



IRF23/1352

Gateway determination report – PP-2021-5615

225 Terranora Road, Banora Point – Large Lot
Residential Rezoning

November 23

Published by NSW Department of Planning and Environment

dpie.nsw.gov.au

Title: Gateway determination report – PP-2021-5615

Subtitle: 225 Terranora Road, Banora Point – Large Lot Residential Rezoning

© State of New South Wales through Department of Planning and Environment 2023. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (November 23) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

Contents

1	Planning Proposal	2
1.1	Overview and objectives of planning proposal	2
1.2	Explanation of provisions	3
1.3	Site description and surrounding area.....	4
1.4	Mapping.....	7
2	Need for the planning proposal	10
3	Strategic assessment	10
3.1	Regional Plan	Error! Bookmark not defined.
3.2	District Plan [If relevant]	11
3.3	Local.....	11
3.4	Local planning panel (LPP) recommendation.....	12
3.5	Section 9.1 Ministerial Directions	12
3.6	State environmental planning policies (SEPPs)	14
4	Site-specific assessment	14
4.1	Environmental.....	14
4.2	Social and economic.....	16
4.3	Infrastructure	16
5	Consultation.....	17
5.1	Community	17
5.2	Agencies.....	17
6	Timeframe	17
7	Local plan-making authority	18
8	Assessment Summary.....	18
9	Recommendation.....	18

Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal (May 2023 – Revision 4.0)
Concept Plan - 4 lot subdivision including 3 residential lots over 10,000m2 in area and 1 residue lot being the balance of the subject site

Visual Impact Assessment

Draft Environmental Management Plan

Draft Community Management Statement

Terrestrial Flora and Fauna Assessment

An additional ecological assessment of land within the site currently deferred from the Tweed Local Environmental Plan 2014 and zoned 1(c) Rural Living under the Tweed Local Environmental Plan 2000. Specifically, the additional assessment considers the Northern Councils E Zone Review – Final Recommendations Report and Ministerial Direction 3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs. This ecological assessment confirms the land should not be identified for conservation purposes.

On-Site Water Supply Assessment

On-Site Sewage Management Assessment

Preliminary Site Investigation (contamination)

Traffic Impact Statement

Strategic Bushfire Study

Aboriginal Heritage Information Management System Report

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Tweed
PPA	Northern Region Planning Panel
NAME	225 Terranora Road, Banora Point – Large Lot Residential Rezoning (3 lots)
NUMBER	PP-2021-5615
LEP TO BE AMENDED	Tweed Local Environmental Plan 2000 and Tweed Local Environmental Plan 2014
ADDRESS	225 Terranora Road, Banora Point

DESCRIPTION	Lot 16 DP 856265
RECEIVED	6/11/2023
FILE NO.	IRF23/1352
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

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 rezone part of the subject land and apply appropriate development provisions to facilitate the development of 3 residential lots under the Community Land Development Act 2021.

The objectives of this planning proposal are clear and adequate subject to a minor change discussed below regarding the explanation of provisions.

1.3 Explanation of provisions

The planning proposal seeks to amend the Tweed Local Environmental Plan 2000 and Tweed Local Environmental Plan 2014 per the changes below:

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	Part 7(d) Environmental Protection (Scenic/Escarpment) and 1(c) Rural Living and 1(a) Rural under the Tweed LEP 2000 R5 Large Lot Residential and RU2 Rural Landscape under the Tweed LEP 2014	The area of land zoned R5 Large Lot Residential will be expanded. The remainder of the site will retain the 7(d) Environmental Protection (Scenic/Escarpment) and 1(c) Rural Living under the Tweed LEP 2000 and RU2 Rural Landscape under the Tweed LEP 2014.
Maximum height of the building	No maximum height of building controls under Tweed LEP 2000 9m under the Tweed LEP 2014	9m for the expanded R5 zoned land
Floor space ratio	No minimum under Tweed LEP 2000 0.55:1 under the Tweed LEP 2014	0.55:1 for the expanded R5 zoned land

Minimum lot size	No minimum under Tweed LEP 2000 1ha under the Tweed LEP 2014	1ha for the expanded R5 zoned land
Number of dwellings	0	3
Number of jobs	N/A	N/A

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

The planning proposal indicates a total of 4.1ha of land will be rezoned to R5 Large Lot Residential. With a proposed 1ha minimum lot size this would permit 4 residential lots. To be consistent with the panel's decision to facilitate only 3 residential lots it is recommended that the proposal be amended prior to exhibition to apply a 1.3ha minimum lot size to the area being rezoned R5 Large Lot Residential.

It is also noted that the Panel has determined that the development must be undertaken under the Community Land Development Act 2021 and the non-residential lot is to be managed as Community Land in accordance with an Environmental Management Plan. The objectives and explanation of provisions should be amended prior to consultation to make this issue clear.

1.4 Site description and surrounding area

The site has an area of 10.04 hectares and is located adjacent to the existing residential area of Banora Point, approximately 3.5 kilometres south-west of the Tweed Heads South commercial centre (Figure 1). The site has frontage to Terranora Road and adjoins large lot residential land to the north, north east and north west. Old Ferry Road and the Tweed River are to the south. A vegetated escarpment traverses the property (Figure 2).

The site is predominantly vacant with the only structure being a shed on the land. The northern portion of the site comprises cleared land and the shed. The cleared portion of the site is approximately 3.6 hectares in area and was previously used as a hard rock quarry (Figure 3).

The land has a general north-east to south-east slope ranging from 10° – 30° with some isolated steeper sections. Dense vegetation covers the escarpment and does not form part of the proposed rezoning footprint.

A 10-metre-wide 'battle-axe handle' links with Terranora Road to the north and provides vehicle access to the site and the existing shed. Another 'battle-axe handle' in the south of the block connects to River Road and enables access to the lower section of the block below the escarpment.

