

**Draft Tweed LEP Amendment**

**PLANNING PROPOSAL  
Version - EXHIBITION**

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

May 2022

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<b>Introduction .....</b>	<b>4</b>
Purpose of the Planning Proposal .....	4
Process for amending the LEP .....	4
Property details .....	5
Site context and background .....	5
Review of Conservation zones .....	6
Role of Planning Agreement .....	7
<b>Part 1   Objectives or intended outcomes .....</b>	<b>8</b>
<b>Part 2   Explanation of provisions .....</b>	<b>8</b>
<b>Part 3   Justification .....</b>	<b>8</b>
Section A   Need for the Planning Proposal .....	8
Section B   Relationship to strategic planning framework .....	9
Section C   Environmental, social and economic impact .....	11
Section D   State and Commonwealth interests .....	14
<b>Part 4   Mapping .....</b>	<b>19</b>
<b>Part 5   Community consultation .....</b>	<b>22</b>
<b>Part 6   Project timeline .....</b>	<b>22</b>
<b>Appendix 1. Appendix of consistency with North Coast Regional Plan 2036 .....</b>	<b>23</b>
<b>Appendix 2: Consistency with Council’s Community Strategic Plan .....</b>	<b>25</b>
<b>Appendix 3: Consistency with applicable State Environmental Planning Policies .....</b>	<b>30</b>
<b>Appendix 4: Consistency with applicable Section 9.1 Directions .....</b>	<b>31</b>

## 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 purpose of the rezoning is to rationalise the current zoning of the site by way of consolidating the R1 General Residential zone in the central part of the site, with the remainder of the site proposed for environmental conservation and management (refer to proposed Land Zoning Map, p.21).

The planning proposal has been prepared to determine whether the rationalisation of the zone boundaries have sufficient strategic and site specific merit.

### Process for amending the LEP

The planning proposal has been prepared in accordance with the *Local Environmental Plan Making Guideline December 2021*. If finalised and supported by Council and NSW Department of Planning and Environment (DPE), this planning proposal will result in a site-specific amendment to Tweed Local Environmental Plan 2014 (LEP). The planning proposal process is outlined below.

Stage	Explanation
<b>Stage 1</b> Pre-Lodgement	The proponent undertakes early analysis of the development potential of the site including environmental or site constraints and the strategic planning framework. Initial consultation with government agencies occurs to identify the scope of technical reports required to underpin a planning proposal.
<b>Stage 2</b> Planning Proposal	Council is to review and assess the planning proposal and decide whether to support and submit to the Department for a Gateway determination.
<b>Stage 3</b> Gateway Determination	The Department assesses the strategic and site-specific merit of a planning proposal and issues a Gateway determination specifying if the planning proposal should proceed and whether consultation with authorities and government agencies is required.
<b>Stage 4</b> Post-Gateway	Council reviews the Gateway determination and actions any required conditions prior to public exhibition.
<b>Stage 5</b> Public exhibition and Assessment	<b>We are at this stage.</b> Consultation with the community, key authorities and government agencies identified in the conditions of the gateway can commence.
<b>Stage 6</b> Finalisation	Final assessment of the planning proposal, and if supported by Council, the preparation of the draft LEP, review and finalisation. Once finalised, the LEP may be made, notified and come into effect.

**Table 1: LEP making process overview**

## Property details

- *Identifier:* Lot 1 DP 1032820
- *Area:* 6.278 hectares
- *Current land use:* Native and introduced vegetation, retired orchard, a dwelling house
- *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 located approximately 5 kilometres from the Tweed City Shopping Centre and Tweed Heads city centre. The property lies within established residential neighbourhoods zoned R2 Low Density and R3 Medium Density Residential, however land located immediately to the north and west remains undeveloped, due to topography and environmental values.

Previous land uses 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.



