

Planning Proposal – Gateway Determination

225 Terranora Road, Banora Point
Lot 16 DP 856265

Prepared for Wrenn Pty Ltd
By Planit Consulting Pty Ltd

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Introduction and Context

i.i Brief

This planning proposal (PP) relates to land at No. 225 Terranora Road, Banora Point (Lot 16 DP 856265) (the subject site) and seeks to action the Rezoning Review Record of Decision made by the Northern Regional Planning Panel (NRPP) on 26 August 2020 (and augmented on 29 March 2022).

This PP seeks to demonstrate:

- the appropriateness for the subject site to be rezoned for large lot residential purposes,
- acknowledges the demonstrated strategic and site-specific merit, and
- identifies the actions to satisfy the conditions previously stipulated by the NRPP.

Consequently, this report seeks the issue of a Gateway Determination which would seek to amend the zoning and local planning provisions applying to the land, enabling an outcome comprising a 3x large residential lots and 1x residue lot, primarily for conservation purposes.

This PP has been prepared in accordance with the requirements of the 'Local Environmental Plan Making Guideline, September 2022', and is supported by additional assessments responding to the NRPPs 2x Records of Decision, including but not limited to:

- Concept Plan displaying the abovementioned outcome
- Visual Impact Assessment
- Draft Environmental Management Plan
- Draft Community Management Statement
- Ecological assessment of 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.

In addition, numerous previous assessments have been updated to calibrate with the Concept Plan, including but not limited to:

- Water Supply Assessment
- On-Site Sewage Management Assessment Report
- Strategic Bushfire Study
- Geotechnical Investigations
- Flora and Fauna Assessments
- Traffic Impact Statement
- Contamination Assessment

i.ii Background to this Planning Proposal

The subject site has been the subject of several requests for planning proposals, iterations of supporting subdivision concepts and a previous Gateway Determination (Reference No. PP_2017_TWEED_003_01). Throughout the historic reviews prepared, the 'R5 zone footprint', which would enable large lot residential development, has largely been agreed upon. Notwithstanding, the available density within the residential zoned footprint has been disputed.

On 26 August 2020, through a Rezoning Review Record of Decision, the NRPP ultimately determined that:

'The proposal has strategic and site-specific merit but with the latter being subject to clearer definition of the intended development and greater clarity about certain technical matters which are addressed the Gateway conditions.'

Accordingly, this PP acts on that decision and seeks a Gateway Determination to enable the planning proposal to progress to public exhibition. Specifically, this PP has been prepared to:

- update the proponent's previous PP,

- to address the current strategic framework,
- provide commentary about the site, and
- to further demonstrate merit for the proposed rezoning progressing.

This PP has focussed its content and supporting studies to the necessary considerations since the NRPPs Record of Decision of 26 August 2020 and 29 March 2022, and has not specifically attached the previous, historical assessments. Nonetheless, this information is available to be provided if desired to justify the current PP. In addition, it is anticipated that a condition of any Gateway Determination to progress will require previous assessments be refreshed to directly align with the Concept Masterplan and revised particulars of the site, prior to community and State agency consultation processes.

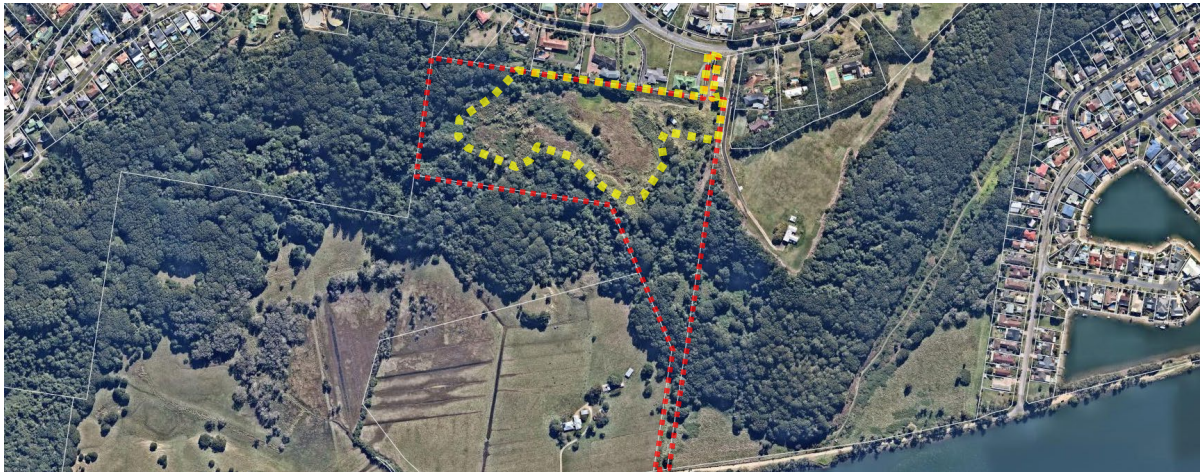
i.ii Property Description & Surrounding Land

The site is 10.04 hectares in area and is located adjacent to the existing residential area of Banora Point. The site is approximately 3.5 kilometres south-west of the Tweed Heads South, being the focal commercial centre for the Tweed Local Government Area and fulfilling a subregional role for the Northern Rivers region. The site fronts Terranora Road and large lot residential land to the north, north east and north west, Old Ferry Road and the Tweed River to the south and a vegetated escarpment to the east and west.

The site is predominantly vacant with only a rural shed located on the land. The northern portion of the site comprises cleared grassland and this rural shed. The cleared portion of the site is approximately 4.1 hectares in area. Most of this 4.1ha area was previously used as a hard rock quarry, as well as other cleared areas without high environmental or conservation values. It is this part of the site which is the focus of the rezoning within this PP.

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

A 10-metre-wide lot handle links with Terranora Road and provides vehicle access to the site and the existing shed.



No. 225 Terranora Road is identified in red. The indicative land area subject to this PP is marked in yellow



The indicative area that is subject to rezoning in this PP is marked in yellow

i.iii Mapped Site Characteristics

Flood Prone Land

The southern parts of the site, adjoining Old Ferry Road and the Tweed River, are identified to be within Council's Flood Planning Area. This area is disconnected from the northern portion of the site due to slope and existing vegetation.

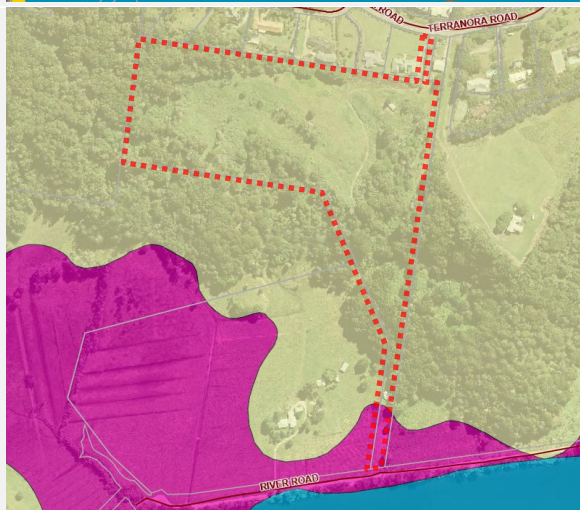
Any future dwelling site or vehicular access would be established in the northern part of the site, outside of any flood affected area. Flooding is not a key constraint for the proposal.



Acid Sulfate Soils

The majority of the site is mapped as potentially containing Class 5 Acid Sulfate Soils (yellow). The southern portions of the site adjoining the Tweed River are mapped as Class 2 Acid Sulfate Soils (pink).

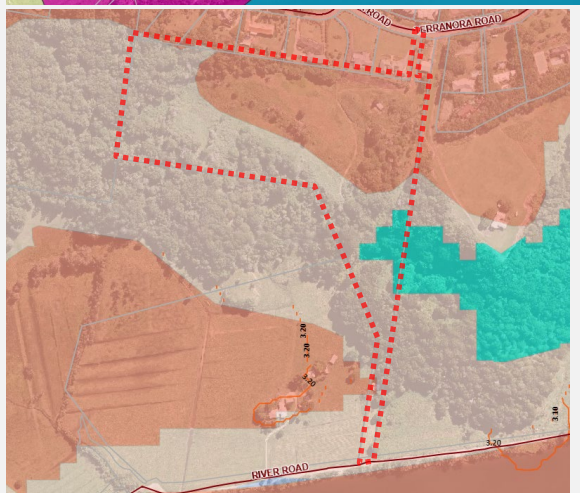
Acid Sulfate Soils are not a significant constraint for the site. Any future dwelling or works onsite would be contained within land mapped as potentially Class 5 Acid Sulfate Soils.



Groundwater Vulnerability

The site is mapped as containing high (identified in dark pink), moderately high (light pink) and moderate (aqua) areas of groundwater vulnerability.

Groundwater is not considered a significant constraint for the land given the large lot residential land use objectives. Likewise, appropriate setback distances, and/or selective earthworks, can be undertaken where required to minimise potential impact on groundwater, particularly through future consent processes.



Bushfire

The densely vegetated areas onsite 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 site has also been mapped. The remaining portion of the site is mapped predominantly within a bushfire prone buffer.

Referral of the planning proposal to the NSW RFS Commissioner will be required as part of the Gateway Determination requirements.

A Strategic Bushfire Study has been prepared which did not raise concern with obtaining compliance with 'Planning for Bushfire Protection' outcomes and recommends a small suite of conditions to mitigate bushfire risk to offer an acceptable level of protection to life and property.

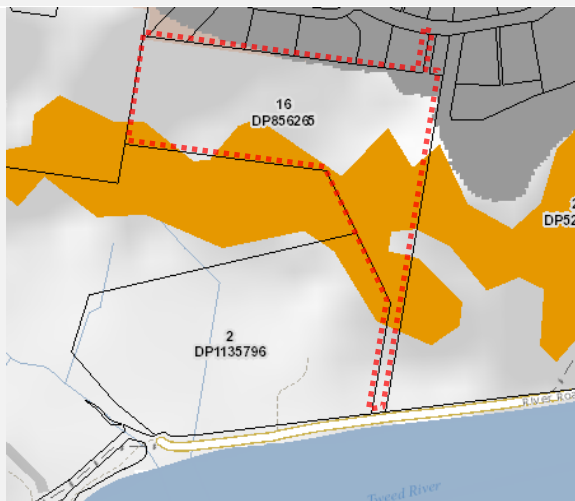


Biodiversity

Detailed flora and fauna assessments have been undertaken across the land, considering the existing vegetation and drainage areas on and around the site.

These studies have identified residential development within the cleared portion of the site is suitable when considering potential ecological impacts. Further, these studies confirm there is ability for development buffers to be established onsite to ensure any potential for impact on threatened flora and fauna species or their habitat and corridors is minimised.

