

Rezone 420-434 Terranora Road, Terranora for residential use

Proposal Title : **Rezone 420-434 Terranora Road, Terranora for residential use**

Proposal Summary : **The planning proposal relates to the rezoning of land known as 420-434 Terranora Road, Terranora (Lots 2-8 DP 28597) from non-urban to residential to facilitate residential development of the site.**

PP Number : **PP_2013_TWEED_003_00** Dop File No : **13/16057**

Proposal Details

Date Planning Proposal Received : **23-Sep-2013** LGA covered : **Tweed**

Region : **Northern** RPA : **Tweed Shire Council**

State Electorate : **TWEED** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Terranora Road**

Suburb : City : **Terranora** Postcode : **2486**

Land Parcel : **Lot 2 - 8 DP 28597**

DoP Planning Officer Contact Details

Contact Name : **Luke Blandford**

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RPA Contact Details

Contact Name : **Stuart Russell**

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DoP Project Manager Contact Details

Contact Name : **Jim Clark**

Contact Number : **0266416604**

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Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**

Regional / Sub Regional Strategy : **Far North Coast Regional Strategy** Consistent with Strategy : **Yes**

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MDP Number :	0	Date of Release :	
Area of Release (Ha) :	0.60	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	7	No. of Dwellings (where relevant) :	7
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes : The planning proposal was the subject of a 'pre-gateway review' request (Reference No. 12/19225).

- The pre-gateway review request was made by the landowner on 26 April 2013, as Council had previously notified that it did not support their request to rezone the land for residential purposes.
- The department and the Northern Joint Regional Planning Panel (JRPP) reviewed the proposal and both agreed that it has merit and should be submitted for a Gateway determination (both assessment reports have been uploaded to the planning proposal tracking system).
- Following the receipt of the advice from the pre-gateway review, Council has submitted a planning proposal.

The planning proposal identifies that a Voluntary Planning Agreement (VPA) is to be negotiated between Council and the proponent. The proposal confirms that Council's intent for a VPA is to ensure all site issues are addressed and that the means for implementing and managing any solutions to these issues, such as shared driveways and infrastructure, are determined prior to any rezoning and/or residential development. At this time the content and details of the agreement are yet to be determined. It is identified in the planning proposal that the VPA could include items such as access, stormwater management, water and sewerage servicing, allotment configuration and the number of allotments. The planning proposal confirms that unless a VPA is negotiated between the landowner and council, that the rezoning would not be supported and no longer proceed. This is contrary to Section 93F of the EP&A Act, and if a gateway determination is granted, these references should be removed from the planning proposal prior to exhibition.

It should be noted that Tweed Shire Council has not formally accepted plan making delegation.

External Supporting Notes :

Adequacy Assessment**Statement of the objectives - s55(2)(a)**

Is a statement of the objectives provided? **Yes**

Comment : **While the proposal indicates that a 2(a) Low Density Residential zone is sought for the**

land under Tweed LEP 2000 (or R2 Low Density Residential under draft Tweed Standard Instrument LEP), it also states that its objective is to "evaluate a change in zoning" to enable the low density residential development of the site. Furthermore, the planning proposal states that the intended outcome is to "determine the suitability of rezoning the site for residential purposes".

In accordance with 'A guide to preparing planning proposals' the objectives and intended outcomes of a planning proposal should be a statement of what is planned to be achieved, not how to achieve it. Should a favourable gateway determination be issued the objectives and intended outcomes of the planning proposal should be updated to clearly inform the community of what is planned, that being, the land will be rezoned from rural to residential. This minor amendment to the objectives and intended outcomes should not constitute a requirement for resubmission of the planning proposal under Section 56 of the Act given that the outcomes of the proposal do not change.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : Part 2 'Explanation of provisions' of the planning proposal states "This report considers an amendment to Tweed LEP 2000 in accordance with the proposed zoning map shown in Figure 5".

