

Draft Tweed LEP Amendment

PLANNING PROPOSAL
Version - GATEWAY

Lot 1 DP 1032820
Scenic Drive Bilambil
(Known as 1 Walmsleys Road)

November 2020

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Introduction	4
Purpose of the Planning Proposal	4
Process for amending the LEP	4
Structure and content of this planning proposal	4
Property details	5
Site context and background	5
Desired outcome	5
Role of Planning Agreement.....	5
Part 1 Objectives or intended outcomes	8
Part 2 Explanation of provisions.....	9
Part 3 Justification	10
Section A Need for the planning proposal.....	10
Section B Relationship to strategic planning framework	11
Section C Environmental, social and economic impact.....	12
Section D State and Commonwealth interests.....	17
Part 4 Mapping	20
Part 5 Community consultation.....	21
Part 6 Project timeline.....	22
Summary and conclusions	23
APPENDICES.....	24
Appendix 1: Maps - Existing and Proposed	24
Appendix 2: Consistency with North Coast Regional Plan 2036	24
Appendix 3: Consistency with Council's Community Strategic Plan.....	24
Appendix 4: Consistency with applicable State Environmental Planning Policies	24
Appendix 5: Consistency with applicable Section 9.1 Directions by the Minister.....	24
Appendix 6: Council Report – 2 April 2020	24
Appendix 7: Council Report – 22 October 2020.....	24
Appendix 8: Information Checklist	24
ATTACHMENTS	24
Attachment 1: Cultural Heritage Sites Inspection Report January 2020, Tweed Byron Local Aboriginal Land Council.....	24
Attachment 2: Applicants Request to Prepare a Planning Proposal.....	24

Introduction

Purpose of the Planning Proposal

Council has received a request from DFJ Architects Pty Ltd on behalf of Bilambil Holdings Pty Ltd to prepare a Planning Proposal for the rezoning of Lot 1 DP 1032820, Scenic Drive Bilambil Heights (Known as 1 Walmsleys Road).

The planning proposal will increase the area of R1 General Residential zoned land to facilitate a mix of medium density development, mixed use development, and consolidate and enhance native vegetation on the site.

It is proposed to rezone the site from R1 General Residential and Deferred Matter under Tweed Local Environmental Plan 2014 (the LEP) to R1 and RE2 Private Recreation as a temporary zone until environmental zones are incorporated in to the LEP. Once environmental zones are incorporated the RE2 zone will be replaced with an appropriate environmental zone, probably E2 Environmental Conservation and E3 environmental Management.

Process for amending the LEP

Preparation of a planning proposal initiates a process established by the NSW Department of Planning, Industry and Environment (DPIE) known as the 'Gateway' process for the making or amendment of Local Environmental Plans (LEPs).

The steps in the process are summarised in Table 1 below, with the opportunity for the proposal to be revised as it progresses through the Gateway process.

Stage	Explanation
Planning Proposal	We are at this stage. Council has prepared a document explaining the effect of and justification for the making, or amending of the LEP. Once endorsed by Council, the planning proposal is submitted to the DPIE for consideration.
Gateway	The DPIE as a delegate for the Minister for Planning determines whether the planning proposal should proceed. If the proposal is to proceed, DPIE issues a 'Gateway determination' stipulating requirements, including what additional investigations will be required, government agencies that must be consulted and the duration of public exhibition, apart from other matters that may be required.
Community consultation	With all additional investigations completed and the original planning proposal revised, the planning proposal is publicly exhibited.
Assessment	Submissions received during public exhibition are considered and the planning proposal revised as appropriate prior to Council resolving whether to proceed and forward the proposal to DPE to have the amendment to the LEP finalised or request the Minister to determine that the matter not proceed.
Drafting	Once returned to DPE, Parliamentary Counsel prepares a draft local environmental plan to amend Council's LEP.
In effect	Once agreed by Council, the amending plan is published in the Government Gazette and the amended LEP becomes effective.

Table 1: Summary of Gateway Process

Structure and content of this planning proposal

This Planning Proposal presents an explanation of and strategic justification for amendment of the LEP in accordance with the Department of Planning and Environment's document '*A guide to preparing planning proposals*', and '*A guide to preparing local environmental plans*', and is structured Section 3.33 of the *Environmental Planning and Assessment Act 1979 (EPAA)*, as summarised in Table 2.

Part	Title	Explanation
1	Objectives or intended outcomes	A statement of the objectives and intended outcomes of the proposed instrument
2	Explanation of provisions	An explanation of the provisions that are to be included in the proposed instrument
3	Justification	The justification for those objectives, outcomes and the process for their implementation
4	Mapping	Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies
5	Community consultation	Details of the community consultation that is to be undertaken on the planning proposal
6	Project timeline	The anticipated time timeline to amend the local environmental plan

Table 2: Structure of this Planning Proposal

Property details

- *Identifier:* Lot 1 DP 1032820
- *Area:* 6.278 hectares
- *Current landuse:* Open space, native and introduced vegetation, retired orchard (refer to Figures 1 and 2)
- *Zoning (LEP 2014):* R1 General Residential, and Deferred Matter
- *Zoning (LEP 2000):* 7(d) Environmental Protection (Scenic/Escarpment)

Site context and background

The property has dual frontage to Walmsley Road and Scenic Drive, as seen in Figure 2.

The property is approximately 5 kilometres from the Tweed City Shopping Centre Tweed Heads South, and Tweed Heads city centre.

The property lies between existing residential land to the east and west, with the northern and majority of western boundaries adjoin undeveloped land, surrounded by a mix in R1 General Residential, R2 Low Density Residential, and Deferred Matter zoned land under Tweed LEP 2014, as seen in Figure 3.

Previous landuses included grazing and establishment of an orchard on the steep northern facing slopes, with the majority of the site cleared with a long history of farming operations.

The site is identified in the *North Coast Regional Plan 2036* (NCRP) as lying within an Urban Growth Area.

Desired outcome

This planning proposal will result in an increase in land available for low and medium density residential development and the consolidation, protection and enhancement of native vegetation.

Role of Planning Agreement

Consolidation, protection and enhancement of native vegetation will be achieved through a staged process which will require existing vegetation, and land to be rehabilitated to be initially zoned RE2 Private Recreation, and once environmental zones have been incorporated into Tweed's LEPs, for this zone to be replaced with an appropriate environmental zone, probably E2 Environmental Conservation and E3 Environmental Management.

To secure this outcome the applicant has supported the use of a planning agreement under section 7.4 of the *Environmental Planning and Assessment Act 1979*.



Figure 1 – Site Locality Plan

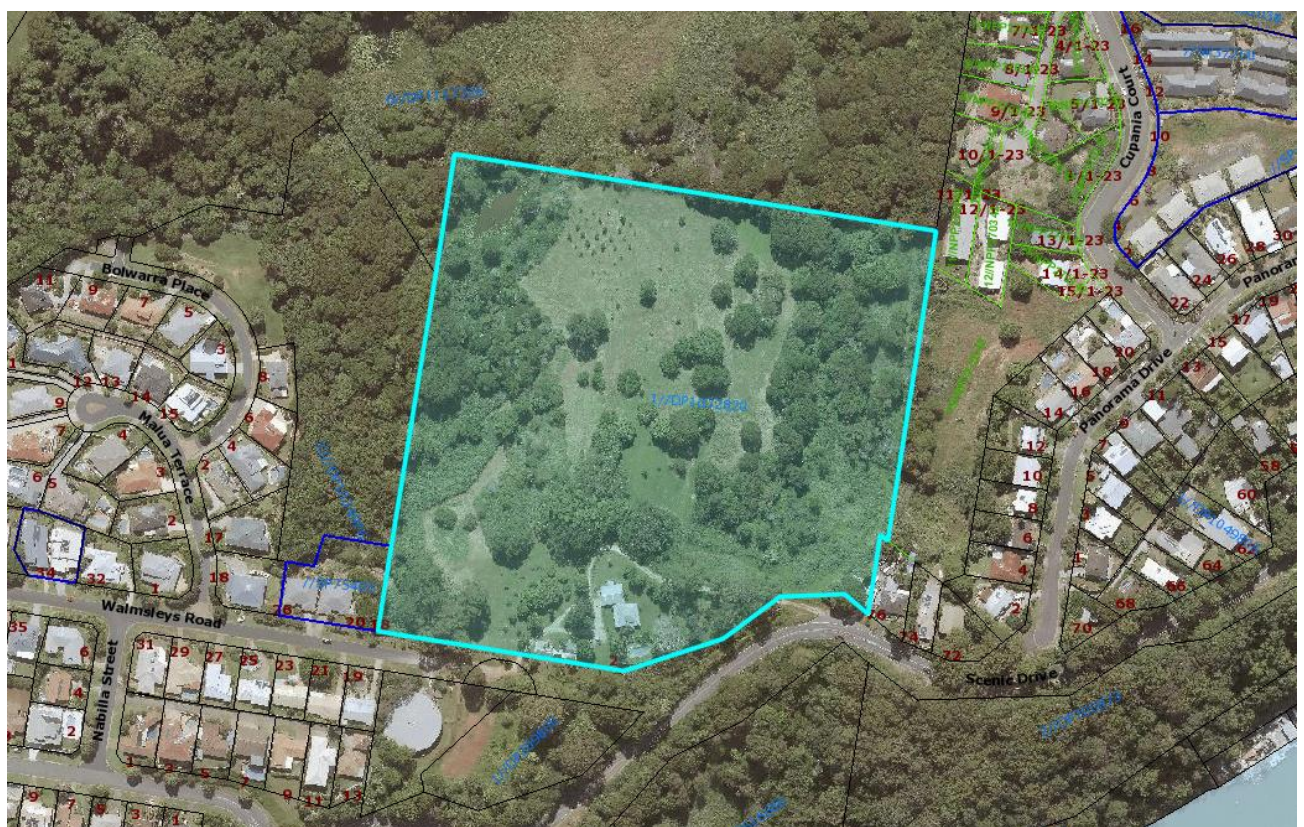


Figure 2 - Aerial View of the site and adjoining land

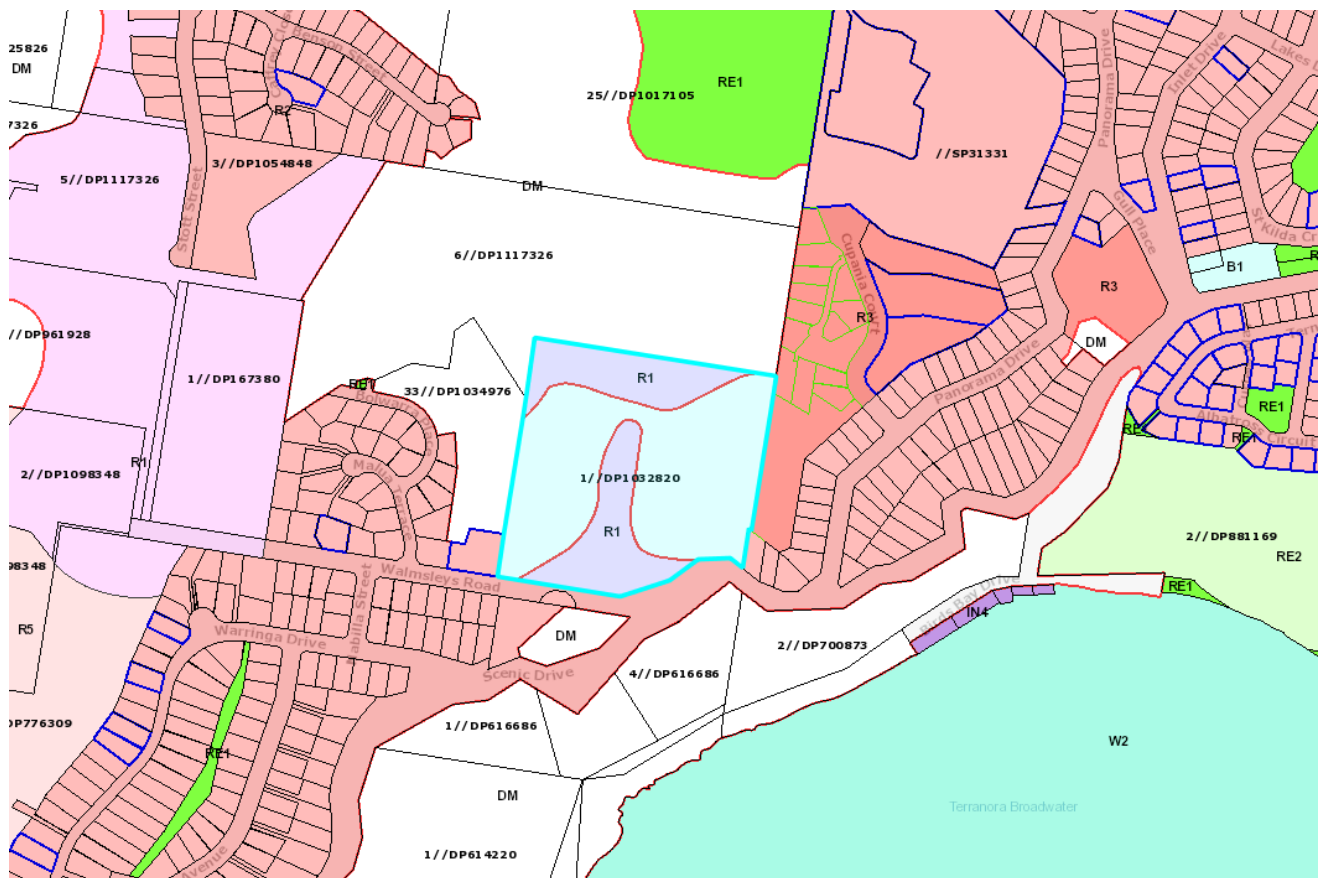


Figure 3: Context – Tweed LEP 2014 zoning of surrounding areas

Part 1 Objectives or intended outcomes

The intended outcome of this planning proposal is to amend Tweed Local Environmental Plan 2014 to facilitate:

1. Consolidation of land zoned R1 General Residential, and
2. Protection, consolidation, and enhancement of native vegetation on the remainder of the allotment.

Part 2 Explanation of provisions

The intended outcomes of this planning proposal will be achieved by:

1. Amending the following map sheets:
 - a. Land Application;
 - b. Landuse Zone;
 - c. Lot Size;
 - d. Height of Building;
 - e. Floor Space Ratio, and
 - f. Acid Sulfate Soils

A detailed explanation of changes proposed to each map can be found in Part 4 – Mapping.

2. Use of a planning agreement under Section 7.4 of the *Environmental Planning and Assessment Act 1979*.
3. **NOTE 1:** The use of Zone RE2 Private Recreation for all land not zoned R1 General Residential is only an interim zoning which will be changed to a more appropriate environmental zone once environmental zones are included in Tweed Local Environmental Plan 2014.
4. **NOTE 2:** While the zone boundary has been determined following detailed consideration of vegetation-related matters, following receipt of a Gateway determination to proceed, and pending the outcome of any further investigations which may be undertaken, the exact location of the zone will be finalised and all the maps listed above amended accordingly prior to public exhibition.