Finally, as per the conditions prescribed by the NRPP, a Concept Masterplan and draft Environmental Management Plan has been prepared to direct development to suitable areas, and secure the embellishment and maintenance of environmental qualities within a non-development lot.



Agricultural Suitability

The site is mapped as having minimal agricultural value, as identified within the Agricultural Land Suitability Mapping, obtained from Council's website. As displayed, the site is mapped as unsuitable land for agriculture (identified in green) and urban land (pink).

The land is not mapped as State or regionally significant farmland.



Coastal Zone

The site is partially located within the Coastal Zone and adjoins land mapped as State significant coastal wetland. Most of the land proposed to be rezoned sits outside of this coastal zone and at a significant height and distance from the coastal wetland. Accordingly, coastal zone features or wetlands are not considered to be a significant impediment to the specific land area.



Aboriginal Cultural Heritage

The land is mapped under Council's Aboriginal Cultural Heritage Management Plan 2018 as containing 'predictive' (blue) and 'known' (yellow) areas of Aboriginal Cultural Heritage. The land area mapped in yellow comprises a mapped Aboriginal Place of Heritage Significance.

The land subject to this PP is limited to the areas of the site with 'predictive' Aboriginal Cultural Heritage.

The 'predictive' mapping has been applied as the land is located along a ridgeline / escarpment area. Council's Strategy notes that this type of land form was a preferred land type for former Aboriginal passage and observation.

Given the land has historically been cleared and quarried, the potential for this land containing Aboriginal Cultural Heritage items is considered to be low.



The Planning Proposal

Part 1 - Objectives and Intended Outcomes

This PP relates to land known as 225 Terranora Road, Banora Point (the subject site) or Lot 16 DP 856265.

The subject site is presently split zoned under various local planning instruments. Specifically, the subject site involves a composition of:

- R5 Large Lot Residential under the *Tweed Local Environmental Plan 2014* (Tweed LEP 2014)
- RU2 Rural Landscape under the Tweed LEP 2014
- 1(c) Rural Living under the *Tweed Local Environmental Plan 2000* (Tweed LEP 2000)
- 7(d) Environmental Protection (Scenic/Escarpment) under the Tweed LEP 2000, and
- 1(a) Rural under the Tweed LEP 2000

The land subject to this PP is zoned 7(d) Environmental Protection and 1(c) Rural Living under the Tweed LEP 2000. The ability to create lots less than 40 hectares is prohibited in the 7(d) Zone unless used for a purpose other than for an agricultural or residential.

Reflective of the decision and conditions of the NRPP, this PP aims to enable the creation of 4x lots, 3x of which are specifically large, residential lots with a minimum lot size of 10,000m², and a residue lot of the remaining 5.87ha of land, which is intended to be primarily used for conservation purposes.

Accordingly, the objectives of the PP are:

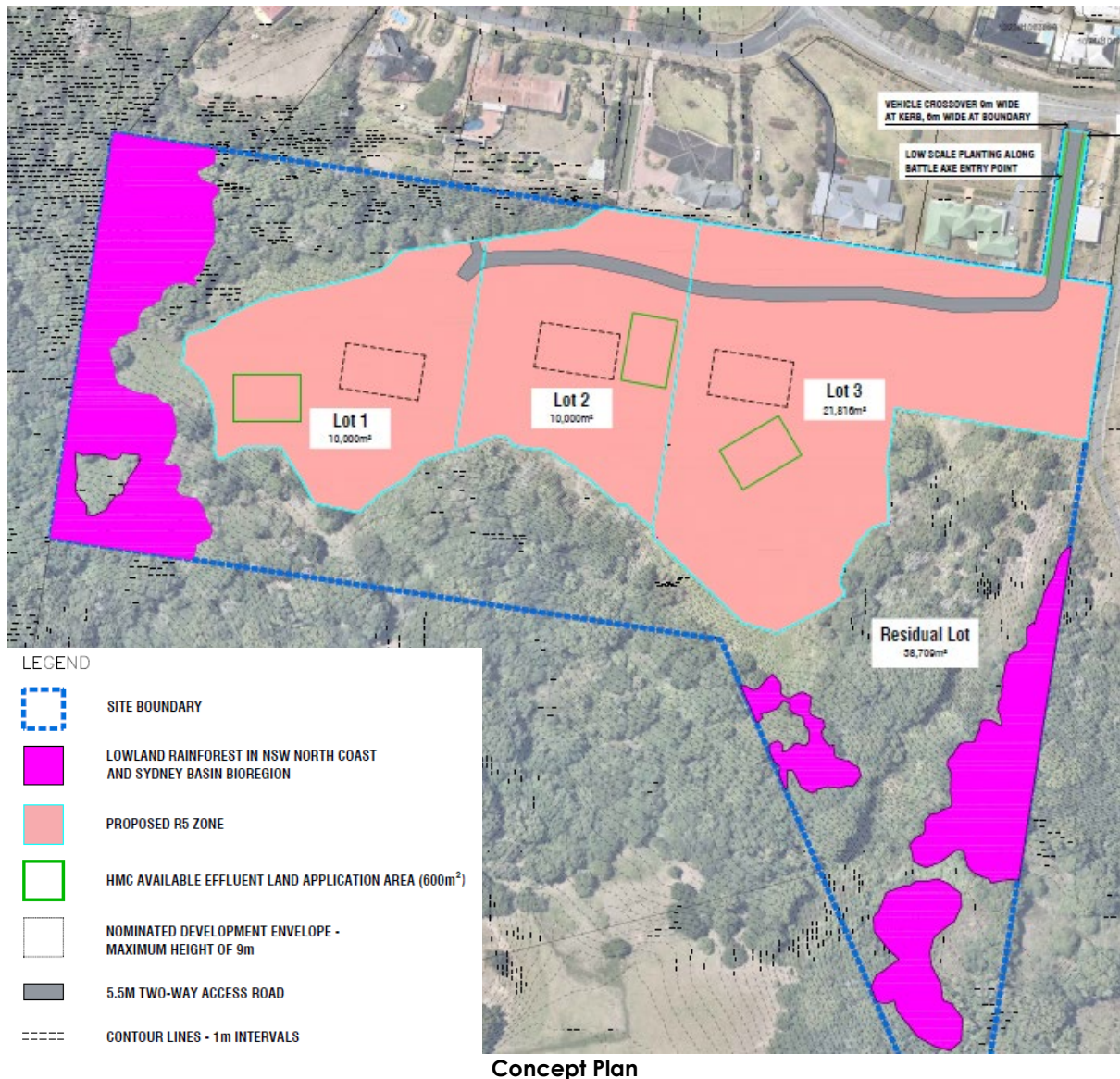
- To review the zones and development controls that apply to the site,
- To facilitate large lot residential development over the suitable portion of the site,
- To contribute to the protection and rehabilitation of other parts on the land that have ecological and visual significance, and
- Contribute to local housing supply and diversity in the Banora Point / Terranora locality in a manner sympathetic to the site conditions.

To achieve these objectives and enable a Development Application to be considered for above discussed development outcome the following amendments to the Tweed LEP framework are identified as necessary:

- Extend the Land Application Map of the Tweed LEP 2014 to include the additional portion of the site identified for large lot residential development.
- Within the extended Land Application Area of the Tweed LEP 2014, apply the following land use zone, development standard provisions and additional local provisions:
 - Inclusion of Acid Sulfate Soils Mapping
 - Floor Space Ratio Map identifying a maximum development standard of 0.55:1,
 - Height of Buildings Map identifying a maximum development standard of 9m,
 - Lot Size Map identifying a minimum lot size of 1ha, and
 - Land Zoning Map identifying the application of the R5 Large Lot Residential Zone.

The extents of the abovementioned land use zone and development standards is identified within the Concept Plan overpage. A higher resolution Concept Plan can also be found as a separate file within the PP package. Of note, the complimentary development standards sought mirror those consistently applied within the Tweed LEP 2014 for R5 Large Lot Residential land.

The intended outcome is to achieve a LEP Amendment that incorporates appropriate land use zones, provisions and associated maps for the site that are consistent with the objectives of this proposal and are visually expressed within the Concept Plan.



Intended Development Outcome

As detailed previously, the intended development outcome comprises a 4x lot subdivision, including 3x large lot residential lots and 1x residue lot, intended to be a Community Lot encompassing the remaining land, including land of ecological significance. The intended outcome is detailed on the Concept Plan and described in greater detail as follows.

- Proposed Lot 1 – Comprising a minimum lot size of 1ha, proposed Lot 1 is positioned at the western end of the land identified as R5 Large Lot Residential. An indicative development envelope has been identified measuring 20m x 35m, and is proposed to accommodate a future dwelling, water tank/s and the like. The development envelope involves a gentle topographic fall from north to south, supporting the long axis of a future dwelling along the lands contour, reducing earthworks and harnessing the visual outlook.

An additional envelope is identified to the southwest to accommodate the on-site sewage management system (OSSM) land application area. The land application area envelope has been positioned as the preferred location when considering previous geotechnical test areas.

- Proposed Lot 2 – Is positioned as the 'central' of the 3x large lot residential lots and involves a site area greater than 1ha. An indicative development envelope has been identified measuring 20m x 35m, and is proposed to accommodate a future dwelling, water tank/s and the like. The

development envelope is predominately flat, however tapers away at the southern and western edges. The gentle gradient is unlikely to result in a need for extensive or excessive earthworks to accommodate a future dwelling.

An additional envelope is identified to the east to accommodate the OSSM land application area. The land application area envelope has been positioned as the preferred location when considering previous geotechnical test areas.

- Proposed Lot 3 – Is positioned as the easternmost lot within the large lot residential zoning sought. Measuring over 1ha in size, an indicative development envelope has been identified measuring 20m x 35m, and is proposed to accommodate a future dwelling, water tank/s and the like. The development envelope involves a gentle topographic fall from east to west, which is not anticipated to necessitate any earthworks of significance or a specific construction type when accommodating a future residential use.

An additional envelope is identified to the south to accommodate the OSSM land application area. The land application area envelope has been positioned as the preferred location when considering previous geotechnical test areas.

- Residue Lot – The proposed Residue Lot accommodates the remaining 5.87ha of the site. Whilst the Residue Lot includes land currently identified for rural purposes, its primary purpose is for the conservation of an ecological 'belt' running east-west through the site. This outcome consolidates the area of environmental quality, allowing land management within a single land holding. The Residue Lot is coupled with a draft Environmental Management Plan and draft Neighbourhood Management Statement to guide environmental embellishment and maintenance.

