

# Summary of Submissions

PP-2021-5615



Submission Name	Issues Raised	Proponent Response	PPA Team Response
Community Submission			
1	Contaminated land risking the environment and health.	<p>The Planning Proposal (PP) is accompanied by a historic Detailed Site Investigation, as well as a contemporary Preliminary Site Investigation.</p> <p>Analysis for potential contaminants revealed that samples collected were all below the adopted investigation criteria for contaminants of potential concern for proposed residential land use. Further, the assessments conclude that the PP footprint is suitable for residential purposes.</p> <p>Any future Development Application will be subject to assessment against, amongst others, State Environmental Planning Policy (Resilience and Hazards) 2021, namely, Clause 4.6 Contamination and Remediation is to be considered in determining any development application. This assessment will consider the suitability of the subject site, either in a 'contaminated' state or remediated state, to facilitate a specific development type and particulars.</p>	<p>The proponent's response adequately addresses the concern raised. The site has already undergone a Preliminary Site investigation which has shown the site to be suitable for residential purposes. Further analysis will be undertaken as part of any future Development Application on the site.</p> <p>The Planning Proposal Authority (PPA) team is satisfied that this matter does not prevent the proposal from progressing to finalisation.</p>

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	Sewerage runoff	The PP is accompanied by on-site water and wastewater assessments, confirming that suitable arrangements are in place for these 2x essential services. No evidence has been provided or cited which questions the validity of these assessments, which have included the climatic and soil attributes of the subject site.	As stated by the proponent the PP is accompanied by on-site water and wastewater assessments, confirming that suitable arrangements are in place for these 2x essential services The proponent's response adequately addresses the concern raised. The PPA team is satisfied that this matter does not prevent the proposal from progressing to finalisation.
	Proximity to the Tweed River	The footprint of the PP is located approximately 450m+ from the Tweed River. We note that Council's planning framework requires a 50m buffer to the Tweed River. Further, several homes, such as those along River Road to the south and Old Ferry Road to the southeast, are located approximately 100m and 40m from the Tweed River respectively. Accordingly, no strategic concerns are held that the PP provides a high risk to the ecological health of the Tweed River by virtue of setbacks. In addition, a Terrestrial Flora and Fauna Assessment has been undertaken and accompanies the PP. This assessment has	The proponent's response adequately addresses the concern raised, the proposal is appropriately set back from the Tweed River. The PPA team is satisfied that this matter does not prevent the proposal from progressing to finalisation.

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		not identified any notable impacts by the PP on the Tweed River or its environs.	
	Damage to the ecosystem	The PP does not seek to alter the existing legislative provisions as they relate to the escarpment. The footprint of the PP is confined to land positioned above the escarpment, whilst the supporting draft Environmental Management Plan provisions demonstrate how future Development Application/s would improve the environmental qualities of the land along and within the escarpment. Accordingly, no amendment to the PP, as it relates to the escarpment, is proposed or warranted.	The land proposed to be rezoned, avoids areas of high ecological value as confirmed by the provided Terrestrial Flora and Fauna Assessment. Further ecological considerations will also be undertaken during the assessment of a future development application. Therefore, the planning proposal adequately addresses this concern and the PPA team is satisfied that the proposal can proceed to finalisation.
	Road safety and traffic	The PP is accompanied by a Traffic Impact Assessment (TIA). The TIA does not raise any issues with the suitability of the subject site's interface with Terranora Road, such as sight lines and the like. The TIA does not raise concerns regarding the capacity or safety of Terranora Road to accommodate the potential additional traffic generated by the PP.	The planning proposal will allow for a subdivision of a maximum of three lots and would not result in significant levels of additional traffic. PPA team is satisfied that this matter does not prevent the proposal from progressing to finalisation.

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		The PP does not facilitate 15x houses, nor a considerable additional amount of traffic. Accordingly, no amendment to the PP, as it relates to traffic capacity, is proposed or warranted.	
Proponent's Submission			
Proponent's submission	<p>The proponent has requested that the proposed 1.3ha minimum lot size applying to the site be reduced to 1ha and Clause 4.2A 'Area A' be applied to the site, because:</p> <ul style="list-style-type: none"><li>• Council's Tweed Growth Management and Housing Strategy (GMHS) Draft Options Paper<sup>1</sup>, which has been released for community consultation, proposes to investigate the reduction of minimum lot sizes in the R5 zone connected to Council's water and wastewater services and not within land with concept plans for development.</li><li>• Council's Draft Option Paper notes:<ul style="list-style-type: none"><li>○ the majority of R5 land (in Terranora), adjoins residential zoned land, is connected, or can readily be connected to Council's water and wastewater systems;</li></ul></li></ul>	<p>A reduction of the minimum lot size to 1ha and inclusion of the site under Clause 4.2A 'Area A' of the Tweed LEP 2014 is not supported, because the Panel's rezoning review decision required a future subdivision of the lot into no more than four new lots, including three residential lots. The Panel's rezoning review decision also noted that future development should minimise visual intrusion on the Terranora escarpment.</p> <p>This was subsequently given further effect by the Gateway determination</p>	

