



Planning,  
Industry &  
Environment

IRF21/1199

## Gateway determination report – PP-2021-2690

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Dwelling Opportunity at 51 Rock Road, Bungalora and  
inclusion of a Dwelling Opportunity Map in Tweed LEP  
2014

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**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
Attachment A - Planning proposal
Attachment B - Gateway determination
Attachment C - Letter to Council
Attachment D - Council Letter - 19 February 1993 - confirming Dwelling entitlement
Attachment E - Aboriginal Cultural Heritage Site Visit and Advice Report
Attachment F - Contamination report - Preliminary Site Investigation_
Attachment G - Bushfire Risk Assessment Report

Attachment H - Resolution & Report 51 rock road - 5 Aug 2021

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Attachment I - Request for Planning Proposal

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Attachment J - Planning Proposal V1 for Gateway Determination for submission

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Attachment K - Statement of Environmental Effects & Clause 4.6

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Attachment L - DA Not Accepted Advice

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# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Tweed Shire</b>
<b>PPA</b>	<b>Tweed Shire</b>
<b>NAME</b>	<b>Dwelling Opportunity at 51 Rock Road, Bungalora and inclusion of a Dwelling Opportunity Map in Tweed LEP 2014</b>
<b>NUMBER</b>	<b>PP-2021-2690</b>
<b>LEP TO BE AMENDED</b>	<b>Tweed Local Environmental Plan 2014</b>
<b>ADDRESS</b>	<b>51 Rock Road, Bungalora</b>
<b>DESCRIPTION</b>	<b>Lot 2 DP 880732</b>
<b>RECEIVED</b>	<b>1/11/2021</b>
<b>FILE NO.</b>	<b>IRF21/4499</b>
<b>POLITICAL DONATIONS</b>	<b>There are no donations or gifts to disclose and a political donation disclosure is not required</b>
<b>LOBBYIST CODE OF CONDUCT</b>	<b>There have been no meetings or communications with registered lobbyists with respect to this proposal</b>

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- Insert a Dwelling Opportunity Map (DOM) into the Tweed Local Environmental Plan 2014;
- Amend Clause 4.2B(3) to provide a dwelling opportunity to land identified under the DOM; and
- Identify 51 Rock Road, Bungalora (Lot 2 DP 880732) on the DOM

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Tweed LEP 2014 per the changes below:

**Table 3 Current and proposed controls**

Control	Current	Proposed
Dwelling Opportunity Map	Currently no control	To insert a map which identifies, and registers sites proven to possess a dwelling entitlement and to include 51 Rock Rd on this map
Clause 4.2B		Amend the clause to include sites identified on the Dwelling Opportunity Map

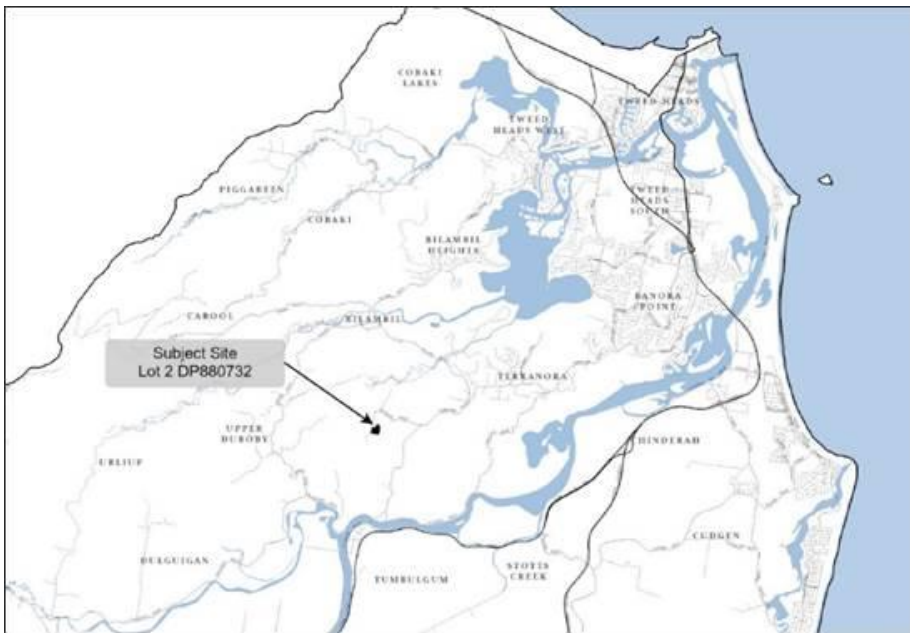
The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

## 1.4 Site description and surrounding area

The subject site is appropriately 4.135ha in size, has vehicular access from Rock Road and has electricity and telecommunications services. Consistent with the wider area, no reticulated water or sewer is available. The subject site has a gentle topography at its central peak, which falls away more steeply to the north, south and west where the property interfaces Rock Road.