Whilst this PP has been submitted with a preferred layout, it is noted that alternative arrangements, such as lot and development envelope positioning, may be pursued through future consent process/es and will be subject to merit assessment at that time. Whilst the planning proposal process itself does not approve or mandate the Concept Design, the proposed Concept Design has been prepared reflecting the applicable planning framework and intended outcomes for the site prescribed by the NRPP. Further, the potential outcomes of the site are confined and guided by the proposed suite of map amendments, collectively providing a high degree of comfort to all stakeholders regarding the appropriateness of future outcomes.

Part 2 - Explanation of Provisions

Amendments to both the written instrument and mapping are required to facilitate the intended outcomes of the PP.

In short, the following amendments to the Tweed LEP 2014 would be required to achieve the intent of the proposal:

1. Include the portion of the site within the Concept Plan into the Tweed LEP 2014 by amending the Land Application Map - Sheet LAP_001
2. Applying a R5 Large Lot Residential Zone to the subject land, by amending the Land Zoning Map - ZN_022
3. Applying a 1 hectare minimum lot size provision to the part of the site be zoned R5, by amending the Lot Size Map - LSZ_022
4. Applying a 9m building height limit to the part of the site being zoned R5 by amending the Height of Buildings Map - HOB_022
5. Applying a 0.55:1 maximum floor space ratio to the land being zoned R5, by amending the Floor Space Ratio Map - FSR_022
6. Applying a Class 5 acid sulfate soils classification to the land being zoned R5, by amending the Acid Sulfate Soils Map - ASS_022

Further detail regarding the proposed amendments is outlined below.

Land Zoning

It is proposed to rezone part of the site currently zoned part 7(d) Environmental Protection (Scenic/Escarpment) and 1(c) Rural Living under the Tweed LEP 2000 to R5 Large Lot Residential under the Tweed LEP 2014.

The land to be rezoned is limited to the already cleared parts of the site and will provide large lot residential development opportunity, consistent with the surrounding rural residential and residential character. Within the subject site, approximately 4.18 hectares of land is intended to be zoned R5 Large Lot Residential. This rezoning footprint has been determined by the extent of former quarrying activities which has resulted in cleared, terraced and developable land at the site.

Limiting the zoning footprint to this area is consistent with the criteria for zoning land under the 'Northern Councils E Zone Review: Final Recommendations' Report, as referenced within Ministerial Direction 3.4. Further justification of strategic and site-specific merit for this proposed rezoning is provided under Part 3 of this PP, which was confirmed through the NRPP's review.

Minimum Lot Size

Minimum lot sizes that permit large lot residential subdivision across the R5 zoned portion of the site are required to facilitate the intended zones objectives. Reflecting the lot size referenced within the NRPP's Record of Decision and to reflect the development standards consistently applied for R5 zoned land within the Tweed LEP 2014, a minimum lot size of 1 hectare is proposed. Notwithstanding its use on adjoining lands and throughout the locality, the residential footprint of the site will not be subject to the provision of Clause 4.2A, which allows minimum lot sizes of 4,000m² where the land is connected to reticulated services.

The proposed minimum lot size provides opportunity for large lot residential uses under the Tweed LEP 2014. The Residue Lot is anticipated to be retained within the Tweed LEP 2000 until such time that Council completes their implementation of the 'C-Zones' throughout the Tweed Local Government Area.

The proposed minimum lot size for the residential portion of the site is compatible with the site attributes and surrounding locality character.

Building Heights

A maximum building height of 9 meters is proposed for the site area to be rezoned to large lot residential.

The proposed building height will provide flexibility in the design and form of urban development across the site, is compatible with the site attributes, surrounding residential character and suitably integrates with the site's scenic values. A 9 meter maximum building height provision is equivalent to the existing maximum building height requirements for the adjoining large lot residential land to the north, east and west.

Floor Space Ratio Map

Whilst floor space ratio provisions are often redundant within large lot residential environment's, no objection is raised to the imposition of a maximum floor space ratio of 0.55:1 for the large lot residential portion of the site. This outcome reflects Council's wider application of the development standard for the adjoining large lot residential land to the north, east and west.

Acid Sulfate Soils

There is a requirement to amend the Acid Sulfate Soils map under the Tweed LEP 2014 to include the subject site. The part of the site which is subject to rezoning is mapped as potentially containing Class 5 Acid Sulfate Soils. This is consistent with the current Acid Sulfate Soils mapping provided on Tweed Shire Council's GIS and also what was identified for the site under the Draft Tweed LEP 2012.

Part 3 – Justification of strategic and site-specific merit

Section A - Need for the Planning Proposal

Is the planning proposal a result of an endorsed LSPS, strategic study or report?

The origin of this PP is a review of the planning controls applying to the site in part as a result of a strategic study, being the Final Recommendations under the Northern Councils E Zone Review (E Zone Review). At present, much of the subject site is not contained under a Standard Instrument LEP, being the *Tweed Local Environmental Plan 2014*, and whilst it is our understanding that Council is pursuing investigations to resolve Deferred Matters lands throughout the LGA, no information is currently in the public domain as to project findings or timelines regarding lands previously identified as scenic/escarpment.

As the E Zone Review related purely to a suitable methodology for zoning of land for environmental purposes, this proposal, is not a direct result of this strategic report. Notwithstanding, when applying the E Zone Review criteria, the land subject to this proposal does not meet the requirements of an environmental zone. Likewise, this PP has been prepared demonstrating that a review of amending the controls has merit, and that large lot residential development of the land is a suitable development outcome for the site and area. On this basis, the NRPP has identified strategic and site-specific merit, subject to clearer definition of the intended development and technical matters.

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

The proposal seeks to apply a land use zone and principal development standards within the Tweed LEP 2014 to facilitate and control large lot residential development at the site. The land use zoning and development standards approach is consistent with other large lot residential and cleared land along the Terranora / Banora Point escarpment.

Other mechanisms such as Schedule 1 or DCP provisions are not considered appropriate means for achieving the objectives and intended outcomes of this PP. These are summarised below.

The proposed LEP amendments are the most appropriate method to achieve the intended outcomes.

Option	Comments
Applying an additional permitted use clause or limiting clause without land use zoning and development standards.	This approach is not considered appropriate, primarily as analysis of the land has identified that an alternative, non-environmental zone, is suitable and best reflects the attributes of this portion of the subject site. Pursuing an additional permitted use in isolation would also restrict the suitable future use of the site and not directly reflect the land's strategic land use opportunities. For these reasons applying an additional permitted use is not considered appropriate.
Applying an alternative residential zone or development standards that would permit or limit residential development.	This approach is considered to possess reduced alignment with the existing land tenure, broader strategic opportunities, and application of residential zoning to cleared land along the Terranora / Banora Point escarpment.
Applying LEP 2014 zones and controls to the whole site	The land does contain portions of significant vegetation outside of the identified large lot residential footprint, and will be enhanced through the EMP. Council is yet to adopt the C2 and C3 zones within their LEP framework and therefore applying these zones to part of the site would be better implemented through Council's wider strategic review.
DCP Provisions	<p>Does not resolve permissibility</p> <p>Has not been considered necessary for other R5 zoned land in the area and notably the adjoining lot, being 221 Terranora Road, which has recently been subdivided for residential and emergency services facility purposes.</p> <p>The studies submitted under this PP indicate that the land can be developed for urban purposes with no detrimental impact on infrastructure, services and environmental values. The studies also confirm that potential hazard risks such as slip and bushfire can be managed through onsite design responses. Given these findings, and the existing LEP, DCP and bushfire protection provisions, preparing a site specific DCP would seem unnecessary in the case. DCP provisions for this site</p>

would add no value above what is already needed to be considered and addressed under a development Application to confirm it achieves the requirements under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

These alternative options are not considered the best approach for achieving the intended outcomes of this PP. Rather, the proposed approach discussed under **Part 2** of this PP is the best way for achieving them.

Section B - Relationship to strategic planning framework

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)?

North Coast Regional Plan 2041

The focus goals under the Regional Plan which are directly applicable to this PP are:

- Goal 1: Liveable, sustainable and resilient,
- Goal 2: Productive and connected,
- Goal 3: Growth, changes and opportunity

Goal 1. Liveable, sustainable and resilient

The Regional Plan identifies 10x Objectives to support the delivery of Goal 1, including but not limited to:

- Provide well located homes to meet demand
- Protect regional biodiversity and areas of high environmental value
- Management and improve resilience to shocks and stresses, natural hazards and climate change.

Whilst this PP includes a confined land use zoning footprint to deliver well located homes, protect areas of high environmental value and leverage the sites limited exposure to mapped hazards, the subject site is not identified within the mapped Urban Growth Area. The Regional Plan does provide variation principles to the Urban Growth Area, which are discussed and assessed in full within Attachment 1 and salient matters detailed below:

The PP:

- Is considered to be consistent with the objectives and outcomes in the North Coast Regional Plan 2041 and applicable Ministerial Directions
- Does not require any change to committed and planned infrastructure
- Avoids areas of high environmental value
- Avoids risk by being confined to flood-free areas of the site and where bushfire threat can be comfortably accommodated.
- Being located outside of the coastal strip
- Does not introduce land use conflict, sensitive receivers to existing development, or inappropriate land uses
- Does not involve Important Farmland
- would not significantly reduce green breaks and character in the area
- would contribute to revegetation at the site outside of the residential zone footprint
- can be suitably serviced without burdening existing infrastructure
- would be responding to a housing and demographic need for the area

In addition, the landowner has expressed a desire to leverage the rezoning of land to facilitate rehabilitation works to the site, through the Environmental Management Plan. Ultimately, future development of the site is considered to possess opportunity to contribute to the site's environmental qualities through rehabilitation, improvements and active site management.

Goal 2. Productive and connected

Residential development on this underutilised land would create new housing opportunity while not impacting on wider agricultural or economic practices or infrastructure services.

The PP is consistent with Goal 2.

Goal 3: Growth, change and opportunity

Residential development on this underutilised land would create new housing opportunity and support the subregional planning principles, urban design, and function of regional cities (namely Tweed), as identified within Goal 3.

Accordingly, the PP is consistent with Goal 3.

Local Government Narratives – Tweed

The Regional Plan recognises that Tweed needs to support ongoing growth through housing and job supply.

The rezoning and redevelopment of a portion of the site would create new housing opportunity in the area. This is discussed in more detail under **Part 3** of this PP.

The proposal is seen as consistent with the Regional Plan, achieving consistency with the majority of the directions and actions, and where inconsistencies have been identified, supporting justification is available.

Is the planning proposal consistent with Council's LSPS that has been endorsed by the Planning Secretary, or another endorsed local strategy or strategic plan?