Part 3 Justification

This part of the planning proposal is split into the following sections:

Section A	Need for the planning proposal
Section B	Relationship to strategic planning framework
Section C	Environmental, social and economic impact
Section D	State and Commonwealth interests

Information provided under each section is presented as a response to questions listed in the DPIE's document '*A guide to preparing planning proposals*'.

Section A Need for the planning proposal

Question 1: Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

The planning proposal has been prepared in response to a request from the landowner who wishes to pursue a mix of landuses in the R1 General Residential zone.

While not strategic in nature, the applicant has provided information addressing a range of site specific considerations, including:

- Biodiversity and cultural heritage;
- Steep slopes and fire risk;
- Planning framework;
- Site analysis;
- Surrounding landuses and built form character;
- Demography, and
- Proposed landuses.

Studies have been prepared for:

- Preliminary desktop assessment of potential threatened species and biodiversity values;
- Additional vegetation-related information;
- Aboriginal cultural heritage site inspection report, and
- Geotechnical investigation.

The site lies within the Urban Growth Areas identified in the *North Coast Regional Plan 2036* (NCRP).

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

The Gateway process is the recognised mechanism for an amendment to a local environmental plan.

An increase in the area of R1 General Residential zoned land and environmental benefits proposed cannot be achieved through any other process.

Section B Relationship to strategic planning framework

Question 3: Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

The site lies within an Urban Growth Area identified in the NCRP.

The NCRP is the overarching framework that manages growth within the Far North Coast. The Plan identifies and promotes a settlement pattern that protects environmental values and natural resources while utilising and developing the existing network of major urban centres, reinforcing village character and requiring efficient use of existing services and major transport routes.

Among other things, the NCRP aims to manage the region's projected population growth sustainably and protect the region's unique environmental assets, cultural values and natural resources. This is planned to occur through responsive future development that retains the regional identity and local character, and fosters opportunities for greater economic activity and diversification.

Rezoning the site to facilitate the intended outcomes is considered consistent with and give effect to the objectives, and settlement and housing provisions of the NCRP.

Appendix 2 provides a comparison with actions in within the NCRP.

Question 4: Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

The *Tweed Community Strategic Plan 2017/2027* (CSP) was prepared based on extensive community consultation, and provides the overarching framework and vision for the Tweed for the next 10 years.

The plan is based on four key themes, Civic Leadership, Supporting Community Life, Strengthening the Economy, and Caring for the Environment. Within each theme are key objectives.

Appendix 3 provides an assessment of how this planning proposal gives effect to the relevant objectives within each of the four themes.

The Tweed Local Strategic Planning Statement (LSPS) was adopted by Council 4 June 2020. The planning proposal will give effect to the following planning priorities:

Planning Priority	
1	Protect the Tweed's significant natural environment, resources and landscape qualities, while cultivating sustainable growth and development, which promotes the health and vitality of the community.
2	Promote, protect, conserve and enhance the Tweed's high scenic quality, biological and ecological values for future generations and ecosystem health.
15	Deliver housing supply and associated infrastructure to meet the needs of a growing population whilst sensitive environmental and agricultural hinterlands are protected.
16	Promote housing that is affordable, diverse, adaptive and well located to meet the needs of our changing population and lifestyle

Question 5: Is the planning proposal consistent with the applicable State Environmental Planning Policies (SEPPs)?

State Environmental Planning policies (SEPPs) deal with matters of State or regional environmental planning significance. They are made by the Governor on the recommendation of the Minister for

Planning and may be exhibited in draft form for public comment before being published as a legal document.

Because the site has been extensively cleared, elevated and has a lengthy farming history the site is not impacted by most State Environmental Planning Policies; however, the following SEPPs, discussed further in Appendix 4, may broadly apply to the subject site:

- SEPP 55 – Remediation of Land;
- SEPP (Koala Habitat Protection) 2019, and
- SEPP (Vegetation in Non-Rural Areas) 2017

No other inconsistencies are considered sufficient to prevent the planning proposal from proceeding.

Question 6: *Is the planning proposal consistent with applicable Ministerial Directions (s9.1 Directions)?*

Directions issued by the Minister for Planning to relevant planning authorities under Section 9.1 of the *Environmental Planning and Assessment Act 1979* apply to planning proposals lodged with the DPIE.

The following Section 9.1 Directions by the Minister for Planning, discussed further in Appendix 5, apply to the subject site:

- 2.1 Environment Protection Zones;
- 2.3 Heritage Conservation;
- 3.1 Residential Zones;
- 3.4 Integrating Land Use and Transport;
- 3.5 Development Near Licensed Aerodromes;
- 4.1 Acid Sulfate Soils;
- 4.4 Planning for Bushfire Protection;
- 5.1 Implementation of Regional Strategies;
- 5.10 Implementation of Regional Plans;
- 6.3 Site Specific Provisions.

No inconsistencies are considered sufficient to prevent the planning proposal from proceeding.

Section C Environmental, social and economic impact

Question 7: *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?*

The majority of the site has been extensively disturbed; however flora and fauna surveys have identified vegetation to be retained and land to be rehabilitated and protected through a planning agreement under Section 7.4 of the EPAA.

This planning proposal has identified the opportunity to consolidate existing vegetation through revegetation, particularly along the northern boundary.

Mapping provided by the applicant has identified Koala Habitat, as seen in Figure 4.

Delineation of the proposed zone boundary has taken into consideration the extent and quality of existing vegetation and provides for rehabilitation of land to enhance and consolidate existing vegetation.

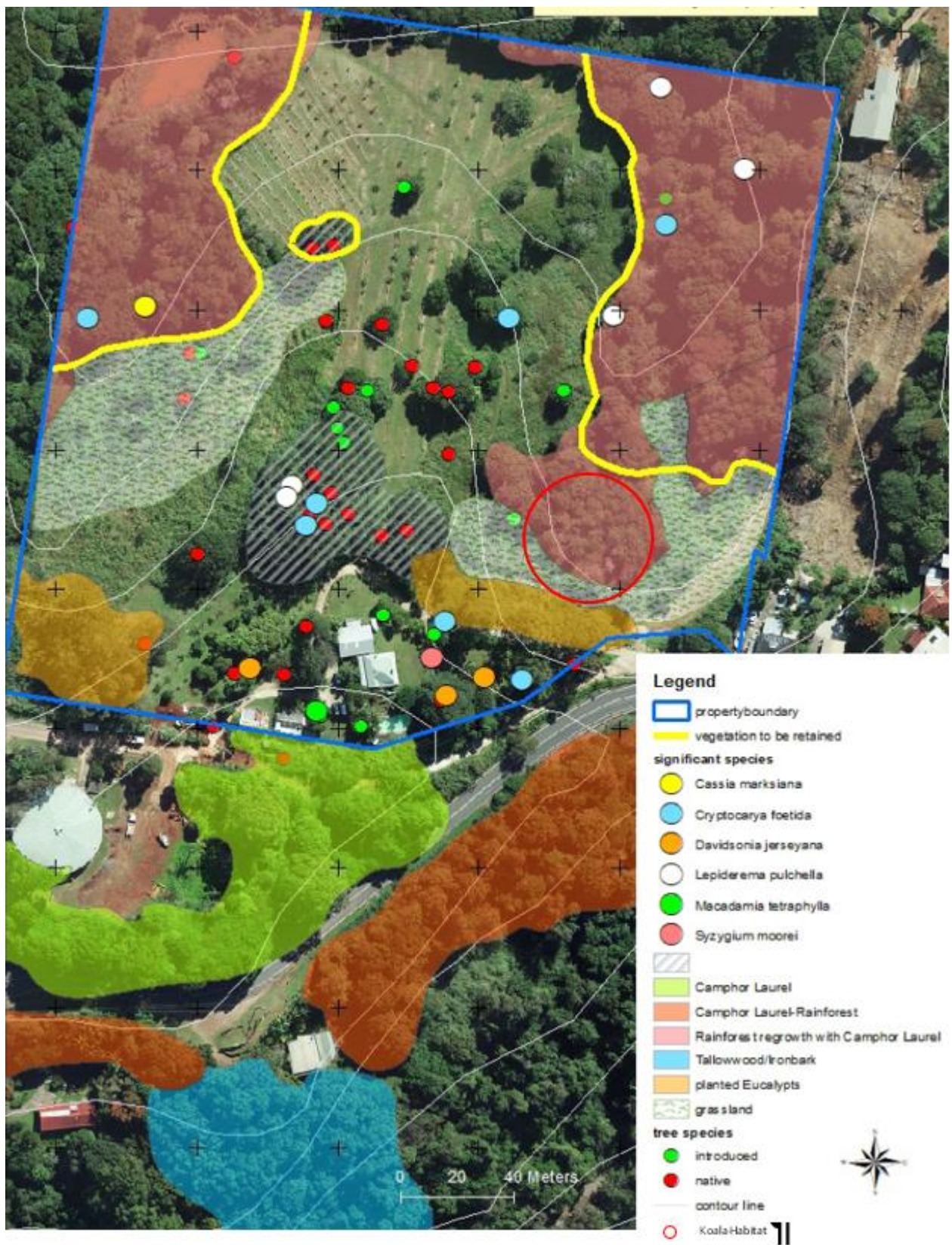


Figure 4: Vegetation Survey Showing Koala habitat (red circle)

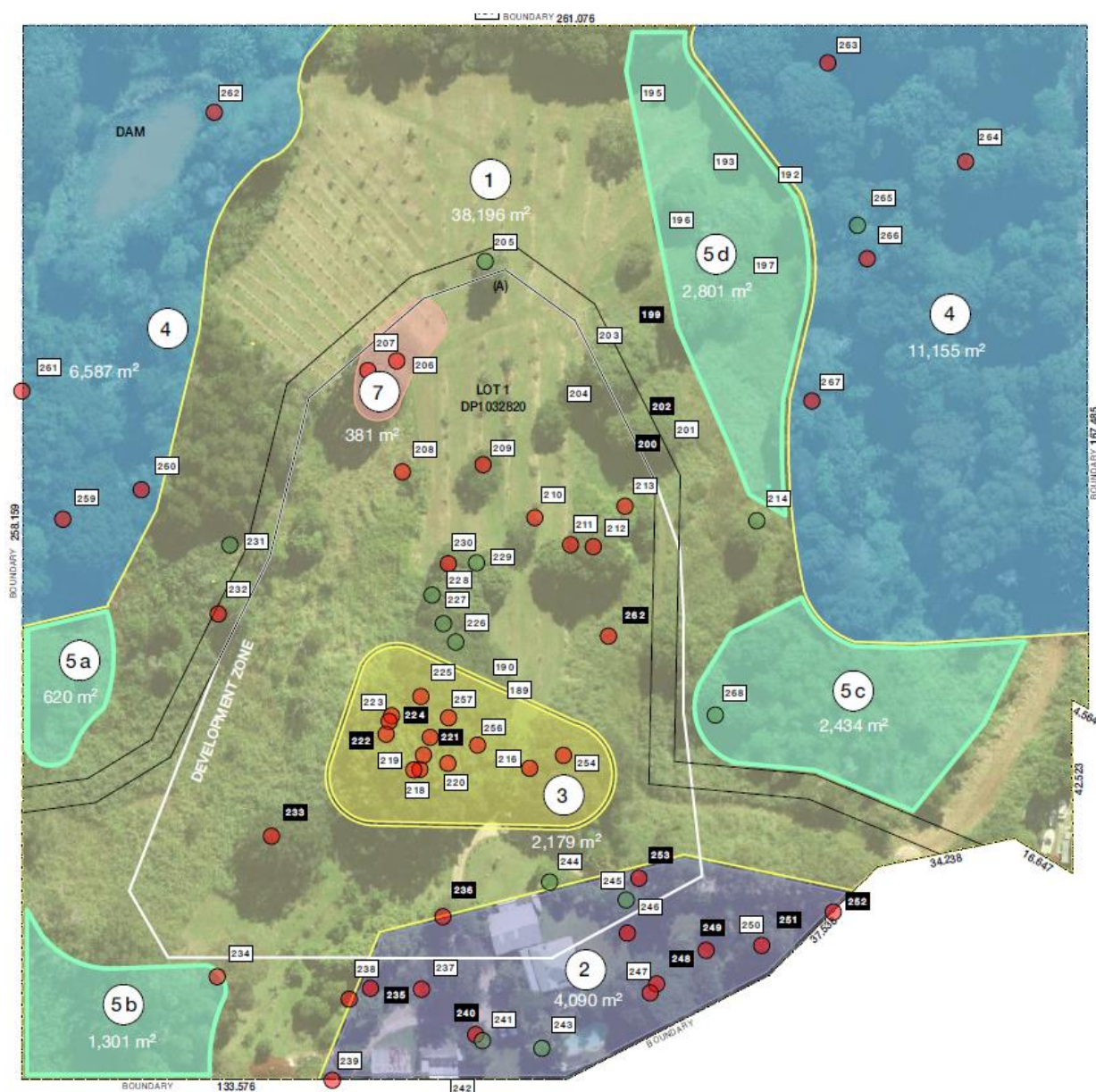


Figure 5: Vegetation Survey - June 2020

Vegetation zones	
1	Biodiversity RE2 Zoning for protection and enhanced ecological value.
2	Development Zone predominantly mown grassland with isolated trees and Fig tree remnant which will be retained. The detailed design will take into consideration the isolated trees and avoid where possible. The Threatened Species <i>Cryptocarya foetida</i> (200 and 253) and <i>Lepiderima pulchella</i> (262) are small plants and may be able to avoid disturbance. If unable to be retained then will be translocated or compensated.
3	Managed Parkland captures maintenance requirements as part of the Australian Standard AS 3959 Construction of buildings in bushfire-prone areas. Close management of this area will protect the proposed development area from bushfire threat and in return protect the RE2 zone. Native trees located in this zone can be retained and if necessary where touching canopy the branches can be trimmed to comply with bushfire requirements.
4	Protection Zone located within the development zone. Large Figs and Threatened plants to be retained, restored and maintained as a key site feature.
5	Grassland which will be revegetated to create a flora and fauna corridor between the two conservation zones on east and west. The corridor will improve the conservation significance of the site.

Question 8: Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

With the exception of potential site contamination relating to historical agricultural and horticultural activities, any application for development of the site will be assessed in accordance with Council's existing procedures, guidelines and requirements, and any approval will likewise require appropriate consideration of potential adverse environmental impacts on the site or adjoining land and water bodies.

The applicant has supported the use of a planning agreement under section 7.4 of the *Environmental Planning and Assessment Act 1979* to manage rehabilitation and protection of native vegetation.

The planning agreement will secure protection of existing vegetation, consolidation and rehabilitation of previously cleared land particularly on the northern boundary, and ensure that the interim RE2 Private Recreation is replaced with an appropriate environmental zone, probably E2 Environmental Conservation, and E3 Environmental Management once available.

The planning agreement may also have a role in protection of isolated native species, which might be retained when a detailed assessment of the implications of the rezoning is finalised after receipt of a Gateway determination to proceed.

Flooding

Due to its elevation and steepness of much of the site, apart from localised flooding in drainage lines, the site is not within land impacted by the 1 in 100 year flood event.