Similar to Part 1 of the planning proposal, Part 2 of the planning proposal should be updated if a favourable gateway determination is issued to clearly inform the community of what LEP provisions are proposed to be amended. It is also noted that this statement should refer to Figure 4 of the planning proposal, which indicates the proposed land use zone under Tweed LEP 2000, not Figure 5.

It is referenced throughout the planning proposal that a number of site specific issues require resolution, and will determine the maximum development potential for the land. Accordingly, the minimum lot size, building height and floor space ratio provisions for the site have not yet been proposed. This is consistent with the department's guidelines.

The proposal should be updated prior to public exhibition to clearly indicate the land use control provisions sought for the site. This will include the preparation of plans which identify the proposed land use zone, minimum subdivision lot size, maximum building height and floor space ratio provisions for the land.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

- 1.2 Rural Zones**
- 1.3 Mining, Petroleum Production and Extractive Industries**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**
- 5.3 Farmland of State and Regional Significance on the NSW Far North Coast**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**
- 6.3 Site Specific Provisions**

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land
SEPP (Rural Lands) 2008

North Coast REP 1988

e) List any other matters that need to be considered :

In addition to the SEPPs listed by the RPA, SEPP 71 – Coastal Protection also applies given that the site is located within the coastal zone. The proposal is not inconsistent with the provisions of SEPP 71.

A review of the proposal's consistency with the applicable regional and local planning strategies is provided within the 'assessment' section of this report.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

The proposal is considered consistent with all relevant SEPPs and applicable Section 117 Directions, except Direction 1.2 Rural Zones and 5.3 Farmland of State and Regional Significance on the NSW Far North Coast. These inconsistencies are considered to be justified and are discussed under 'assessment' of this planning report.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The maps provided adequately identify the location of the site and the proposed rezoning. As discussed above, additional maps which identify the proposed minimum lot size, building height and floor space ratio provisions are required and will be prepared prior to exhibition following the resolution of site specific issues.

Revised maps which comply with the department's 'Standard Technical Requirements for LEP Maps' will be prepared for the making of the LEP.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal has indicated a 14 day public exhibition/community consultation period.

A 14 day consultation period is adequate given that the proposal is considered to be a low impact planning proposal in accordance with the department's 'A guide to Preparing a LEP'.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

As discussed previously, the planning proposal does require amendment to clearly indicate what is planned for the site.

Notwithstanding, the planning proposal generally satisfies the adequacy criteria by:

1. Providing objectives and intended outcomes, albeit minor amendments being required.

2. Providing an explanation of the provisions proposed by the Planning Proposal to achieve the outcomes, albeit minor amendments being required.

3. Providing justification for the proposal.

4. Providing mapping which indicates the site and existing and proposed land use zones.

5. Outlining a proposed community consultation program including public exhibition*.

6. Providing a project timeline which suggests completion within 12 months*.

* Council has provided a project timeline to the proposal in an email dated 23 September 2013, which indicates that a 14 day public exhibition period will be undertaken. It is

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recommended however that the planning proposal document be updated to include these matters relating to community consultation and the project time line prior to exhibition.

Proposal Assessment

Principal LEP:

Due Date : **December 2013**

Comments in
relation to Principal
LEP :

The draft comprehensive LEP has been exhibited and submitted to the department by Council with a request that it be made. The department is currently reviewing the draft LEP and organising its legal drafting.

The planning proposal confirms that under the Draft Standard Instrument LEP, the proposed zoning for the site would translate to R2 Low Density Residential.

Assessment Criteria

Need for planning
proposal :

The proposal to amend the LEP is not the result of any specific strategic study or report.

The site comprises seven (7) small allotments, each with an area less than 900m². The land is zoned 1(b1) Agricultural Protection and is surrounded by existing residential development and land zoned for future residential development. The size of the site and surrounding land uses remove its potential use for agricultural purposes. Council has confirmed that none of the sites have a dwelling entitlement nor do they meet the current minimum lot size provisions for a dwelling under the Tweed LEP 2000 or draft Tweed Standard Instrument LEP, which prescribe a 10 hectare minimum lot size. The land will therefore remain vacant and unused should it not be rezoned for residential purposes.