Tweed Local Strategic Planning Statement

The Tweed Local Strategic Planning Statement (LSPS) sets out the 20-year vision for land-use planning in the Tweed LGA. Commentary and actions within the LSPS relevant to large lot residential development is limited, however Action 17.2 specifies as follows:

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 site can be efficiently serviced, and is within close proximity to basic services and transport. The site immediately adjoins other large lot residential land and is sleeved to the south and west by vegetation, mitigating the potential for conflict with the Tweed's productive rural land, whilst suitable buffers protect sensitive environmental land.

In light of the above, the proposal to facilitate large lot residential development is considered to be consistent with the abovementioned action and upholds the intent of the LSPS more broadly.

Tweed Urban and Employment Land Release Strategy 2009

The Tweed Urban and Employment Land Release Strategy 2009 outlines an urban land release program for the Shire until 2031, with a focus on existing zoned and some greenfield development over the life of the Strategy. It was adopted by Council on 17 March 2009.

Enabling large lot residential use of a portion of the site would be compatible and consistent with the adjoining land uses. The site is located in an area that is characterised by large lot residential development and is close to existing urban services. The proposal is generally consistent with the principles of the Strategy, such as land constraint methodology, supporting centers and providing housing diversity.

Tweed Rural Land Strategy 2036

Tweed Shire Council has prepared a Rural Land Strategy (RLS) that provides a framework for the planning and management of rural land across the Shire. The RLS specifically notes that it is not intended to be a rural residential strategy.

It is discussed throughout this PP, that the land is not suited for agricultural use and given its location, residential development within the rezoned portion of the site would not have any detrimental impact on wider agricultural practices.

The proposal is consistent with the RLS as:

- it does not discourage sustainable agricultural production, reduce, nor impact usable agricultural land
- it will protect and improve environmental values through the Environmental Management Plan and responds to natural hazards
- it provides greater housing opportunity
- it promotes sustainable land use practices
- it does not impact extractive industries and the potential for land use conflict is minimal

Community Strategic Plan 2022-2032

The Strategic Plan sets Council's broad governance directions for a 10 year period. A key direction under the Tweed Strategic Plan is the provision of housing that will contribute to housing diversity, lifestyle choice, particularly eco-led lifestyle opportunities, and affordability within the Shire.

No specific service streams, sub-streams, goals, targets or strategies have been identified of relevance to this PP, nor any inconsistencies within the Community Strategic Plan 2022-2032 provisions.

Is the planning proposal consistent with any other applicable State and regional studies or strategies?

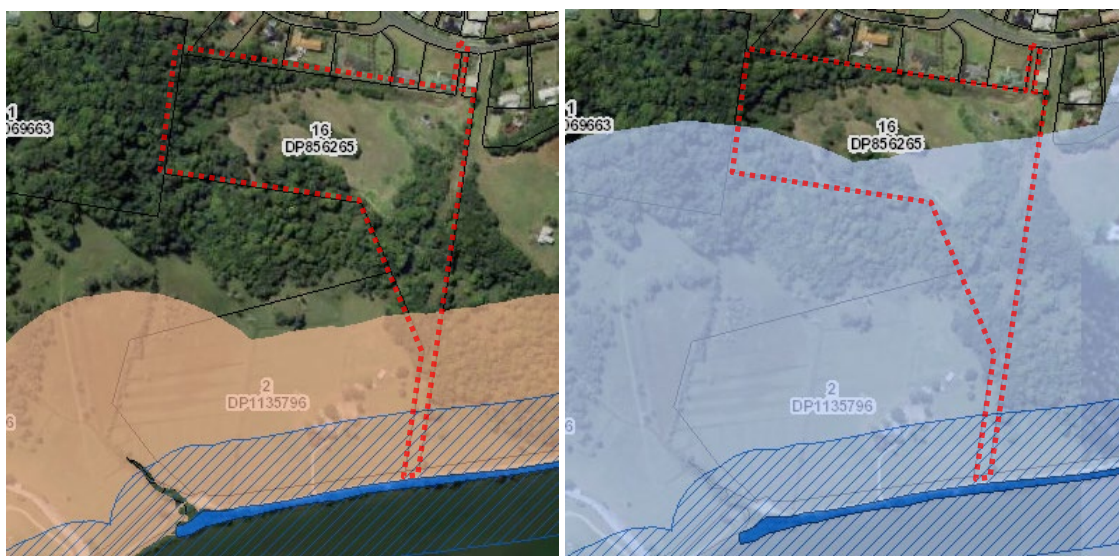
State Environmental Planning Policies (SEPPs)

The following SEPPs are applicable to this proposal:

State Environmental Planning Policy (Resilience and Hazards) 2021

- Chapter 2 – Coastal Management

Parts of No. 255 Terranora Road, Banora Point are mapped within the Coastal Environment and Coastal Use areas and the Proximity Area for Coastal Wetlands. The land proposed to be rezoned, and which would be subject to residential development is limited to land mapped as Coastal Environment Area.



Coastal management mapping

While no works are proposed under this PP (i.e. it seeks a rezoning to facilitate consideration of a DA for future works) an assessment against the heads of consideration for the Coastal Environment Area is provided below:

Coastal Environment Area

Consideration	Comments
(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,	<p>The footprint of the rezoning is free of significant vegetation and has been significantly modified due to former quarrying activities. An ecological assessment of the surrounding vegetation and drainage areas onsite has determined that development can be appropriately accommodated onsite without detrimentally impacting the surrounding vegetation.</p> <p>Any development works onsite will need to be suitably designed and managed to ensure minimal impacts on the natural environment. Zoning the land as proposed under this PP does provide scope for developing the land for residential purposes and in turn, accommodating additional environmental protection measures onsite including water quality management and reuse opportunities.</p>

(b) coastal environmental values and natural coastal processes,	Future development on the land is not likely to have any detrimental impact on environmental values or coastal processes, given the distance / separation and height of the land proposed to be rezoned from the Tweed River foreshore,
(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,	Any new development works onsite will need to be suitably designed and managed to ensure minimal impacts on the natural environment, including surrounding waterways. Zoning the land as proposed under this PP does provide additional scope for developing the land and in turn, accommodating additional environmental protection measures onsite including water quality management, reuse opportunities and revegetation / rehabilitation.
(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	The development standards proposed reflect the existing heights and density of the adjoining residential land and therefore would not detract away from the scenic qualities or character of the area. Zoning the land as proposed under this PP does provide additional scope for developing the land and in turn, accommodating additional environmental protection measures onsite including water quality management, reuse opportunities and revegetation / rehabilitation.
(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	Public foreshore access is not provided through the private site.
(f) Aboriginal cultural heritage, practices and places,	The land has historically been cleared, quarried and is surrounded by urban development and infrastructure. The likelihood of the rezoning area containing significant aboriginal items is low. Measures to protect cultural significance can be determined under any future DA that seeks to undertake works onsite. Alternatively, further detailed investigation could be undertaken as part of this planning proposal process to determine the significance of the land and if further site-specific provisions or development controls are required to manage it.
(g) the use of the surf zone.	Rezoning the land is not likely to impact on surf zones given the location of the site.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

- Chapter 4 Koala Habitat Protection 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. The site is not mapped under Council's Comprehensive Koala Plan of Management as containing preferred Koala habitat. An assessment of the site has been undertaken for core Koala habitat. The ecological report confirms that the site is not considered to be important koala habitat. The proposed rezoning also only applies to the cleared area of the site.

No further Koala habitat testing is considered necessary as part of this proposed PP and the proposal does not include any inconsistencies with the Koala Habitat SEPP provisions.

The planning proposal involves a minor expansion of large lot residential land and does not involve a direct relationship with other State or regional strategies, including but not limited to Future Transport Strategy 2056, Cumberland Conservation Plan, Net Zero Plan, Water Resource Plan, State Infrastructure Strategy, A 20 Year Economic Vision for Regional NSW. Notwithstanding its minor nature, the planning proposal makes a position contribution towards the sustainable growth objectives of these strategies.

Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 Directions)?

The following table provides an assessment of the proposal against applicable Ministerial Directions.

9.1 Direction	Objective of the Direction	Is proposal consistent?	Comments
1.1 Implementation of Regional Plans	The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions, and actions contained in Regional Plans.	No.	<p>An assessment of the proposal's consistency with the North Coast Regional Plan is contained under Section B, Question 3 of this PP.</p> <p>Inconsistencies with directions and actions which relate to the Urban Growth Area have been determined to be of minor significance and justified, through alignment with:</p> <ol style="list-style-type: none"> 1. the Urban Growth Area Variation Principles, and 2. the Northern Councils E Zone Review Final Recommendations Report. <p>These findings are consistent with the Department's previous Gateway Determination issued for the site.</p>
1.3 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Yes	<p>The proposal includes no additional referral or concurrence requirement.</p> <p>All existing applicable referrals applying to the site will be undertaken at DA stage.</p>
1.4 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Yes	<p>The PP does not include or refer to drawings or impose additional development standards beyond those already contained within the principle EPI, being the Tweed LEP 2014. Whilst a Concept Plan, draft Environmental Management Plan and draft Neighbourhood Management Statement have been provided, these matters form part of the Proposal's evidence base as opposed to matters to be formally legislated.</p>
3.1 Conservation Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	No	<p>The proposal seeks to rezone environment protection zoned land (an environmental zone which is not supported under the Northern Councils Environmental Zone Review).</p>

			<p>This land is cleared and was formally used as a quarry. These site attributes are not attributable to scenic protection, particularly that it can be demonstrated that the existing environmental protection zone is predominantly applied to land on the escarpment that is vegetated and not cleared land.</p> <p>The PP is in general accordance with the North Coast Regional Plan which considers this Direction.</p> <p>The proposal has also been supported by a flora and fauna and visual impact assessments which confirm that rezoning the land and future residential use at the site will not have a detrimental impact on natural resources or visual qualities.</p> <p>The inconsistency with this Direction is justified.</p>
3.2 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Yes	<p>The site was used as a former quarry. The likelihood that any Aboriginal Cultural Heritage sites could remain on the land is low.</p> <p>The land is not recorded to contain known Aboriginal cultural heritage, though Council has mapped the Terranora Ridgeline as an area of predictive significance.</p> <p>Measures to protect cultural significance can be determined under any future DA that seeks to undertake works onsite.</p> <p>Alternatively, further detailed investigation could be undertaken as part of this planning proposal process to determine the significance of the land and if further site-specific provisions or development controls are required to manage it. This is consistent with the former Gateway Determination issued for this site.</p>
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	The objective of this direction is to ensure that a balanced and consistent approach is taken when applying conservation zones and overlays to land on the NSW Far North Coast.	Yes	<p>The land proposed to be zoned for residential purposes does not contain vegetation which meets the criteria for an C2 or C3 zone; nor is it being used for environmental conservation or management purposes.</p> <p>Rezoning this land as R5 Large lot Residential is consistent with the</p>

