultation with the relevant public authorities will be undertaken as per any requirements stipulated in a Gateway Determination notice.

Part 4 Mapping



Tweed Local Environmental Plan 2014

Planning Proposal PP10/0005 -- Hundred Hills, West Murwillumbah
Subject Site - Lot 1 DP 1046935 and housekeeping review sites

LAND ZONING

B1 Neighbourhood Centre	E1 National Parks & Nature Reserves	R5 Large Lot Residential	SP1 Special Activities	DM Deferred Matter
B2 Local Centre	IN1 General Industrial	RE1 Public Recreation	SP2 Infrastructure	MD SEPP (Major Development) 2005
B3 Commercial Core	IN4 Working Waterfront	RE2 Private Recreation	SP3 Tourist	TCC Tweed City Centre LEP 2012
B4 Mixed Use	R1 General Residential	RU1 Primary Production	W1 Natural Waterways	
B5 Business Development	R2 Low Density Residential	RU2 Rural Landscape	W2 Recreational Waterways	
B7 Business Park	R3 Medium Density Residential	RU5 Village	W3 Working Waterways	

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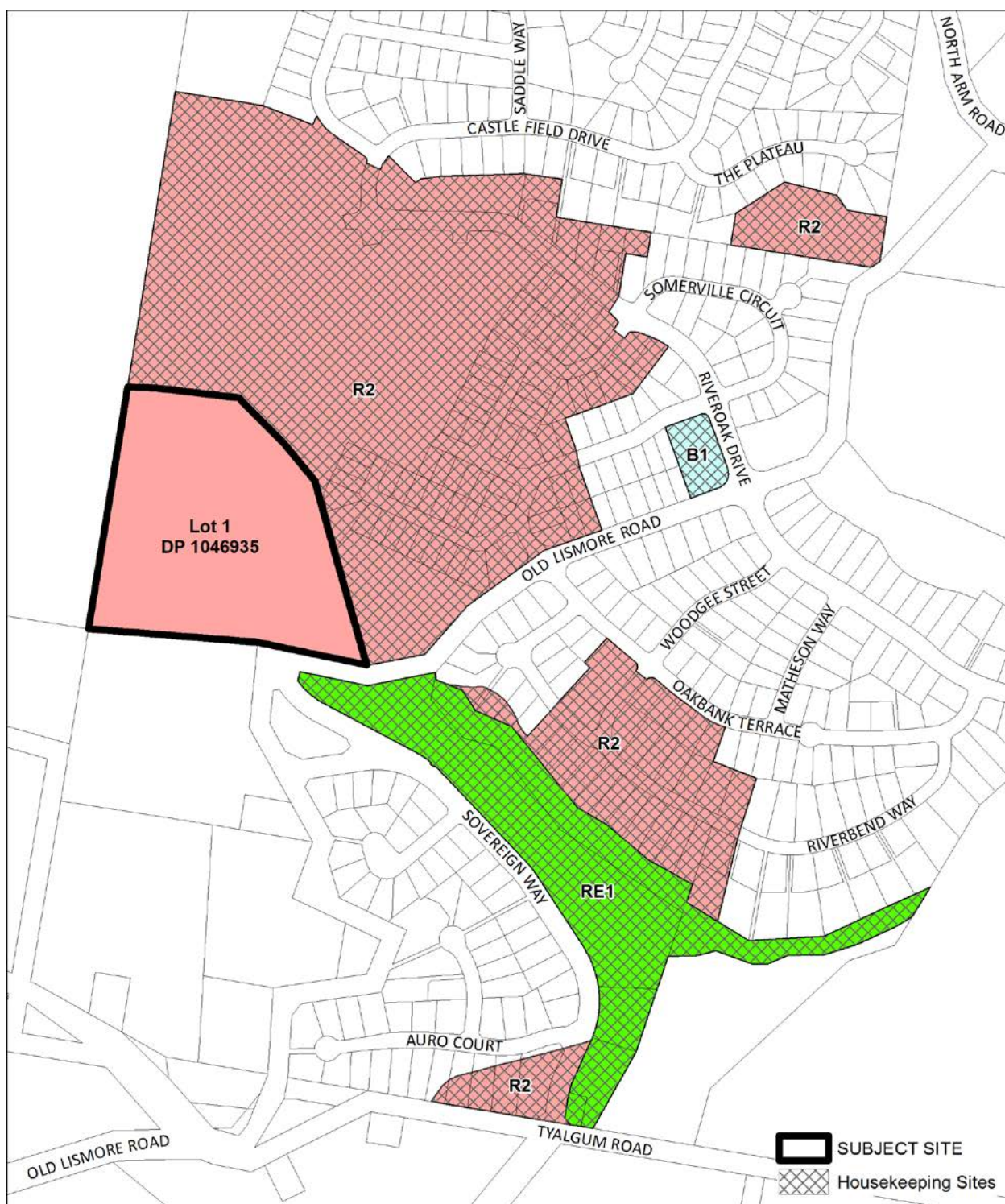
Author: J. Bitchner - Planning Referrals Unit

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Figure 6 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 over laid with the LEP 2014 current zoning.