Acid sulfate soils

Council's Acid Sulfate Soils Planning Maps shows the site to be mapped as Class 5.

Acid sulfate soils are not typically found in Class 5 areas. Areas classified as Class 5 are located within 500 metres on adjacent Class 1, 2, 3 or 4 land. Works in a Class 5 area that are likely to lower the water table below 1 metre AHD on adjacent class 1, 2, 3 or 4 land will trigger the requirement for assessment and may require management.

While within 500 metres, the site lies between the 9.0 and 60 metre AHD contours and is considered to be outside the likely area of affectation of Acid Sulfate Soil.

Contamination

The applicant has advised that the site has been subjected to decades of intensive farming for small crops and a dairy, with historical evidence of cropping evident in aerial photography (1962, 1976, and 1987). No cattle dip sites are located within 200m of the site.

State Environmental Planning Policy 55 – Remediation of Land (SEPP 55), identifies matters that must be considered at the rezoning stage, and while the applicant advises that their request “does not alter land use permissibility or introduce permissibility for sensitive land uses, past land use of dairy and orchard would continue to be considered at Development Application stage as required by Clause 7 of the SEPP”, a preliminary investigation of the land carried out in accordance with the *Contaminated Land Planning Guidelines* will be required.

A preliminary site investigation (contamination) addressing address Clause 6 of SEPP 55 will be required once a Gateway determination to proceed has been received.

This will allow Council to consider whether the land is contaminated, if the land is contamination it will be suitable in its contaminated state or will be suitable after remediation, and if remediation is required, that remediation occur before the land is used for the proposed purpose.

Question 9: How has the planning proposal adequately addressed any social and economic effects?

The proponent has advised that through rigorous analysis of the site and surrounding land that a creative mix of housing and commercial development is expected to create and sustain a thriving new community.

The applicant state that demographic trends within the greater Tweed Region suggest that a proposal of the nature outlined in their request would positively address growing social and economic needs, and that an aspirational supply forecast would generate 80-100 units, apartments and a mix commercial space.

While one of the intended outcomes of the planning proposal is to facilitate medium density development, the applicant notes that:

- “The Planning Proposal is in part geared toward providing great housing choice and a mix of housing types.
- Research into this area shows that social interaction in diversified neighbourhoods shows benefit in housing diversification and social mix come from social interaction. These can range in such ways as saying hello on the street or borrowing things to more intensive patterns such as visiting neighbours.
- The research also shows that spatial range of social interaction is dependent on distance between neighbours. To enhance the potential in growth of social capital the design and layout of buildings can play a large role in providing cohesion in medium to high density housing.
- The human settle pattern that is eventually approved for this site will need to include well designed and maintained social spaces and semi-public places that provide opportunities for both privacy and social interaction.
- The site does not contain any items of known heritage significance and is highly disturbed from previous intensive agricultural use over the past hundred years.”

Aboriginal cultural heritage

An Aboriginal cultural heritage site inspection report was prepared in January 2020 by the Tweed Byron Local Aboriginal Land Council (TBLALC), the assessment found that:

“No materials relating to cultural activities were observed on the ground surface of this property. Given the extent of disturbance to the ground surface and the steepness of the location, the likelihood of encountering cultural materials on this site is considered to be low. The nearest registered site is a gender specific area. It is clear that Aboriginal people did traverse and camp in the general area for resource gathering and in using it as a trade route. For this reason we advocate that all ground disturbing activities on this property should proceed with caution with an awareness of the potential presence of ACH.”

The report noted that in the context of Aboriginal cultural heritage management TBLALC has no objections or concerns regarding the proposed rezoning of Lot 1 DP1032820, and that a comprehensive cultural heritage assessment is not considered necessary at this stage.

However, the TBLALC advises that the following procedure must be implemented in the case of unexpected finds of (even suspected) ACH objects or materials:

- Do not further disturb the object(s) or the site in any way.
- Place a protective barrier around the site.
- TBLALC recommends that, in such circumstances, it should be contacted as soon as possible. If the material or object(s) are confirmed to be, or are considered likely to be ACH,

OEH must be contacted as soon as possible for its information, advice, assessment and guidance. This is a legal and regulatory requirement. OEH will almost certainly arrange its own inspection. OEH is the regulatory authority in regard to ACH. TBLALC will gladly facilitate communications and will consult and advise the proponent as required.

- In such circumstances TBLALC will, very likely, require that it monitor any further works involving ground disturbance within the project area.
- In the event that human skeletal material is encountered NSW Police must be contacted immediately, a buffer zone surrounding the area must be setup and ALL activities must cease within the buffer zone until such time as the necessary approval is given to continue work within the buffer zone. Again, it is the proponent's legal responsibility to notify NSW Police. It is usually not easy to determine whether bone material is of animal or human origin. Photographic / video images may be able to be sent to OEH so that an authoritative decision can be made. The main points are: secure the area, do not disturb the specimen, contact OEH immediately (and we recommend that you also contact us as soon as possible and inform OEH that you are doing so).

Section D State and Commonwealth interests

Question 10: Is there adequate public infrastructure for the planning proposal?

Due to its location adjoining Scenic Drive, a major thoroughfare, and the close proximity to both Tweed Heads and Tweed Heads South, the site provides public infrastructure considered appropriate for the scale and type of development proposed.

Following receipt of a Gateway determination to proceed, it is proposed to request that the applicant undertake an assessment of the potential traffic generating impacts, and access options from both Walmsley Road and Scenic Drive and undertake a review of the potential for an intersection between the two.

Council has also raised concerns about the potential impacts on access to its water reservoirs opposite the site on Walmsley Road, which will also need to be considered assuming a Gateway determination supports proceeding.

Transport

The proposed rezoning has the potential to generate an increased demand for public transport. Full consideration of the impact of public transport will be considered at the development assessment stage.

Water Supply

The Water Supply zone for this area is the Marana Street Reservoir in Bilambil Heights.

Due to the elevation of the site, (approximately 20 to 60 metres AHD), a Pressure Reducing Valve (PRV) would be required on any connections to service this area for Water Supply.

It should be noted that Council's Water and Wastewater Unit own the land adjacent to this site, which houses the Walmsleys Road water reservoir, with two more reservoirs proposed in the future.

Road access considerations for the proposed rezoned area will need to consider Council's access to the existing reservoir and also to allow Council access to the land for the construction of the future reservoirs.

Following receipt of a Gateway determination to proceed, a report will be required demonstrating the impact of connecting the additional area to Council's existing Water Supply and Sewerage Systems, and the impact on the access to the Walmsleys Road water reservoir land.

Wastewater

The site is located within the Banora Point Wastewater Treatment Plant Sewerage catchment.

The proposal has indicated an intention to utilise existing sewage capacity, with no on-site sewage systems required.

If serviced by reticulated sewer this proposal could provide discharge to Council's wastewater system, with the nearest gravity sewerage system to the proposed development in Scenic Drive.

The development may require a private sewage ejection pump station and in that circumstance approval would be required under Section 68 of *The Local Government Act 1993*. It should be noted that Council will not accept the ownership of the pumping stations servicing less than 50 lots, unless otherwise approved by Council.

Power

The site will be serviced utilising existing infrastructure contained within local road easements. Power supply is not expected to be a constraint.

Telephone

The site will be serviced utilising existing infrastructure contained within local road easements. Provision of telecommunications services is not is not expected to be a constraint.

Health

Tweed Heads has a public hospital located approximately 5 kilometres east of the site together with a cluster of medical services available within a similar distance, including normal medical, dental and other health care professionals within Tweed Heads South and Tweed Heads.

Police

A Police Station located at Tweed Heads approximately 5 kilometres from the site.

Ambulance

Tweed Heads Ambulance Station is located adjacent to the Tweed Heads Hospital approximately 5 kilometres northeast of the site.

Fire Brigade

The Tweed Heads Fire Brigade Station is located on the corner of Dry Dock Road and Minjungbal Drive approximately 4.5 kilometres east of the site.

Schools

Tweed Heads and Tweed Heads South have two public high schools, four public primary schools, three private primary schools and two private high schools.

Pedestrian mobility

The site and adjoining existing residential areas are not well serviced by cycle and pedestrian pathways; however, not far to the east pedestrian and cycle access back to Tweed Heads and Tweed Heads South is available and being upgraded. Notwithstanding this, Council's draft Local Strategic Plan is proposing:

“Improve pedestrian and cyclist mobility, movement and connectivity through development and implementation of a contemporary bicycle and pedestrian strategy.”

Question 11: What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

This planning proposal is presented for a Gateway determination and as such this section of the planning proposal will be further addressed once a Gateway determination has been provided; however, it is anticipated that the following State and Commonwealth public authorities will need to be consulted during the public exhibition period of the planning proposal:

- Housing NSW, and
- Roads and Maritime Services;

Part 4 Mapping

The following changes will be required to maps affected by this amendment to Tweed LEP 2014.

Consistent with the intent of the Gateway process to establish the strategic merit of the proposal and minimise delays and costs prior to seeking a Gateway determination, with more detailed investigations to occur once a Gateway determination to proceed has been issued, no detailed final maps have been prepared for inclusion in this version of the Planning Proposal.

At this stage in the process, one indicative only map has been prepared. This map will be modified once further more detailed investigations are completed after receipt of the Gateway determination, with all maps listed below amended and included in the next version of this planning proposal prior to public exhibition.

Map sheet		Current	Proposed change
LAP_001	Land Application	'DM' Deferred Matter is currently shown on subject site.	Remove 'DM' Deferred Matter on subject site.
LZN_014	Landuse Zone	R1 General Residential, and DM Deferred Matter	Amend LZN boundaries once location finalised. R1 General Residential. Add RE2 Private Recreation
LSZ_014	Lot Size	R1 - 'G' 450 square metres DM – No Minimum Lot Size	Amend LSZ boundary to proposed R1 zone once location finalised. Add RE2 - No Minimum Lot Size.
HOB_014	Height of Building	R1 – 'N2' 13.6 metres DM – No Height of Building	Amend HOB boundary to proposed R1 zone once location finalised. Add RE2 - 'K' – 10 metres.
FSR_014	Floor Space Ratio	R1 – 'T' 2:1 DM - No Floor Space Ratio	Amend FSR boundary to proposed R1 zone once location finalised. Add RE2 - No Floor Space Ratio.
ASS_014	Acid Sulfate Soils	R1 Zone Area – Class 5	Amend ASS boundary to reinstate Class 5 to the area that is currently zoned DM Deferred Matter.

Part 5 Community consultation

This part of the planning proposal may be revised following receipt of the Gateway determination, to reflect community consultation requirements as stipulated in the determination.

This planning proposal is considered to be moderate impact and as such, it is proposed that this planning proposal be placed on public exhibition for a period of 28 days and made available for viewing as listed below:

- Council offices at Tweed Heads and Murwillumbah;
- Notice in Council's weekly newspaper, the Tweed Link, and
- Online at Council's website: www.tweed.nsw.gov.au.

It is also proposed that the associated draft Planning Agreement be placed on public exhibition concurrently with the planning proposal.

Consultation will occur consistent with Council's Community Engagement and Participation Plan.

Part 6 Project timeline

The following project timeline has been prepared with the assumption that the project would commence once a Gateway determination is issued, but may be amended following assessment by the DPIE to provide the necessary level of confidence that the proposed amendments to *Tweed Local Environmental Plan 2014* will be finalised within a reasonable time.

Project timeline	
Benchmark	Anticipated Deadline
• Council resolution to proceed for a Gateway determination (Pending resolution to proceed)	October 2020
• Anticipated commencement date (date of Gateway determination)	November 2020
• Anticipated timeframe for the completion of required technical information	January 2021
• Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	January 2021
• Commencement date for public exhibition period	March 2021
• Completion date for public exhibition period	April 2021
• Dates for public hearing (if required)	
• Timeframe for the consideration of submissions	April 2021
• Timeframe for the consideration of a proposal post exhibition	May 2021
• Date of submission to the Department of Planning, Industry and Environment to finalise the LEP	May 2021
• Anticipated date RPA will make the plan (if delegated)	June 2021
• Anticipated date plan is published and effective	July 2021

Summary and conclusions

The planning proposal seeks the rezoning of Lot 1 DP 1032820, Scenic Drive Bilambil Heights to facilitate medium density residential development, managed public and open space, mixed use development, and environmental improvements.

The site is identified in the *North Coast Regional 2036* as being within an Urban Growth Area.

The site has been extensively cleared and has a history of farming and grazing.

While the proposal will expand the area of land zoned R1 General Residential, the proposal will also lead to an improved environmental outcome resulting in protection, consolidation and enhancement of native vegetation.

The applicant has supported the use of a planning agreement to allow land not zoned residential to in the short term be zoned RE2 Private Recreation, and for this zone to be changed to an appropriate environmental zone once environmental zones are incorporated into Tweed LEP 2014.

While documentation provided by the applicant and internal Council review have validated the strategic merit of the proposal, until such time as further investigations are completed, the exact location of any change to the zone boundary cannot be finalised.

As such, an indicative only map showing the approximate location of a zone boundary derived from information available at this time is attached to this planning proposal.

All other affected maps will be prepared and included in the next version of the planning proposal prior to public exhibition.

Investigations to date support the strategic merit of the proposal and seek a Gateway determination to proceed.