			Northern Councils E Zone Review Final Recommendations.
3.5 Recreational Vehicle Areas	The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	Yes	The planning proposal will not enable land to be developed for the purpose of a recreation vehicle area
4.2 Coastal Management	The objective of this direction is to protect and manage coastal areas of NSW.	Yes	<p>This proposal is considered to be in keeping with the Coastal Management Act 2016, NSW Coastal Management Manual and NSW Coastal Design Guidelines 2003.</p> <p>The proposal does not rezone land which would enable increased development or more intensive land-use of land within a coastal vulnerability area, or identified as a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment.</p>
4.3 Planning for Bushfire Protection	The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and to encourage sound management of bush fire prone areas.	No	<p>The site is identified as bushfire prone land.</p> <p>Liaison with the commissioner of the NSW RFS is required to demonstrate compliance with this direction. This can and will occur post Gateway.</p> <p>A bushfire assessment has been prepared for the site which confirms that appropriate APZs can be established between any future dwelling onsite and the surrounding bushfire threat. This is based on a concept subdivision layout that was previously prepared for the land.</p> <p>Any proposed development will need to comply with the design requirement of Planning for Bushfire Protection 2019 including protection zones and construction standards where applicable. This can be addressed at DA stage.</p>
4.4 Remediation of Contaminated Land	The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.	Yes	The site was previously used as a quarry for supplying 'blue' metal, basal boulders, road gravels and aggregate. Once these operations concluded the land was remediated and has since remained vacant / unused land. There have been attempts to use the land for horticultural purposes,

			<p>however these were unsuccessful due to low soils depths and moisture retention.</p> <p>A detailed site contamination assessment was undertaken in 2002 which confirmed that the land is suitable for residential uses. Soil samples taken from the rezoning footprint did not indicate contamination levels above threshold levels and confirmed that the potential for harmful contamination is low. No further testing or remediation was recommended by this review.</p> <p>Further soil analysis of the unapproved fill area has since been undertaken by Geotech and HMC in late 2019. Analysis for potential contaminants and the results revealed that samples collected during the implementation of the Soil and Analysis Quality Plan were all below the adopted investigation criteria for contaminants of potential concern for proposed residential land use. The assessment concludes that in relation to potential site contamination associated with the current and former land use, the proposed rezoning would be suitable for the future proposed residential land use.</p> <p>In light of the above, the provisions of Local Planning Direction 4.4 are considered to be satisfied.</p>
4.5 Acid Sulfate Soils	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.	Yes	<p>The land subject to the proposal is mapped under Council's GIS as potentially containing Class 5 acid sulfate soils.</p> <p>Class 5 is generally applied as a buffer to land which adjoins land likely to contain acid sulfate soils. The potential to identify acid sulfate soils on the land is therefore low. Earthworks associated with any future subdivision is also unlikely to encounter groundwater.</p> <p>It is noted that acid sulfate soils and groundwater were not encountered when investigating earthworks for the adjoining land at</p>

			<p>221 Terranora Road, Banora Point (DA 15/0443).</p> <p>Council's LEP does contain standard controls to ensure acid sulfate soils are appropriately investigated and managed at the Development Application stage.</p> <p>Further studies at this stage would be unnecessary in the case.</p>
4.6 Mine Subsidence and Unstable Land	The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	N/A	<p>The land has not been identified as being unstable under any study, strategy or other assessment.</p> <p>Council has raised concern regarding land stability, considering the site was used as a former quarry and that top soil has been applied across the land.</p> <p>A geotechnical review has been prepared to consider the characteristics of the land and soil materials and concludes that design responses can be undertaken to ensure a safe residential environmental can be achieved including stable lots, building pads, siting of onsite effluent disposal systems, driveways and roadways. The actual response applied at the site can be reviewed in detail with Council at the development application stage to ensure residential development at the land meets its earthworks, building and landscape / visual design requirements.</p>
5.1 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the certain planning objectives relating to access, transport and the like.	Yes	<p>The site is located in an urban area and close to the commercial centre of Tweed Heads</p> <p>Public buses service Terranora Road.</p>
5.2 Reserving Land for Public Purpose	The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and to facilitate the removal of reservations of land for public purposes	Yes	The proposal does not create, alter or reduce zonings or reservations that apply to public land.

		where the land is no longer required for acquisition.		
6.1 Residential Zones		<p>The objectives of this direction are:</p> <p>(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,</p> <p>(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</p> <p>(c) to minimise the impact of residential development on the environment and resource lands</p>	No	<p>The planning proposal will allow consideration of increased housing diversity and lifestyle choice in the locality.</p> <p>This Direction provides that residential development should be limited on the urban fringe.</p> <p>The proposal's inconsistency with this Direction can be justified given the small extension to the growth boundary being proposed, the limited yield able to be achieved at the site due to the LEP controls being proposed and site constraints and that the vegetated escarpment forms the logical urban growth boundary for the area.</p> <p>The proposal in this regard is not likely to raise issues for infrastructure, nor costs that would not be borne by the developer. The proposal is also consistent with the relevant Regional Plan and notably, Northern Councils E Zone Review Final Recommendations.</p> <p>The proposal's inconsistency with this Direction is justified.</p>
6.2 Caravan Parks & Manufactured Home Estates		The objectives of this direction are to provide for a variety of housing types, and to provide opportunities for caravan parks and manufactured home estates.	Yes	The PP does not modify the capability of the subject site to accommodate caravan park or manufactured home estate development.
9.2 Rural Lands		<p>The objectives of this direction are to:</p> <p>a) protect the agricultural production value of rural land,</p> <p>b) facilitate the orderly and economic use and development of rural lands for rural and related purposes,</p> <p>c) assist in the proper management, development and protection of rural lands to promote</p>	No	<p>As detailed within Section B, Question 3, the proposal is considered predominately, but not holistically, consistent with the North Coast Regional Plan. As such the proposal is not strictly consistent with the Ministerial Direction.</p> <p>The land is identified as being unsuitable for agricultural purposes, fragmented from consolidated agricultural opportunities and does not present a viable option for improving rural economic activities. The use of the subject area for farming purposes would likely result in land use conflicts with the surrounding large lot residential condition.</p>

	<p>the social, economic and environmental welfare of the State,</p> <p>d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses,</p> <p>e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land</p> <p>f) support the delivery of the actions outlined in the New South Wales Right to Farm Policy</p>		<p>The provisions of State Environmental Planning Policy (Primary Production) 2021 have been considered, however the proposal possesses limited relevance to its content.</p> <p>Finally, areas of the site identified as possessing environmental values have been excluded from the proposal, allowing their retention.</p> <p>In light of the above, it is considered that the inconsistency with local planning direction 9.2 is of minor significance.</p>
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Section C - Environmental, social and economic impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

A detailed ecological assessment has been prepared and confirms that the proposal will not adversely affect critical habitat or threatened species, populations or ecological communities or their habitat. An addendum to this ecological assessment has also been prepared to confirm the ecological value of existing small drainage depressions onsite and concludes that there is little conservation value in these areas.

The ecological assessment includes measures to ensure long term viability of all retained vegetation. This includes the identification of buffer areas from the surrounding vegetation communities. Any future dwelling or works onsite should be located outside of these buffer areas. It is noted that these nominated setbacks from the vegetation communities are generally required and consistent with bushfire planning requirements. These provisions are to be further bolstered through:

- the preparation of a draft Environmental Management Plan
- the Concept Plan confirming the availability of dwelling envelopes well away from high-quality vegetation

Rezoning these nominated buffer areas to R5 is consistent with the Northern Councils E Zone Review Final Recommendations. This land does not contain vegetation that would meet the criteria for an E Zone under the Final Recommendations and therefore does not warrant an environmental zoning. As noted above, the principles of setting development outside of these buffer areas will be achieved due to bushfire setback requirements for the land. Additional site specific DCP provisions to specify these setbacks would seem unnecessary in the case, particularly in light of content of Section A19 of the Tweed Development Control Plan 2008.

Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

Contamination

The portion of the site which forms the rezoning footprint has been disturbed by past quarrying activities and has been subject to site filling. Tweed Shire Council's compliance unit has considered this filling and determined that there are no outstanding compliance issues with the site.

A preliminary investigation into the potential for contaminated soils has been undertaken which confirms 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 SEPP 55 satisfied.

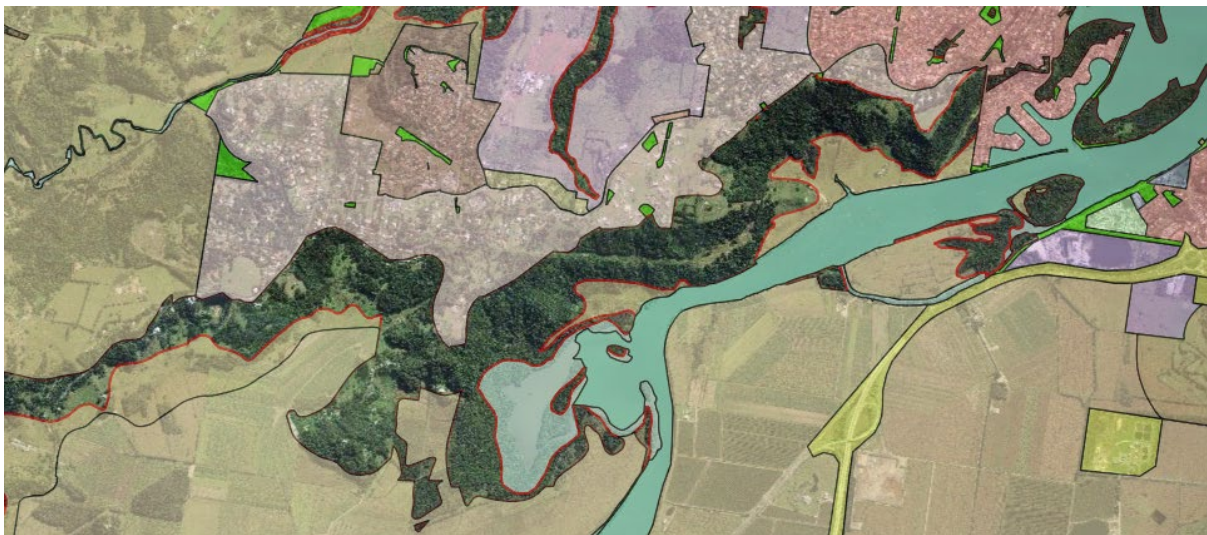
Land Capability

A geotechnical review has been prepared for the site to consider the characteristics of the land and soil materials and concludes that design responses can be undertaken to ensure a safe residential environmental can be achieved including stable lots, building pads, siting of onsite effluent disposal systems, driveways and roadways. The actual response applied at the site can be reviewed in detail with Council at the development application stage to ensure residential development at the land meets its earthworks, building and landscape / visual design requirements.