Vegetation is scattered along the western boundary consisting of mixed Camphor Laurel, lantana and rainforest regrowth over grassland. To the south, vegetation consists of rainforest vegetation with dense Camphor Laurel and lantana along the edges closest to the proposed dwelling. The rainforest to the southern end of the site is mapped as having High Biodiversity Value and potential High Environmental Value. The subject site is also mapped as being within a vegetation buffer for bushfire prone land.

The subject site is located within a rural living lifestyle area. The subject lot is the only property on Rock Road, and within the lots created through a 1991 subdivision, that does not accommodate a dwelling house. This 1991 subdivision effectively created the current land tenure and subdivision pattern. Properties fronting Bilambil, Terranora, Balfours and Rock Road, as well as Beltana Drive are predominately less than 10ha in size and accommodate rural lifestyle housing and hobby-scale agricultural pursuits.

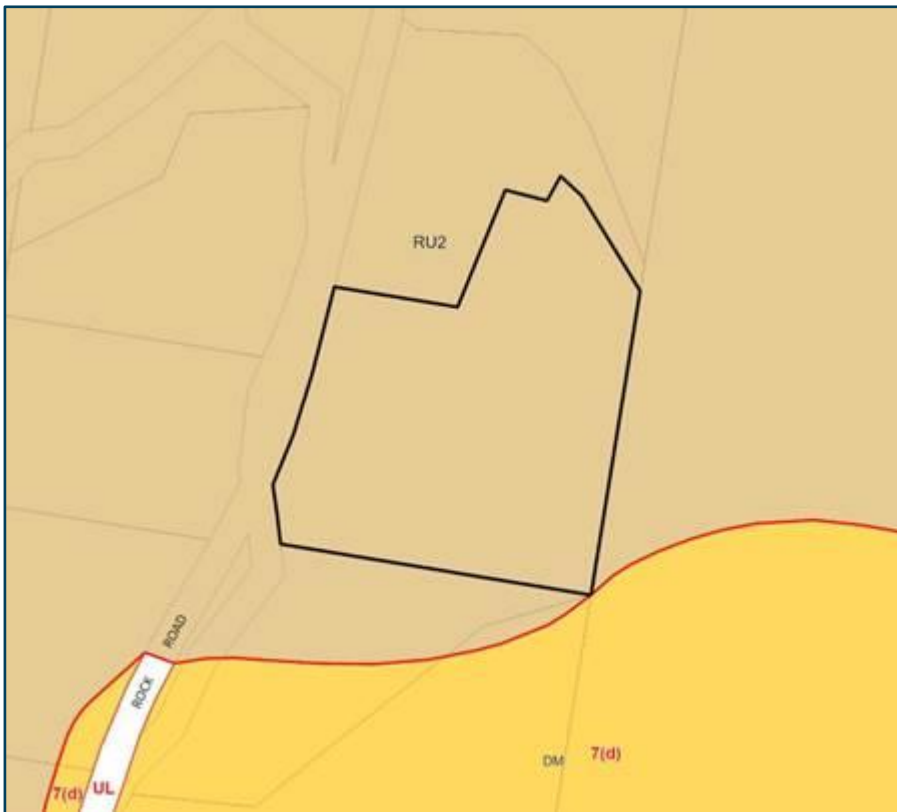


### Figure 1 Subject site



### Figure 2 Aerial of Subject Site



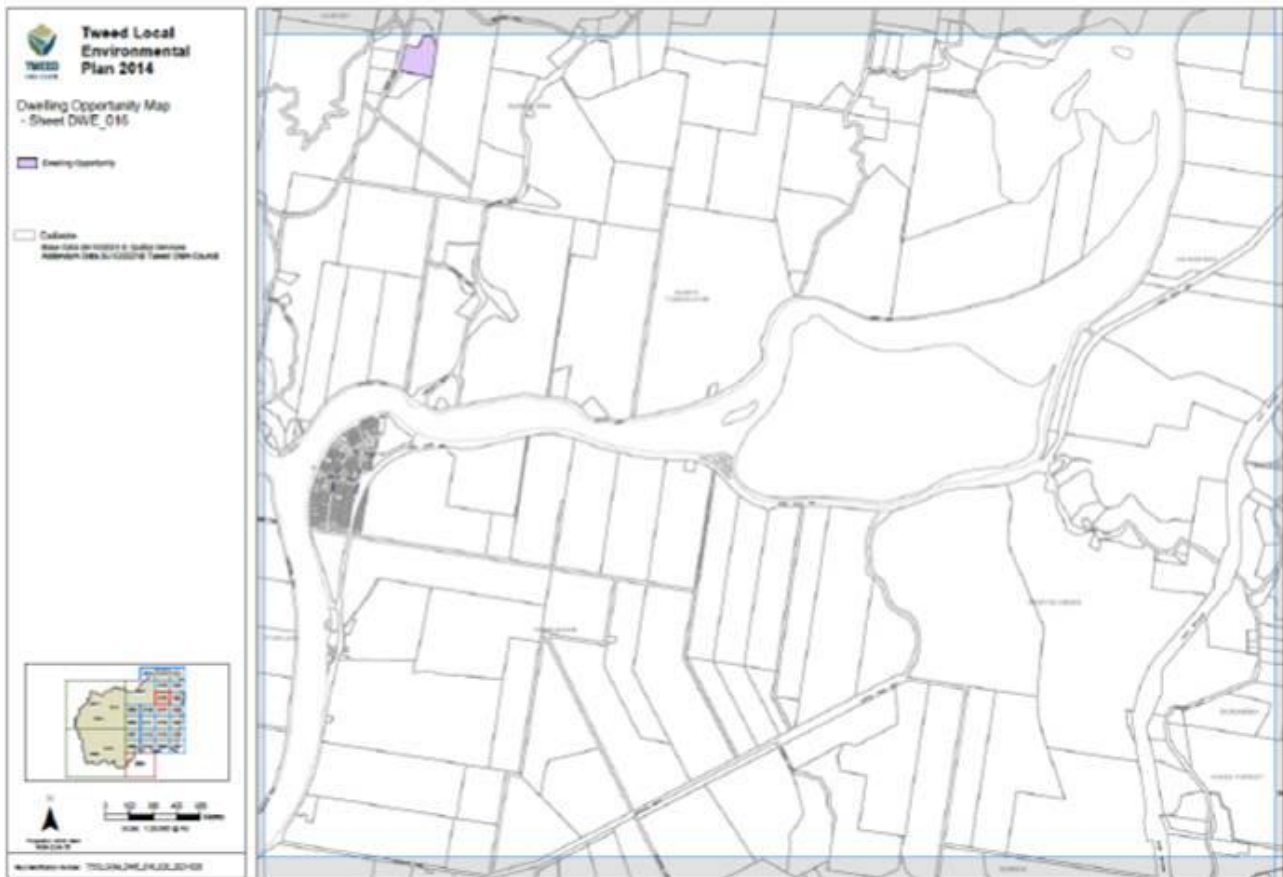


**Figure 3 Land Zone Map**

## 1.5 Mapping

The planning proposal includes a new mapping mechanism for dealing with dwelling entitlement of undersized rural allotments in Tweed Local Environmental Plan 2014.

Figure 4 is the proposed Dwelling Opportunity Map.



