

Section 59 Planning Report

Planning Proposal Reference Number:

PP_2013_TWEED_003_00 (13/16057)

Planning Proposal Summary

Planning Proposal to rezone land at 420-434 Terranora Road to R2 Low Density Residential and apply appropriate development standards to the land.

Date of Gateway determination

14 October 2013 (as altered)

1.0 Summary

- Tweed Shire Council has prepared a Planning Proposal to rezone seven (7) non-urban zoned lots to low density residential. The land is known as 420-434 Terranora Road, Terranora.
- The Gateway determination issued on 14 October 2013 determined that the proposal should proceed subject to updating the Planning Proposal and further investigations on potential site constraints.
- There have been three extensions to the period to complete the proposal granted. The extensions were to allow outstanding site investigations to be completed and matters between the landowners and Council to be resolved. The period to complete the LEP is 21 July 2017.
- The Secretary, on 29 March 2016, appointed the Department of Planning and Environment as the relevant planning authority (RPA) to process the Planning Proposal due to Council's failure to make adequate progress in finalising the proposal.
- A revised Planning Proposal to address the matters raised in the Gateway determination has now been prepared (**Tab A**). The Attachments to the Planning Proposal are provided under Objective File 13/16057 and under the folder titled 9B. Exhibition Package.
- The Planning Proposal seeks to rezone the land from RU2 Rural Landscape to R2 Low Density Residential Development under the Tweed LEP 2014 and apply a 9m maximum building height, 0.8:1 maximum floor space ratio and 450m² minimum lot size development standards to the land.
- An alteration to the description of the proposal under the Gateway determination was issued on 19 August 2016 to reflect the revised Planning Proposal. This Gateway alteration also updated the conditions in the Gateway determination to remove any reference to Council and replace, where necessary, with relevant planning authority.
- Community consultation of the Planning Proposal and in accordance with Condition 3 of the Gateway determination occurred from 31 August to 14 September 2016 (14 days). The Department received 1 public submission supporting the rezoning, 6 unique submissions objecting to the proposal, a pro-forma letter objecting to the proposal that was signed and submitted 39 times, a petition objecting to the proposal with 60 signatures and a submission from Tweed Shire Council.
- The issues raised in the submissions have been reviewed and are discussed in more detail under Section 3 of this Section 59 Report and **Tab B**.
- No further work or revision to the proposal is required to respond to the matters raised during community consultation. The Planning Proposal in this regard has not been modified since community consultation.
- All of the conditions under the Gateway determination have been complied with and the proposal is now suitable for finalisation.

2.0 Gateway Determination

- The Gateway determination issued on 14 October 2013 determined that the proposal should proceed subject to updating the Planning Proposal and further investigations on potential site constraints.
- The Gateway determination has been altered four times to extend the period to complete the matter and to update the determination document to reflect the revised planning proposal and Department's role as relevant planning authority. The period to complete the LEP is 21 July 2017.
- The Planning Proposal addresses the requirements of the Gateway determination. In particular, the Planning Proposal addresses the matters raised in Condition 1 of the Gateway, that relate to general text, mapping and layout requirements to be consistent with the Department's guidelines, and also Condition 2, that required additional information to be included in the proposal in regard to:
 - Stormwater drainage, water and sewer servicing;
 - Implementation and ongoing maintenance; and
 - Site design and driveway access.
- These matters have been addressed in the Planning Proposal that was public exhibited in the following manner:

- *Stormwater*

Currently there is a 300mm diameter cross drainage culvert beneath Terranora Road which discharges onto Lot 6. There is a sag in Terranora Road adjacent to the site which directs overland flow from the external catchment onto Lot 5. This overland flow has defined a channel through Lot 5 which discharges into a gully north of the site.

A concept stormwater design has been prepared to identify how stormwater infrastructure can be provided onsite to manage flows across the site and also service future development (Appendix 4 of the Planning Proposal). This design is concept only. Further detailed design will be required at development application stage.

- *Sewerage*

No reticulated sewerage service is currently connected to the site. There are existing services to the south east of the site and Area E, to the north, will also comprise trunk services in the future.

A preliminary servicing plan has been prepared to confirm that services can be extended into the site from the south east. The location of the existing services and indicative extension alignments are shown within the plan under Appendix 4 of the Planning Proposal. Council has indicated that services in the area are currently under stress and connection to these services may only be permitted on a temporary basis.

The plans also indicate that a gravity fed system could be installed to allow the site to connect to services within Area E, once these services exist. This would ensure appropriate sewerage service in the long term.

- *Water*

A reticulated water main exists in Terranora Road at the frontage to the site and can be connected into the site to service any new dwelling/s.

Council is currently investigating options for alleviating strains on existing water supply services however has not considered that this issue should preclude rezoning the land.

- *Site design and driveway access*

All of the lots have frontage to Terranora Road. Suitable access design is required to ensure functionality, safety and efficiency along this roadway are not compromised.

A concept driveway design has been prepared for the site. The design limits access to the site from two points of access. The two crossovers are connected by an internal service driveway that runs parallel to Terranora Road and would connect any future dwelling/s on the land.

A preliminary site layout and traffic impact assessment has been undertaken for the site and considers this concept driveway design. The assessment concludes that the proposed concept poses no significant traffic or transport impacts or safety risk. This concept design and preliminary assessment was exhibited with the Planning Proposal (Appendix 4 and Appendix 6 of the Planning Proposal).

- *Services delivery (Implementation and ongoing maintenance)*

To ensure that the land cannot be developed for dwelling houses independent of the delivery of shared services, retaining walls and access, the landowner has proposed to undertake the registration of a right of carriage for the common access driveway and to put in place a registered 88E restriction on title.