Visual Impact

While the PP does represent an extension of the existing urban boundary, the visual alteration has been assessed as minor/negligible and the overarching scenic value of the site is not considered to be compromised.

The envelope of the PP is contained to cleared land on the elevated portion of the site, enabling existing mature vegetation located on the escarpment 'belt' to be retained. This 'belt' forms part of a strong visual feature, orientated in a predominately east-west configuration, defining the urban boundaries of Banora Point and Terranora to the rural landscapes below. This existing setting and character of the Terranora ridgeline when viewed from the south comprises residential dwellings located within non-vegetated tracts, closely hugging the ridgeline. These dwellings are viewable from neighbouring properties, elevated land, as well as Tweed Valley Way and the Pacific Highway from a distance.



The vegetated escarpment forms the urban buffer area for Terranora and Banora Point from rural lands below

This character has been further consolidated within the immediately locale as the property immediately to the east of the site, being 221 Terranora Road, pursues further subdivision rural residential development and, in accordance with more recent approvals, a large emergency services facility. The cleared land at this site is, for the most part, zoned R5 Large Lot Residential. Development of this land for residential purposes was not considered to be detrimental to the scenic character of the area.



Land at the site which is proposed to be rezoned is shown in red. 221 Terranora Road is shown in yellow.

A Visual Impact Assessment (VIA) has been undertaken to assess the proposal against its landscape and scenic qualities. This assessment confirms that large lot residential development within the portion of the site subject to rezoning would be consistent with the existing landscape and urban character of the escarpment, which is characterised by recurrent dwelling rooflines that are located within large residential allotments above the escarpment vegetation. The analysis also concludes that urban development within the rezoning area is unlikely to generate detrimental impacts on existing views from neighbouring properties.

Any future proposed development on the land will be subject to Council's planning framework, which includes:

- the objectives of the R5 Large Lot Residential Zone which state:
 - To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality; and
 - To maintain the rural and scenic character of the zone.
- the controls contained under the Tweed Development Control Plan 2008 Section A1 Part A-Dwellings, Dual Occupancy, Secondary Dwellings and Alterations and Additions which seek to guide development to 'maintain the integrity of the topographic and scenic landscapes of the Tweed' as well as minimise potential visual impacts.
- the controls under Tweed Development Control Plan 2008 Section A5 – Subdivision Manual, which particularly state:
 - The neighbourhood and subdivision design should protect the landscape character of the locality by contributing to the scenic amenity of the landscape and the distinct identity of the area; and
 - Neighbourhood and subdivision design must protect the visual landscape of the locality

The safeguards mentioned above guide any future development seeking consent over the land to ensure a suitable development outcome is achieved and ensure the positive conclusion of the Visual Impact Assessment is upheld.

Other Environmental Considerations

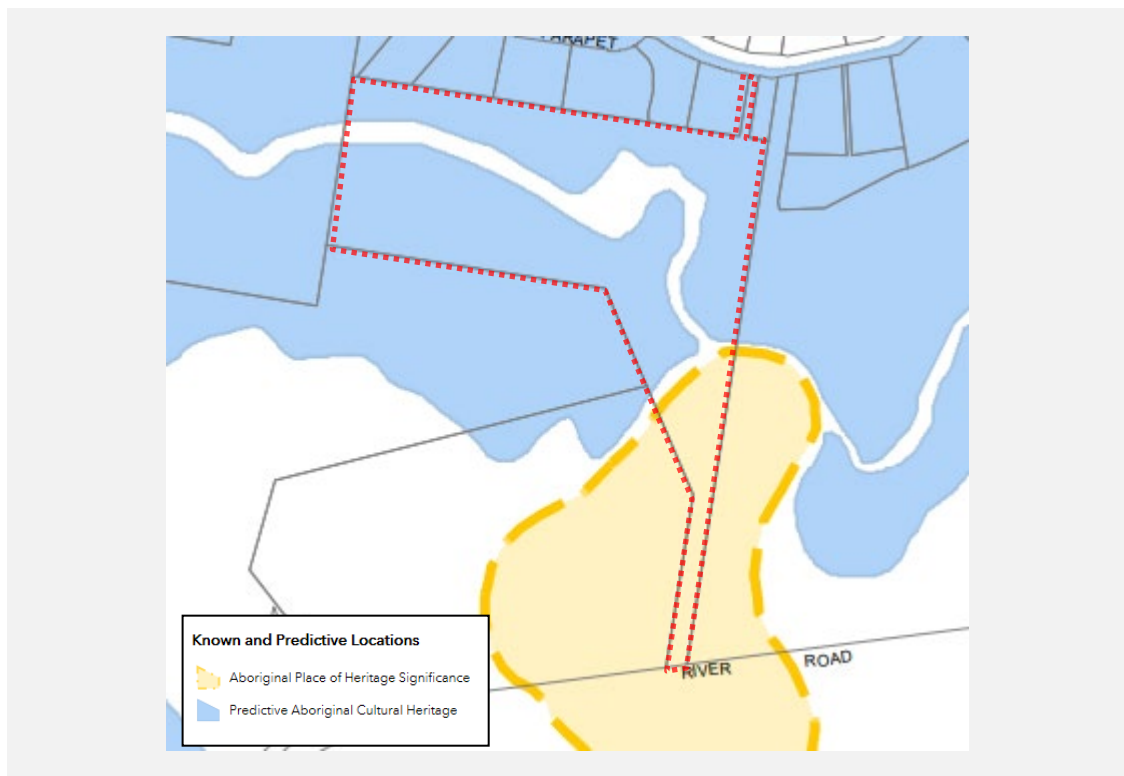
Environmental studies prepared in support of this planning proposal show no adverse effects on environmental resources. Other potential environmental effects, including stormwater, erosion and sediment and acid sulfate soils management will ultimately need to be addressed during the development consent stage. These matters will be guided by Council's existing LEP, DCP and technical design provisions.

Has the planning proposal adequately addressed any social and economic effects?

Effects on European or Aboriginal Cultural Heritage

The Tweed Aboriginal Cultural Heritage Management Plan 2018 (ACHMP) is a document that categorises Aboriginal Cultural Heritage (ACH) within the Tweed Shire as either 'Known', 'Predicted' or unmapped, and sets out relevant levels of cultural heritage assessment for all proposed development.

The land proposed to be rezoned is mapped as 'Predictive' under the ACHMP. A due diligence assessment against this the heads of consideration under the ACHMP has therefore been undertaken



Step 1: Will the activity disturb the ground surface?

Yes. While no works are proposed under this PP, it is acknowledged that the planning framework sought enables future development and earthworks to be undertaken on the land in association with any subdivision or dwelling construction.

The potential works area has been significantly disturbed, given it was a former quarry site. These former disturbance activities make it highly unlikely that the site would contain Aboriginal cultural heritage. The proposed rezoning footprint has undergone extensive ground disturbance in terms of the Due Diligence Code.

By Moran's definition the site is Disturbed Terrain that is "...soil landscapes that are dominated by ground surfaces arising from human activity. Soil parent material (and rock sic) have been moved, accumulated,

removed or replaced..." (Moran 1996: 161). In such conditions there is little or no possibility of significant Aboriginal cultural heritage.

Step 2a: Search of AHIMS Database

A search was conducted on 18 January 2023 of the Aboriginal Heritage Information Management System ('AHIMS', service number 369048) for the site with a 50m buffer. The search identified no registered Aboriginal sites or declared Aboriginal Places within the search area. This is reflective of the ACHMP mapping which indicates that known ACH is located on or adjoining the site, but south of any proposed rezoning or future works footprint.

Step 2b: Is the activity in an area where landscape features indicate the presence of Aboriginal cultural heritage?

The land proposed to be rezoned is mapped as being within a Predictive area for ACH. This is due to portions of the site being positioned on a ridgeline and escarpment area, which are criteria under the ACHMP for mapping 'Predictive' ACH. These land characteristics are considered to have been former travelling and observational routes and therefore have a greater potential for containing ACH.

While the land meets these criteria, the mapping does not consider the true characteristic of the land, which is this site is a former quarry. Considering the tests above, this disturbed terrain has little or no possibility of ACH.

Measures to protect any potential ACH could therefore be considered and determined under any future DA that seeks to undertake works onsite.

Alternatively, further detailed investigation could be undertaken as part of this planning proposal process to determine the significance of the land and if further site-specific provisions or development controls are required to manage it. This is consistent with the former Gateway determination issued for this site.

Other Social and Economic Considerations

The proposed rezoning will promote housing diversity and a small addition to stock in the local area. It will also contribute to job creations in the short term and increased economic activity in the local area.

Development contributions and ongoing rate levies borne from the development will be collected to contribute to local infrastructure upgrades and maintenance. Given the site is close to key Pacific Highway interchanges, bus services and the commercial precincts of Tweed and Banora Point, residents at the site will have suitable access to social, health and community infrastructure without creating an unreasonable demand for these services.

Residential development would not impact any agricultural or foreshore activities, given its separation from these resource areas.

The site is contiguous with existing residential development to the north, north east and north-west. A visual impact assessment has confirmed that development of the site area subject to proposed rezoning would not be inconsistent with the existing visual character of the escarpment, likewise, an additional local provision has been drafted to support suitable outcomes on and in proximity to the scenic escarpment.

This PP demonstrates that development of the site will have positive social and economic effects.

Section D – Infrastructure (Local, State and Commonwealth)

Is there adequate public infrastructure for the planning proposal?

Water and Sewer

Notwithstanding reticulated water and sewer infrastructure being located within the Terranora Road reserve, based on feedback obtained from Tweed Shire Council staff, as well as the scale of the proposal ultimately resolved by the NRPP, the proposal has been designed to function independently of these services.

A Water Supply Analysis has been undertaken to size water tanks for potable water, acknowledge roof area availability for harvesting and local climatic conditions. This analysis details a 15,000L capacity of potable water per bedroom (therefore 60,000L for a 4x bedroom home) plus water storage to satisfy NSW Rural Fires Service requirements. A minimum roof area of 175m² is recommended to be connected to the proposed water supply system in order to capture the average annual demand volumes. Finally, this volume of water is estimated to provide approximately 92 days of potable water servicing if no rain occurs, which, in considering the areas' high annual rainfall records, is unlikely.