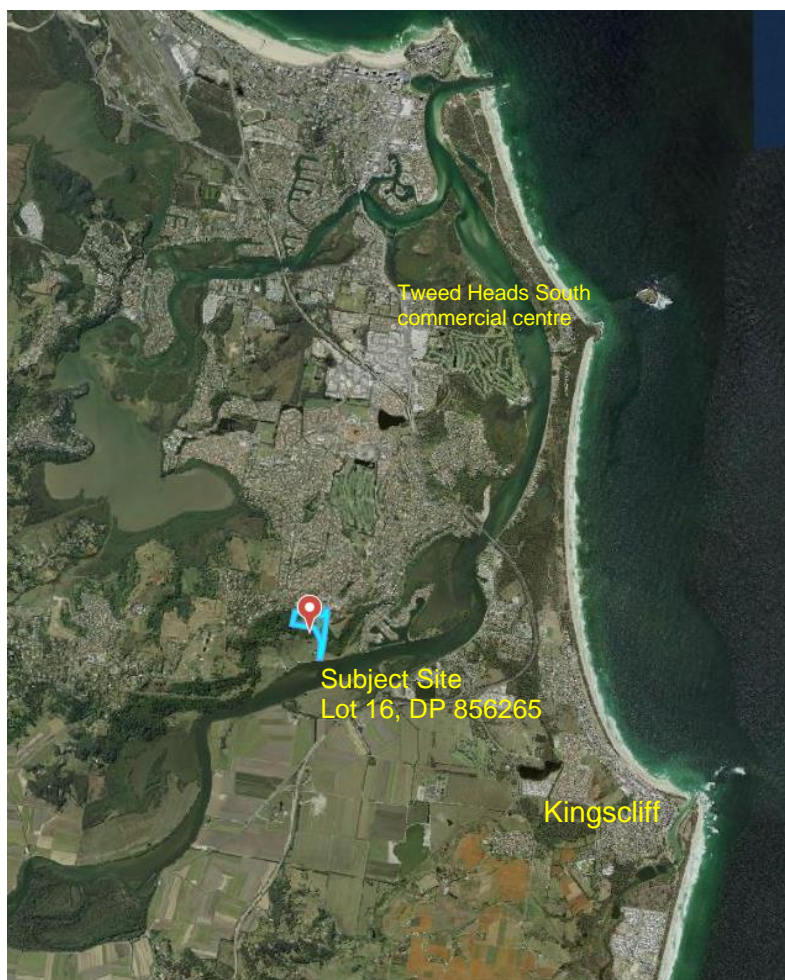


Figure 1 Subject site (source: DPE – Northern Region Viewer)

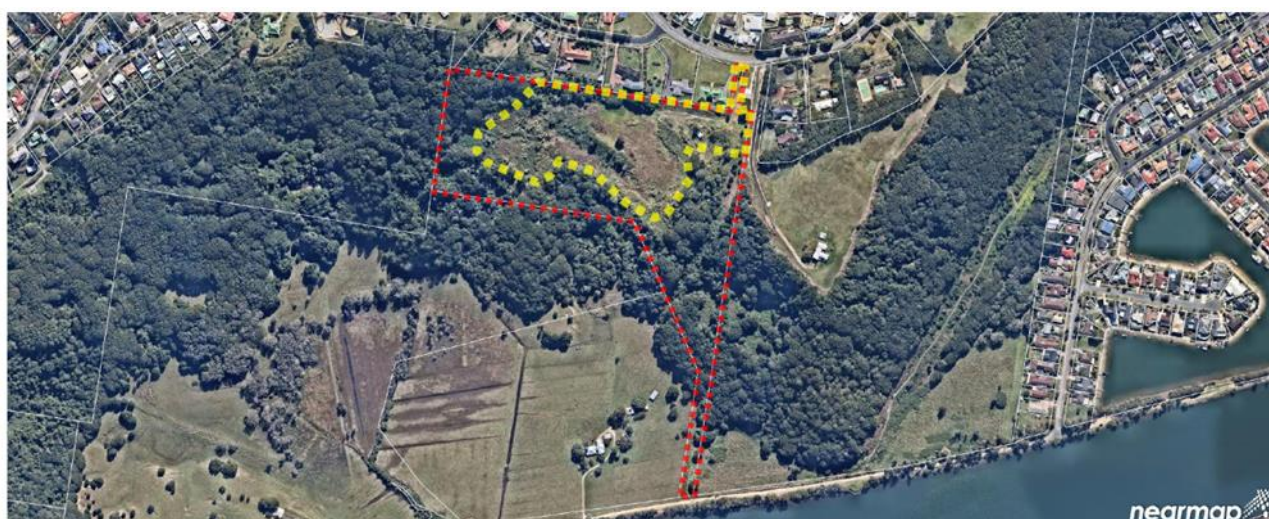


Figure 2 Indicative area subject to rezoning (source: Nearmap)



Figure 3 Indicative area subject to rezoning and planning control amendments (source: Planning Proposal/Nearmap)

The planning proposal includes a Concept Plan of subdivision that complies with the NRPP Records of Decision (Figure 4).