A pre-gateway review of the site by the department and the Northern Region JRPP has determined that there is merit for residential development on the land and have recommended that a planning proposal be submitted to achieve the necessary rezoning.

The proposal represents logical infill development, consistent with the adjoining land uses. It is considered that the planning proposal is the best means to enable low density residential development of the site.

Consistency with strategic planning framework :

THE FAR NORTH COAST REGIONAL STRATEGY

The land is located outside of the Town and Village Growth Boundary (TVGB) under the FNCRS, however adjoins the TVGB to the north.

A primary objective of the FNCRS is to contain future urban development within the Town and Village Growth Boundary (TVGB). The FNCRS provides that a minor rounding off of the TVGB may be considered if it can be demonstrated to be warranted.

This proposal can be considered to be a minor rounding off of the TVGB, given that:

- The information submitted by the proponent as part of the pre-gateway review package has confirmed that the land is not environmentally constrained. A Local Environmental Study is therefore not considered to be required in this instance.
- The land can be serviced by existing infrastructure, albeit minor potential connection upgrades.
- The site does not have any ecological value (further detail below).
- The land is located within an existing residential area and is consistent with the regional settlement hierarchy.

Rezoning the land for residential use to allow development of the site would not be inconsistent with the vision, land use strategy, policies, outcomes or actions of the FNCRS.

NORTHERN RIVERS FARMLAND PROTECTION PROJECT (NRFP)

The Farmland Protection Project seeks to protect important farmland from urban and rural residential development by mapping farmland and developing planning principles. The site is identified as State Significant Farmland.

The proposed and existing residential development surrounding the site preclude use of the land for agricultural purposes. In this regard the site has little or no agricultural significance. The Farmland Mapping therefore does not reflect the ability of the land to be used for agricultural purposes.

As discussed above, the proposal is considered to not be inconsistent with the FNCRS as it forms a minor rounding off of the TVGB.

The proposal is therefore considered to be not inconsistent with the intent of the NRFP.

TWEED 4/24 STRATEGIC PLAN 2004

Tweed 4/24 sets Council's broad governance directions for the next two decades.

A key direction under the Tweed Strategic Plan is the provision of housing that will contribute to housing diversity, lifestyle choice and affordability within the Shire.

Use of the site for residential purposes would generally be compatible with the surrounding land uses. Furthermore, the proposal will facilitate an increase in housing choice, albeit minor, within the locality while having minimal impact on the environment. The proposal is considered to be generally consistent with the principles of the Strategy.

TWEED URBAN AND EMPLOYMENT LAND RELEASE STRATEGY 2009

The Tweed Urban and Employment Land Release Strategy 2009 outlines an urban land release program for the Shire until 2031, with a focus on existing zoned and some greenfield development over the life of the Strategy. It was adopted by Council on 17 March 2009. This strategy has not been endorsed by the Director General.

As discussed above, residential use of the site would be compatible and consistent with the adjoining land uses. The proposal is generally consistent with the principles of the Strategy.

STATE ENVIRONMENTAL PLANNING POLICIES

The proposal is consistent with the provisions of all applicable SEPPs relevant to the site. Any identified inconsistency is considered to be minor and justified, as detailed below.

SEPP 55

The potential for contaminated soils is currently unknown. The site historically was used for grazing prior to 1958. The land was subdivided into its current arrangement in 1958 and has since remained vacant.

A contamination assessment for the land surrounding the site was undertaken as part of the site specific studies for the adjoining Area E urban release area, which confirmed that contamination levels surrounding the site were below the relevant health investigation levels adopted by NSW EPA. Accordingly, it would appear that the potential for

contamination on the site is low. Notwithstanding, SEPP 55 is applicable, and Council has confirmed in the planning proposal that a Phase 1 contamination assessment confirming the suitability of the site to be rezoned will be completed prior to the land being rezoned. This is considered to be satisfactory.

SECTION 117 DIRECTIONS:

Inconsistencies with Section 117 Direction 1.2 Rural Zones and 5.3 Farmland of State and Regional Significance on the NSW Far North Coast are considered to be minor and justified as outlined below. The proposal is considered to be generally consistent with all other relevant s117 Directions.