An On-Site Sewage Management Assessment Report has been prepared which details the quantity of land required to cater for effluent disposal and recommends minor earthworks to support efficient disposal, specifically 300mm (height) of fill across each irrigation bed. This assessment also collated previous geotechnical analysis to guide the preferred locations of Land Application Areas, which has been confirmed through the Concept Plan. As demonstrated within the assessment report and Concept Plan, suitable land area is available within the rezoning footprint to enable on-site sewage management.

In addition to the above, in accordance with Clause 7.10 of the Tweed LEP 2014, development consent cannot be granted to subdivide the land unless Council is satisfied that adequate arrangements for the disposal and management of sewage are in place. That is, if an appropriate response for managing sewage and water supply cannot be demonstrated under any future Development Application, the land cannot be subdivided.

Electrical and Telecommunications

These services are currently available to the site. Preliminary investigations have indicated that there will be no detrimental impacts or public cost to support residential development at the site.

Road Access

A new internal driveway would be provided at the developer's cost.

A Traffic Impact Statement has been undertaken which has confirmed that roadway access from Terranora Road is sufficient for the site and that vehicle movements from the site will not have any detrimental impact on traffic movements along Terranora Road.

Wider social, health and community infrastructure

The site area identified for rezoning is limited to a total residential footprint of 4.17 hectares. Development contributions and ongoing rate levies borne from the development will be collected to contribute to local infrastructure upgrades and maintenance. Given the site is close to key Pacific Highway interchanges, bus services and the commercial precincts of Tweed and Banora Point, residents at the site will have suitable access to social, health and community infrastructure without creating an unreasonable demand for these services.

Section E - State and Commonwealth interests

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

The proposal is consistent with the NSW Premier's priorities / commitments to bettering NSW and specifically, the Premier's priority to supporting more housing. The proposal seeks to provide new housing opportunity on land that adjoins residential land and is not being used or reserved for any environmental or resource protection purpose.

Following the Gateway determination, formal views of relevant authorities shall be sought and considered.

This PP has indicated that consultation with the NSW Rural Fire Service and the Local Aboriginal Land Council could be undertaken if required by the Gateway to address any outstanding Ministerial Directions. We note that the former Gateway determination issued for this site did require consultation with these agencies as well as NSW Office of Environment and Heritage.

Part 4 - Mapping

For the purposes of community consultation, the suite of mapping amendments will be finalised and prepared to appropriately identify the site and proposed development controls. The Concept Plan also provides an illustration of the intended development form.

Part 5 - Community Consultation

Public exhibition of the Planning Proposal will be undertaken to inform the community and seek feedback. As a minimum, it is envisaged that Planning Proposal Authority would notify its community via a notice:

- in a local newspaper
- on the NSW Planning Portal website
- in writing to adjoining landowners

Regarding impacts:

- the proposal is consistent with the pattern of adjacent land use zones & land uses;
- the proposal is consistent with the strategic planning framework;
- the proposal does not represent any significant infrastructure issues;
- the proposal is not a principal LEP; and
- the proposal does not involve reclassification of public land.

The proposal therefore would meet the 'low impact' threshold, only requiring exhibition for 14 days. This timeframe could be extended if it was considered appropriate or necessary.

Part 6 - Project Timeline

The following timeline is provided to assist the Gateway in determining a timeframe for finalising the Plan. It will also provide as a mechanism for monitoring the progress of the planning proposal through the plan making process to more accurately manage resources to ensure there are no unexpected delays in the process.

Anticipated Gateway Determination	Unknown
Completion of required technical information	14 days
Government Agency consultation	1 month
Public Exhibition (14 days)	14 days
Consideration of submissions/proposal post exhibition	1 month
Submit to finalise LEP	1 month
Local Plan Making Authority will make the LEP	1 month
Total	5 months

1 Urban Growth Area Variation Principles

Policy	The variation needs to be consistent with the objectives and outcomes in the North Coast Regional Plan 2041 should consider the intent of any applicable Section 9.1 Direction, State Environmental Planning Policy and local growth management strategy
Comment: <p>While the proposal does rely on a variation to the Urban Growth Area Principles, this PP seeks to demonstrate that this variation has merit.</p> <p>The proposal would provide additional housing supply and diversity on land which adjoins an existing urban settlement and in an area particularly suited for large lot housing. Development of the land would not impact significant environmental, aboriginal or farmland resources and would maintain a clear green break along the escarpment of Terranora / Banora Point. Development of the site is aligned with existing infrastructure. Extensions to existing services or onsite services would not generate additional cost to government.</p> <p>The proposal in this regard, and as discussed throughout this PP, is consistent with the objectives and outcomes in the North Coast Regional Plan, is justified against the relevant section 9.1 Directions and SEPPs and meets the intent of the Tweed's applicable local growth framework.</p>	
Infrastructure	<p>The variation needs to consider the use of committed and planned major transport, water and sewerage infrastructure, and have no cost to government.</p> <p>The variation should only be permitted if adequate and cost-effective infrastructure can be provided to match the expected population.</p>
Comment: <p>The site is located on the periphery of the Banora Point residential area. Power and telecommunication services are currently available to the property.</p> <p>Preliminary engineering assessments have been undertaken to determine civil matters, including water and sewer services, stormwater drainage, electricity and communications, would not preclude development at the site and would not have a cost to Government.</p> <p>A Traffic Impact Statement has been prepared confirming that network capacity for the proposed large lot residential subdivision, and suitable access arrangements.</p>	
Environmental and heritage	The variation should avoid, minimise and appropriately manage and protect any areas of high environmental value and water quality sensitivity, riparian land or of Aboriginal and non-Aboriginal heritage.
Comment: <p>The area proposed to be rezoned within this PP is predominantly clear of vegetation and was a former quarry site. The likelihood of the land containing high environmental or heritage value is low.</p> <p>With that said, measures to protect areas of vegetation and cultural significance can be determined under any future DA that seeks to undertake works onsite. Alternatively, further detailed investigation could be undertaken as part of this planning proposal process to determine the significance of the land and if further site-specific provisions or development controls are required to manage it.</p>	
Avoiding Risks	<p>The variation must avoid physically constrained land identified as:</p> <ul style="list-style-type: none"> • flood prone; • bushfire-prone;

	<ul style="list-style-type: none"> • highly erodible; • having a severe slope; and • having acid sulfate soils
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Comment:

Flood

The proposed rezoning footprint is not flood prone.

Bushfire

It is within a bushfire prone buffer area; however, a strategic bushfire study has been prepared to confirm residential development at the site can meet bushfire planning guidelines. Consultation with the NSW Rural Fire Service will be requirement under this planning proposal process and should be undertaken post Gateway determination.

Land capability

A geotechnical review has been prepared for the site to consider the characteristics of the land and soil materials and concludes that design responses can be undertaken to ensure a safe residential environmental can be achieved including stable lots, building pads, siting of onsite effluent disposal systems, driveways and roadways. The actual response applied at the site can be reviewed in detail with Council at the development application stage to ensure residential development at the land meets its earthworks, building and landscape / visual design requirements.

Acid sulfate soils

The land subject to the proposal is mapped under Council's GIS as potentially containing Class 5 acid sulfate soils. Class 5 is generally applied as a buffer to land which adjoins land likely to contain acid sulfate soils. The potential to identify acid sulfate soils on the land is therefore low.

Council's LEP does contain standard controls to ensure acid sulfate soils are appropriately investigated and managed at the Development Application stage. Further studies at this stage would be unnecessary in the case.

Coastal Strip	Only minor and contiguous variations to urban growth areas will be considered within the coastal strip due to its environmental sensitivity and the range of land uses competing for this limited area.
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Comment:

The site is contiguous with Urban Growth Area land, is outside of the Coastal Strip and not environmentally sensitive land. Development at the site has little potential for land use conflict with other land uses in the area.

Land Use Conflict	The variation must be appropriately separated from incompatible land uses, including agricultural activities, sewage treatment plants, waste facilities and productive resource lands.
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Comment:

The site adjoins residential land to the north. The vegetated escarpment provides an existing buffer between the northern portion of the site and the Tweed foreshore and wider agricultural land.

The site does not adjoin nor is it close to any sewage treatment plant, waste facilities or land mapped as containing mineral resources.

Important Farmland

The planning area is contiguous with existing zoned urban land and the need and justification is supported by a sound evidence base addressing agricultural capability and sustainability and is either for:

- a minor adjustment to 'round off an urban boundary', or
- if demonstrated through a Department approved local strategy that no other suitable alternate land is available, and if for housing, that substantial movement has been made toward achieving required infill targets within existing urban growth area boundaries.

Comment:

The subject site is not mapped as Important Farmland.

2 Northern Councils E Zone Review – Assessment

Note: Post adoption of the Northern Councils E Zone Review, Final Recommendations Report by State Government, reference to environmental-based zones within the *Standard Instrument (Local Environmental Plans) Order 2006* have been revised from E1 – E4, to C1 – C4. Accordingly, whilst the criteria referenced in the table below reflects the policy framework of the Final Recommendation Report, the assessment provided reference the current applicable land use zones.

Application of E Zones	
1 When will E zones be applied?	
E2 and E3 zones will only be applied if the primary use of the land is considered to be environmental conservation (E2) or environmental management (E3) and the land contains attributes which meet one or more of the criteria for an E2 or E3 zone (Tables 1 and 2)	<p>The land proposed to be rezoned is not being used for environmental conservation (C2) or environmental management (C3) and does not contain attributes which meet one or more of the criteria for a C2 or C3 zone.</p> <p>The continued deferral of this land area from the Tweed LEP 2014 and application of an old (7) scenic protection environmental zone, creates uncertainty and precludes investigations into redevelopment opportunity.</p>
An E4 zone can be applied if the land contains attributes that are consistent with the Department's Practice Note PN09-002 Environment Protection Zones.	The proposal does not seek to apply a C4 zone.
2 How will the primary use of the land be determined?	
The primary use of the land is the main use for which the land has been used for the last two (2) years. This may mean that land which is currently zoned rural will continue to have a rural zone but it may have parts of that land which have attributes that meet the criteria for an E2 or E3 zone included in a mapped planning control	<p>The land proposed to be zoned does not have attributes that meet the criteria for a C2 or C3. It also has not been used for rural or agricultural purposes for the last two (2) or more years.</p> <p>The land has historically been zoned for environmental protection purposes, due to scenic considerations, a criteria that is not supported under the Final Recommendations.</p> <p>Considering the lack of rural attributes over the rezoning area and the strategic approach for zoning cleared land along the Terranora / Banora Point escarpment for large lot residential purposes, a R5 zone would be the most suited zone for this land.</p>
The primary use of the land may vary across a particular property depending on the characteristics of the land. This may result in more than one zone being applied to the land	The primary use does not vary across the land proposed to be rezoned.
The primary use of land will be identified during the preparation of a planning proposal.	It is evident through site inspections, review of aerial photography historical development applications, rezoning requests and Gateway determinations that this land has not been used for agricultural or environmental conservation