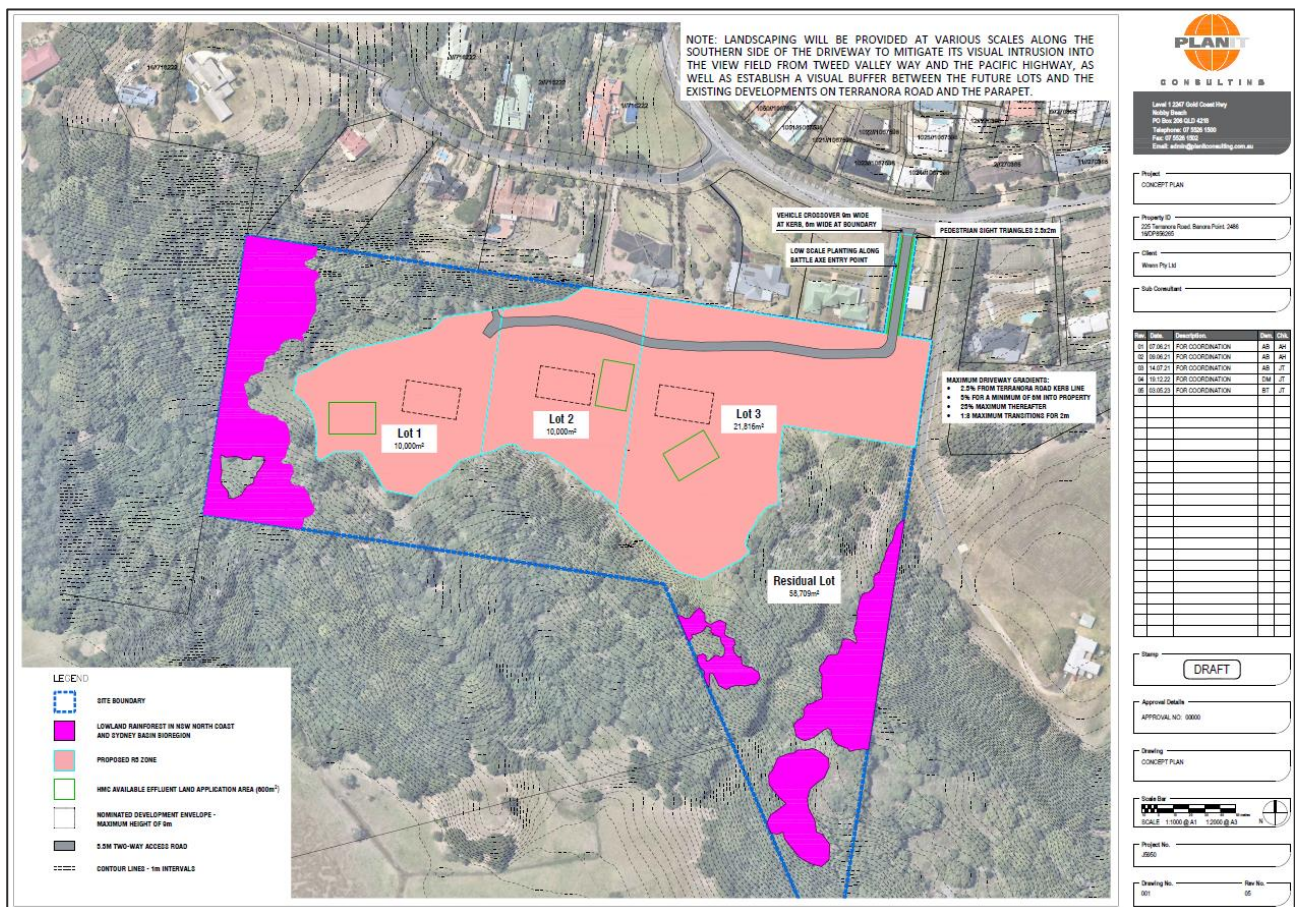
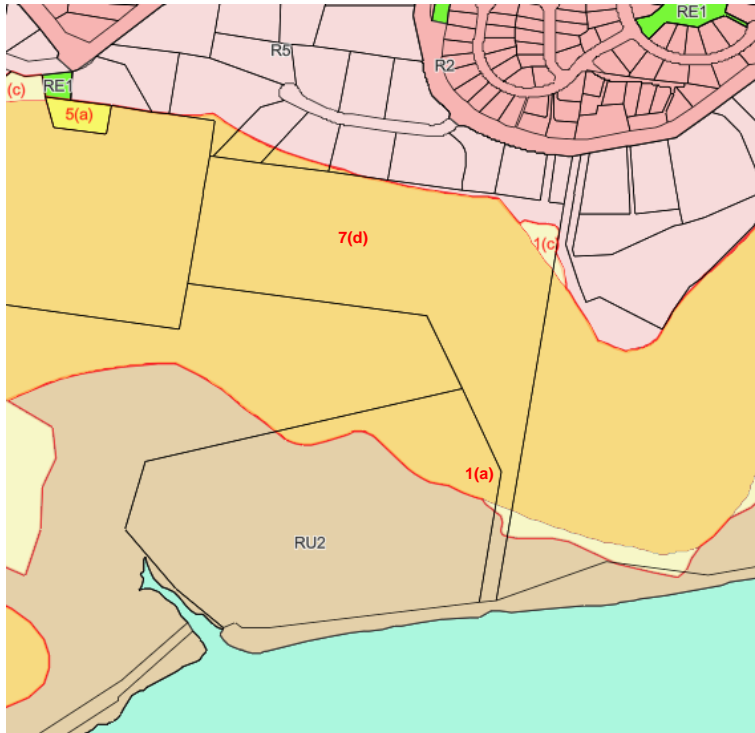


Figure 4 Concept Plan of Subdivision (Source: Planning Proposal supporting documents)

1.5 Mapping

The planning proposal includes the above concept plan to indicate the proposed zoning changes to the site, it does not include maps that show the current and proposed Height of Building controls, floor space ratio controls or minimum lot size controls. It is recommended these be included in the planning proposal prior to public exhibition including an amended minimum lot size of 1.3ha as discussed above. As the proposal will also be including and rezoning land currently under Tweed LEP 2000 into Tweed LEP 2014, a proposed Land Application Map will also need to be included.