A concept easement plan has been prepared for exhibition purposes and was exhibited with the Planning Proposal under Appendix 1 – Map 12.

This right of way and 88E restriction on the title will be registered on the title prior to the LEP being made. The proposed measures are sufficient to ensure the individual allotments cannot be sold following rezoning without any future buyer being aware of the requirement for shared services and access to be delivered on the site.

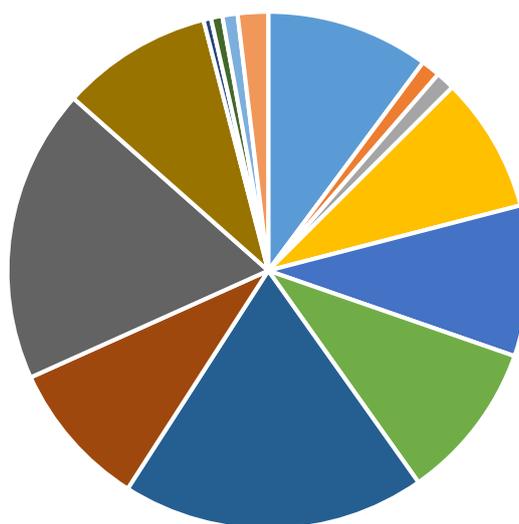
3.0 Community Consultation

- Community consultation of the Planning Proposal and in accordance with Condition 3 of the Gateway determination occurred from 31 August to 14 September 2016 (14 days).
- Exhibition of the proposal included:
 - Written notification to all landowners within approximately 100 metres of the site (**Tab C**)
 - A newspaper advertisement in the Tweed Border Mail (Tweed Daily News) (**Tab D**)
 - Notification on the Department's website - planspolicies.planning.nsw.gov.au
 - Hard copy display at the Department's Northern Region Office – Level 3, 49 Victoria Street, Grafton, NSW, 2460
 - Hard copy display at Tweed Shire Council - Murwillumbah Civic and Cultural Centre, Tumbulgum Road Murwillumbah and Tweed Heads Civic and Cultural Centre, Brett Street Tweed Heads
 - Notification on Tweed Shire Council's website - <http://www.tweed.nsw.gov.au/OnExhibition>
- The Department received 1 public submission supporting the rezoning, 6 unique submissions objecting to the proposal, a pro-forma letter objecting to the proposal that

was signed and submitted 39 times, a petition objecting to the proposal with 60 signatures and a submission from Tweed Shire Council.

- A copy of all submissions is provided under Objective File 13/16057 and Folder Name 9C. Submissions.
- Figure 1 below provides an overview of the key issues that were raised in the submissions and illustrates which of these issues were most commonly raised.

Key Issues for Not Supporting Proposed Rezoning



- Impact on cultural significance
- Traffic and safety
- Inconsistent with Area E DCP
- No provision for visitor parking
- Inadequate development controls
- Not supported by Council
- Rural protection is vital
- Excluded from Area E
- Site constraints
- Other
- Out of character for the area
- No expectation for dwellings onsite
- Protection of views
- Land suited for alternative use

- The issues raised in the submissions have been summarised and responded to under **Tab B**.
- No further work or revision to the proposal is required to respond to the matters raised during community consultation.

4.0 Views of Public Authorities

- The Gateway determination did not require consultation with any public authorities.
- No public authorities, other than Tweed Shire Council, have been consulted as part of this Planning Proposal.
- The issues raised by Council in its submission dated 21 September 2016 have been addressed in **Tab B**.
- No further work or revision to the proposal is required to respond to the matters raised by Council during community consultation.

5.0 Consistency with S.117 Directions and other strategic planning documents

- The Planning Proposal confirms that the proposed rezoning is consistent with the Far North Coast Regional Strategy, Draft North Coast Regional Plan, relevant State Environmental Planning Policies and Section 117 Directions, except for Direction 1.2

Rural Zones and 5.3 Farmland of State or Regional Significance on the NSW Far North Coast.

- In each case the inconsistencies with these two (2) Directions are considered to be minor and justifiable in terms of the criteria contained within the Direction.
- The Department on 14 October 2013 agreed that these inconsistencies are of minor significance and indicated that no further approval is required in relation to these Directions.

6.0 Parliamentary Counsel Opinion

- The Planning Proposal is consistent with the Gateway determination and has not been modified as a result of community consultation.
- It is requested that the Department now seek legal drafting and a Parliamentary Counsel Opinion for this Amending LEP.
- The following map sheets under the Tweed LEP 2014 will require amendment under LEP amendment:

Land Zoning Map	
Map Sheet	Proposed Amendment
Sheet LZN_015	Apply the R2 Low Density Residential Zone to 420-434 Terranora Road, Terranora (Lots 2-8 DP 28597)
Lot Size Map	
Map Sheet	Proposed Amendment
Sheet LSZ_015	Apply the 450m ² minimum lot size standard to 420-434 Terranora Road, Terranora (Lots 2-8 DP 28597)
Height of Buildings Map	
Map Sheet	Proposed Amendment
Sheet HOB_015	Apply the 9m maximum building height standard to 420-434 Terranora Road, Terranora (Lots 2-8 DP 28597)
Floor Space Ratio Map	
Map Sheet	Proposed Amendment
Sheet FSR_015	Apply the 0.8:1 maximum floor space ratio standard to 420-434 Terranora Road, Terranora (Lots 2-8 DP 28597)

- The Department, in conjunction with Tweed Shire Council, is preparing the revised LEP Maps consistent with the Department's technical guidelines for mapping. These maps will be provided to the Department's Northern Region Office for review prior to finalisation.



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