**Figure 4 Dwelling Opportunity Map**

## 1.6 Background

The Tweed Rural Land Strategy 2020-2036 identified the need to include a dwelling opportunity map into Tweed LEP 2014. The current proposal to include the dwelling opportunity map has been triggered by a site-specific request at 51 Rock Road, Bungalora (Lot 2 DP 880732). Initially only land at 51 Rock Road Bungalora will be identified on this map, with a further LEP amendment to take place in due course which will see further sites identified.

## 2 Need for the planning proposal

A planning proposal is the only means to provide Lot 2 (DP880732) 51 Rock Road, Bungalora with a dwelling opportunity and to include the Dwelling Opportunity Map and associated amendments into the Tweed Local Environmental Plan 2014.

## 3 Strategic assessment

### 3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the North Coast Regional Plan 2036.

**Table 4 Regional Plan assessment**

Regional Plan Objectives	Justification
Direction 23 Provide housing diversity and choice will improve affordability help meet the needs of an ageing population and support the reduction of household size	The proposal will provide a mechanism to provide dwelling opportunities to otherwise sterilised undersized rural lots in accordance with the Rural Land Strategy 2020-2036. The allowance of dwelling opportunity to Lot 2 will not impede on surrounding agricultural activities nor create any anticipated land-use conflicts and is consistent with the surrounding land use pattern and the purpose for which the lot was originally created.
Direction 24 Deliver well-planned rural residential housing areas	The proposal is considered to be generally consistent with the Tweed Rural Land Strategy 2020-2036, the surrounding land use pattern and the purpose for which the lot was originally created.