Tweed LEP 2014

R5 Large Lot Residential

RU2 Rural Landscape

Tweed LEP 2000

7(d) Environmental Protection (Scenic/Escarpment)

1(c) Rural Living

1(a) Rural

Figure 5 Current zoning map showing zones from Tweed LEP 2000 and Tweed LEP 2014

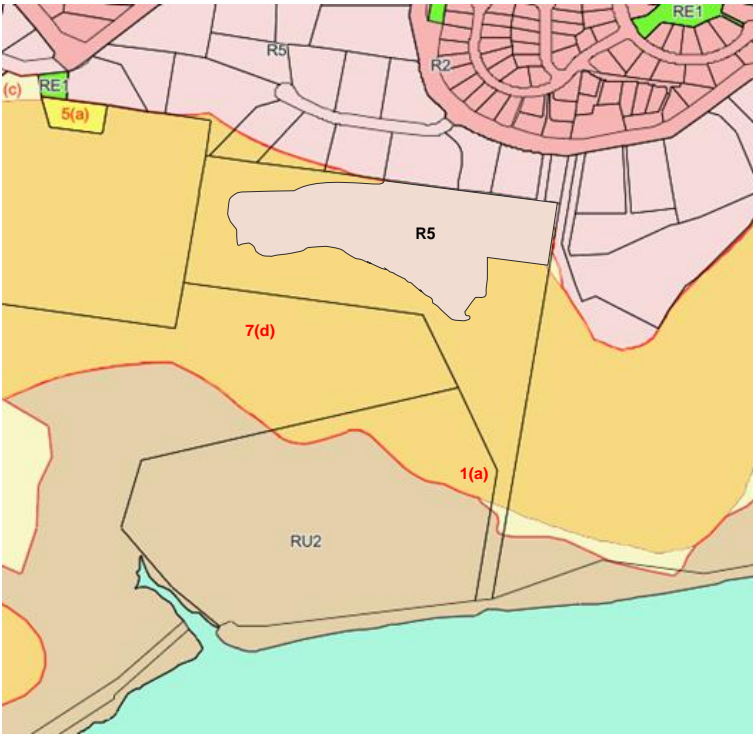


Figure 6 Proposed zoning Map (proposed areas being rezoned indicative only for these maps. Refer to concept plan for accurate proposed zone boundary)