<sup>1</sup> The Tweed GMHS is a response to Council's priorities to guide housing and employment opportunities throughout Tweed Shire over the next 20 years. The purpose of the Options Paper is to provide a clear line of sight in terms of where Council have come from in the previous phases of the GMHS. The outputs

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	<ul style="list-style-type: none"><li>○ current minimum lot size requirement is 4000m<sup>2</sup> if connected to Council's water and wastewater system; and</li><li>○ a reduction in MLS would provide opportunity to provide additional housing, yet on allotments substantially larger than the 450m<sup>2</sup> minimum lot size for most residential zoned land.</li><li>● The proponent considers that no discussion or concern is flagged within the Draft Options Paper regarding potential visual impact by increasing the opportunity for built form above the site and Terranora escarpment;</li><li>● Development Application DA20/0349, for an emergency services facility at 221 Terranora Road, Banora Point (to the immediate east of the site) was approved by Council on 10 November 2020. The proponent notes that this application:<ul style="list-style-type: none"><li>○ was not supported by any form of visual impact assessment;</li><li>○ includes a total building footprint area of 2,460.65m<sup>2</sup> and a further 6,813m<sup>2</sup> of non-permeable area within a singular building footprint; and</li><li>○ includes a 6m wide landscape buffer as the sole means of visual softening from the broader public view fields.</li></ul></li><li>● a 1.3ha minimum lot size is not utilised anywhere else in the Tweed LGA, which otherwise applies a 1ha minimum lot size for R5 zoned</li></ul>		<p>requiring a minimum lot size of 1.3ha be applied to the site. This was required because a 1ha minimum lot size would provide for four residential lots as the proposed R5 zoned land has an area of 4.1ha.</p> <p>It is noted that Council is seeking to prepare a final GMHS Options Paper which may include amendments to minimum lot size provisions in the R5 zoning to facilitate housing supply. Amendments to the proposed minimum lot size provisions under this proposal can be considered and addressed under that process. It is understood Council is working to finalise a final GMHS Options Paper in the 2<sup>nd</sup> half of 2024.</p> <p>It is also considered that the potential increase in development potential by applying Clause 4.2A</p>

from Phases 1 and 2 have led to the development of the proposed changes outlined in the Options Paper, which have been developed to respond to anticipated growth in the Tweed Shire through to 2041.

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	<p>land, or 0.4ha minimum lots size where connected to reticulated sewer (clause 4.2A); and</p> <ul style="list-style-type: none"> <li>there appears to be no notable capacity or conveyance restraints for sewer infrastructure. Further, previous assessments have identified how suitable connections could be made to service the site without cost to Government. A portion of the subject site and the land immediately surrounding it, is mapped within Council's Development Servicing Plan (DSP) for sewer. Further, reticulated sewer services are located at the frontage of the site. Facilitating connection to this infrastructure will enable the site to seamlessly integrate into the wider large lot residential fabric of the locale.</li> </ul>		'Area A' of an additional 7 residential lots beyond that exhibited may require the re-exhibition of the planning proposal.
Agency Submissions			
Tweed Byron Local Aboriginal Land Council (TBLALC)	<p>Whilst no Aboriginal Heritage Information Management System (AHIMS) registered, the site is located within 1km of 7 Aboriginal Objects or Places.</p> <p>Rezoning of the property will not, in itself, harm potential Aboriginal Cultural Heritage items found on site but the future development of the site potentially will.</p>	<p>The PP applies to a discreet portion of the subject site. Whilst the surrounding locale includes an Aboriginal Place of Heritage Significance and Aboriginal Objects, these attributes are not found within the footprint of the PP.</p> <p>Any future Development Application for the land within the PP will require consideration and assessment of the Tweed Local Environmental Plan 2014, namely clause 5.10 Heritage conservation, subclause (8) Aboriginal places of heritage</p>	<p>PPA team notes that the TBLALC have provided a second submission stating they were satisfied with the proponent's response to the issues they previously raised.</p> <p>Any future Development Application for the land within the PP will require consideration and assessment of Aboriginal places of heritage significance.</p> <p>The PPA team is satisfied that this matter has been resolved.</p>