	or management purposes and has been acknowledged as suitable residential land.
3 What are the E zone Criteria?	
The land proposed to be zoned E2 or E3 must contain one or more of the criteria listed in Tables 1 and 2.	The land proposed to be zoned does not contain one or more of the criteria listed in Tables 1 and 2.
4 What is the procedure for applying an E2 or E3 zone to land?	
Councils will assess land against the E zone criteria and consider the primary use of the land before proposing an E2 or E3 zone.	A detailed flora and fauna assessment has been undertaken over the site, which confirms the land proposed to be rezoned does not contain vegetation which meets the criteria for a C2 or C3 zone. Its primary use is also not agricultural or environmental conservation or management.
An E2 or E3 zone can only be applied to land with a primary use of environmental conservation or environmental management and, which has attributes that have been verified to meet the E zone criteria.	The land proposed to be zoned does not contain vegetation which meets the criteria for a C2 or C3 zone or overlay.
If the land has attributes that meet the E2 criteria, however the primary use of the land is environmental management rather than environmental conservation, a council may apply an E3 zone.	The land proposed to be zoned does not contain vegetation which meets the criteria for a C2 or C3 zone or overlay.
If a council believes the primary use of the land does not warrant an E zone, and the land meets the E zone criteria, then a LEP Map and associated clauses can be applied.	The land proposed to be zoned does not contain vegetation which meets the criteria for a C2 or C3 zone or overlay.
The E zones will not include buffers to the vegetation attributes that meet the E zone criteria.	No C zone is proposed.
5 How is the E zone criteria verified?	
An E2 or E3 zone or other mapped planning controls cannot be applied to land unless the attributes that meet the E2 or E3 criteria have been verified on that land.	A C2 or C3 zone is not proposed. Despite this, the land has been verified by biodiversity field inspections and ground surveys conducted by an appropriately qualified person as well as review of current high-resolution photography (contained in this PP). We note that the former Gateway determination issued for the site required an aboriginal cultural heritage assessment to be undertaken post Gateway. Should this current PP again receive a Gateway determination to proceed, this cultural assessment could then be undertaken to confirm whether this criteria applies to the land. Given the history of the site, the existing development pattern in the area and that no known records have been identified in the locality in the past, this outcome is unlikely. Precluding the proposed rezoning to progress past Gateway due to a study, that was

	previously considered suitable to be undertaken post Gateway, would seem unreasonable and unnecessary in the case.
<p>Verification of the presence of attributes that meet the E2 or E3 criteria on the site must be undertaken by one or a combination of the following:</p> <ul style="list-style-type: none"> • biodiversity field inspections and ground surveys conducted by an appropriately qualified person. • Aboriginal heritage field inspections and ground surveys conducted by an appropriately qualified person or someone with extensive field experience and in accordance with the Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW, NSW Department of Environment, Climate Change & Water (2010). • supporting flora and fauna reports conducted by a suitably qualified person and guided by the Draft Framework for Biodiversity Assessment, NSW Office of Environment and Heritage (2014) and the Draft Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities, NSW • Department of Environment and Conservation (2004). Such reports will only be acceptable where the field work is not more than five years old. • review of current (not more than five years old) high resolution digital aerial photography that has been verified by another one of these verification techniques • supporting cultural heritage reports conducted by a suitably qualified person and in accordance with a Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW, NSW Department of Environment, Climate Change & Water (2011). • consultation with Aboriginal cultural knowledge holders in regard to culturally significant lands in accordance with and reporting on Aboriginal cultural heritage in a Guide to investigating, assessing NSW, NSW Department of Environment, Climate Change & Water (2011). 	This is discussed above.
Considerations for Applying E Zones and Additional Mapped Planning Controls Considerations for Applying E Zones and Additional Mapped Planning Controls	
6 Transferring environmental zones	
The areas of land to which the current environmental protection zones listed in the Table 3 (below) apply, may be zoned E2 or E3 once councils have verified the attributes of the land against the criteria.	The 7(d) Environmental Protection (Scenic/Escarpment) zone is not an environmental zone supported under the Final Recommendations.

Tweed LEP 2000 7(a) Environmental Protection (Wetlands and Littoral Rainforests) 7(l) Environmental Protection (Habitat)	
Kyogle Council should apply a rural zone, equivalent to the zone in the superseded Interim Development Order, to the land which was proposed to be zoned E2 or E3 and was deferred from the Kyogle LEP 2012, until such time as investigations are completed to identify appropriate E zones or additional mapped planning controls.	N/A
7 Public and private land inconsistent with the criteria	
Public land may be zoned E2 or E3 despite being inconsistent with the criteria, if the primary use of the land is environmental conservation or environmental management.	N/A
Private land may be zoned E2 or E3 despite being inconsistent with the criteria, only if it is consistent with a negotiated development outcome (master plan, rezoning, development consent, designated offset areas) or at the request of the landowner.	There are no negotiated development outcomes at the site, nor is it requested by the landowner to zone this land for environmental purposes.
8 Voluntarily revegetated land	
Land which has been voluntarily revegetated by the current landowner, will not have an E2 or E3 zone applied to it without the agreement of the current landowner providing: – the revegetation has been actively undertaken and is not the result of natural regrowth; – active revegetation includes a combination of planting, seeding, weed control, fencing, removing stock, watering, ripping, mulching and soil improvement to encourage the natural regeneration of native vegetation; and – the primary use of the land is agriculture.	This land has not been voluntarily revegetated.
<ul style="list-style-type: none"> Land which has been voluntarily revegetated can be included on a Vegetation Map without the agreement of the current landowner if the attributes have been verified to meet the criteria for an E2 or E3 zone and the primary use of the land is environmental conservation or environmental management. If revegetation has been undertaken with the support of grant funding, and a condition of that funding was the ongoing conservation or management of the vegetation, then an E2 or E3 zone may be applied to the land. 	This land has not been voluntarily revegetated.
9 Zoning of State and regionally significant farmland	
When zoning State or regionally significant farmland, councils will have to take account of the primary use of the land before applying an E zone or a rural zone.	This land is not State or regionally significant farmland.
10 Application of multiple zones to a single property (split zoned lots)	
More than one zone can be applied to properties where the characteristics of different areas of the land reflect the different primary uses of the land.	Only one zone is proposed to be applied to the land subject to this PP.

	The remainder of the site will remain deferred from the LEP 2014 and subject to any wider review by Council for addressing the Final Recommendations.
Councils should consider the suitability of alternative zones or including the land on a Vegetation Map when considering more than one zone for a property.	Only one zone is proposed to be applied to the land subject to this PP. The remainder of the site will remain deferred from the LEP 2014 and subject to any wider review by Council for addressing the Final Recommendations.
As a general principle, the use of multiple zones on a property should be minimised as far as possible.	Only one zone is proposed to be applied to the land subject to this PP. The remainder of the site will remain deferred from the LEP 2014 and subject to any wider review by Council for addressing the Final Recommendations.
11 Application of the E4 zone in Byron Council	
Byron Shire Council is to prepare a planning proposal to apply a suitable residential zone to that land where an E4 zone was proposed under the draft Byron LEP.	N/A
12 Application of additional mapped planning controls	
Matters of public health, safety, risk and hazard such as drinking water catchments, flooding, coastal risk areas and land subject to strict development controls such as steep land may be included in a LEP Map.	Noted. Council has not applied overlay controls for land slip. The site is not within a drinking water catchment, coastal hazard area and the land subject to the PP is not mapped as being flood prone.
A LEP Map is not to be used for areas of scenic protection or aesthetic values.	The rezoning area continues to be deferred from the Tweed LEP 2014 due to scenic protection purposes. This PP contends that this land should not continue to be deferred from the LEP, that a R5 Large Lot Residential zone is the most suitable zone for this portion of the land and that there are suitable safeguards contained in the Tweed LEP 2014 and DCP 2008 to ensure that scenic protection is a key consideration for any future development proposal over the residential zoned land.
Land that has been verified to meet the criteria for an E2 or E3 zone where the primary use of the land is not environmental conservation or environmental management may be included in a mapped planning control, such as a Vegetation Map.	The land proposed to be zoned does not contain vegetation which meets the criteria for a C2 or C3 zone or overlay.
Additional Considerations for Far North Coast Councils	
13 Aesthetic values	
Councils on the Far North Coast will not be permitted to use scenic values as an attribute for the application of an E2 or E3 zone or mapped planning controls.	This rezoning area continues to be deferred from the Tweed LEP 2014 due to scenic protection purposes. This PP contends that this land should not continue to be deferred from the LEP, that a R5 Large Lot Residential zone is the most suitable zone for this area and that there

	are suitable safeguards contained in the Tweed LEP 2014 and DCP 2008 to ensure that scenic protection is a key consideration for any future development proposal.
14 Permissibility of agriculture in E Zones	
Extensive agriculture is to be listed as permissible with consent in the E2 zone for all Far North Coast LEPs.	N/A
Extensive agriculture is to be listed as permissible without consent in the E3 zone for all Far North Coast LEPs.	N/A
15 Coastal Zone Management	
Far North Coast councils are to use a Coastal Risk Map and associated clause to manage land affected by coastal hazards.	The land is not subject to coastal hazards.
16 Section 117 Direction	
A Section 117 Ministerial Direction specific to applying E zones and mapped planning controls in Far North Coast LEPs will ensure the consistent application of the final recommendations of the Northern Councils E Zone Review for Ballina, Byron, Kyogle, Lismore and Tweed Local Government Areas.	An assessment against the relevant section 9.1 Directions (former 117 Directions) is provided under this report. It confirms that a R5 zone is consistent with the Final Recommendations and requirements of the Direction.
Statewide Implications	
17 Existing Use Rights	
The Department will investigate the possibility of an amendment to the Environmental Planning and Assessment Act 1979 or the <i>Environmental Planning and Assessment Regulation 2000</i> , to remove or extend the 12-month time limit for abandonment of existing uses for the land use extensive agriculture.	N/A
18 Implications for remainder of the State	
These recommendations will initially apply only to the five Far North Coast councils. However, in the meantime, if other councils in the State are reviewing the application of E zones, then the principles contained in these recommendations can be used. Councils should contact the Department of Planning and Environment for assistance.	N/A
The Department of Planning and Environment will investigate the implications of the Northern Councils E Zone Review final recommendations on the application of E zones and mapped planning controls across the State.	N/A
The Department will consider a revision of the Standard Instrument LEP template to remove 'aesthetic values' from the zone objectives of the E2 and E3 zones.	N/A