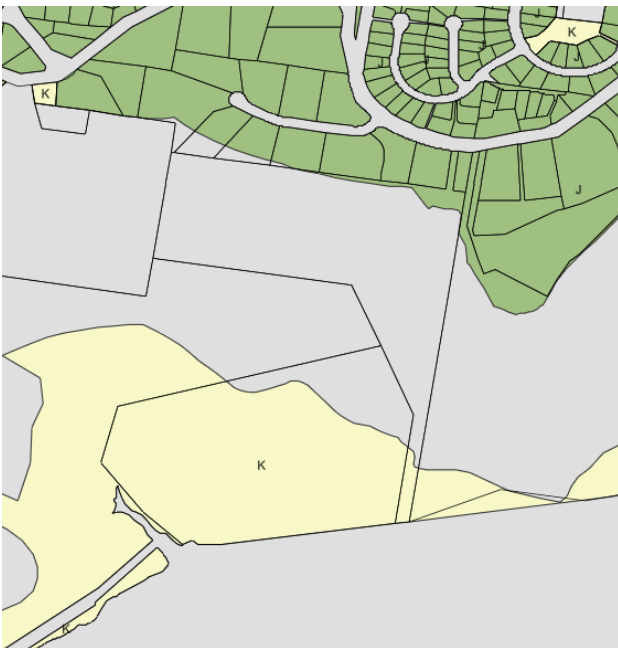


Figure 7 Proposed height of building map

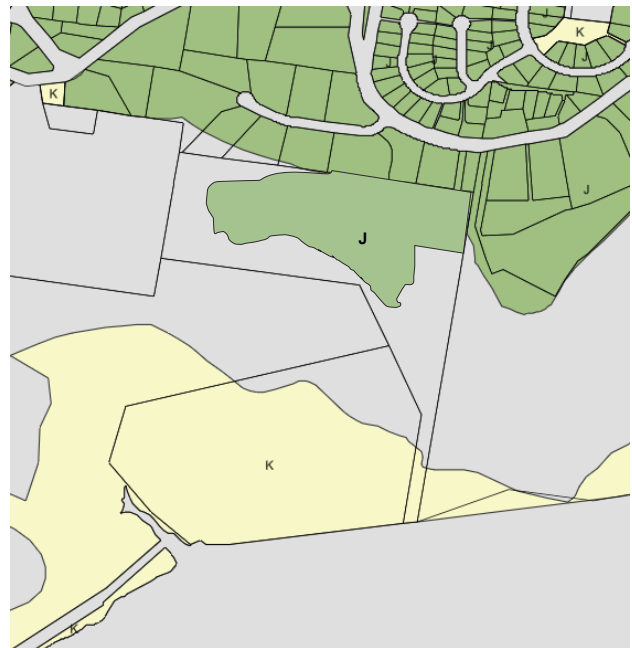


Figure 8 Proposed height of building map – 9m

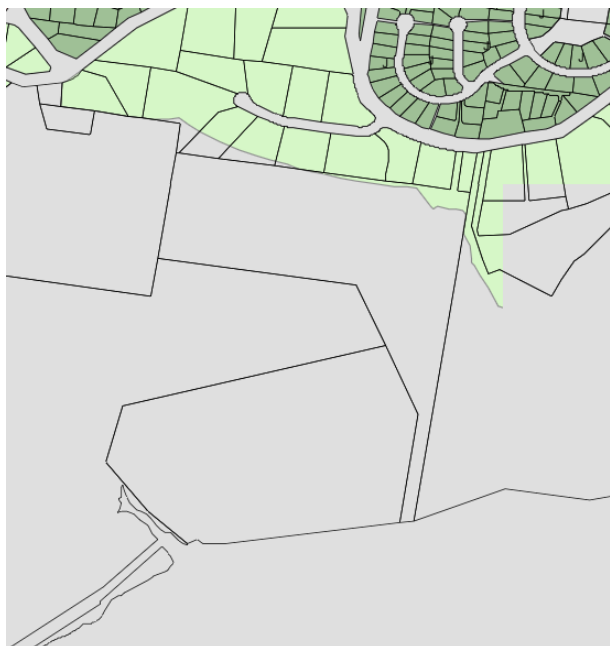


Figure 9 Current floor space ratio map

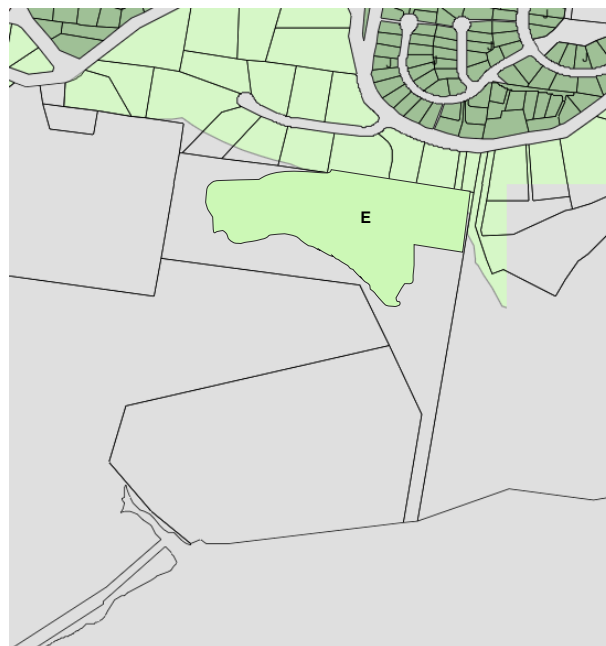


Figure 10 Proposed floor space ratio map

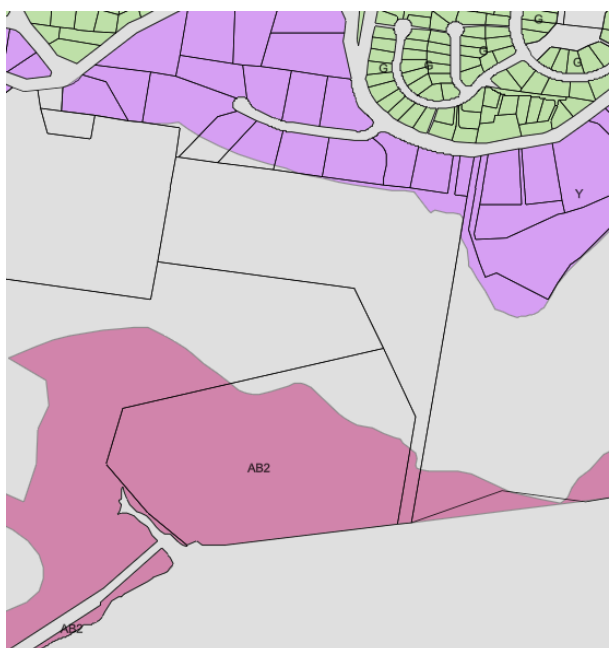


Figure 11 Current minimum lot size map

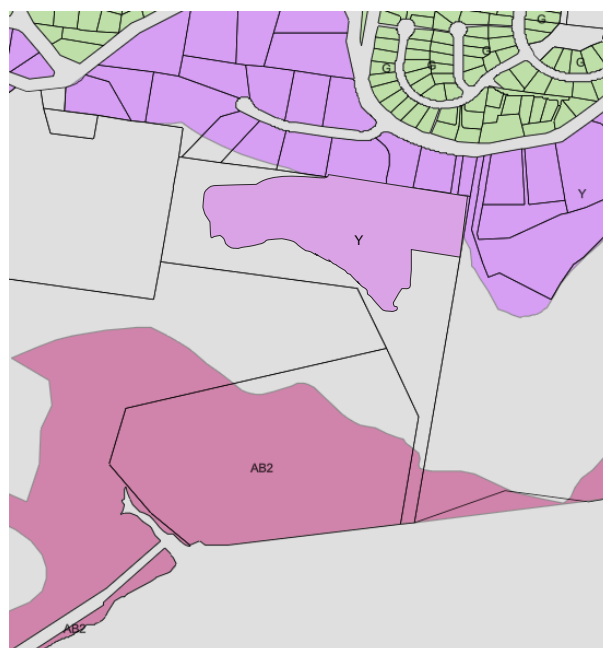


Figure 11 Proposed minimum lot size map

1.6 Background

Tweed Shire Council has been requested by the landowner to consider preparing a planning proposal for the rezoning of this site three times.

In November 2016 Council resolved to support a rezoning of the site conditional on development being limited to not more than two dwellings. This resolution was consistent with a previous lapsed development consent from September 2002. The Department considered the resulting planning proposal on the basis of a 2-dwelling limit and issued the Gateway determination on 8 May 2017.

The proponent, not satisfied the planning proposal would meet their development goals for the site, requested Council to discontinue the proposal. This was done on 11 December 2017.

In August 2019 Council considered another request to prepare a planning proposal with an alternative lot layout but resolved not to support the new request.

In February 2020 Council received a further request to support a planning proposal for the rezoning of the land. Council considered this request at its meeting in May 2020 and resolved again not to support the new request.