APPENDICES

Appendix 1: Maps - Existing and Proposed

Appendix 2: Consistency with North Coast Regional Plan 2036

Appendix 3: Consistency with Council's Community Strategic Plan

Appendix 4: Consistency with applicable State Environmental Planning Policies

Appendix 5: Consistency with applicable Section 9.1 Directions by the Minister

Appendix 6: Council Report – 2 April 2020

Appendix 7: Council Report – 22 October 2020

Appendix 8: Information Checklist

ATTACHMENTS

Attachment 1: Cultural Heritage Sites Inspection Report January 2020, Tweed Byron Local Aboriginal Land Council

Attachment 2: Applicants Request to Prepare a Planning Proposal

Appendix 1:

Maps

(Existing and Proposed)

Land Application

Acid Sulfate Soils

Floor Space Ratio

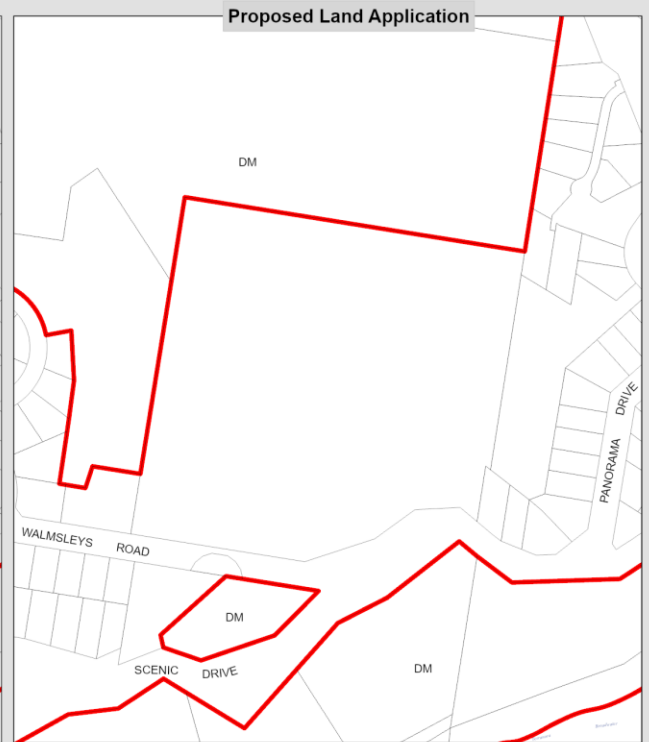
Lot Size

Zoning

Height of Buildings

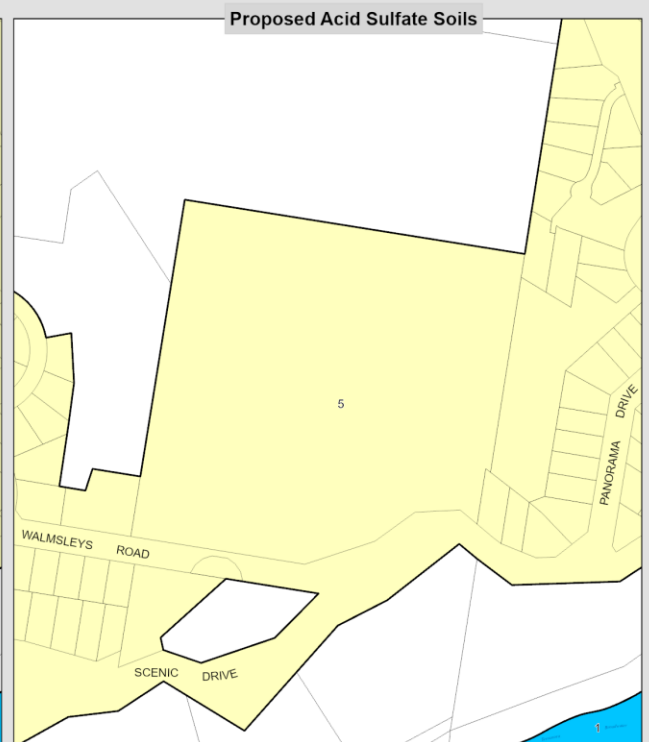
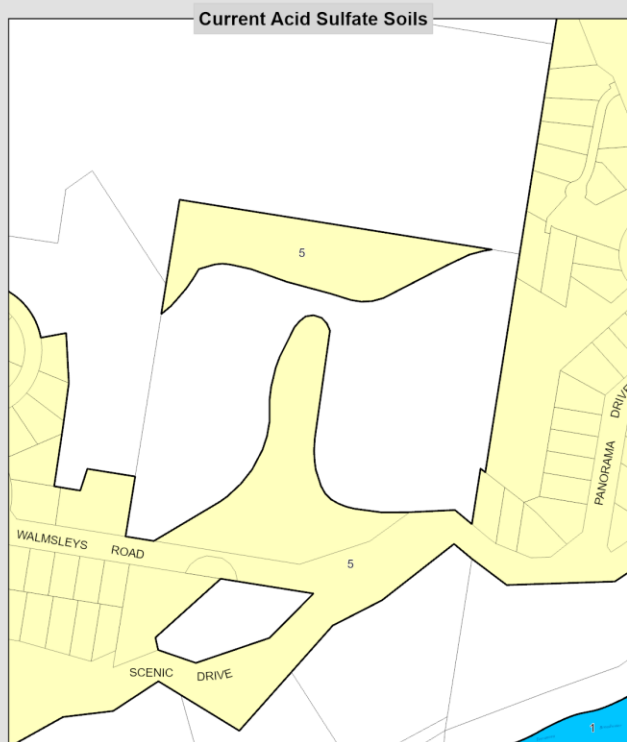
Tweed Local Environmental Plan 2014 - Land Application

Deferred Included



Tweed Local Environmental Plan 2014 - Acid Sulfate Soils

Class 1 Class 5



Tweed Local Environmental Plan 2014 - Floor Space Ratio

Maximum Floor Space Ratio (n:1)

J 0.8 T 2



Tweed Local Environmental Plan 2014 - Minimum Lot Size

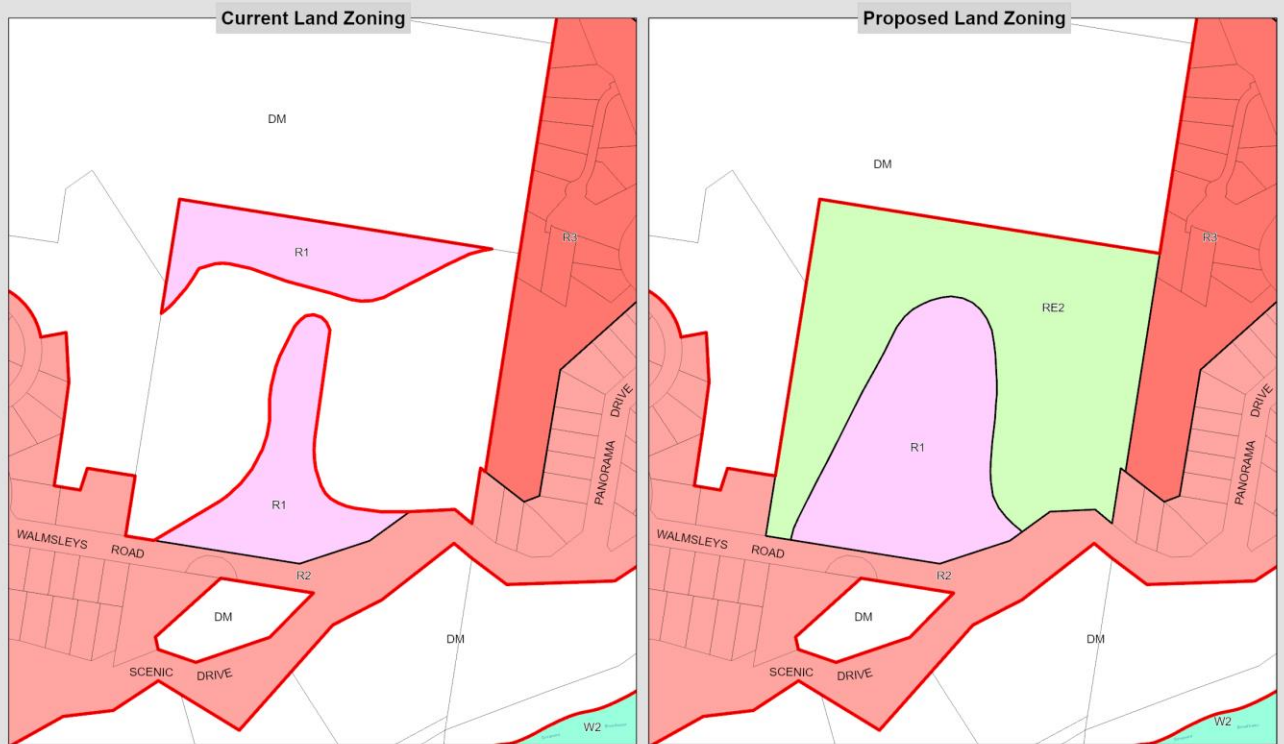
Minimum Lot Size (sq m)

G 450



Tweed Local Environmental Plan 2014 - Land Zoning

R1 General Residential	R3 Medium Density Residential	W2 Recreational Waterways
R2 Low Density Residential	RE2 Private Recreation	DM Deferred Matter



Tweed Local Environmental Plan 2014 - Height of Building

Maximum Building Height (m)

J 9 m	K 10 m	N2 13.6 m
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Appendix 2:

Assessment of consistency with North Coast Regional Plan 2036

Consistency with North Coast Regional Plan 2036		
Goal 1: The most stunning environment in NSW		
Direction/Action		Response
Direction 1: Deliver environmentally sustainable growth		
1.1	Focus future urban development to mapped urban growth areas.	The site lies within an Urban Growth Area.
1.2	Review areas identified as 'under investigation' within urban growth areas to identify and map sites of potentially high environmental value.	N/A
1.3	Identify residential, commercial or industrial uses in urban growth areas by developing local growth management strategies endorsed by the Department of Planning and Environment.	N/A
1.4	Prepare land release criteria to assess appropriate locations for future residential, commercial and industrial uses.	N/A
Direction 2: Enhance biodiversity, coastal and aquatic habitats, and water catchments		
2.1	Focus development to areas of least biodiversity sensitivity in the region and implement the 'avoid, minimise, offset' hierarchy to biodiversity, including areas of high environmental value.	The proposal seeks to protect existing native vegetation, consolidate isolated stands and revegetate land to establish a corridor on the northern boundary. Further consideration will be given to the protection of isolated native trees during further investigations to be finalised once a Gateway determination to proceed is received.
2.2	Ensure local plans manage marine environments, water catchment areas and groundwater sources to avoid potential development impacts.	Acknowledged and will be addressed in detail at the DA stage
Direction 3: Manage natural hazards and climate change		
3.1	Reduce the risk from natural hazards, including the projected effects of climate change, by identifying, avoiding and managing vulnerable areas and hazards.	Any development proposed for the site will be assessed at the Development Application stage against potential adverse impacts on the marine environment, risks and hazards.
3.2	Review and update floodplain risk, bushfire and coastal management mapping to manage risk, particularly where urban growth is being investigated	N/A
3.3	Incorporate new knowledge on regional climate projections and related cumulative impacts in local plans for new urban development.	Acknowledged
Direction 4: Promote renewable energy opportunities		
4.1	Diversify the energy sector by identifying renewable energy resource precincts and infrastructure corridors with access to the electricity network	N/A
4.2	Enable appropriate smaller-scale renewable energy projects using bio-waste, solar, wind, small-scale hydro, geothermal or other innovative storage technologies	N/A
4.3	Promote appropriate smaller and community-scale renewable energy projects	An option to be considered at the development assessment stage
Goal 2: A thriving, interconnected economy		
Direction 5: Strengthen communities of interest and cross-regional relationships		

Consistency with North Coast Regional Plan 2036		
5.1	Collaborate on regional and intra-regional housing and employment land delivery, and industry development	N/A
5.2	Integrate cross-border land use planning between NSW and South East Queensland, and remove barriers to economic, housing and jobs growth.	N/A
5.3	Encourage ongoing cooperation and land use planning between the City of Gold Coast and Tweed Shire Council	N/A
5.4	Prepare a regional economic development strategy that drives economic growth opportunities by identifying key enabling infrastructure and other policy interventions to unlock growth.	N/A
Direction 6: Develop successful centres of employment		
6.1	Facilitate economic activity around industry anchors such as health, education and airport facilities by considering new infrastructure needs and introducing planning controls that encourage clusters of related activity	N/A
6.2	Promote knowledge industries by applying flexible planning controls, providing business park development opportunities and identifying opportunities for start-up industries	N/A
6.3	Reinforce centres through local growth management strategies and local environmental plans as primary mixed-use locations for commerce, housing, tourism, social activity and regional services.	N/A
6.4	Focus retail and commercial activities in existing centres and develop place-making focused planning strategies for centres	N/A
6.5	Promote and enable an appropriate mix of land uses and prevent the encroachment of sensitive uses on employment land through local planning controls	N/A
6.6	Deliver an adequate supply of employment land through local growth management strategies and local environmental plans to support jobs growth	N/A
6.7	Ensure employment land delivery is maintained through an annual North Coast Housing and Land Monitor	N/A
Direction 7: Coordinate the growth of regional cities		
7.1	Prepare action plans for regional cities that:	
	• ensure planning provisions promote employment growth and greater housing diversity;	N/A
	• promote new job opportunities that complement existing employment nodes around existing education, health and airport precincts;	N/A
	• identify infrastructure constraints and public domain improvements that can make areas more attractive for investment; and	N/A
	• deliver infrastructure and coordinate the most appropriate staging and sequencing of development.	N/A
Direction 8: Promote the growth of tourism		

Consistency with North Coast Regional Plan 2036		
8.1	Facilitate appropriate large-scale tourism developments in prime tourism development areas such as Tweed Heads, Tweed Coast, Ballina, Byron Bay, Coffs Harbour and Port Macquarie.	N/A
8.2	Facilitate tourism and visitor accommodation and supporting land uses in coastal and rural hinterland locations through local growth management strategies and local environmental plans.	N/A
8.3	Prepare destination management plans or other tourism-focused strategies that: <ul style="list-style-type: none"> • identify culturally appropriate Aboriginal tourism opportunities; • encourage tourism development in natural areas that support conservation outcomes; and • strategically plan for a growing international tourism market. 	N/A
8.4	Promote opportunities to expand visitation to regionally significant nature-based tourism places, such as Ellenborough Falls, Dorrigo National Park, Wollumbin-Mount Warning National Park, Iluka Nature Reserve and Yuraygir Coastal Walk.	N/A
8.5	Preserve the region's existing tourist and visitor accommodation by directing permanent residential accommodation away from tourism developments, except where it is ancillary to existing tourism developments or part of an area otherwise identified for urban expansion in an endorsed local growth management strategy.	N/A
Direction 9: Strengthen regionally significant transport corridors		
9.1	Enhance the competitive value of the region by encouraging business and employment activities that leverage major inter-regional transport connections, such as the Pacific Highway, to South East Queensland and the Hunter.	N/A
9.2	Identify buffer and mitigation measures to minimise the impact of development on regionally significant transport infrastructure including regional and state road network and rail corridors.	N/A
9.3	Ensure the effective management of the State and regional road network by: <ul style="list-style-type: none"> • preventing development directly adjoining the Pacific Highway; • preventing additional direct 'at grade' access to motorway-class sections of the Pacific Highway; • locating highway service centres on the Pacific Highway at Chinderah, Ballina, Maclean, Woolgoolga, Nambucca Heads, Kempsey and Port Macquarie, approved by the Department of Planning and Environment and Roads and Maritime Services; and • identifying strategic sites for major road freight transport facilities. 	N/A
Direction 10: Facilitate air, rail and public transport infrastructure		
10.1	Deliver airport precinct plans for Ballina-Byron, Lismore, Coffs Harbour and Port Macquarie that	N/A