**Figure 1: Site Locality Plan**

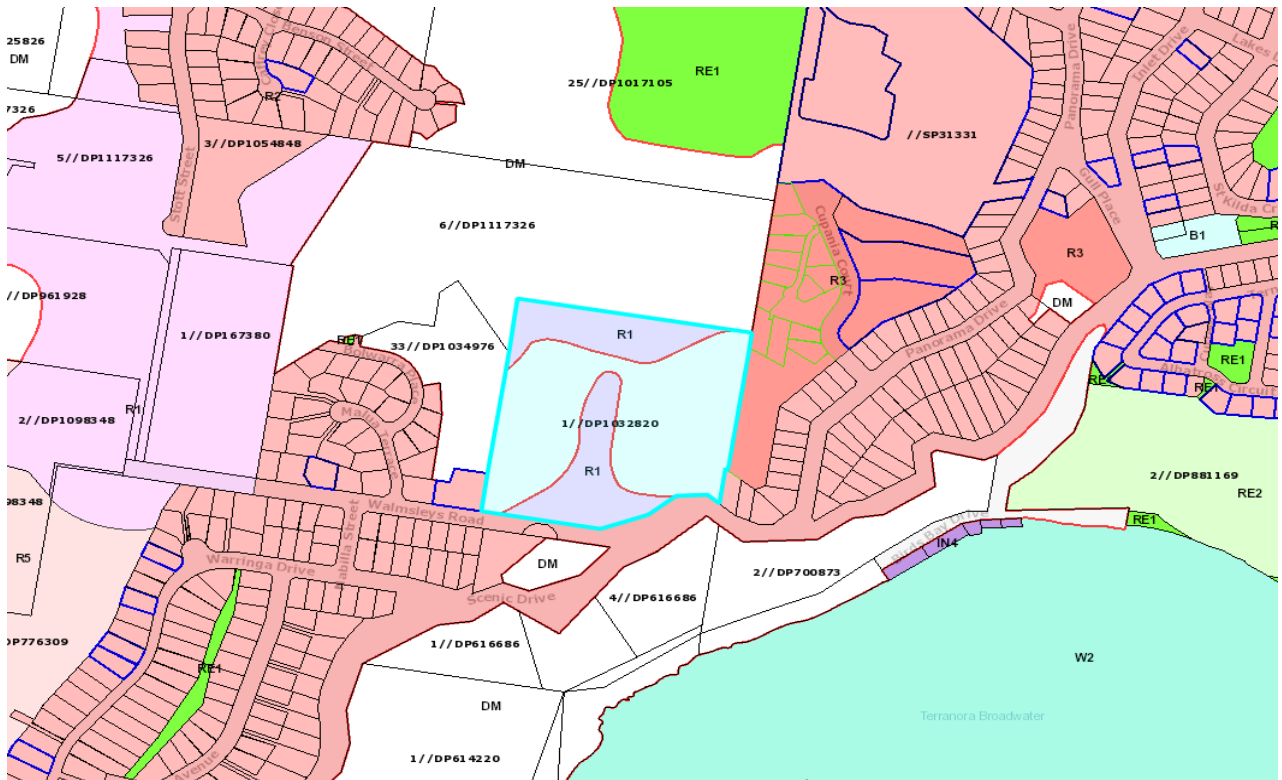


**Figure 2: Aerial View of the site and adjoining land**

### **Review of Conservation zones**

Zoning of the subject site is affected by the ongoing review of conservation zones, initiated by the DPE in order to ensure that conservation zones are being applied based on a set of consistent criteria (Figure 3 below). For the duration of the review, conservation (environmental) zones have been excised from the Tweed LEP 2014 and will be reinstated via a separate planning proposal, which is progressing concurrently to the planning proposal for Walmsley Road. In absence of available conservation zoning to apply, environmental land within the Walmsley Road site will be zoned RE2 Private Recreation, as an interim arrangement until such time that the review of conservation zones is finalised and appropriate zoning is applied. The owner of the site has voluntarily entered into a planning agreement with Council, committing to substantial habitat restoration works, as outlined below.





**Figure 3: Context – Tweed LEP 2014 zoning of surrounding areas. Unzoned land (white) is subject to the review of conservation zones.**

### 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. Due to the ongoing review of conservation zones outlined above, the subject site will be initially zoned RE2 Private Recreation. Once conservation zones are incorporated into Tweed's LEPs, this zone will be replaced with an appropriate conservation zone, C2 Environmental Conservation and C3 Environmental Management as outlined in the planning agreement, placed on public exhibition concurrently with this planning proposal.

The planning agreement has been prepared under section 7.4 of the *Environmental Planning and Assessment Act 1979*.

## Part 1 Objectives or intended outcomes

The intended outcome of this planning proposal is to amend Tweed LEP 2014 to facilitate:

1. Consolidation of land zoned R1 General Residential, and
2. Applying the RE2 Private Recreation zone for the remainder of the site to protect, consolidate and rehabilitation native vegetation in accordance with the planning agreement prepared for this planning proposal.

Of note, the Proponent has not provided plans outlining the ultimate development of the site. The objective of this planning proposal is to delineate the extent of land within the subject site that can accommodate land uses permitted within the R1 General Residential zone. The ultimate development of the site will then be determined through the development assessment stage, in accordance with the land use permissibility, environmental hazards, infrastructure needs and voluntary commitments to undertake habitat restoration works, committed to under the planning agreement. The total area of land zoned R1 General Residential will remain the same as under the current Land Zoning Map, however the boundaries will be realigned to better reflect the extent of land that will remain dedicated for environmental conservation and habitat restoration.

## Part 2 Explanation of provisions

The intended outcomes of this planning proposal will be achieved by amendments to Tweed LEP 2014 mapping:

- a. Land Application Map,
- b. Land Zoning Map,
- c. Lot Size Map,
- d. Height of Buildings Map,
- e. Floor Space Ratio Map, and
- f. Acid Sulfate Soils Map

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

**NOTE 1:** The use of Zone RE2 Private Recreation for all land not zoned R1 General Residential is an interim zoning which will be replaced by appropriate environmental zones once the review of conservation zones is completed through a separate planning proposal process.

**NOTE 2:** The zone boundaries have been determined following detailed consideration of vegetation-related matters, receipt of the Gateway determination and outcomes of further investigations undertaken. The location of the conservation zones have been identified and included in maps and planning agreement for the rehabilitation and environmental protection works.

## Part 3 Justification

### 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 facilitate the consolidation of land zoned R1 General Residential and undertake the protection and enhancement of vegetation for the remainder of the lot.



While not strategic in nature, the proponent 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 land uses and built form character;
- Demography; and
- Proposed land uses.

The site lies within the Urban Growth Areas identified in the *North Coast Regional Plan 2036* (NCRP). As such, this planning proposal gives effect to the policy intent to accommodate the growing Tweed population within the designated urban growth area.

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

The current zoning of the site dates back to the first local environmental plan applicable in the Tweed area (Tweed LEP 1987) which included broad brush zoning maps, often applied without sufficient field based evidence. In context of this particular site, this resulted in a residential zoning partially affecting land with high environmental values and conservation zoning partially applying to a cleared land that used to operate as an orchard. A planning proposal pathway is the only mechanism to rationalise the zoning based on ground evidence.