The report to the Council meeting in May 2020 noted that Council has consistently resolved to protect the escarpment along which this site is located as it is a natural asset recognised as a defining feature of the Tweed. In addition, Council raised concerns of the potential impacts on local water and sewer infrastructure.

Following Council's resolution to not the support the proposal the proponent sought a Rezoning Review.

In August 2020, the Northern Regional Planning Panel considered the draft planning proposal prepared by the proponent and determined that the proposal had merit and should proceed to Gateway subject to several conditions.

In September 2021, the proponent resubmitted a revised planning proposal with supporting information to address the conditions of the Panel's decision. At this time additional clarifying information was also sought from the proponent in relation to some of the Panel's conditions.

In March 2022 the planning proposal was referred to the Panel again to consider whether the revised proposal and supporting information met the conditions of the determination from August 2020. The Panel determined the proposal was not consistent with its original decision and required further revision and supporting information to be provided before the planning proposal could be considered for a Gateway Determination.

In May 2023, the proponent resubmitted a further revised planning proposal and additional supporting information for consideration by the Panel.

On 26 October 2023, the Panel reconvened on site and determined unanimously the planning proposal should be submitted to the Department for a Gateway Determination with instructions that when drafting the amendments to the Tweed LEP 2014 it is made clear the proposed subdivision must be undertaken under the Community Land Development Act 2021 and the non-residential lot is to be managed as Community Land in accordance with an Environmental Management Plan.

2 Need for the planning proposal

The proposed development on this site is not the result of any specific strategic planning process that identifies this land as being suitable for further development. The planning proposal indicates it originated following a review of the planning controls applying to the site, by the proponents, following the final recommendations of the Northern Council's E Zone Review in 2015.

The planning proposal is considered the best mechanism to achieve the proposed zoning of the land and subsequent development controls on the site in accordance with the decisions of the Northern Regional Planning Panel.

3 Strategic assessment

The following table provides an assessment of the planning proposal against relevant aspects of the North Coast Regional Plan 2041.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
Objective 1: Provide well located homes to meet demand	The proposal will deliver 3 additional well located dwellings. Although the site is not within the Urban Growth Area map within the Regional Plan it does meet the variation principals in that it avoids areas of high environmental value, avoids are of hazards, is not on Important Farmland and is outside the coastal strip. The planning proposal addresses the Variation Principals in its appendices. It is also noted that there is R5 Large Lot Residential zoned land in this vicinity which is also outside the urban growth area (as R5 land is not considered to be an urban zone for the purposes of the urban growth area boundary under the NCRP 2041).
Objective 3: Protect regional biodiversity and areas of high environmental value	The proposed development site avoids areas of high environmental value and biodiversity. The areas of environmental value are retained in the proposed community lot and will be managed and enhanced through the draft Environmental Management Plan.
Tweed Local Narrative	The proposal is consistent with the Tweed Local Narrative in the Regional Plan as it seeks to retain and protect local biodiversity through effective management of environmental assets and ecological communities via the draft Environmental Management Plan. It also delivers new housing, albeit only 3 lots.

3.1 Northern Councils E Zone Review Final Recommendations Report

The land proposed to be rezoned currently has an environmental zoning under the Tweed LEP 2000. It is considered that the proposal is generally consistent with the final recommendations of the E Zone Review. The land is not being used for environmental conservation or management and does not contain attributes with meet the criteria for an E2 or E3 zone. Other parts of the lot may include areas that would satisfy the final recommendations, such as the vegetated escarpment, but this area does not form part of this rezoning request.

3.2 Tweed Local Strategic Planning Statement

The Tweed Local Strategic Planning Statement was adopted in June 2020. The planning proposal request does not address the LSPS as it was prepared prior to its adoption. Like the Regional Plan, there are a variety of actions within the LSPS that would relate to this proposal, including:

Action 5.1 - Promote compact and contained coastal urban areas, to maintain separation between neighbouring coastal villages and centres and avoid continuous ribbon development along the coast.

Action 5.2 - Safeguard sensitive and ecologically diverse coastal environments from urban encroachment to maintain and protect the biological function, visual and natural character of the coastal area.

Action 16.2 - Ensure housing supply is planned to meet the growth demands and demographic changes.

Action 17.2 - Ensure that planning for large lot residential settlements takes into account the natural and physical constraints and opportunities of the land to minimise rural land fragmentation and rural land-use conflicts between residential and other rural land-uses.

The proposal is generally consistent with the intent of the Tweed LSPS.

3.3 Northern Regional Planning Panel (NRPP) recommendation

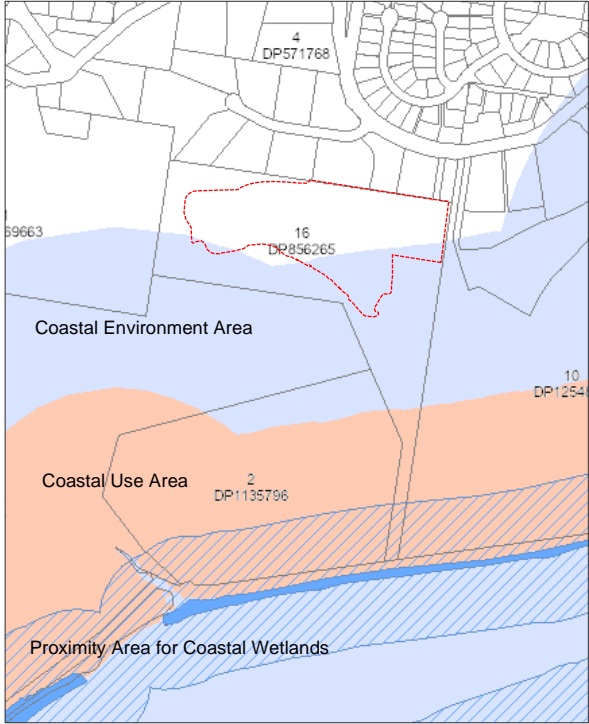
The NRPP has considered this matter following its submission for a Rezoning Review. The Panel has determined the proposal has strategic and site-specific merit to proceed. The NRPP has taken the role as the Planning Proposal Authority after Tweed Shire Council declined the opportunity. The NRPP has determined unanimously the planning proposal should be submitted to the Department for a Gateway Determination with instructions that the proposed subdivision must be undertaken under the Community Land Development Act 2021 and the non-residential lot is to be managed as Community Land in accordance with an Environmental Management Plan.