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	<p>Therefore, an Aboriginal Cultural Heritage assessment is requested prior to exhibition of the planning proposal.</p> <p>On 1 May 2024, TBLALC provided a second submission confirming that they are satisfied with the proponent's response.</p>	<p>significance. This clause ensures further consideration of the effect of any formally proposed Development Application on the heritage significance of the place and any Aboriginal object known.</p> <p>As the PP does not seek development consent within Part 4 of the Environmental Planning and Assessment Act 1979, likewise, no condition/s were stipulated on the Gateway Determination in relation to further Aboriginal Cultural Heritage Assessment, no additional assessment is considered necessary at this time. A framework to facilitate fit for purpose assessment is currently in place through the legislative provisions to guide appropriate development of the land post PP.</p>	

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NSW Rural Fire Service	A bushfire hazard exists to the south of the site. Any future Planning Proposal must adopt the bushfire threat identified in the bushfire report and apply recommended bushfire resilience measures (APZ, construction, access, water, services).	Any future development proposal will need to demonstrate compliance with the specific provisions of the Rural Fires Act 1997 and Planning for Bushfire Protection 2019. The Strategic Bushfire Study details that these provisions can be satisfied, subject to development and design particulars.	The PPA team is satisfied that this matter does not prevent the proposal from progressing to finalisation and compliance with the Rural Fires Act can be undertaken as part of the Development Application process.
Biodiversity Conservation and Science (BCS) group	<p>The scope of the planning proposal and the planning area be expanded to consider appropriate land use zones over the entirety of Lot 16 DP856265.</p> <p>On 8 May 2024, BCS provided a second response in relation to the information provided by the proponent. They maintain that the high environmental value land located outside the proposed R5 zone should be rezoned as C2 zone.</p>	<p>As previously advised and discussed at the onsite meeting held on 26 October 2023 between the proponent, Tweed Shire Council staff and the Northern Regional Planning Panel, in-principal support is provided to the inclusion of conservation zoning/s beyond the proposed R5 Large Lot Residential footprint, where:</p> <ul style="list-style-type: none"><li>compliant with the methodology detailed within the Northern Council's E Zone Review – Final Recommendations Report, and</li><li>the mapping does not unreasonably delay the progress of the PP.</li></ul>	<p>The planning proposal team notes that the proponent and BCS have differing views on the application of zoning on the site. It is noted, however, that BCS do not oppose the proposed R5 Large Lot Residential zoning on the site, rather are seeking to rezone additional land on the remaining portion of the lot not impacted by this proposal.</p> <p>The area BCS is seeking to be rezoning is currently zoned 7(d) Environmental Protection (Scenic/Escarpment) under the Tweed LEP 2000. The PPA team are of the view that this zoning</p>



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		<p>No concern was raised with the approach pursued within the PP. Further, the Record of Decision issued post this meeting does not mandate an alternate land use zoning or footprint.</p> <p>To-date, the subject site has been excluded from Council's 'Stage 1' Conservation Zone mapping area. Further, no visibility of proposed conservation mapping as it would relate to the subject site has been received from Council staff, or available in the public domain. Finally, no clarity of whether the mapping is intended to comprise C2 Environmental Conservation, C3 Environmental Management, or a composition of the 2x is also unknown.</p> <p>Whilst the C2 and C3 zones have been included within the Tweed Local Environmental Plan 2014, their inclusion has been limited to the respective land use tables. Accordingly, no spatial application of these zones has commenced at this time, nor an adopted/endorsed methodology in place for their application.</p>	<p>provides adequate environmental protection mechanisms to prevent agricultural and residential development of this land.</p> <p>The PPA team is aware that Council is preparing a separate planning proposal to rezone conservation land across the entire local government area. Maintaining the current zoning will allow Council to apply conservation zoning consistently throughout the area.</p> <p>The PPA team is satisfied that this matter does not prevent the proposal from progressing to finalisation.</p>

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		<p>We encourage Council to undertake and advance this work to uphold a contemporary legislative framework. In doing so, consistent application of environmental matters throughout the Tweed Local Environmental Plan 2014 are facilitated. It is not identified as appropriate to expand the scope, investigations, or timeline of this PP to include or pre-empt these broader considerations, particularly whilst an established Environmental Protection zone is in place.</p> <p>Acknowledging that conservation zone mapping for the subject site has not been available for review, it is not considered appropriate to include the mapping currently, void of a review process. We also raise concern that doing so would trigger an amended Gateway Determination and re-exhibition of the PP.</p> <p>Accordingly, no change to the PP, as it relates to applying new conservation zones, is identified as warranted.</p>	