## **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 is located 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 gives effect to the objectives, and settlement and housing provisions of the NCRP.

Appendix 2 provides a comparison with applicable actions identified 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 instrument.

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 (Resilience and Hazards) 2021; and
- SEPP (Biodiversity and Conservation) 2021.

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(2) of the *Environmental Planning and Assessment Act 1979* apply to planning proposals lodged with the DPE.

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

- 1.1 Implementation of Regional Plans;
- 1.3 Approval and Referral Requirements;
- 1.4 Site Specific Provisions;
- 3.1 Conservation Zones;

- 3.2 Heritage Conservation;
- 4.3 Planning for Bushfire Protection;
- 4.4 Remediation of Contaminated Land;
- 4.5 Acid Sulfate Soils;
- 5.1 Integrating Land Use and Transport; and
- 6.1 Residential zones.

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 EP&A Act.

This planning proposal has identified the opportunity to protect and enhance native remnant and regrowth forest and related flora and fauna habitat.

Fauna species with potential to use the site include Koala, Grey-headed Flying-fox, various microbats, possum and glider species, Rose-crowned and Superb Fruit Doves. Detailed scat searches on site have revealed no Koala scats in the survey area. Furthermore no Flying-fox camps are present in the local area. Regrowth vegetation is contained on the east and west of the site with the diversity of weed and native species but generally dominated by Camphor Laurel. The central section of the lot is cleared and mown with established garden areas.

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: Site Vegetation Survey**

Vegetation Communities	
<b>1 – Regrowth Dry Rainforest/ Camphor Laurel</b>	This community occurs on the western edge and eastern sides of the lot, separated by low cleared land at the northern end.
<b>2 – Isolated Fig Trees</b>	Two large Moreton Bay Figs are located within the current and proposed R1 zone designation. Native mid-storey are of limited diversity with weed cover in the mid stratum is dominant and includes species such as Umbrella Tree, Jacaranda and Giant Devil's Fig. Exotic grasses dominate the ground level.
<b>3 – Open Grassland (exotic)</b>	This community occurs over all the cleared sections of the property and was formerly grassland. A range of weed species are scattered throughout with approximate coverage at 96%.
<b>4 – Planted eucalypt forest</b>	This community occurs in the south-west corner of the allotment near Walmsley's Road. Weed species are absent in the tallest stratum due to the establishment of the eucalyptus trees. The groundcover has been slashed beneath the eucalyptus trees and is generally mid-dense and dominated by exotic grasses. The remaining western portion abuts the higher edge of a mixture of rainforest tree and shrub.

**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 agriculture and horticultural activities, any application for development on 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 proponent has supported the use of a planning agreement under section 7.4 of the *Environmental Planning and Assessment Act 1979* (NSW) to manage rehabilitation and protection of native vegetation within the identified conservation zones.

The planning agreement will secure the protection of existing vegetation, consolidation and rehabilitation of previously cleared land particularly along the northern boundary, and ensure that the interim RE2 Private Recreation is replaced with an appropriate conservation zone, notably C2 Environmental Conservation and/or C3 Environmental Management.

### **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**

A Detailed Site Investigation (DSI) has determined that the site was subject to cropping and plantation activities, which may have been subject to agrichemical applications and potentially contaminated activity. The site also contains existing and demolished farm sheds on the site may have been associated with chemical, fuel/ oil storage, leaks, asbestos and spills.

A Soil and Analysis Quality Plan was prepared and implemented to assess total soil concentrations of potential contaminants of concern including pesticides, metals and petroleum hydrocarbons. If future development in the area of the vicinity of the existing shed and previously demolished shed, included residential land use, then soil remediation would likely be required. The property is considered suitable for the proposed rezoning and future residential use subject to further work, notably a Remedial Action Plan.

A walkover survey was completed in the estimated location of the demolished shed and the existing shed. No fragments of asbestos containing material was observed in the location of the demolished shed. Asbestos may be present in existing structures and if identified, would be managed by a Safework NSW licensed contractor.

The DSI identified fill material of an unknown source placed on the eastern boundary of the site for potential contaminants of concern. The fill material is located in an inaccessible part of the lot and would be within the proposed conservation zone. Attempts made to gain access to the fill site

required the clearing of an access way and possible disturbance of material. Further disturbance of the area was not recommended as it may encourage the exposure of soil and other material. Any potential in the future for this area to become readily accessible, this area will be required to be quantitatively assessed for potential contamination.

Council considered the detail of the DSI and have raised no objections to the planning proposal proceeding, subject to the recommendations of the DSI.

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

This planning proposal seeks to rationalise existing zoning boundaries (R1 General Residential vs conservation), retaining the balance between them. As such, social and economic effects of this planning proposal are considered to be limited. The planning proposal will result in delineating a developable area within the R1 General Residential zoning, offering an opportunity to deliver a varied mix of housing typologies, responding to social and economic needs and aspirations of the Tweed community.

**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 with the planning proposal.

**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 permitted under the R1 General Residential zone.

**Transport**

A Traffic Impact Assessment was prepared in support of the proposal which identified potential traffic generating impacts, and access options from both Walmsley Road and Scenic Drive. It is recommended that Walmsley Drive access be designated as the primary access point into the site with Scenic Drive designated as the secondary access.

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 in the context of a future proposal 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* (NSW). 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.

## 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 Community Strategic Plan is proposing:

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

The subject site is in proximity to key urban centres with appropriate urban utilities, infrastructure, and health and education campuses.