3.4 Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all relevant section 9.1 Directions except as discussed below:

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.1 Conservation Zones	No	The planning proposal seeks to rezone land from an environment protection zone to a residential zone. This inconsistency is of minor significance as the area being rezoned has been used as a quarry and the other areas of the lot that have environmental value are being retained in the environmental protection zone and will have an Environmental Management Plan covering it.

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.2 Coastal Management	No	<p>This Direction applies as part of the subject land is within the coastal zone as defined under the Coastal Management Act 2016.</p> <p>Parts of Lot 16 DP 856265 are mapped within the Coastal Environment Area, Coastal Use Area and the Proximity Area for Coastal Wetlands. The land proposed to be rezoned to R5, is only partly mapped as Coastal Environment Area. (Figure 12)</p>  <p>Figure 12 Coastal Zone</p> <p>The inconsistency with this Direction is considered of minor significance due to the small area of land affected and the nature of that land being a former quarry.</p>
4.3 Planning for Bushfire Protection	No	<p>This direction applies because the planning proposal affects land that is mapped as bushfire prone. Consultation with the Commissioner of the NSW Rural Fire Service is required to be undertaken following a Gateway Determination. The direction will remain unresolved until consultation has occurred.</p> <p>A bushfire assessment supporting the planning proposal confirms that APZs can be established between any future dwelling onsite and the surrounding bushfire threat.</p>

3.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 8 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
State Environmental Planning Policy (Resilience and Hazards) 2021	Parts of Lot 16 DP 856265 are mapped within the Coastal Environment Area, Coastal Use Area and the Proximity Area for Coastal Wetlands. The land proposed to be rezoned to R5, is only partly mapped as Coastal Environment Area.	Yes	The planning proposal adequately addresses the matter raised in clause 2.10 Development on land within the coastal environment area of Division 3 Coastal environment area of the SEPP. It is considered development of the site, consistent with the concept plan included on the planning proposal can meet the requirements of the SEPP.
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Chapter 4 of the Biodiversity and Conservation SEPP encourages the conservation and management of natural vegetation areas that provide habitat for Koalas to support a permanent free-living population.	Yes	The site is not mapped under Council's Comprehensive Koala Plan of Management as containing preferred Koala habitat. The ecological report supporting this planning proposal confirms that the site is not considered to be important koala habitat.

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 9 Environmental impact assessment

Environmental Impact	Assessment
----------------------	------------

Ecological	<p>The area proposed to be rezoned is unlikely to hold significant ecological values due to its previous use as a quarry. The flora and fauna assessment supporting this planning proposal states that:</p> <ul style="list-style-type: none"> • No threatened flora or fauna, or endangered ecological communities are expected to be significantly impacted upon as a result of the 3-lot residential subdivision; • The removal of native trees to facilitate the three allotments will be limited to isolated small macaranga, swamp oak and blackwoods and these works are unlikely to have a significant ecological impact. • The proposed vegetation removal/modification works are not considered to represent a significant impact upon the endemic fauna assemblage of the site or locality. <p>In addition, measures to avoid and minimise ecological impacts are included in the report and the draft Environmental Management Plan.</p>
Bushfire	<p>A Strategic Bushfire Study supports this planning proposal. It identifies that the site is exposed to a medium bushfire hazard to the south and a moderate bushfire hazard to the west. The densely vegetated areas on the lot are mapped as Category 1 bushfire prone land. A small portion of Category 2 bushfire prone land associated with some scattered mature vegetation in the centre of the proposed rezoning area has also been mapped. The remainder of the site is mapped predominantly within a bushfire prone buffer.</p> <p>The Strategic Bushfire Study confirms that the proposed rezoning and subsequent dwellings onsite can be consistent with the guidelines under Planning for Bushfire Protection 2019 and the existing bushfire risk can be suitably mitigated to offer an acceptable level of protection to life and property for those persons and assets occupying the site if the following recommendations are implemented.</p> <ol style="list-style-type: none"> 1. The entire site to be zoned R5 Large Lot Residential shall be managed as an Inner Protection Area (IPA) as outlined within Appendix 4 of PBP 2019 and the RFS document standards for asset protection zones; 2. Asset Protection Zones shall be established as shown in Figure 14 and maintained as outlined Appendix 4 of PBP 2019 and the RFS document Standards for asset protection zones. 3. Access shall be provided in accordance with the concept plan; 4. All future dwellings to be constructed on the proposed lots shall have due regard to the specific considerations given in the National Construction Code: Building Code of Australia (BCA) which makes specific reference to Australian Standard AS3959-2018 Construction of buildings in bushfire prone areas (AS3959-2018) and the NASH Standard Steel Framed Construction in Bushfire Prone Areas; 5. A static water supply of 10,000L per residential lot is to be provided with appropriate equipment and connections complying with section 5.3.3 of PBP 2019; and 6. Consideration should be given to landscaping and fuel loads on site to decrease potential fire hazards on site. <p>The planning proposal would need to be referred to the NSW RFS Commissioner for consideration under Section 9.1 Direction 4.3 Planning for Bushfire Protection.</p>