Consistency with North Coast Regional Plan 2036

	capitalise on opportunities to diversify and maximise the potential of value-adding industries close to airports.	
10.2	Consider airport-related employment opportunities and precincts that can capitalise on the expansion proposed around Gold Coast Airport.	N/A
10.3	Protect the North Coast Rail Line and high-speed rail corridor to ensure network opportunities are not sterilised by incompatible land uses or land fragmentation.	N/A
10.4	Provide public transport where the size of the urban area has the potential to generate sufficient demand.	N/A
10.5	Deliver a safe and efficient transport network to serve future release areas.	N/A
Direction 11: Protect and enhance productive agricultural lands		
11.1	Enable the growth of the agricultural sector by directing urban and rural residential development away from important farmland and identifying locations to support existing and small-lot primary production, such as horticulture in Coffs Harbour.	N/A
11.2	Deliver a consistent management approach to important farmland across the region by updating the <i>Northern Rivers Farmland Protection Project</i> (2005) and <i>Mid North Coast Farmland Mapping Project</i> (2008).	N/A
11.3	Identify and protect intensive agriculture clusters in local plans to avoid land use conflicts, particularly with residential and rural residential expansion.	N/A
11.4	Encourage niche commercial, tourist and recreation activities that complement and promote a stronger agricultural sector, and build the sector's capacity to adapt to changing circumstances.	N/A
11.5	Address sector-specific considerations for agricultural industries through local plans.	N/A
Direction 12: Grow agribusiness across the region 40		
12.1	Promote the expansion of food and fibre production, agrichemicals, farm machinery, wholesale and distribution, freight and logistics, and processing through flexible planning provisions in local growth management strategies and local environmental plans.	N/A
12.2	Encourage the co-location of intensive primary industries, such as feedlots and compatible processing activities.	N/A
12.3	Examine options for agribusiness to leverage proximity from the Gold Coast and Brisbane West Wellcamp airports.	N/A
12.4	Facilitate investment in the agricultural supply chain by protecting assets, including freight and logistics facilities, from land use conflicts arising from the encroachment of incompatible land uses.	N/A
Direction 13: Sustainably manage natural resources		
13.1	Enable the development of the region's natural, mineral and forestry resources by directing to suitable locations land uses such as residential	N/A

Consistency with North Coast Regional Plan 2036		
	development that are sensitive to impacts from noise, dust and light interference.	
13.2	Plan for the ongoing productive use of lands with regionally significant construction material resources in locations with established infrastructure and resource accessibility.	N/A
Goal 3: Vibrant and engaged communities		
Direction 14: Provide great places to live and work		
	Prepare precinct plans in growth areas, such as Kingscliff, or centres bypassed by the Pacific Highway, such as Woodburn and Grafton, to guide development and establish appropriate land use zoning, development standards and developer contributions.	N/A
	Deliver precinct plans that are consistent with the <i>Precinct Plan Guidelines</i> (Appendix C)	N/A
Direction 15: Develop healthy, safe, socially engaged and well-connected communities		
15.1	Deliver best-practice guidelines for planning, designing and developing healthy built environments that respond to the ageing demographic and subtropical climate.	To be considered at the DA stage
15.2	Facilitate more recreational walking and cycling paths and expand interregional and intra-regional walking and cycling links, including the NSW Coastline Cycleway.	To be considered at the DA stage
15.3	Implement actions and invest in boating infrastructure priorities identified in regional boating plans to improve boating safety, boat storage and waterway access.	N/A
15.4	Create socially inclusive communities by establishing social infrastructure benchmarks, minimum standards and social impact assessment frameworks within local planning.	N/A
15.5	Deliver crime prevention through environmental design outcomes through urban design processes.	To be considered at the DA stage
Direction 16: Collaborate and partner with Aboriginal communities		
16.1	Develop partnerships with Aboriginal communities to facilitate engagement during the planning process, including the development of engagement protocols.	Engagement of the Local Aboriginal Land Council has occurred and will be further conducted throughout the planning process
16.2	Ensure Aboriginal communities are engaged throughout the preparation of local growth management strategies and local environmental plans.	Engagement of the Local Aboriginal Land Council has occurred and will be further conducted throughout the planning process
Direction 17: Increase the economic self-determination of Aboriginal communities		
17.1	Deliver opportunities to increase the economic independence of Aboriginal communities through training, employment and tourism.	N/A
17.2	Foster closer cooperation with Local Aboriginal Land Councils to identify the unique potential and assets of the North Coast communities.	N/A
17.3	Identify priority sites with economic development potential that Local Aboriginal Land Councils may wish to consider for further investigation.	N/A
Direction 18: Respect and protect the North Coast's Aboriginal heritage		

Consistency with North Coast Regional Plan 2036		
18.1	Ensure Aboriginal objects and places are protected, managed and respected in accordance with legislative requirements and the wishes of local Aboriginal communities.	Engagement of the Local Aboriginal Land Council has occurred and will be further conducted throughout the planning process
18.2	Undertake Aboriginal cultural heritage assessments to inform the design of planning and development proposals so that impacts to Aboriginal cultural heritage are minimised and appropriate heritage management mechanisms are identified.	A Cultural Heritage Sites Inspection report was completed by the Tweed Byron Local Aboriginal Land Council in January 2020.
18.3	Develop local heritage studies in consultation with the local Aboriginal community, and adopt appropriate measures in planning strategies and local plans to protect Aboriginal heritage.	N/A
18.4	Prepare maps to identify sites of Aboriginal heritage in 'investigation' areas, where culturally appropriate, to inform planning strategies and local plans to protect Aboriginal heritage.	N/A
Direction 19: Protect historic heritage		
19.1	Ensure best-practice guidelines are considered such as the <i>Australia International Council on Monuments and Sites (ICOMOS) Charter for Places of Cultural Significance</i> and the <i>NSW Heritage Manual</i> when assessing heritage significance.	N/A
19.2	Prepare, review and update heritage studies in consultation with the wider community to identify and protect historic heritage items, and include appropriate local planning controls.	Any objects found during development will be considered for inclusion.
19.3	Deliver the adaptive or sympathetic use of heritage items and assets.	Acknowledged
Direction 20: Maintain the region's distinctive built character		
20.1	Deliver new high-quality development that protects the distinct character of the North Coast, consistent with the <i>North Coast Urban Design Guidelines</i> (2009).	This site is highly visible and the potential impact on the scenic amenity will be considered in detail at the Development Application stage. The site lies within an Urban growth area between existing urban areas.
20.2	Review the <i>North Coast Urban Design Guidelines</i> (2009).	Acknowledged
Direction 21: Coordinate local infrastructure delivery		
21.1	Undertake detailed infrastructure service planning to support proposals for new major release areas.	N/A
21.2	Maximise the cost-effective and efficient use of infrastructure by directing development towards existing infrastructure or promoting the co-location of new infrastructure.	Acknowledged
Goal 4: Great housing choice and lifestyle options		
Direction 22: Deliver greater housing supply		
22.1	Deliver an appropriate supply of residential land within local growth management strategies and local plans to meet the region's projected housing needs.	N/A
22.2	Facilitate housing and accommodation options for temporary residents by: <ul style="list-style-type: none"> • preparing planning guidelines for seasonal and itinerant workers accommodation to inform the location and design of future facilities; and 	N/A

Consistency with North Coast Regional Plan 2036		
	<ul style="list-style-type: none"> • working with councils to consider opportunities to permit such facilities through local environmental plans. 	
22.3	Monitor the supply of residential land and housing through the North Coast Housing and Land Monitor.	Monitoring is occurring
Direction 23: Increase housing diversity and choice		
23.1	Encourage housing diversity by delivering 40 per cent of new housing in the form of dual occupancies, apartments, townhouses, villas or dwellings on lots less than 400 square metres, by 2036.	N/A
23.2	Develop local growth management strategies to respond to changing housing needs, including household and demographic changes, and support initiatives to increase ageing in place.	Acknowledged
Direction 24: Deliver well-planned rural residential housing areas		
24.1	Facilitate the delivery of well-planned rural residential housing areas by: <ul style="list-style-type: none"> • identifying new rural residential areas in a local growth management strategy or rural residential land release strategy endorsed by the Department of Planning and Environment; and • ensure that such proposals are consistent with the <i>Settlement Planning Guidelines: Mid and Far North Coast Regional Strategies</i> (2007) or land release criteria (once finalised). 	N/A
24.2	Enable sustainable use of the region's sensitive coastal strip by ensuring new rural residential areas are located outside the coastal strip, unless already identified in a local growth management strategy or rural residential land release strategy endorsed by the Department of Planning and Environment.	N/A
Direction 25: Deliver more opportunities for affordable housing		
25.1	Deliver more opportunities for affordable housing by incorporating policies and tools into local growth management strategies and local planning controls that will enable a greater variety of housing types and incentivise private investment in affordable housing.	Rezoning is expected to facilitate greater housing diversity.
25.2	Prepare guidelines for local housing strategies that will provide guidance on planning for local affordable housing needs.	N/A

Appendix 3:

Consistency with Council's Community Strategic Plan

Council's Community Strategic Plan is structured around four service streams, each of which is broken into a number of sub-streams. The streams have been developed based on feedback from the community, stakeholders and leaders, and incorporate local, regional, state and national priorities for Council. The four streams are:

- Leaving a legacy: Looking out for future generations;
- Making decisions with you: We're in this together;
- People, places and moving around: Who we are and how we live, and
- Behind the scenes: Providing support to make it happen.

Consistency with relevant objectives of Tweed Community Strategic Plan 2017/2027

Leaving a legacy: *Looking out for future generations*

1.1 Natural resource management

Goal

Protect and manage the environment and natural beauty of the Tweed for current and future generations, and ensure that ecological sustainability and climate change consideration underpin decision making in Council.

Strategies/actions	Response
<ul style="list-style-type: none"> • Develop and use regulatory instruments to protect and manage the environment • Implement land and waterway rehabilitation and protection projects • Lead and engage the community to enhance awareness and improve sustainable management of the environment • Decrease the carbon footprint of the Tweed community and progress towards 100 per cent self-sufficiency in renewable energy • Prepare for climate change through adaptation and mitigation strategies • Provide for appropriate public access and use of natural areas • Council maintains a strong position to ensure the Shire retains a 'Gas Field Free' status 	<p>The site is heavily disturbed through historical farming operations.</p> <p>The proposal will see native vegetation protected, enhanced and some land vegetated to establish a corridor connecting existing vegetation.</p>

1.2 Asset Protection

Goal

Protection of people and property by managing the risk of flooding and its impacts on property owners, the environment and the broader community.

Strategies/actions	Response
<ul style="list-style-type: none"> • Capture and convey rainfall runoff back into the environment • Evaluate and respond to flood impacts associated with land use and development • Design, construct and maintain flood protection assets such as floodgates, flood pumps and levees • Ensure adequate stormwater drainage infrastructure is provided with new development 	<p>Development will be assessed against Council's floodplain management policy at the Development Application stage.</p>

Consistency with relevant objectives of Tweed Community Strategic Plan 2017/2027

1.3 Utility Services

Goal

Provide high quality and secure water, sewer, rubbish and recycling services that meet health and environmental requirements.

Strategies/actions	Response
<ul style="list-style-type: none">• Provide rubbish collection, disposal and recycling services which maximise the diversion of rubbish from landfill• Ensure adequate facilities and plans are in place to minimise service interruptions and to cater for current and future demand	Preliminary assessment shows that the site is capable of being serviced by water and wastewater.

1.4 Managing Community Growth

Goal

Plan for sustainable development which balances economic, environmental and social considerations. Promote good design in the built environment.

Strategies/actions	Response
<ul style="list-style-type: none">• Support the community to adapt to changing social, economic and climatic conditions• Encourage housing diversity and choice that meets the needs of the community• Enable economic opportunities for productive and employment-generating land uses• Sustainable management and protection of Aboriginal and European heritage• Plan for well-located and connected centres that meet the business, health and social needs of the community• Protect and manage the Tweed's unique character and world heritage scenic landscapes• Protect and enhance productive farmland	To be addressed at the DA stage

Making decisions with you: *We're in this together*

2.1 Built Environment

Goal

Regulate and deliver the built environment to balance the social, cultural, economic and environmental needs of the community.

Strategies/actions	Response
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Consistency with relevant objectives of Tweed Community Strategic Plan 2017/2027

- | | |
|---|--|
| <ul style="list-style-type: none"> • Assess and regulate development activity to promote good design in the built environment • Determine development applications fairly and accurately • Engage the community to enhance awareness and improve understanding and management of the built environment • Provide infrastructure to meet the needs of local and regional growth • Promote sustainable construction practices and reuse of materials • Align cross border planning with south east Queensland | <p>Concepts for development of the site include medium density development meeting the needs of the local community.</p> |
|---|--|

2.2 Engagement

Goal

Provide public participation opportunities that inform decision-making processes on current and future Council infrastructure and service requirements of the community.

Strategies/actions

- Communicate and engage with the community, government and business groups on important matters affecting the Tweed
- Convene open, accessible and transparent Council and Committee Meetings
- Provide professional and efficient services to Council's customers
- Deliver strong and sustainable budgets to provide for long term asset management and service delivery

Response

The planning proposal will be advertised as per requirements of the Gateway determination and Council's Community Engagement and Participation Plan.

People, Places and Moving around: *Who we are and how we live*

3.1 People

Goal

Provide social, cultural and economic opportunities enabling healthy, safer and more inclusive communities.

Strategies/actions

Response

Consistency with relevant objectives of Tweed Community Strategic Plan 2017/2027

- | | |
|---|---|
| <ul style="list-style-type: none"> • Provide well maintained and suitable community buildings and facilities • Undertake health and wellbeing initiatives that encourage a happy and active lifestyle • Provide support and advice to businesses and industry • Improve telecommunications and digital services to support businesses and industry • Market the Tweed as a tourism destination • Protect public health and community safety • Provide more opportunities for people in the Tweed to work • Improve local and regional healthcare infrastructure and services • Improve tertiary education and vocational training infrastructure and services • Advocacy and support for community access and inclusion in all Council facilities | <p>The concept of medium density development presented in the request from the applicant supports a more inclusive residential opportunity which will be fully assessed at the development application stage.</p> |
|---|---|

3.2 Places

Goal

Provide places for people to live, work, visit, play and enjoy the Tweed.

Strategies/actions

- Provide places, spaces and facilities for the sporting, recreation, leisure and cultural pursuits of locals and visitors
- Provide diverse, affordable and attractive holiday park accommodation and facilities
- Promote the distinctive character and diverse identities of Tweed's towns and villages

Response

Landuses proposed for the site include:

- Native vegetation;
- Managed parkland;
- Medium density residential development, and
- Mixed use development for public and community engagement

3.3 Moving around

Goal

Provide an integrated, connected, safe and accessible transport network that facilitates efficient, coordinated and reliable movement of people, vehicles and air traffic.

Strategies/actions

- Provide a safe, connected and efficient regional transport network
- Design, construct and maintain a safe and efficient local transport network
- Gain a more equitable distribution of transport funding from other levels of government
- Encourage healthy and sustainable alternative transport options such as walking, cycling and integrated public transport

Response

The site is well located for access to the major shopping centres of Tweed Heads and Tweed Heads South and other services and facilities.

Consistency with relevant objectives of Tweed Community Strategic Plan 2017/2027

Behind the scenes: *Providing support to make it happen*

4.1 Assurance

Goal

Support Council to meet its legislative and compliance requirements and implement opportunities for organisational improvement.

Strategies/actions	Response
<ul style="list-style-type: none">• Provide Council's leadership with a strong governance and management framework that promotes transparent and informed decision making• Obtain structured independent assessment of Council's organisational compliance, practices and performance	N/A

4.2 Support services

Goal

Foster safe, productive and professional workspaces, enabling Council staff to source, manage and maintain services to the community.

