

## Planning Services

### Plan Finalisation Report

**Local Government Area:** Tweed

**File Number:** IRF17/348

#### 1. NAME OF DRAFT LEP

Tweed Local Environmental Plan 2014 Amendment No.4 (draft LEP).

#### 2. SITE DESCRIPTION

The planning proposal applies to land at 420-434 Terranora Road, Terranora (Lots 2-8 DP 28597).

#### PURPOSE OF PLAN

The draft LEP seeks to:

- rezone the site from RU1 Primary Production to R2 Low Density Residential;
- reduce the minimum lot size from 10ha to 450m<sup>2</sup>;
- apply a maximum floor space ratio (FSR) of 0.8:1;
- reduce the maximum height of buildings from 10m to 9m;
- include the site on the key sites map; and
- exclude the site from State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

The proposal will enable the development of the seven lots for residential purposes.

#### 3. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Tweed Electorate. Mr Geoffrey Provest MP is the State Member for Tweed. Mr Provest has written twice to the Minister for Planning seeking an update on this matter.

The Hon Justine Elliot MP is the Federal Member for Richmond. To the regional planning team's knowledge, the Hon Justine Elliot MP has not made representations regarding this matter.

**NSW Government Lobbyist Code of Conduct:** There have been no meetings or communications with registered lobbyists with respect to this proposal.

**NSW Government reportable political donation:** A political donation disclosure statement has been provided.

#### 4. GATEWAY DETERMINATION AND ALTERATIONS

A Gateway determination issued on 14 October 2013 determined that the proposal should proceed subject to conditions. The Gateway determination has been amended to extend the completion date to allow outstanding site investigations to be resolved.

On 29 March 2016, due to Tweed Shire Council's and the proponent's failure to make adequate progress in finalising the proposal, the Secretary appointed the Department of Planning and Environment as the relevant planning authority (RPA).

An alteration to the description of the proposal in the Gateway determination was issued on 19 August 2016 to reflect revisions made to the planning proposal. This alteration also updated the conditions in the Gateway determination to remove references to Council and replace, where necessary, with the relevant planning authority.

The proposal was due for finalisation on 17 July 2017.

## **5. PUBLIC CONSULTATION**

In accordance with the Gateway determination, community consultation was undertaken by Council from 31 August 2016 to 14 September 2016.

A total of 107 submissions were received during the consultation process, comprising one public submission supporting the rezoning, six 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 Council.

The key issues raised were:

- site constraints
- retention of views, and
- provision of infrastructure.

The RPA undertook a submissions review and satisfactorily addressed all issues raised in the submissions.

## **6. ADVICE FROM PUBLIC AUTHORITIES**

The Gateway determination did not require consultation with any public authorities.

## **7. POST-EXHIBITION CHANGES**

No changes to the planning proposal were considered necessary to respond to the matters raised during community consultation. The planning proposal has not been modified since community consultation. However, it is recommended that additional mapping be included to ensure servicing can be provided at the LEP finalisation stage.

## **8. ASSESSMENT**

The rezoning of the land and the amendment of the development controls affecting the site will enable the development of the seven lots for residential purposes. The proposal has been identified during the pre-Gateway review as having strategic merit.

The site is constrained due to its slope and access to infrastructure. However, the additional studies undertaken as required by the Gateway determination indicate that these constraints can be overcome through appropriate engineering and design.

### *Stormwater*

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

### *Sewerage*

No reticulated sewerage service is connected to the site. There are existing services to the south-east of the site. 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 services and indicative extension alignments are shown in the plan under Appendix 4 of the planning proposal. Council has indicated that services in the area are 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' to the north once these services are commissioned. 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.

#### *Site design and driveway access*

All 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 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 proposal).

Integrated retaining walls are also required on the site to mitigate the impacts of the land slope. The correct sequencing of the construction of these walls is necessary to ensure the engineering designs is not compromised.

#### *Services delivery (Implementation and ongoing maintenance)*

To ensure the land cannot be developed for dwelling houses independent of the delivery of shared services, retaining walls and access, it was 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. The landowners undertook this process without discussion with Council or the RPA, and the restriction was not considered adequate to ensure the sequencing and delivery of the infrastructure could be secured. Both Council and the Department's Legal Services Team have also raised concerns regarding the efficacy of any 88E or 88B instrument to achieve the required outcome.

To ensure the necessary infrastructure is in place, the land will be identified on Council's key sites map. Clause 7.13 of the Tweed LEP requires land on the map to have a development control plan (DCP) prepared before development consent can be granted on the land. The DCP must address the provision of services. In addition, the site will be excluded from State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 to ensure development that could be approved under this SEPP does not occur without the necessary infrastructure being in place.

#### Section 117 Directions

The draft LEP is consistent with all 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. When the original Gateway determination was made on 14 October 2013, the Department agreed that these inconsistencies are of minor significance and indicated that no further approval was required in relation to these Directions.

### State environmental planning policies

The draft LEP is consistent with all state environmental planning policies. It is considered necessary to exclude the site from State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 to ensure that development of the land does not occur until it is adequately serviced. This exclusion is achieved by mapping the land and including a reference to it in Schedule 5 of the SEPP.

The proposal is consistent with all other SEPPs.

## **9. MAPPING**

The LEP amends 5 map sheets of the Tweed LEP 2014 as listed below:

- Floor Space Ratio Map - 7550\_COM\_FSR\_015\_020\_20171101
- Height of Buildings Map - 7550\_COM\_HOB\_015\_020\_20171101
- Lot Size Map - 7550\_COM\_LSZ\_015\_020\_20171101
- Land Zoning Map - 7550\_COM\_LZN\_015\_020\_20171101
- Key Sites Map - 7550\_COM\_KYS\_015\_020\_20171101

It also creates a map sheet for State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 as listed below:

- Complying Development Land Map - SEPP\_ECD\_7550\_LCD\_001\_20171101

The maps have been checked by the Department's ePlanning Team and sent to Parliamentary Counsel.

## **10. CONSULTATION WITH COUNCIL**

Council was consulted on the terms of the draft instrument. Council confirmed on 23 November 2017 that it was happy with the draft and that the plan should be made.

## **11. PARLIAMENTARY COUNSEL OPINION**

On 20 November 2017, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

## **12. RECOMMENDATION**

It is recommended that the Minister's delegate determine to make the draft LEP to enable planning for the future residential development of this land.



30/11/17

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