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

This planning proposal received Gateway determination on 23 December 2020. Consultation was required with the following public authorities prior to community consultation:

- NSW Rural Fire Service;
- Department of Planning and Environment (Biodiversity and Conservation Division); and
- Transport for NSW.

Each public agency was provided with a copy of the planning proposal and relevant supporting material and given 21 days to comment on the proposal commencing on the 7 March 2022 and concluding on 28 March 2022. In summary the contents of each agency response is discussed below:

## **NSW Rural Fire Service**

As noted above, the NSW Rural Fire Service (NSW RFS) was provided with the contents of the proposal seeking advice on bushfire related matters affecting the site. At the conclusion of the period for consultation NSW RFS and time of writing this planning proposal, NSW RFS has not provided comment on the matters described.

## **Biodiversity and Conservation Division**

Referral to Biodiversity and Conservation Division (BCD) of the Biodiversity, Conservation and Science Directorate in the Environment and Heritage Group of the Department of Planning and Environment was undertaken in accordance with the conditions of the gateway determination. The BCD support the approach of progressing the Proposal by applying an interim RE2 zone to areas proposed as Conservation zones C2 and C3 respectively. Noting this area will be subject to a planning agreement that commits to applying the C2 and C3 zones at such a time Council includes the Conservation zones within the LEP 2014.

The following recommendations were put forward from BCD, comments in response to each item have been addressed below.

- 1. The parts of the planning area suitable for residential development should be determined following consideration of the opportunities and constraints presented across the planning area, including areas of HEV and the bushfire threat proposed by nearby vegetation.*

### Comment:

The extent of the rationalised area of R1 General Residential zone has been based on a detailed assessment of vegetation. At such a time a development application is submitted for assessment, detailed plans of the proposed development area will be prepared in support of the application.

The opportunities and constraints across the planning area, with reference to High Environmental Value (HEV) vegetation and bushfire threat have been detailed in the technical reports prepared as part of this proposal and will be evaluated at the development assessment stage.

- 2. Future residential development, including ancillary works such as bushfire protection measures, should not encroach onto any areas of HEV.*

### Comment:

Ecological surveys undertaken on site have identified species comprising HEV. As detailed in the report, the site includes patches of regrowth forest despite significant weed infestation across the strata and extensive planting of native and exotic species. The report identifies vegetation to be retained relative to the indicative built form submitted by the proponent as potential built form outcomes within the R1 zone, this includes the loss of HEV vegetation combining a total area of 0.12 hectares of regrowth Lowland Rainforest as illustrated in Figure 5 of the Ecological Assessment report. These areas of loss form rainforest patches on the east and western boundaries of the proposed R1 development area for the purpose of achieving a bushfire asset protection zone for the indicative development layout. These areas are dominated by weed species in the canopy and understorey. Furthermore common regrowth native species and planted threatened flora species are likely to be impacted by the proposed works.

The Ecological assessment report has proposed rainforest restoration to offset any habitat loss, on balance, is considered to compensate for the loss of any HEV as noted in the indicative development layout.

3. *The Ecological Assessment and the Planning Proposal should be amended to protect the HEV areas present from inappropriate urban development by applying the C2/interim RE2 zone to all identified HEV land in the planning area.*

Comment:

The protection and rehabilitation of vegetation, are subject to the planning agreement to formalise the intent and on-ground rehabilitation works to be carried out. The majority of HEV areas identified on site are applicable to the interim RE2 zone and future Conservation zones. Amending the report to protect all known HEV vegetation would likely split the zoning arrangements, and when considered on balance, would result in an outcome inconsistent with the intent of the proposal which seeks to formalise the protection of ecological communities through the implementation of the Habitat Restoration Plan and which is consistent with the Proponent's voluntary commitments detailed in the planning agreement.

4. *The steep and degraded parts of the planning area proposed for revegetation should be included within the proposed C2/ interim RE2 zone.*

Comment:

The subject site slopes from 10m AHD along the northern boundary to 60m on the elevated ridgeline in the centre-south of the property. The majority of the steep and degraded parts of the planning area referenced are proposed to be included in the E3 zone, with the remaining proposed as E2 northern lot boundary being the steepest portion of the lot. Vegetation communities included in these areas along the northern, eastern and western lot boundaries include early regrowth and exotic grasslands. The steep areas of the lot, have been estimated to fall within restoration zones 1, 4 and 2 illustrated in Figure 9 of the Habitat Restoration Plan comprising of a majority of interim C3 Environmental Management zone.

5. *The council should consider the permanent application of the RE2 zone across the area currently proposed to be zoned C3, excluding the areas of HEV and areas to be revegetated as per our recommendations 3 and 4 above.*

Comment:

Conservation zones will be reinstated via a separate planning proposal. Part of the subject site is proposed for C3 zoning between proposed R1 and C2 zones. The recommendation to the permanent application of the RE2 zone across the area proposed to be C3, excluding the areas of HEV and revegetation areas is noted however vegetation present on this part of the site warrants a conservation zoning which offers appropriate, long term protection moving forward. The inclusion of the C3 zone will act as an ecological buffer that surrounds the development area which is proposed to be revegetated as noted in the Habitat Restoration Plan as part of zones 1, 2 and 3 scheduled actions over years 1 to 5 following the instrument change.