Tweed Local Environmental Plan 2014 - PROPOSED LAND ZONING

Planning Proposal PP10/0005 -- Hundred Hills, West Murwillumbah
Subject Site - Lot 1 DP 1046935 and housekeeping review sites

LAND ZONING

B1

Neighbourhood Centre

R2

Low Density Residential

RE1

Public Recreation

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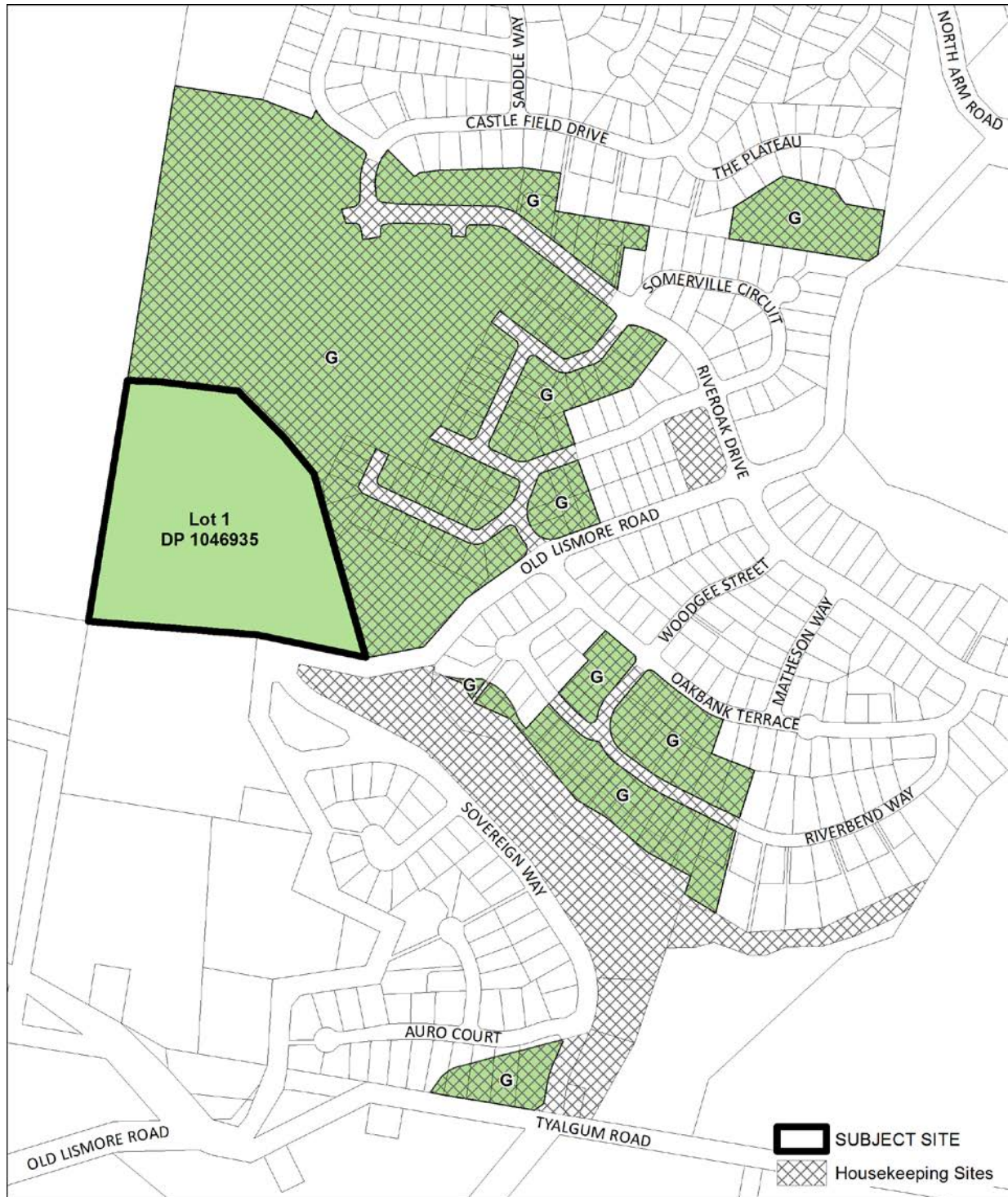
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Figure 7 Proposed zoning amendments