Strategies/actions	Response
<ul style="list-style-type: none">• Provide a professional, skilled and customer focused workforce• Plan and prepare for future contemporary local government workforce structures• Provide professional learning and career development opportunities for all staff• Prioritise staff health and wellbeing	N/A

Appendix 4:

Consistency with applicable State Environmental Planning Policies

Consistency with relevant State Environmental Planning Policies (SEPPs)

SEPP	Consistency
SEPP 14 – Coastal Wetlands	The subject land does not contain or adjoin any mapped coastal wetlands.
SEPP 44 – Koala Habitat	<p>While the request from the applicant advises that the site does not contain core Koala habitat, mapping included shows Koala Habitat on the property.</p> <p>Further investigation will be required to determine the presence and if present, extent of koala habitat, and implications for the management of vegetation and location of the zone boundary.</p>
SEPP 55 – Remediation of Land	<p>A majority of the site has been extensively cleared and has a history of agricultural use.</p> <p>A preliminary contamination assessment will be required prior to determining if the planning proposal should be placed on public exhibition.</p>
SEPP (Vegetation in Non-Rural Areas) 2017	The proposal seeks to protect existing vegetation, consolidate and revegetate land which will improve the biodiversity values of vegetation on the site.
SEPP (Exempt and Complying Development Codes) 2008	Provisions of the SEPP will continue to apply

Appendix 5:

Consistency with applicable Section 9.1 Directions by the Minister for Planning

Consistency with relevant section 9.1 Directions by the Minister for Planning

Environment and Heritage

2.1 Environment Protection Zones

A LEP shall include provisions that facilitate the protection and conservation of environmentally sensitive areas and shall not reduce the environmental protection standards that apply to the land.	The objective of this direction is to protect and conserve environmentally sensitive areas.	An outcome of the planning proposal is to secure protection of native vegetation through the use of an appropriate environmental zone once environmental zones are incorporated into the Tweed Local Environmental Plan 2014..
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2.2 Coastal Management

This Direction applies when a relevant planning authority prepares a Planning Proposal that applies to land in the coastal zone.	The objective of this direction is to implement the principles in the <i>NSW Coastal Policy 1997</i> .	While the site is located within the coastal zone, and is subject to the <i>NSW Coastal Policy 1997</i> ; the site is elevated, located within an urban area and is not subject to ocean waves. There is no significant erosion, coastal process threats or hazards to the site.
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2.3 Heritage Conservation

A planning proposal must contain provisions that facilitate the conservation of items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area.	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	The site is heavily disturbed and contains no identified heritage items under Tweed LEP 2014. An Aboriginal cultural heritage site inspection report was prepared in January 2020 by the Tweed Byron Local Aboriginal Land Council. The report noted that in the context of Aboriginal cultural heritage management TBLALC has no objections or concerns regarding the proposed rezoning.
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3. Housing, Infrastructure and Urban Development

3.1 – Residential Zones

A planning proposal must encourage a variety and choice of housing types to provide for existing and future housing needs, efficiently use existing infrastructure and services and minimise the impact of residential development on the environment.	The objective of this direction is to broaden the choice of building types and locations, make more efficient use of existing infrastructure and services, reduce the consumption of land for housing and associated urban development on the urban fringe, and be of good design.	Expansion of the R1 General Residential zone will facilitate a choice of housing types in the local area.
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3.4 Integrating Land Use and Transport

This direction applies when a relevant planning authority prepares 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.	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts improving access to housing, jobs and services by walking, cycling and public	Adequate services exist within the locality. The site adjoins Walmsley Road and Scenic Drive, which provides linkage for public transport to Tweed Heads South and Tweed Heads where a range of health facilities and shopping opportunities are available.
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	transport, reducing dependence on cars, and travel demand including the number of trips, especially by car.	
4. Hazard and Risk		
4.1 Acid Sulfate Soils		
This direction applies to all relevant planning authorities that are responsible for land having a probability of containing acid sulfate soils, as shown on Acid Sulfate Soils Planning Maps held by the Department of Planning.	The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	<p>The site is identified on Tweed LEP 2014 Acid Sulfate Soils map Class 5 on the Acid Sulfate Soils Map.</p> <p>The site is elevated, steep and separated from local waterways and is not considered likely to contain Acid Sulfate Soil.</p> <p>Should disturbance of the drainage lines discharging through the northern boundary be required the potential to disturb Acid Sulfate Soil should be considered prior to undertaking earthworks.</p>
4.3 Flood Prone Land		
This direction 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	<p>(a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and</p> <p>(b) to ensure that the provisions of LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</p>	The site does not lie within land identified as being subject to the 100 ARI flood event.
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 objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	The site is contained within an Urban Growth Area identified in the North Coast Regional Plan 2036.
5.10 Implementation of Regional Plans		
This direction applies to land to which a Regional Plan has been released by the Minister for Planning.	The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.	Development of the site for residential and environmental purposes is not inconsistent with the NCRP.
6. Local Plan Making		
6.1 Approval and Referral Requirements		
This Direction provides that a LEP shall minimise the inclusion of provisions that require the	The objective of this direction is to ensure that LEP provisions encourage the efficient and	The Planning Proposal does not include provisions that require the concurrence, consultation or referral of development

concurrence, consultation or referral of development applications to a Minister or Public Authority, not contain these provisions unless Council has obtained approval from the relevant Authority and not identify development as designated development unless certain prerequisites can be met	appropriate assessment of development.	applications to a Minister or public authority.
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6.3 Site Specific Provisions

A LEP that amends another environmental planning instrument in order to allow a particular development proposal shall either allow that land use to be carried out in the zone that the land is situated on or rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already existing or allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal planning instrument being amended.	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	The Planning Proposal seeks to facilitate residential development and environmental outcomes which are proposed and supported by the applicant.
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Appendix 6:

Resolution and Report – Council meeting 2 April 2020

TWEED SHIRE COUNCIL - MEETING TASK SHEET

User Instructions

If necessary to view the original Report in CivicClerk, view it here. - [Click to View Agenda Item](#)

ACTION ITEM - Planning Committee Agenda 2 April 2020

TITLE: Request to Prepare a Planning Proposal - Lot 1 DP 1032820 Scenic Drive, Bilambil (known as 1 Walmsley Road)

STAFF RECOMMENDATION

That Council:

1. Endorses the preparation of a planning proposal for Lot 1 DP 1032820 No. 1 Walmsley Road, Bilambil Heights to be informed by further more detailed ecological and bushfire assessment as to the suitability and precise location of the proposed zone boundary, subject to the Applicant entering into a prior Costs Agreement, per Council's fees and charges;
2. Determines that the planning proposal is to be reported to Council for approval prior to it being referred to the Department of Planning, Industry and Environment for a Gateway approval. It must adequately detail the rational and evidence in support for the zone boundary amendment; and
3. Determines that, at the time Council considers a planning proposal for a Gateway referral, the Applicant is to demonstrate how the environmentally sensitive or significant land is to be protected in perpetuity.

MEETING RESOLUTION

ALTERNATE MOTION

Cr Katie Milne (Mayor)
Cr Reece Byrnes

RECOMMENDED that this item be deferred for the proponent to reach a better understanding with Council officers for appropriate requirements for environmental protection and a further report be brought back to Council.

The Motion was Carried

VOTE FOR - Cr Katie Milne (Mayor), Cr Chris Cherry (Deputy Mayor), Cr Pryce Allsop, Cr Reece Byrnes, Cr Ron Cooper, Cr James Owen, Cr Warren Polglase

VOTE AGAINST - None

ABSENT. DID NOT VOTE - Nil

TITLE: Request to Prepare a Planning Proposal - Lot 1 DP 1032820 Scenic Drive, Bilambil (known as 1 Walmsley Road)

Submitted By: Strategic Planning and Urban Design

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

Leaving a Legacy

Looking out for future generations

1.4.1 Strategic Land-use Planning - To plan for sustainable development which balances economic, environmental and social considerations. Promote good design in the built environment.

ROLE:

LEADER - Council grows strong, transparent and visionary leadership promoting unity to make our Tweed community even better tomorrow than it is today.

EXECUTIVE SUMMARY

Council received a request for a planning proposal to amend land use zone boundaries on the property known as 1 Walmsley Road, Bilambil Heights (Lot 1 DP 1032820) on 21 January 2020.

The applicant, Bilambil Holdings Pty Ltd, is seeking to enable the development of the property for medium density mixed use development and environmental protection through rationalisation of the current R1 General Residential areas into a developable parcel and the establishment of an environmental zone to protect native vegetation.

Based upon a preliminary review of the request and particulars of the property it is clear that strategic merit exists to support a boundary rationalisation as:

- A portion of the land currently zoned R1 General Residential contains native vegetation of ecological value; and
- A portion of the land currently zoned as a Deferred Matter (or 7(d) Environmental Protection (Scenic/Escarpment) under the Tweed Local Environmental Plan 2000), has been intensively farmed and cleared of native vegetation.

However, a desktop analysis identified several matters requiring further investigation and assessment before the proposed zone boundaries can be confirmed. As such, the boundary rationalisation currently proposed by the Applicant cannot be supported in its entirety and would need to be revised, which would require further and more specific ecological assessment.

The Officers recommend proceeding with a planning proposal in a staged way that allows the zone boundaries to be confirmed ahead of preparing the planning proposal. This would require the applicant to enter into a cost agreement per usual practice so the detailed ecological assessment and associated bushfire risk assessment can be prepared. This would be undertaken in consultation with the Council's Sustainability and Environment Unit and to ensure consistency with Council policy and the Northern Councils EZone Review - Final Recommendations Report and would provide the environmental rigour and strategic justification needed to support of the zone rationalisation.

Based on an assessment of the Strategic Planning and Urban Design's current resource commitments it is likely that one of Council's town planning service providers would be retained to manage the project. The cost agreement practice allows for full cost recovery under this approach.

This report provides a discussion on the strategic planning justification underpinning the proposed request for a planning proposal with respect to the above site and in doing so recommends that Council proceed with further site investigation and a planning proposal in the staged way as outlined.

RECOMMENDATION:

That Council:

1. Endorses the preparation of a planning proposal for Lot 1 DP 1032820 No. 1 Walmsley Road, Bilambil Heights to be informed by further more detailed ecological and bushfire assessment as to the suitability and precise location of the proposed zone boundary, subject to the Applicant entering into a prior Costs Agreement, per Council's fees and charges;
2. Determines that the planning proposal is to be reported to Council for approval prior to it being referred to the Department of Planning, Industry and Environment for a Gateway approval. It must adequately detail the rationale and evidence in support for the zone boundary amendment; and
3. Determines that, at the time Council considers a planning proposal for a Gateway referral, the Applicant is to demonstrate how the environmentally sensitive or significant land is to be protected in perpetuity.

ATTACHMENTS

None

COUNCIL IMPLICATIONS:

a. Legislation/Policy/Existing Strategic Plans

The planning proposal would result in an amendment to Council's primary land use planning policy, the Tweed Local Environmental Plan 2014, resulting in a rationalisation of the zoning on an urban infill site.

b. Sustainability:

i. Financial (Budget/Long Term Financial Plan/Whole of Life Cost):

Costs associated with preparation of the planning proposal, planning agreement and associated documents including engagement of consultants will be borne by the applicant via a Costs Agreement.

ii. Environmental:

The planning proposal in part seeks to consolidate areas of ecological significance into one contiguous zone which will improve opportunities for ongoing environmental protection and management.

iii. Social:

The planning proposal in part seeks to consolidate the less constrained parts of the site for residential development and thereby contribute to further housing and housing diversity in the locality.

c. Legal Considerations:

Not applicable.

d. Risk Considerations:

The planning proposal process including the preparation of various specialists' studies seeks to understand key opportunities and constraints over the subject site to inform land use decisions.

e. Engagement/Communication:

Inform - Assisting the community to learn about Council services and programs.

REPORT:

Background

Council received a request for a planning proposal to amend land use zone boundaries on the property known as No. 1 Walmsley Road, Bilambil Heights (Lot 1 DP 1032820) on 21 January 2020.

The property has an area of approximately 6.3ha and has frontages to both Walmsleys Road to the south west and Scenic Drive to the south east (refer to Figure 1). It comprises a mix of well vegetated areas and cleared areas degraded by past intensive farming for small crops and a dairy.



Figure 1 - Locality Plan

The site is currently zoned:

- R1 General Residential under the Tweed Local Environmental Plan 2014; and
- Deferred Matter (or 7(d) Environmental Protection (Scenic/Escarpment) under the Tweed Local Environmental Plan 2000) (refer to Figure 2).

The current R1 General Residential zone permits a wide range of residential housing forms, including residential dwelling houses, residential flat buildings and multi-dwelling housing, as well as compatible uses such as neighbourhood shops and community facilities.

The current R1 General Residential zoned land across the site is not contiguous, it is separated by a portion of the land currently zoned as a Deferred Matter (or 7(d) Environmental Protection (Scenic/Escarpment)).

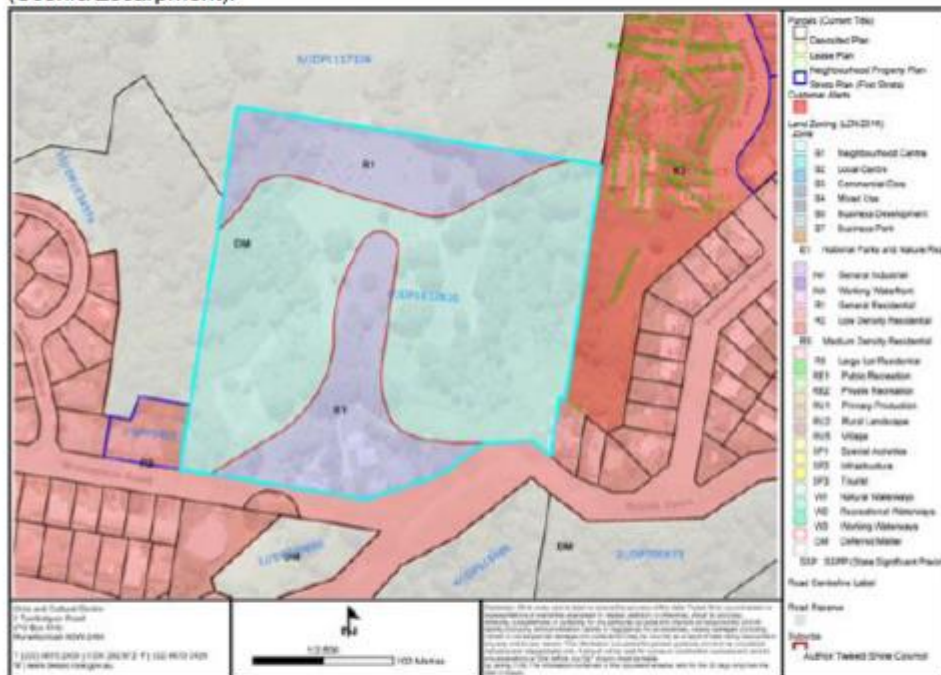


Figure 2 - Land Zoning Map (LEP 2014)

Request for a planning proposal

The applicant, Bilambil Holdings Pty Ltd, is seeking to enable the development of the property for medium density mixed use development and environmental protection through rationalisation of the current R1 General Residential areas into one developable parcel and the establishment of an environmental zone to protect native vegetation (refer to Figure 3).