6. *The proposed Planning Agreement should be amended to set out proposed restoration of relevant parts of the C2/ interim RE2 zone, as well as the methods to manage the permanent*

*RE2 zone proposed in our recommendation 5 above, including any suitable tree plantings, consistent with the management of any future bushfire Asset Protection Zone that may be required.*

**Comment:**

The Habitat Restoration Plan applies to all vegetation within the site, outside of existing cleared land and landscape areas. Restoration zones were determined following an initial site survey and are divided into five (5) zones based on vegetation (native and exotic) and the required restoration approach. The recommendations of habitat restoration and vegetation management are described in the Habitat Restoration Plan. The implementation of the Habitat Restoration Plan must commence upon the making of the LEP amendment (instrument change).

7. *A Minimum Lot Size of 4 hectares should be applied to land proposed for C2/interim RE2 zoning, including those areas we have proposed in our recommendations 3 and 4 above, and for land in the permanent RE2 zone we have proposed in our recommendation above.*

A minimum lot size of 4 hectares will be applied for the interim RE2 zone consistent with condition 2(a) of the Gateway Determination.

**Transport for NSW**

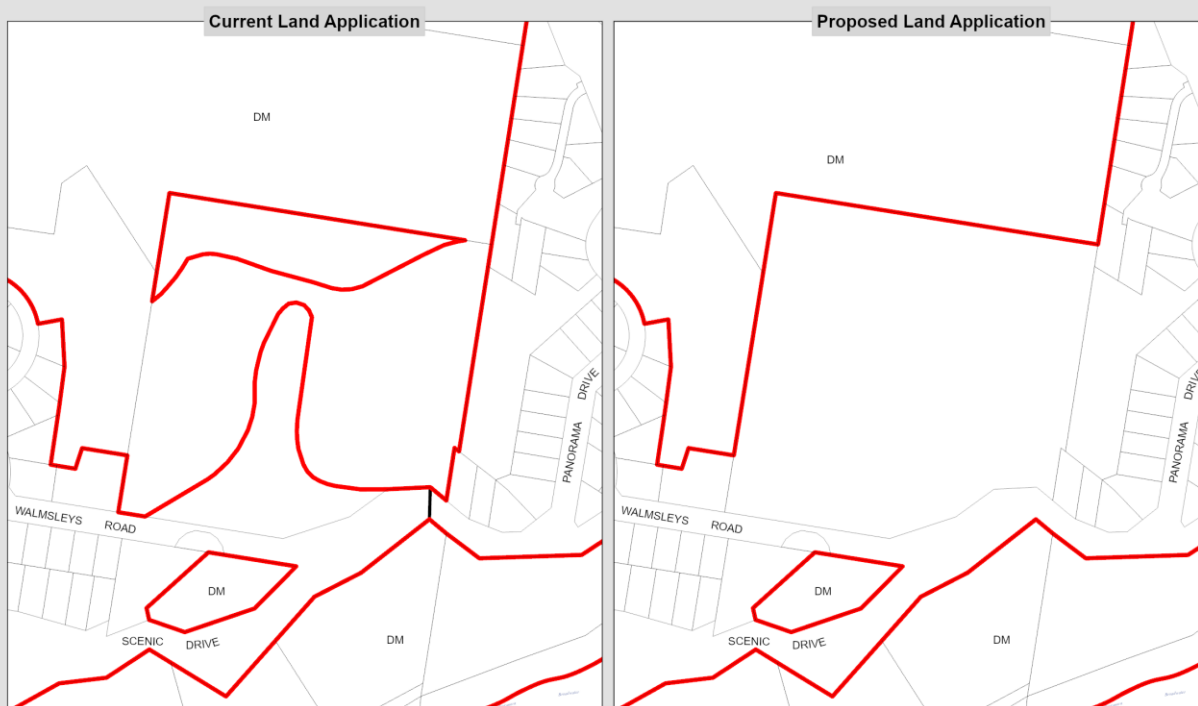
Referral to Transport for NSW (TfNSW) was undertaken in accordance with the conditions of the gateway determination. In support of the proposal the proponent prepared a Traffic Impact Assessment (TIA) which provided a review of key surrounding road network, public transport and active transport networks. In addition providing estimations of development traffic generations and quantitative distribution and impacts on the surrounding road network.

TfNSW requested that Council give further consideration to the opportunities to encourage travel by active transport modes, notably the availability and safety of existing infrastructure or access to services. Council's transport engineer considered the comments from TfNSW and is satisfied the TIA addressed the matters described.