Tweed Local Environmental Plan 2014 - PROPOSED LOT SIZE

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

Subject Site - Lot 1 DP 1046935 and housekeeping review sites

MINIMUM LOT SIZE (sq m)

G 450

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Author: J. Batzkehr - Planning Reform Unit

Date Printed: 17 March, 2015

Figure 8 Proposes Lot size amendments



Tweed Local Environmental Plan 2014 - PROPOSED HEIGHT OF BUILDINGS

Planning Proposal PP10/0005 -- Hundred Hills, West Murwillumbah
Subject Site - Lot 1 DP 1046935 and housekeeping review sites

MAXIMUM BUILDING HEIGHT (m)

J 9

K 10

N2 13.6

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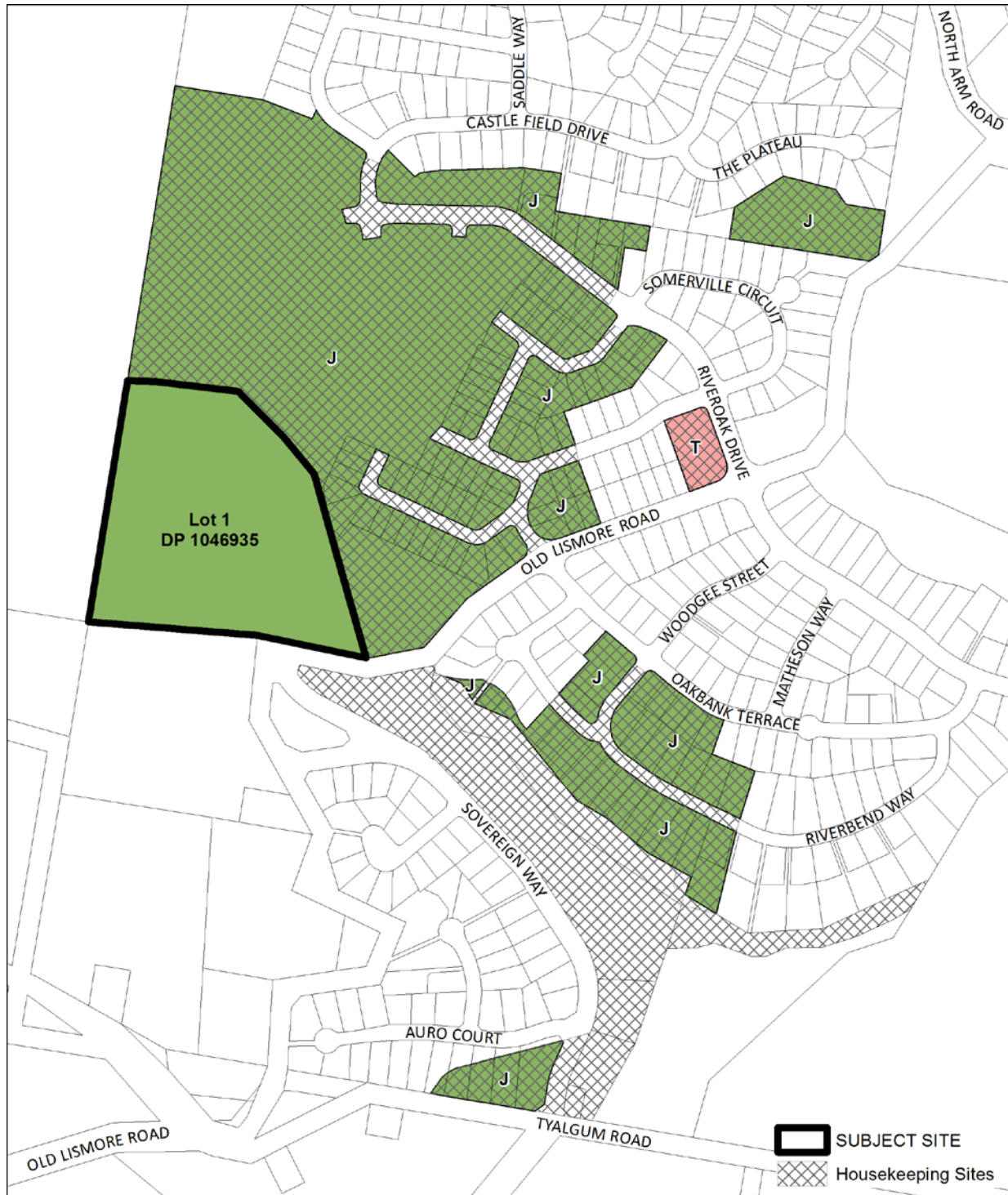
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Author: J. Batscher Planning Reform Unit