1.2 Rural Zones

The planning proposal is not consistent with this direction as it seeks to rezone land from rural to residential. The land cannot be used for agricultural purposes due to its small size and location within a residential setting. The future development of the land for residential purposes is therefore considered to be in-fill development. The minor inconsistency with the direction is justified.

5.3 Farmland of State and Regional Significance on the NSW Far North Coast

The land is identified as state significant farmland and therefore the proposal is inconsistent with this direction as it seeks to rezone the land for urban purposes. As discussed above the land cannot be used for agricultural purposes. The farmland mapping does not reflect the current status of the site or surrounding land. Furthermore the proposal is not inconsistent with the FNCRS. The proposal's inconsistency with this direction is considered to be justified.

Environmental social
economic impacts :

ECOLOGICAL VALUE

The land is generally cleared of any significant vegetation, primarily consisting of grassland. Some mature vegetation occurs along the northern and western property boundaries. These are predominantly weed species. The site has no significant ecological value.

ENVIRONMENTAL HAZARDS

The land is not subject to flooding nor is it bushfire prone.

HERITAGE SIGNIFICANCE

An Aboriginal Heritage Due Diligence and European Cultural Assessment has been prepared for the site and submitted to Council. The Assessment confirms that no historical evidence or items of historical significance have been identified onsite and identifies strategies for the management of any unexpected aboriginal archaeological resources discovered during any future works onsite. Council has confirmed that this was incorrectly referenced in the planning proposal. The planning proposal should be updated to remove reference that a Aboriginal Heritage Due Dilligence and European Cultural Assessment is required to be submitted.

STORMWATER

A 300mm stormwater culvert located under Terranora Road currently discharges onto the site. This has created a scoured drainage line which traverses the centre of the site. A Civil Engineering Assessment has been prepared by the proponent as part of the original proposal request to Council. This engineering assessment states that adequate stormwater management infrastructure can be provided onsite. A concept drainage plan has been provided which indicates upgrades to the existing culvert under Terranora Road and diverting flow below ground under the proposed access driveway (see below). Council has confirmed that stormwater can be managed however raise concern that the proposed drainage scheme by the proponent is inconsistent with Council's adopted drainage specifications.

SITE ACCESS

The land is undulating, and generally slopes south to north. Some portions of the land are quite steep, with gradients greater than 20%. Site access arrangements are required which address the site specific characteristics and will minimise potential traffic implications along Terranora Road. This may include the use of shared driveways, retaining walls and

landscaping areas.

Due to the topography of the land and to minimise access points along Terranora Road, a shared driveway with a single point of access has been proposed by the proponent. The engineering assessment submitted as part of the pre-gateway package states that the proposed driveway access is consistent with Council's road design and driveway access specifications.

Council has confirmed in the planning proposal that access to the site can be achieved however has indicated that the concept access arrangement proposed by the proponent is not supported due to potential usability implications and impact on current stormwater arrangements and that alternate options will need to be explored.

SEWER AND WATER SERVICES

No reticulated sewerage or trunk drainage services are currently available to the site. A water main exists along the southern boundary of the site within the Terranora Road reserve.

The proponent provided indicative options for connecting the site to existing services as part of the original proposal request to Council. This included provision of an interim sewer pressure connection to the rural residential estate in the south and ultimate gravity fed connection to the future residential release area to the north. Potable water would be provided via the existing main within the Terranora Road reserve.

Council has confirmed in the planning proposal that the land can be connected to sewer and potable water however has raised concern regarding existing capacities in the services to accommodate the additional loadings.

It is noted that any future residential lot configuration, layout and/or building envelopes will be subject to the resolution of the issues above relating to stormwater, access, sewer and water. These matters require further investigation as part of the post gateway requirements. Furthermore, the means for implementing the solutions to these issues and their ongoing maintenance should also be determined as part of any post gateway investigations. This is consistent with the recommendations of the JRPP made under the 'pre-gateway review'.