## Part 4 Mapping

### 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)

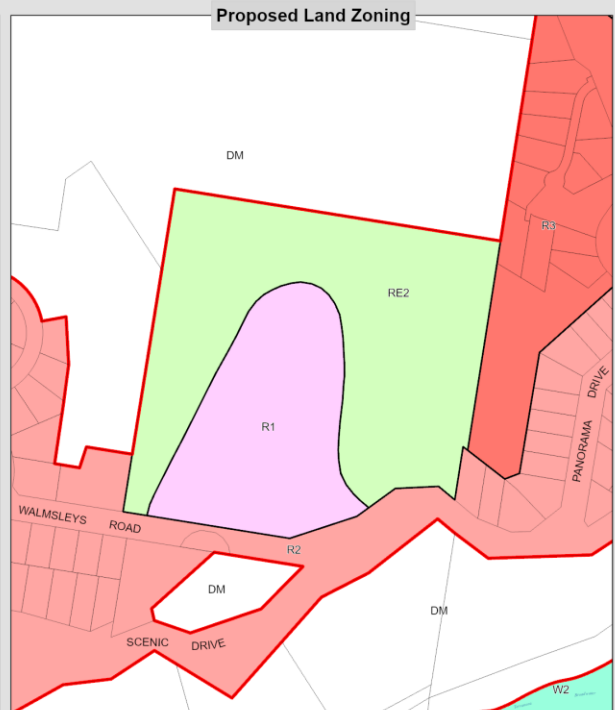
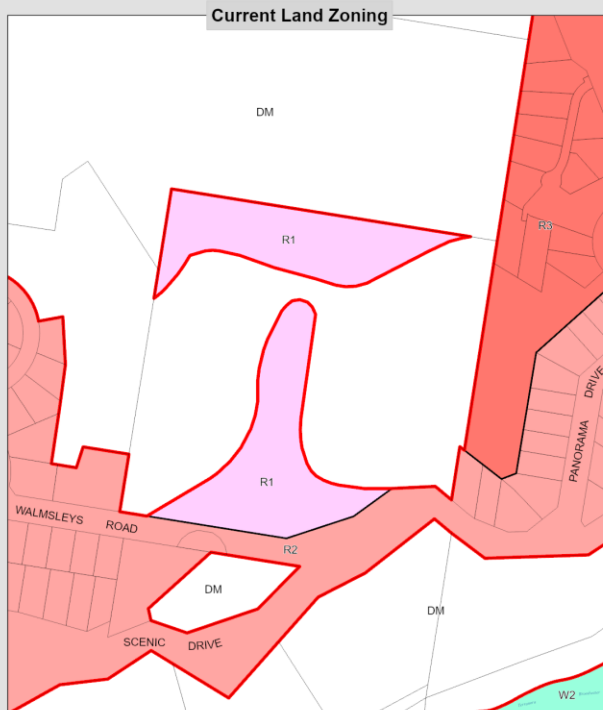
**G** 450 **Z** 4 ha





### Tweed Local Environmental Plan 2014 - Land Zoning

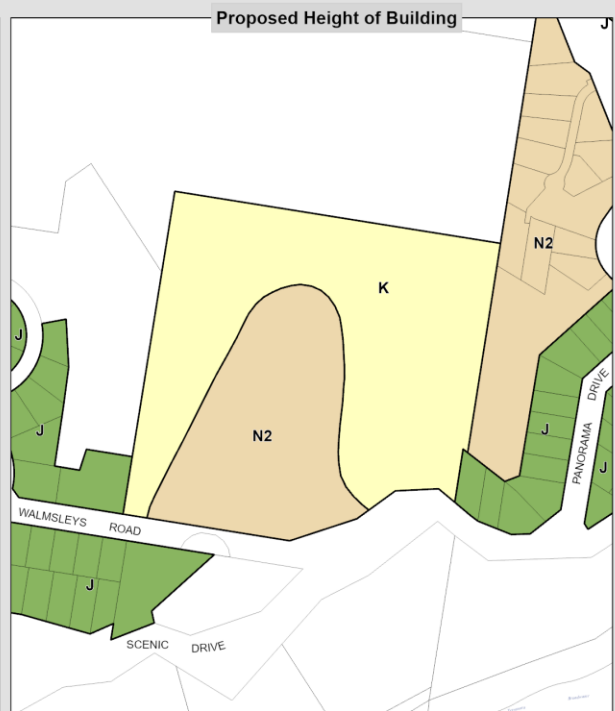
<span style="background-color: #FFB6C1; border: 1px solid black; padding: 2px;">R1</span> General Residential	<span style="background-color: #FF6347; border: 1px solid black; padding: 2px;">R3</span> Medium Density Residential	<span style="background-color: #90EE90; border: 1px solid black; padding: 2px;">W2</span> Recreational Waterways
<span style="background-color: #FFA07A; border: 1px solid black; padding: 2px;">R2</span> Low Density Residential	<span style="background-color: #90EE90; border: 1px solid black; padding: 2px;">RE2</span> Private Recreation	<span style="background-color: #FFDAB9; border: 1px solid black; padding: 2px;">DM</span> Deferred Matter



### Tweed Local Environmental Plan 2014 - Height of Building

Maximum Building Height (m)

<span style="background-color: #90EE90; border: 1px solid black; padding: 2px;">J</span> 9 m	<span style="background-color: #FFFFE0; border: 1px solid black; padding: 2px;">K</span> 10 m	<span style="background-color: #D2B48C; border: 1px solid black; padding: 2px;">N2</span> 13.6 m
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## Part 5 Community consultation

Public exhibition is required for a period of 28 days following agency consultation. It is proposed notification will be made available by way of:

- Notification made available on Tweed Link and Your Say Tweed; and
- Surface letter notification to properties affected by the proposal.

The draft Planning Agreement will be placed on public exhibition concurrently with the planning proposal as required under the conditions of the Gateway.

Consultation will occur consistent with Council's Community Engagement and Participation Plan and this Part of the planning proposal will be updated following the completion of the community consultation phase.

## 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 DPE 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	October 2020
Gateway determination	December 2020
The completion of required technical information	October 2021
Agency consultation	March 2022
Commencement date for public exhibition period	May 2022
Completion date for public exhibition period	May 2021
Review submissions, respond and prepare V3 planning proposal for Council's consideration.	June 2022
Council report to finalise and refer the plan to the DPE to be made	July 2022
Referral of the Plan to the DPE for making	July 2022
Plan to be made by June 2022	August 2022