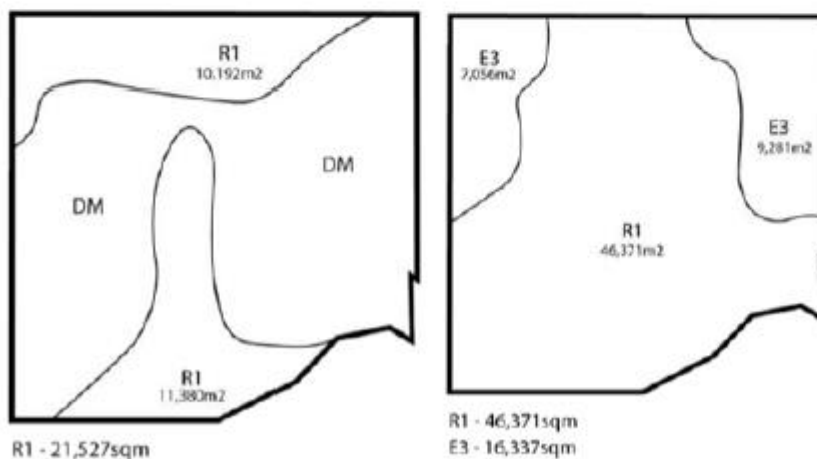


Figure 3 - LEP 2014 zoning (left) and proposed boundary rationalisation (right)

Specifically the applicant is seeking to amend the Tweed LEP 2014 to:

- Consolidate and increase the area of land zoned R1 General Residential, and

- Rezone the remaining land from Deferred Matter to E3 Environmental Living (refer to Figure 3).

The purpose of the planning proposal is to rationalise the current zoning boundaries on the site with the intent of improving the development potential of the property by allowing for a more efficient development outcome. Buildability of development on the site is key not only to good design and appropriate yield, but the cost of delivery and hence affordability. The land's topography and the desire to protect ecologically significant vegetation in perpetuity, while ensuring housing supply is maintained at least cost, necessitates a zone boundary review if that outcome is to be realised.

Importantly, it must be noted that the planning proposal request is not premised on a rezoning to residential, as the lands residential zoning for a range of housing forms and densities has existed in its current configuration since at least 1987. Rather, it is about rationalising the current residential and deferred environmental zones based on a more rigorous assessment of the land's ecological values and the planning merit of any change in the zoning, taking into account all other relevant considerations.

Preliminary review of the request for a planning proposal

Based upon a preliminary internal assessment of the applicant's request and the particulars of the property, it is clear that strategic merit exists to support a boundary rationalisation as the current zoning is inconsistent with the environmental values of the property. In particular:

- A portion of the land currently zoned R1 General Residential contains native vegetation of ecological value; and
- A portion of the land currently zoned as a Deferred Matter (or 7(d) Environmental Protection (Scenic/Escarpment) under the Tweed Local Environmental Plan 2000), has been intensively farmed and cleared of native vegetation.

However, a desktop analysis identified several matters requiring further investigation and assessment before the proposed zone boundaries can be confirmed. As such, the proposed boundary rationalisation cannot be supported in its current form, but could be supported if amended to reflect the environmental outcomes justified by more detailed ecological and bushfire assessment.

It is therefore recommended that the planning proposal be prepared in a staged way to allow for a more informed definition and consideration of the zoning boundary. This would require the Applicant to enter into a Costs Agreement with Council per its fees and charges 2019/20. The additional prerequisite ecological assessment would be undertaken in consultation with the Council's Sustainability and Environment Unit and to ensure consistency with Council policy and the Northern Councils EZone Review - Final Recommendations Report and would provide the environmental rigour and strategic justification needed to support of the zone rationalisation.

The applicant's request seeks the application of the E3 Environmental Management zone to all non-residential zoned land. The desktop analysis indicated that an E2 Environmental Conservation zone may be more appropriate. It is further recommend that the appropriate environmental zone be confirmed prior to the preparation of a planning proposal.

It is noted that until such time as Council's E Zone review project has been undertaken and environmental zones are incorporated into Tweed's local environmental plans, in accordance with the DPIE's Northern Councils E Zone Review Final Recommendations Report, no environmental zones are available to apply to this property.

As an interim measure, it is recommended that all proposed environmental land be rezoned as RE2 Private Recreation and rezoned to the appropriate environmental zone once these zones become available. The Applicant will need to demonstrate how the environmentally sensitive or significant land will be protected in perpetuity and in a legally effective way that conforms to NSW planning law.

OPTIONS:

That Council:

1. Proceeds with the recommendations provided in this report, or
2. Defers for further consideration.

Option 1 is the recommended option.

PREVIOUS COUNCIL RESOLUTIONS:

No previous Council resolutions relate to this planning proposal.

Appendix 7:

Resolution and Report – Council meeting 22 October 2020

TWEED SHIRE COUNCIL - MEETING TASK SHEET

User Instructions

If necessary to view the original Report in CivicClerk, view it here. - [Click to View Agenda Item](#)

ACTION ITEM - Council Meeting - 22 October 2020

TITLE: Request to prepare a planning proposal – Scenic Drive Bilambil, (Known as 1 Walmsley Road), Bilambil Heights, Lot 1 DP1032820

STAFF RECOMMENDATION

That:

1. The attached planning proposal for rezoning of land at Lot 1 DP 1032820 Scenic Drive Bilambil Heights (known as 1 Walmsleys Road) be sent to the Department of Planning, Industry and Environment for a Gateway determination;
2. Following receipt of the Gateway determination, and pending payment of the Fixed Fee – Part 2 by the landowner, that the planning proposal and planning agreement under section 7.4 of the Environmental Planning and Assessment Act 1979 be publicly exhibited; and
3. Following public exhibition, a further report be brought back to Council.

MEETING RESOLUTION

Cr Reece Byrnes (Deputy Mayor)
Cr Ron Cooper

RESOLVED that:

1. The attached planning proposal for rezoning of land at Lot 1 DP 1032820 Scenic Drive Bilambil Heights (known as 1 Walmsleys Road) be sent to the Department of Planning, Industry and Environment for a Gateway determination;
2. Following receipt of the Gateway determination, and pending payment of the Fixed Fee – Part 2 by the landowner, that the planning proposal and planning agreement under section 7.4 of the Environmental Planning and Assessment Act 1979 be publicly exhibited; and
3. Following public exhibition, a further report be brought back to Council.

The Motion was Carried

VOTE FOR - Cr Katie Milne, Cr Chris Cherry (Mayor), Cr Pryce Allsop, Cr Reece Byrnes (Deputy Mayor), Cr Ron Cooper, Cr James Owen, Cr Warren Polglase

VOTE AGAINST - None

ABSENT. DID NOT VOTE -

TITLE: Request to prepare a planning proposal – Scenic Drive Bilambil, (Known as 1 Walmsley Road), Bilambil Heights, Lot 1 DP1032820

Submitted By: Strategic Planning and Urban Design

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

Leaving a Legacy

Looking out for future generations

1.4.1 Strategic Land-use Planning - To plan for sustainable development which balances economic, environmental and social considerations. Promote good design in the built environment.

ROLE:

LEADER - Council grows strong, transparent and visionary leadership promoting unity to make our Tweed community even better tomorrow than it is today.

EXECUTIVE SUMMARY

Council is in receipt of a request to amend zone boundaries between R1 General Residential and environmentally zoned land on the property known as 1 Walmsley Road, Bilambil Heights, to facilitate medium density residential development, consolidation, and enhancement of native vegetation on the site.

On 2 April 2020, Council resolved to defer consideration of this planning proposal until further information on environmental protection and landuse were provided.

On 9 April 2020 a Councillor workshop was held at which Council expressed a desire to see more detail about the history of the property, and clearer justification of the proposed zone boundary as it relates to existing and proposed vegetation.

Since that time, the proponent has provided evidence that no pre-emptive clearing of the property has occurred and that the site has a long history of use for grazing and horticultural purposes; while the land has been zoned 'environmental' its use has historically been for other purposes.

In addition, advice has been received which identifies vegetation to be retained, and areas where vegetation will be established, or enhanced. The result will provide a better integration and connectivity of existing vegetation and a net increase in the area of land rehabilitated and retained for environmental purposes.

While it is proposed to apply an environmental zone, probably E2 Environmental Conservation, and E3 Environmental Management to all land not zoned for residential purposes, until such time as Tweed Local Environmental Plan 2014 (the LEP) is amended to incorporate environmental zones in accordance with the *Northern Councils E Zone Review Recommendations*, an interim zoning of RE2 Private Recreation is proposed.

The applicant has supported the use of a planning agreement under section 7.4 of the *Environmental Planning and Assessment Act 1979* to ensure that native vegetation is protected, enhanced, and that appropriate environmental zoning is applied once environment zones are incorporated into the Tweed local environmental plans (LEPs).

The site is predominantly cleared, steep and exposed, and while the site is constrained by slope, the proposal is considered to have strategic merit and justifies referral to the Department of Planning, Industry and Environment (DPIE) for a Gateway determination.

In accordance with Council's Schedule of Fees and Charges, the landowner has made a fixed fee payment for a *Minor LEP amendment – Part 1* which will cover all costs associated with preparation of the attached Gateway version of the planning proposal and referral to the DPIE for a Gateway determination.

Should the landowner wish to proceed once a Gateway determination has been received, a further Part 2 payment will be required.

RECOMMENDATION:

That:

1. The attached planning proposal for rezoning of land at Lot 1 DP 1032820 Scenic Drive Bilambil Heights (known as 1 Walmsleys Road) be sent to the Department of Planning, Industry and Environment for a Gateway determination;

2. Following receipt of the Gateway determination, and pending payment of the Fixed Fee – Part 2 by the landowner, that the planning proposal and planning agreement under section 7.4 of the Environmental Planning and Assessment Act 1979 be publicly exhibited; and

3. Following public exhibition, a further report be brought back to Council.

ATTACHMENTS

1. Planning Proposal Version 1 - GATEWAY
2. Applicant's request to prepare a planning proposal (January 2020)
3. Cultural Heritage Sites Inspection Report (January 2020)

COUNCIL IMPLICATIONS:

a. Legislation/Policy/Existing Strategic Plans

Progress of this planning proposal is consistent with Council's policies. The property lies within an Urban Growth Area as defined by the North Coast Regional Plan 2036.

b. Sustainability:

i. Financial (Budget/Long Term Financial Plan/Whole of Life Cost):

All costs associated with preparation of the planning proposal, planning agreement and associated documents including engagement of consultants will be borne by the applicant.

ii. Environmental:

A net increase in land rehabilitated and retained for environmental purposes will result.

iii. Social:

Concepts for this proposal demonstrate the desire to construct medium density development, and thereby support the need for more cost effective housing in a location zoned for higher density development.

c. Legal Considerations:

Not applicable.

d. Risk Considerations:

While concept plans provided are for medium density development, the site is constrained by steep land and exposure, making it necessary for assessment of any development application to consider the visual impact of development and suitability of development type.

e. Engagement/Communication:

Inform - Assisting the community to learn about Council services and programs.

REPORT:

Council is in receipt of a request (dated 21 January 2020) to prepare a planning proposal for Lot 1 DP 1032820, Scenic Drive, Bilambil Heights (known as 1 Walmsleys Road, property number 44354).

On 2 April 2020, Council resolved:

"that this item be deferred for the proponent to reach a better understanding with Council officers for appropriate requirements for environmental protection and a further report be brought back to Council."

On 9 April 2020 a Councillor Workshop was convened at which Councillors expressed the desire to see confirmation that the site had not been cleared recently, pre-emptive of a rezoning, and more clarity about how the new location of the boundary between proposed residential land and existing and land to be retained or enhanced for environmental purposes was decided.

This report:

- Provides an update on the resolution of 2 April 2020 and workshop of 9 April 2020, and
- Recommends that the planning proposal proceed to the DPIE for a Gateway determination.

Property details

- **Area:** 6.268 hectares
- **Current landuse:** Open space, native and introduced vegetation, grazing land, and retired orchard (refer to Figure 2)
- **Zoning (LEP 2014):** R1 General Residential, and Deferred Matter
- **Zoning (LEP 2000):** 2(c) Urban Expansion, and 7(d) Environmental Protection (Scenic/Escarpment)
- **General description:** The property lies off the eastern end of Walmsleys Road with a predominant northern aspect (refer to Figure 3)



Figure 1: Locality



Figure 2: Aerial of Lot 1 DP 1032820 (2018 imagery)



Figure 3: Oblique view of property showing context



Figure 4: View looking west along Walmsleys Road (Council's reservoir site to the left, entrance to 1 Walmsleys Road to the right)



Figure 5: View looking west along northern boundary

Response to resolution and Councillor Workshop

At the Councillor Workshop of 9 April 2020, Councillors expressed a desire to receive further information which provided more clarity about the:

- evidence that the site had not been pre-emptively cleared;
- proposed location of the zone boundary and its justification on environmental grounds, and
- rehabilitation and ongoing management of environmental land.

Landuse history

In response to the resolution of Council and discussion at the Councillor workshop the proponent has provided additional information which showed that the property has a long history of use as a grazing and horticultural enterprise and had not undergone any recent clearing, and that since 1962 the property had revegetated significantly (refer to Figures 6 and 7).



Figure 6: Aerial image - 1962



Figure 7: Aerial image - 2001

Location of proposed zone boundary – vegetation considerations

The proponent has undertaken a detailed vegetation survey, identifying individual trees (refer to Figure 8).

The survey demonstrates that the current zoning does not reflect the historical or current vegetation patterns.

While much of the site is currently zoned Deferred Matter under Tweed LEP 2014 (7(d) Environmental Protection (Scenic/Escarpment) under Tweed LEP 2000), much of this land is currently not vegetated, having been used for grazing and horticultural purposes, and as such, an outcome of this planning proposal will be consolidation of environmental land, a net increase in the area of land vegetated, and protected for environmental purposes (refer to Figures 9 and 10).

An amended zoning map has been provided which includes vegetation to be protected, land that will be revegetated and how Council's Development Control Plan 2008, Section A19 Biodiversity and Habitat Protection has been considered in establishing biodiversity setbacks and Asset Protection Zones between vegetation and the proposed development envelope (refer to Figure 10).