Should a favourable gateway determination be issued, the planning proposal should be revised prior to exhibition to remove reference to Council's conditional support for the proposal or non support towards proposed design outcomes. The proposal should clearly inform the community of what is planned for the site.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
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Timeframe to make LEP :	12 months	Delegation :	DDG
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Public Authority
Consultation - s56(2)
(d) :

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

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Identify any additional studies, if required. :

Other - provide details below

If Other, provide reasons :

- Utility infrastructure capacity assessment, including options for servicing the site and where appropriate indicative associated costs
- Stormwater management and design options
- Driveway access design options
- Lot design and configuration options
- Implementation and ongoing management option

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal 420-434 Terranora Road Terranora - COVERING LETTER.pdf	Proposal Covering Letter	Yes
420-434 Terranora Road Planning Proposal - GATEWAY FINAL 20.9.13.pdf	Proposal	Yes
Locality Plan.pdf	Map	No
Wider Context Locality Plan.pdf	Map	No
JRPP Panel Advice Report.pdf	Determination Document	Yes
Attachment 1 - Information Checklist.pdf	Proposal	No
Indicative Project Timeline.pdf	Proposal	No
DP&I Pre-Gateway Review.pdf	Determination Document	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 5.3 Farmland of State and Regional Significance on the NSW Far North Coast
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Additional Information :

- It is recommended that the planning proposal should proceed as a "routine" planning proposal, subject to the following conditions:
1. A community consultation period of 14 days is necessary.
 2. The planning proposal is to be completed within 12 months.
 3. The Director-General's delegate agree that the inconsistencies with S117 Directions 1.2 Rural Zones and 5.3 Farmland of State and Regional Significance on the NSW Far North Coast are justified as of minor significance.
 4. Council should update the planning proposal prior to public exhibition as follows:
 - Part 1 Objective and Intended Outcomes should be updated to clearly inform the community of what is planned for the site.
 - Part 2 Explanation of provisions should be updated to refer to Figure 4 of the

planning proposal and provide a clear explanation of how the objectives and intended outcomes are to be achieved.

- All references to Council's conditional support for the proposal or non support towards design options should be removed.
- Include maps which identify the proposed minimum lot size, maximum building height and floor space ratio provisions for the site prior to exhibition.
- The Community Consultation section should be updated to address matters under Section 2.5 Part 5 – Community Consultation of 'A guide to preparing planning proposals'.
- Any reference to Council requiring a Voluntary Planning Agreement as part of the rezoning process from the proponent shall be removed from the Planning Proposal.
- Any reference requiring the submission of an Aboriginal Cultural Heritage 'Due Diligence' Assessment should be removed.
- The format of the planning proposal should be updated to correlate with the 'components of a planning proposal' as specified in the department's 'A guide to preparing planning proposals', including:
 - Part 1 - Objectives and Intended Outcomes
 - Part 2 - Explanation of provisions
 - Part 3 - Justification
 - Part 4 - Maps
 - Part 5 - Community Consultation
 - Part 6 - Project Timeline

5. Council shall undertake the following studies associated with the proposal prior to public exhibition:

- Driveway access
- Stormwater drainage
- Water and sewer servicing
- Site design
- Implementation and ongoing maintenance

Council shall include the outcomes of this assessment with the planning proposal for exhibition purposes to demonstrate the land is suitable for the proposed use.

Supporting Reasons : The reasons for the above recommendations for the planning proposal are as follows:

1. The proposal represents logical infill development, consistent with the adjoining land uses.
2. The inconsistencies of the proposal with the S117 directions are of minor significance.
3. The proposal is otherwise consistent with all relevant local and regional planning strategies, Section 117 Directions and SEPPs.
4. The recommended conditions to the Gateway are required to provide adequate consultation, accountability and progression.
5. The additional site specific investigations will provide opportunity for the proponent and Council to negotiate appropriate means for addressing the site issues and ensuring the land is suitable for residential use.

Signature:



Printed Name:

Craig Diss

Date:

27/9/13