## 3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

**Table 6 Local strategic planning assessment**

Local Strategies	Justification
Tweed Local Strategic Planning Statement (TLSPS)	<p>Planning priority 10</p> <p><i>that productive agricultural land is protected and sustainably managed whilst creating innovative and diverse economic opportunities, rural living and recreation.</i></p> <p><i>Action 10.2 identified the need for a balanced interface between rural, urban and environmental land that minimises land-use conflicts.</i></p> <p>It is acknowledged that agriculture is a key industry and contributor to the Tweed economy which faces challenges through population growth, climate change and urban development. The allowance of a dwelling opportunity to the subject site is unlikely to impede any surrounding agricultural activities or create any anticipated land-use conflicts. The implementation of the DOM follows a recommendation of the Rural Land Use Strategy which is generally supported by the TLSPS.</p> <p>Planning priority 17</p> <p><i>need to deliver well-planned residential and rural residential housing.</i></p> <p>The subject site is forming part of an existing historical subdivision, the allowance of dwelling entitlement is sought to fulfil the desired outcome to construct a dwelling house.</p>

## 3.3 Section 9.1 Ministerial Directions

The proposal is considered to be consistent with all applicable s9.1 Directions except for the following:

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.5 Rural Lands	No	The proposal is inconsistent with this Direction as it does not implement all of the required principles such as supporting the right to farm. This inconsistency is considered to be of minor significance the dwelling opportunity on Lot 2 will not impede any surrounding agricultural activities nor create any anticipated land-use conflicts due to the rural lifestyle nature of the area and is consistent with the surrounding land use pattern and the purpose for which the lot was originally created.
4.1 Acid Sulfate Soils	No	The proposal is inconsistent with this Direction as the site is mapped as containing Class 5 Acid Sulfate Soils and is not supported by an acid sulfate soils study. This inconsistency is considered to be minor significance as the Tweed LEP 2014 contains appropriate provisions that will ensure that this matter can be adequately addressed at the development application stage.
4.4 Planning for Bushfire Protection	No	This direction applies as the subject land is identified as bushfire prone. Consistency with this direction is unable to be determined until after consultation has been undertaken with the NSW Rural Fire Service. Attachment G

### 3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs. It is noted that the proposal incorrectly refers to SEPP (Koala Habitat Protection) 2021. This should be amended to SEPP (Koala Habitat Protection) 2020 prior to consultation.

## 4 Site-specific assessment

### 4.1 Environmental

#### *Aboriginal heritage*

After a database search and a site inspection, it is considered that any future development on the site is unlikely to impact on Aboriginal cultural heritage. A site visit and cultural heritage advice report has also been undertaken by the Tweed Byron LALC raising no significant concerns.

#### *Bushfire*

The subject site is mapped under Council mapping database as being subject to a vegetation buffer for bushfire prone land. Further consideration and referral of this planning proposal will be undertaken with NSW Rural Fire Service to assess consistency with the Planning for Bushfire Protection 2006 guidelines.

### *Potential Land Contamination*

A preliminary site investigation report has been prepared confirming that the site is suitable for its intended use.

## 4.2 Social and economic

The planning proposal is not expected to generate any significant adverse social or economic impacts. This planning proposal will enable the development of a single dwelling on the subject site. The effects on the local community as a result of this proposal is considered to be minimal.

## 4.3 Infrastructure

Consistent with the wider locality, the subject site is not serviced by reticulated water or sewer. Any future development application will have to demonstrate capacity to support onsite sewer system and rainwater collection.

# 5 Consultation

## 5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate and forms the conditions of the Gateway determination.

## 5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 21 days to comment:

- NSW Rural Fire Service

# 6 Timeframe

Council proposes a 6 month time frame to complete the LEP.

A time frame of 6 months is supported to ensure it is completed in line with the Department's commitment to reduce processing times. A condition to the above effect is recommended in the Gateway determination.

# 7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal is of local significance, it is recommended that Council be authorised to be the local plan-making authority for this proposal.

# 8 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 1.5 Rural Lands and 4.1 Acid Sulfate Soils are minor; and

- Note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The proposal be amended prior to consultation to correctly refer to SEPP (Koala Habitat Protection) 2020.
2. Consultation is required with the NSW Rural Fire Service.
3. The planning proposal should be made available for community consultation for a minimum of 28 days.
4. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



22 November 2021

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

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