Contamination	The planning proposal is supported by a preliminary investigation into the potential for contaminated soils. The investigation concluded that the land is suitable for residential use. In light of the recent site investigations, contamination is considered to be suitably addressed and the provisions of Ministerial Direction 4.4 Remediation of Contaminated Land satisfied.
Visual Impacts	<p>A visual impact analysis supports this planning proposal. It was undertaken to determine how development of the site may influence the landscape and scenic quality of the area and how this is experienced. It determined that the potential built form of dwellings within the proposed building envelopes may obstruct limited parts of the views from the houses to the north of the site, the result was reflective of an appropriate view sharing outcome and that there is space available for planting between the proposed building envelopes and the northern boundary to accommodate vegetation that could screen new dwelling and contextual dwelling design and materials are anticipated to reduce the already limited impacts on views.</p> <p>The report also determined that due to the location of the building envelopes on a step of the escarpment, the building envelopes would not have significant impacts on views from viewpoints to the south of the site and dwellings in these envelopes would not protrude above the skyline and would be likely to be well integrated with the vegetation on the escarpment.</p>

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 10 Social and economic impact assessment

Social and Economic Impact	Assessment
Cultural Heritage	Tweed Shire Council has mapped the Terranora Ridgeline as an area of predictive significance under its Aboriginal Cultural Heritage Management Plan. As the site has been substantially disturbed through its use as a quarry, the land proposed to be rezoned is unlikely to contain items of Aboriginal cultural heritage. A search of Heritage NSW Aboriginal Heritage Information Management System Web Services has shown that no Aboriginal sites are recorded in or near the above location or that Aboriginal places have been declared in or near the above location.
Economic	The development of the land will accommodate only 3 additional dwellings. It is not expected to have a significant economic impact up on the community.

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal. It is recommended that Council also be identified as a specific agency for consultation being the local roads, water and sewer authority to confirm the suitability of the proposed infrastructure arrangements. It is understood that these arrangements based on preliminary advice from Council.

Table 11 Infrastructure assessment

Infrastructure	Assessment
<u>Onsite effluent disposal.</u>	The planning proposal seeks to utilise on site sewerage management. This was supported by the NRPP due to the concerns raised by Council on the impact of the existing infrastructure in the area that is apparently operating at capacity. The On-site Sewage Management Assessment confirms that on site sewerage management can be achieved on the site if its recommended design approach is followed. It is also noted that the landform in the area would make connection to the sewer difficult if not even unlikely.
<u>On-Site Water Supply Assessment</u>	An Onsite Water Supply Assessment supports this planning proposal. The proponent does not propose to connect to the Council's reticulated water system due to capacity issues previously raised by Council. The onsite water supply assessment concludes that 70,000L of water storage is required for each dwelling. This takes into account a 10,000L bush firefighting requirement and a 60,000L requirements for use by each household.
<u>Traffic Impacts</u>	A Traffic Impact Statement has been prepared to support this planning proposal. It concludes that the proposed development poses no significant traffic or transport impacts to preclude its approval.

5 Consultation

5.1 Community

The NRPP, as Planning Proposal Authority has not proposed a community consultation period, however the planning proposal seeks a 14-day exhibition period.

The planning proposal is categorised as a standard under the LEP Making Guidelines (September 2022). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- NSW Rural Fire Service
- Local Aboriginal Land Council
- Biodiversity and Conservation Division, Department of Planning and Environment.
- Tweed Shire Council

6 Timeframe

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard

A LEP completion date of 9 months is recommended in line the benchmark timeframes and its commitment to reducing processing times. A condition to the above effect is recommended in the Gateway determination.

It is recommended that if the Gateway is supported it is accompanied by guidance for the NRPP in relation to meeting key milestone dates to ensure the LEP is completed within the benchmark timeframes.

7 Local plan-making authority

The NRPP has not request delegation to be the Local Plan-Making authority.

In this instance it is considered appropriate that the Department retain the Local Plan Making Authority role.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The proposal will enable 3 residential lots to be subdivided on a developable area of land adjacent to existing residential land.
- The proposal will have a low impact on Council's infrastructure.
- The proposal will protect and enhance the environmental values of the lot through the implementation of the Environmental Management Plan.

Based on the assessment outlined in this report, the proposal must be updated before consultation to include the current and proposed Height of Building controls, floor space ratio controls or minimum lot size controls.

9 Recommendation

It is recommended the delegate of the Secretary:

- agree that any inconsistency with section 9.1 Directions 3.1 Conservation Zones and 4.2 Coastal Management is justified in accordance with the terms of the Directions; and
- note that the inconsistency with section 9.1 Direction 4.3 Planning for Bushfire Protection remains unresolved until further justification has been provided.

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

The following conditions are recommended to be included on the Gateway determination:

1. Prior to community and agency consultation, the proposal is to be amended to:
 - (a) apply a 1.3 hectare minimum lot size to the proposed R5 Large Lot Residential zone area;
 - (b) clarify that the development will be undertaken under the Community Land Development Act 2021 and the non-residential lot will be managed as Community Land in accordance with an Environmental Management Plan; and
 - (c) include maps that show the current and proposed height of building controls, floor space ratio controls and minimum lot size controls, and a proposed land application map.

2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 20 working days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).
3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:
 - NSW Rural Fire Service
 - Biodiversity and Conservation Division

Consultation is also required with the following organisations

 - Tweed Byron Local Aboriginal Land Council
 - Tweed Shire Council

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The LEP should be completed on or before 9 months after the Gateway determination date.



23/11/23

(Signature)

(Date)

Craig Diss

Manager, Local and Regional Planning



24/11/2023

(Signature)

(Date)

Jeremy Gray

Director, Northern Region

Assessment officer

Jon Stone

Senior Planning Officer, Northern Region

02 5778 1488