Date Printed: 17 March 2015

Figure 9 Proposed Height of Building amendments



Tweed Local Environmental Plan 2014 - PROPOSED FLOOR SPACE RATIO

Planning Proposal PP10/0005 -- Hundred Hills, West Murwillumbah
Subject Site - Lot 1 DP 1046935 and housekeeping review sites

MAXIMUM FLOOR SPACE RATIO (n:1)

J 0.8

T 2

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Author: J.Balchelor - Planning Reforms Unit

Date Printed: 17 March, 2015

Figure 10 Proposed Floor Space Ratio amendments

Part 5 Community consultation

The Gateway Determination will specify the community consultation that must be undertaken on the planning proposal. The consultation will be tailored to specific proposals generally on the basis of a 14 day exhibition period for low impact Planning Proposals and a 28 day exhibition period for all other Planning Proposals

Council considers this planning proposal should be exhibited for 28 days. Whilst the proposal is relatively small, it seeks an expansion of the established and emerging residential area of west Murwillumbah and will be of interest to the local community. It presents no issues with regard to infrastructure servicing, is not a principal LEP, and does not reclassify public land.

Part 6 - Project Timeline and information checklist

For the purposes of the Gateway Determination, a nine month timeframe to complete the LEP is requested, which is consistent with the Project Timeline detailed in Table 3 below.

Table 3 - Project Timeline

Task	Timeline
Anticipated commencement date (date of Gateway determination)	May 2015
Anticipated timeframe for the completion of required additional studies	April 2015
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	June / July 2015
Commencement and completion dates for public exhibition period	June /July 2015
Timeframe for consideration of submissions	August/Sept 2015
Timeframe for the consideration of a proposal post exhibition by Council	Sept/Oct 2015
Date of submission to the department to finalise the LEP	Nov/Dec 2015
Anticipated date RPA will forward to the department for notification	January/February 2016

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	✓		Castlefield Drive extension		

			assessment		
• Land/site contamination	✓		• Aboriginal Cultural Heritage Due Diligence		
			• Flora and Fauna		
			• Geotechnical / Engineering		
			• Concept Stormwater Assessment		
			• Contaminated Land		

Summary and conclusions

This proposal has primarily been prepared to facilitate the western expansion of the existing Hundred Hills residential estate. The proposal for the subject site seeks to intensify the residential development of a 5.18ha parcel, which is presently zoned R5 Large Lot Residential, through the implementation of a R2 Low Density Residential zone and reduction in minimum lot size requirements from 1ha to 450m². Whilst the planning proposal does not seek specific development, analysis of the site and its constraints indicates a likely yield in the vicinity of 40 lots.

The subject site is located approximately 4 kilometres to the west of the Murwillumbah Town Centre. Murwillumbah, is identified as a 'Major Town' within the NSW Far North Coast Regional Strategy and is supported by accommodation, retail, office, school and hospital infrastructure. In this regard, the expansion of the existing residential footprint is logical as it provides sound access to existing facilities, does not require significant service upgrades and reinforces Murwillumbah's role within the region.

A number of studies have been provided to support the subject site proposal for public exhibition, including:

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

Whilst the abovementioned studies are considered necessary to ensure the planning proposal for the subject site is environmentally appropriate, analysis undertaken to date indicates that no significant or prohibitive issues are present.

A secondary component of the planning proposal is to implement housekeeping based amendments to align the statutory framework to better reflect the current built environment throughout the existing Hundred Hills estate. These amendments arise due to Council's 'best fit translation' scope of the Tweed Local Environmental Plan 2014's preparation, which commenced in 2006.

The planning proposal largely meets the S117 Directions with the exception of minor variations sought to 3.1 Residential; 4.3 Flooding; and 5.1 Regional Strategy, as outlined in Table 2 above.

APPENDICES

The following appendices are provided on the accompanying compact disc:

- Appendix 1 Castlefield Drive extension traffic assessment**
- Appendix 2 Geotechnical Assessment, Geotech, December 2014**
- Appendix 3 Bulk Landforming, Mortons, February 2015**
- Appendix 4 Stormwater assessment, Gilbert and Sutherland, December 2014**
- Appendix 5 Flora and fauna assessment, Planit, August 2012**
- Appendix 6 Aboriginal cultural heritage due diligence, Everick, September 2013**
- Appendix 7 Contaminated land assessment, Gilbert and Sutherland, November 2012**
- Appendix 8 Council report and recommendations of 9 April 2015**



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