## Appendix 1. Appendix of consistency with North Coast Regional Plan 2036

Direction/Action		Response
<b>Direction 1: Deliver environmentally sustainable growth</b>		
1.1	Focus future urban development to mapped urban growth areas.	The site lies within an Urban Growth Area.
<b>Direction 2: Enhance biodiversity, coastal and aquatic habitats, and water catchments</b>		
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.	<p>The proposal seeks to protect existing native vegetation, consolidate isolated stands and revegetate land to establish a corridor on the northern boundary.</p> <p>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.</p>
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 Development Application (DA) stage.
<b>Direction 3: Manage natural hazards and climate change</b>		
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 DA stage against potential adverse impacts on the marine environment, risks and hazards.
<b>Direction 4: Promote renewable energy opportunities</b>		
4.3	Promote appropriate smaller and community-scale renewable energy projects.	An option to be considered at the DA stage.
<b>Direction 15: Develop healthy, safe, socially engaged and well-connected communities</b>		
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.
15.5	Deliver crime prevention through environmental design outcomes through urban design processes.	To be considered at the DA stage.
<b>Direction 16: Collaborate and partner with Aboriginal communities</b>		
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	Engagement of the Local Aboriginal Land Council has occurred and will be further conducted throughout the planning process.

	management strategies and local environmental plans.	
<b>Direction 18: Respect and protect the North Coast's Aboriginal heritage</b>		
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.
<b>Direction 20: Maintain the region's distinctive built character</b>		
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).	<p>This site is highly visible and the potential impact on the scenic amenity will be considered in detail at the DA stage.</p> <p>The site lies within an Urban Growth Area between existing urban areas.</p>
<b>Direction 23: Increase housing diversity and choice</b>		
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.	Zoning proposed for the subject site offers a broad range of housing typologies, advancing this policy direction.
<b>Direction 25: Deliver more opportunities for affordable housing</b>		
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.

## Appendix 2: 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"><li>• Develop and use regulatory instruments to protect and manage the environment.</li><li>• Implement land and waterway rehabilitation and protection projects.</li><li>• Lead and engage the community to enhance awareness and improve sustainable management of the environment.</li><li>• Decrease the carbon footprint of the Tweed community and progress towards 100 per cent self-sufficiency in renewable energy.</li><li>• Prepare for climate change through adaptation and mitigation strategies.</li><li>• Provide for appropriate public access and use of natural areas.</li><li>• Council maintains a strong position to ensure the Shire retains a 'Gas Field Free' status.</li></ul>	<p>The site's environment is heavily disturbed due to 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
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### Consistency with relevant objectives of Tweed Community Strategic Plan 2017/2027

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

### 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"> <li>• Provide rubbish collection, disposal and recycling services which maximise the diversion of rubbish from landfill.</li> <li>• Ensure adequate facilities and plans are in place to minimise service interruptions and to cater for current and future demand.</li> </ul>	<p>Preliminary assessment shows that the site is capable of being serviced by water and wastewater.</p>

### 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"> <li>• Support the community to adapt to changing social, economic and climatic conditions.</li> <li>• Encourage housing diversity and choice that meets the needs of the community.</li> <li>• Enable economic opportunities for productive and employment-generating land uses.</li> <li>• Sustainable management and protection of Aboriginal and European heritage.</li> <li>• Plan for well-located and connected centres that meet the business, health and social needs of the community.</li> <li>• Protect and manage the Tweed's unique character and world heritage scenic landscapes.</li> <li>• Protect and enhance productive farmland.</li> </ul>	<p>The planning proposal seeks to zone the site R1 General Residential, offering an opportunity to develop the site with a variety of housing typologies. Matters related with heritage and Tweed's character have been evaluated through technical reports which demonstrate consistency of this planning proposal with relevant Community Strategic Plan objectives.</p>

### 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"><li>• Assess and regulate development activity to promote good design in the built environment.</li><li>• Determine development applications fairly and accurately.</li><li>• Engage the community to enhance awareness and improve understanding and management of the built environment.</li><li>• Provide infrastructure to meet the needs of local and regional growth.</li><li>• Promote sustainable construction practices and reuse of materials.</li><li>• Align cross border planning with south east Queensland.</li></ul> | Most of these strategies and actions will be addressed at the DA stage. Community engagement will occur as part of the planning proposal process. |
|--|---|

## 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

### Response

- |   |  |
|---|--|
| <ul style="list-style-type: none"><li>• Communicate and engage with the community, government and business groups on important matters affecting the Tweed.</li><li>• Convene open, accessible and transparent Council and Committee Meetings.</li><li>• Provide professional and efficient services to Council's customers.</li><li>• Deliver strong and sustainable budgets to provide for long term asset management and service delivery.</li></ul> | The planning proposal will be advertised as per requirements of the Gateway determination. |
|---|--|

## 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"> <li>• Provide well maintained and suitable community buildings and facilities.</li> <li>• Undertake health and wellbeing initiatives that encourage a happy and active lifestyle.</li> <li>• Provide support and advice to businesses and industry.</li> <li>• Improve telecommunications and digital services to support businesses and industry.</li> <li>• Market the Tweed as a tourism destination.</li> <li>• Protect public health and community safety.</li> <li>• Provide more opportunities for people in the Tweed to work.</li> <li>• Improve local and regional healthcare infrastructure and services.</li> <li>• Improve tertiary education and vocational training infrastructure and services.</li> <li>• Advocacy and support for community access and inclusion in all Council facilities.</li> </ul>	<p>This goal is not relevant to this planning proposal. The R1 General Residential zoning proposed for the site offers opportunity to deliver a variety of housing typologies, responding to the current and future community needs.</p>
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## 3.2 Places