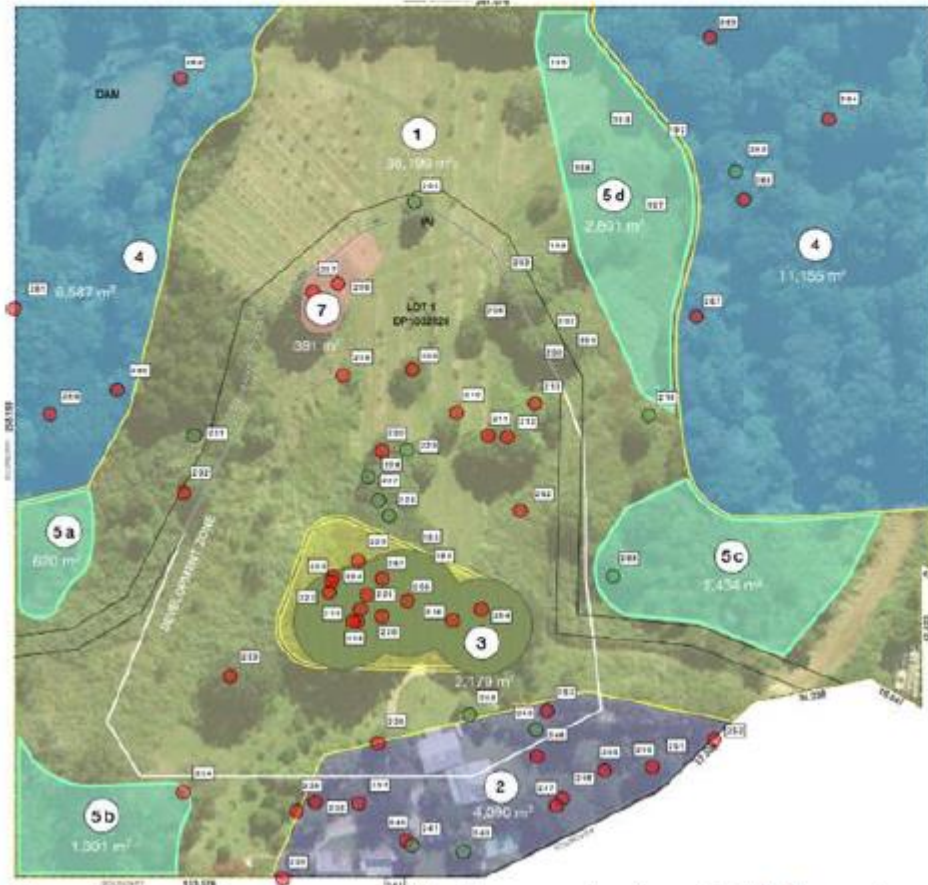


Figure 8: Vegetation survey and listed tree species (for a detailed legend see Attachment 1)

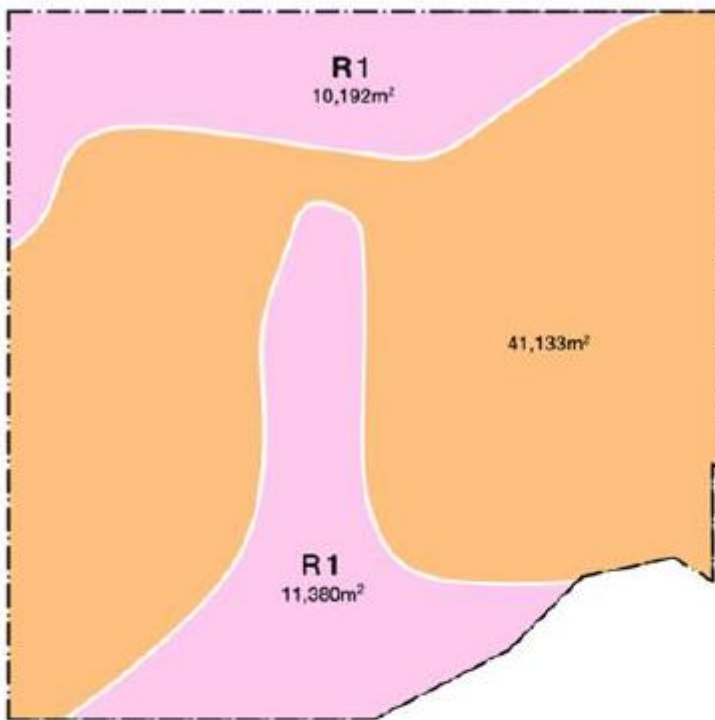


Figure 9: Tweed LEP 2014 (existing zone boundaries)

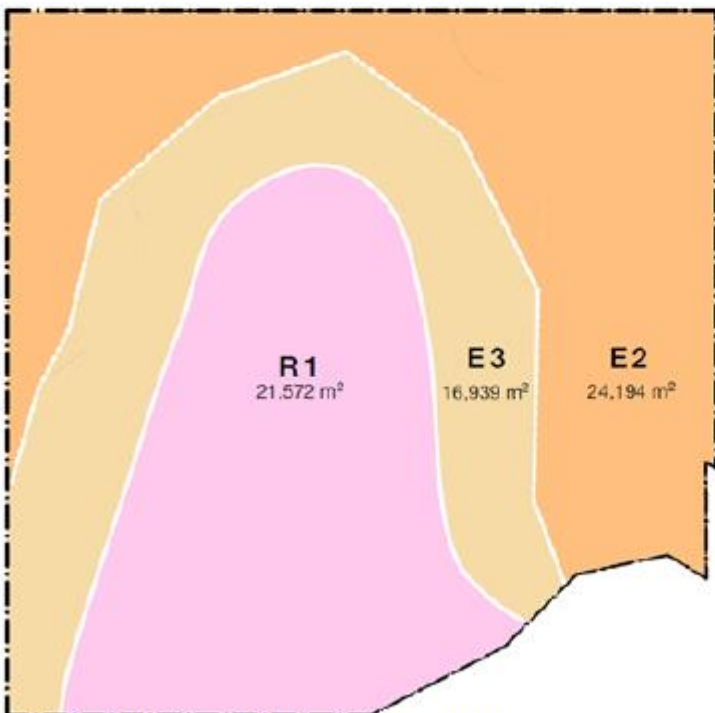


Figure 10: Proposed future zone boundaries

Council's Senior Program Leader – Biodiversity has reviewed the proposed boundary in relation to vegetation matters and supports its location.

Ongoing protection of environmental land

With the location of the zone boundary, and land to be enhanced for environmental purposes has been identified, two related matters need to be resolved, namely:

- Allocation of an appropriate interim short-term, and final long-term zone, and
- Ensuring that when a final long-term zone is available, that it will replace the interim zoning.

Until such time as environmental zones are incorporated into Tweed's local environmental plans (2012 and 2014) in accordance with the DPIE's E Zone Review no environmental zones are available to apply to this rezoning.

As a short-term, interim measure, it is proposed to zone all environmental land RE2 Private Recreation.

To ensure that the RE2 zone is only an interim zoning, and that no development will occur inconsistent with the long-term objective of the environmental use of this part of the property, the landowner has agreed to enter into a planning agreement under section 7.4 of the *Environmental Planning and Assessment Act 1979*.

The planning agreement will ensure that:

- an initial, interim zoning, probably RE2 Private Recreation, will be applied with this rezoning;
- the interim zoning will be replaced by an appropriate environmental zone, probably E2 Environmental Protection and E3 Environmental Management, once available;
- All environmental land will be rehabilitated and established with native vegetation and managed to ensure ongoing improvement, and
- No development will be undertaken under the interim zoning that is likely to be inconsistent with the long-term intention of environmental protection.

To ensure that the planning proposal proceeds efficiently, it will be desirable for the planning agreement to be publically exhibited at the same time as the planning proposal.

Outstanding Issues

While the Gateway process seeks to minimise time delays and cost of obtaining a Gateway determination, a draft zone boundary have now been defined, based primarily upon vegetation assessment and management criteria.

Refinement of the zone boundary might occur, pending receipt of the Gateway determination to proceed, and further investigations.

On 5 December 2019, a Pre-Lodgement Meeting with the applicant and landowner was held which allowed Council officers to consider the implications and strategic merit of the proposal.

With vegetation-related matters now addressed, matters requiring further investigations after a Gateway determination has been received include:

- Aboriginal cultural heritage;
- Access and traffic generating impacts and associated impacts on the local road network;
- Contamination from previous landuses;
- Geotechnical stability, especially on steep land;
- Visual impact: due to its cleared, steep slopes overlooking playing fields and residential land to the north;
- Wastewater disposal, and
- Water supply and access to Council's reservoir on Walmsley Road.

It is the intention of additional post-Gateway studies to validate the strategic merit of the proposal and ensure that the location of the zone boundary has taken into account all relevant matters affecting the use of the site as proposed.

Aboriginal Cultural Heritage

In the Cultural Heritage Sites Inspection Report (8 January 2020) noted that:

"No materials relating to cultural activities were observed on the ground surface of this property. Given the extent of disturbance to the ground surface and the steepness of the location, the likelihood of encountering cultural materials on this site is considered to be low. The nearest registered site is a gender specific area. It is clear that Aboriginal people did traverse and camp in the general area for resource gathering and in using it as a trade route. For this reason we advocate that all ground disturbing activities on this property should proceed with caution with an awareness of the potential presence of ACH."

The Tweed Byron Local Aboriginal Land Council has no objections to the rezoning, and that a comprehensive cultural heritage assessment is not considered necessary at this stage, but lists procedures which must be implemented in the case of unexpected finds of (even suspected) ACH objects or materials (refer to Attachment 3).

Access, Roads and Traffic

The applicants request states that "Council traffic engineers have confirmed that adequate utility and transport network capacity on local roads was still available." However, traffic, road and access implications have not been substantiated by a Traffic Assessment.

The potential exists for access from Walmsleys Road, Scenic Drive or a link between the two.

Additional investigations required

A traffic study will be required that includes consideration of access options off both Walmsleys Road and Scenic Drive, or a connection between the two, which includes consideration of an extension of Walmsleys Road through to a new intersection on Scenic Drive, which would be subject to compliance with Development Design Specification D1 under Tweed Development Control Plan 2008, section A5, and Austroads Design Guidelines.

A right of way exists through the site which will need to be negotiated with the benefitting party, assumed to be the adjoining landholder to the west.

Amenity

Objectives of the R1 General Residential zone includes the provision of a variety of housing types and densities, and tourist accommodation where it is unlikely to significantly impact on amenity.

While not a defining aspect for the rezoning of the land, the ability of the site to be developed without adversely impacting the amenity of the area will be a matter for consideration at the development application stage.

Contamination

The applicant has advised that the site has been subjected to decades of intensive farming for small crops and a dairy, with historical evidence of cropping in aerial photography (1962, 1976, and 1987). No cattle dip sites are located within 200 metres of the site.

It will be necessary to establish a lawful point of discharge for the site, by way of either a natural watercourse and/or an easement through downstream land.

Depending on the scale of development, the development will need to provide space for water quality and quantity management systems such as basins, biofilters, and wetlands in accordance with Tweed DCP 2008 section A5, Development Design Specification D7.

Additional investigations required

Prior to exhibition, it will be necessary to ensure that the potential impact of stormwater management has been considered in the location of the residential and environmental land, and the zone boundary which will separate them.

Visual impact

Visual impact on the Tweed's scenic landscapes is an important issue for consideration. A draft Tweed Scenic Landscape Strategy has been publicly exhibited and the strategy is expected to be finalised in 2020.

The strategy includes a comprehensive suite of landscape and viewshed mapping and a methodology for preparing a Visual Impact Statement to accompany development proposals.

The area of the site proposed for development is elevated, and visible from multiple public viewing locations identified under the draft Tweed Scenic Landscape Strategy.

Notwithstanding this, the elevated portion of the site has previously been identified for urban development, with much of the surrounding land already developed for residential purposes.

The Scenic Landscape Strategy recognises this and identifies the site as lying within the Urban Landscape Character category.

The planning proposal does not seek to fundamentally change the most visible development areas of the site, therefore comprehensive visual impact analysis during this first stage of planning will not be required; however, visual impact will need to be considered when preparing any future development application.

Wastewater

The site is located within the Banora Point Wastewater Treatment Plant Sewerage catchment.

The proposal has indicated an intention to utilise existing sewage capacity, with no on-site sewage systems required.

Desktop calculations suggest that, if serviced by reticulated sewer, this proposal could provide discharge from up to an additional 50 lots to Council's Water and Wastewater Systems, with the nearest gravity sewerage system in Scenic Drive.

The development may require a private sewage ejection pump station and in that circumstance approval would be required under Section 68 of The Local Government Act 1993. It should be noted that Council will not accept the ownership of the pumping stations servicing less than 50 lots, unless otherwise approved by Council.

Water

The Water Supply zone for this area is the Marana Street Reservoir in Bilambil Heights.

Due to the elevation of the site, (approximately 20 to 60 metres AHD), a Pressure Reducing Valve (PRV) would be required on any connections to service this area for Water Supply.

It should be noted that Council's Water and Wastewater Unit own the land adjacent to this site, which houses the Walmsleys Road water reservoir, with two more reservoirs proposed in the future.

Road access considerations for the proposed rezoned area will need to consider Council's access to the existing reservoir and also to allow Council access to the land for the construction of the future reservoirs.

Additional investigations required

A report will be required demonstrating the impact of connecting the additional area to Council's existing Water Supply and Sewerage Systems, and the impact on the access to the Walmsleys Road water reservoir land.

Conclusion

This planning proposal seeks to consolidate and enhance the quality of environmental land, and establish a footprint for medium density development on land zoned for this purpose.

Following a request from Council, the proponent has provided additional information which establishes a draft zone boundary separating environmental and urban land.

While further investigations are proposed after a Gateway determination has been received, this request is considered to have strategic merit and justify sending the attached planning proposal to the DPIE for a Gateway determination.

OPTIONS:

Option 1

1. The attached planning proposal for rezoning of land at Lot 1 DP 1032820 Scenic Drive, Bilambil Heights (known as 1 Walmsleys Road) be sent to the Department of Planning, Industry and Environment for a Gateway determination;
2. Following receipt of the Gateway determination, and pending payment of the Fixed Fee – Part 2 by the landowner, that the planning proposal and planning agreement under section 7.4 of the Environmental Planning and Assessment Act 1979 be publicly exhibited; and
3. Following public exhibition, a further report be brought back to Council.

or

Option 2

This item be deferred and a Councillors Workshop be held prior to it being reported back to Council for further consideration.

Option 1 is the recommended option.

PREVIOUS COUNCIL RESOLUTIONS:

2 April 2020

"that this item be deferred for the proponent to reach a better understanding with Council officers for appropriate requirements for environmental protection and a further report be brought back to Council."

Appendix 8:

Information checklist

INFORMATION CHECKLIST					
STEP 1: REQUIRED FOR ALL PLANNING PROPOSALS (under s55 (a)-(e) of the EP&A Act)					
• Objectives and intended outcome	✓		• Explanation of provisions		✓
• Mapping (including current and proposed zones)	✓		• Justification and process for implementation (including compliance assessment against relevant Section 117 Direction/s)		✓
• Community consultation (agencies to be consulted)	✓				
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 Sulfate soils	✓		• European archaeology		✓
• Noise impact		✓	• Social & cultural impacts		✓
• Flora and/or fauna	✓		• Stakeholder engagement	✓	
• Soil stability, erosion risk. Sediment control, landslip assessment, and subsidence		✓	Infrastructure Considerations		
• Water quality	✓		• Infrastructure servicing and potential funding arrangements	✓	
• Stormwater management	✓		Miscellaneous / Additional Considerations Undertaken		
• Flooding	✓		• Structure and Staging		✓
• Land/site contamination	✓		• Aboriginal Cultural Heritage Due Diligence	✓	
			• Flora and Fauna	✓	
			• Bushfire	✓	
			• Traffic	✓	
			• Geotechnical / Engineering	✓	
			• Stormwater Management	✓	
			• Contaminated Land and declaration	✓	



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