### Goal

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

Strategies/actions	Response
<ul style="list-style-type: none"> <li>• Provide places, spaces and facilities for the sporting, recreation, leisure and cultural pursuits of locals and visitors.</li> <li>• Provide diverse, affordable and attractive holiday park accommodation and facilities.</li> <li>• Promote the distinctive character and diverse identities of Tweed's towns and villages.</li> </ul>	<p>Land uses proposed for the site include:</p> <ul style="list-style-type: none"> <li>• Native vegetation;</li> <li>• Managed parkland; and</li> <li>• Residential typologies permitted under the R1 General Residential zone.</li> </ul>

## 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	Response
<ul style="list-style-type: none"> <li>• Provide a safe, connected and efficient regional transport network.</li> <li>• Design, construct and maintain a safe and efficient local transport network.</li> <li>• Gain a more equitable distribution of transport funding from other levels of government.</li> <li>• Encourage healthy and sustainable alternative transport options such as walking, cycling and integrated public transport.</li> </ul>	<p>The site is well located for access to the major shopping centres of Tweed Heads and Tweed Heads South and other services and facilities.</p>



### Appendix 3: Consistency with applicable State Environmental Planning Policies

Consistency with relevant State Environmental Planning Policies (SEPPs)	
SEPP	Consistency
SEPP (Resilience and Hazards) 2021	<p>This Policy requires the assessing authority to consider matters with regard to coastal management, hazardous and offensive development and remediation of land.</p> <p>The subject site is not located within the coastal zone nor does is proposed the use of the site for the purposes of hazardous and offensive development.</p> <p>The objective of the remediation of contaminated land Chapter is to provide for a Statewide planning approach to the remediation of contaminated land. A Contamination Report and summary table have been included in support of this proposal. A Soil and Analysis Quality Plan was prepared and implemented to assess total soil concentrations of potential contaminants of concern. The Contamination Report indicates the property is considered suitable for the proposed rezoning and future residential use subject to a Remedial Action Plan which will be guided by a future development application.</p> <p>It is considered this planning proposal is consistent with the SEPP.</p>
SEPP (Biodiversity and Conservation) 2021	<p>This policy is divided into chapters relating to the preservation of habitat areas, vegetation and drinking water.</p> <p>The applicable matters of consideration to this planning proposal include Koala habitat protection 2021.</p> <p><u>Koala habitat protection 2021</u></p> <p>This chapter is applicable to the whole local government area and aims to encourage the conservation and management of natural vegetation that provide habitat for koala.</p> <p>A detailed scat search revealed no Koala scats within the survey area and under all eucalypts tree species in the site.</p> <p>The proposal does not result in the removal of koala habitat vegetation to facilitate the proposal nor have on site investigations identified known presence of koala within the subject site. It is considered the planning proposal is consistent with the SEPP.</p>

## Appendix 4: Consistency with applicable Section 9.1 Directions

Consistency with relevant section 9.1 Directions by the Minister for Planning		
Focus area 1: Planning Systems		
1.1 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.
1.3 Approval and Referral Requirements		
This Direction provides that a LEP shall minimise the inclusion of provisions that require the 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.	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The Planning Proposal does not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.
1.4 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.	Consistent. No site-specific provisions are proposed as part of this planning proposal.
Focus area 3: Biodiversity and Conservation		
3.1 Conservation Zones		

A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. Where land subject to a conservation zone or land otherwise identified for environmental protection purposes in a LEP must not reduce the conservation standards that apply to the land.	The objectives of this direction is to protect and conserve environmentally sensitive areas.	The Planning Proposal seeks to consolidate and protect land identified for environmental protection purposes.
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### 3.2 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. Including the protection of Aboriginal objects and Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i> (NSW).	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	<p>The site is heavily disturbed and contains no identified heritage items under Tweed LEP 2014.</p> <p>An Aboriginal cultural heritage site inspection report was prepared in January 2020 by the Tweed Byron Local Aboriginal Land Council.</p> <p>The report noted that in the context of Aboriginal cultural heritage management TBLALC has no objections or concerns regarding the proposed rezoning.</p>
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### Focus area 4: Resilience and Hazards

#### 4.3 Planning for Bushfire Protection

This direction applies to all local government areas when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to, land mapped as bushfire prone land.	<p>The objectives of this direction are:</p> <p>(a) Protect life, property and the environment for bushfire hazards, by discouraging the establishment of incompatible land uses in bushfire prone areas, and</p> <p>(b) Encourage sound management of bushfire prone areas.</p>	The site is mapped as bushfire prone land.
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#### 4.4 Remediation of Contaminated Land

This direction applies to land on which development on land to be known as contaminated or been determined to be contaminated.	The objective of this direction is to reduce the risk and harm to human health and environment by ensuring that contamination and remediation are considered by planning proposal authorities.	<p>The DSI has determined that the site was subject to cropping and plantation activities, which may have been subject to agrichemical applications and potentially contaminated activity. The site also contains existing and demolished farm sheds on the site may have been associated with chemical, fuel/ oil storage, leaks, asbestos and spills.</p> <p>The DSI indicates the property is considered suitable for the proposed rezoning and future residential use subject</p>
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		to a Remedial Action Plan which will be guided by a future development application.
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#### 4.5 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.	The site is identified on Tweed LEP 2014 Acid Sulfate Soils map Class 5 on the Acid Sulfate Soils Map. The site is elevated, steep and separated from local waterways and is not considered likely to contain Acid Sulfate Soil. 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.
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#### Focus area 5: Transport and Infrastructure

##### 5.1 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, subdivisions and street layouts achieve planning principles including improving access to housing, jobs and services through walking, cycling and public transport, increase the choice of transport, reducing travel demand, supporting the efficient operation of public transport services and providing for efficient movement of freight.	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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#### Focus area 6: Housing

##### 6.1 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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