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	2. The flora and fauna assessment for the planning proposal be updated with contemporary biodiversity information on the biodiversity values of the planning area to map areas of high environmental value land.	As detailed previously, the Terrestrial Flora and Fauna Assessment is contemporary, and the specific footprint of the PP has not been identified as containing any areas of high environmental value. Accordingly, no change to the PP, as it relates to ecological assessment, is identified as warranted.	<p>As noted above, BCS were looking to apply a C2 zone to areas within the subject site.</p> <p>The land currently proposed to be zoned R5 zoned does not contain areas identified as having high environmental value.</p> <p>Council will prepare biodiversity information to support their conservation zone planning proposal, which would address the issues raised by BCS.</p> <p>The PPA team is satisfied that this matter does not prevent the proposal from progressing to finalisation.</p>
	3. Based on the information currently provided in the planning proposal: a) the areas mapped as Vegetation Community 4 and identified as a threatened ecological community (i.e. an area of high environmental value) in	<p>As previous stated, in-principal support is provided to the inclusion of conservation zoning/s beyond the proposed R5 Large Lot Residential footprint, where:</p> <ul style="list-style-type: none"><li>compliant with the methodology detailed within the Northern Council's E Zone Review – Final Recommendations Report, and</li></ul>	As noted above, areas containing threatened ecological communities are not located within the planning area. Appropriate zoning can be applied to land during Councils current review of conservation zoned land.

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	<p>the Updated Terrestrial Flora and Fauna Assessment prepared by Planit Pty Ltd and dated 23 March 2024 be rezoned to C2 Environmental Conservation.</p> <p>b) the areas mapped as Vegetation Communities 2 and 3 in the Updated Terrestrial Flora and Fauna Assessment prepared by Planit Pty Ltd and dated 23 March 2024 be identified as a threatened ecological community (i.e. an area of high environmental value) and rezoned to C2 Environmental Conservation.</p>	<ul style="list-style-type: none"><li>the mapping does not unreasonably delay the progress of the PP.</li></ul> <p>Accordingly, no specific objection is raised to the BCS suggestion outside of the subject PPs proposed R5 Large Lot Residential footprint.</p> <p>Notwithstanding, we note that the referred Vegetation Communities 2, 3 and 4 do not address the full extent of the land deferred from the <i>Tweed Local Environmental Plan 2014</i>. In this regard, a holistic approach is appropriate, and is encouraged to be pursued outside the subject PP, consistently throughout the <i>Tweed Local Environmental Plan 2014</i>. Ad hoc application of C2 zones which results in greater fragmentation of the land across 2x LEP frameworks is not encouraged, or suitable.</p> <p>We also raise concern that pursuing the application of the C2 zone (sporadic or otherwise) would trigger an amended Gateway Determination and re-exhibition of the PP. Conversely, the land outside of the PP already possesses an</p>	<p>The Planning Proposal Authority team is satisfied that this matter does not prevent the proposal from progressing to finalisation.</p>

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		Environmental Protection zoning under the <i>Tweed Local Environmental Plan 2000</i> .  Accordingly, no change to the PP, as it relates to applying new conservation zones, is identified as warranted.	
	4. The planning proposal be revised to a) apply the 30m ecological setback from listed threatened ecological communities, as required by the Tweed Development Control Plan 2008 Section A19 Biodiversity and Habitat Management b) demonstrate how the planning proposal will ensure future development can avoid these ecological setback areas.	The application of a DCP-based buffer guideline is only relevant to applications made under Part 4 of the <i>Environmental Planning and Assessment Act 1979</i> (the Act), whereas the PP is purely processed within Part 3.  Accordingly, no change to the PP, as it relates to applying alternate zone footprints are identified as warranted.	In BCS's response dated 8 May 2024, they agreed that DCP controls can be used to address this concern at the development application stage.  The PPA team is satisfied that this matter has been resolved.
Council Submission			

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Tweed Shire Council	<p>Council remains to support a two lot subdivision but acknowledge the Planning Panels decision to support a 3 lot subdivision. Recommend the following action:</p> <ol style="list-style-type: none"><li>1. Part 2 and Part 4 of the exhibited planning proposal state that the intent is to apply “a R5 Large Lot Residential Zone to the subject land, by amending the and Zoning Map – ZN 022”. This statement may be interpreted as if the entire Lot 16 DP 856265 is to be rezoned to R5, which would be inconsistent with the decision of the Planning Panel. We acknowledge that Part 4 Mapping includes correct graphic representation of the acceptable extent of the R5 zoning, in line with the Planning Panel’s decision, however the written</li></ol>	<p>Council’s resolved position is understood, however the PP does not identify any merit-based, strategic, or site-specific matters that limit the capacity of the subject site to 2x lots.</p> <p>Whilst we do not believe the referenced statements within the PP result in an absence of clarity, we raise no concern with the Final version of the PP stating (and/or using words to similar effect) ‘a R5 Large Lot Residential Zone to a portion of the subject site, as displayed within Part 4 Mapping.’</p> <p>As discussed within the onsite meeting held on 26 October 2023 between the proponent, Tweed Shire Council staff and the Northern Regional Planning Panel, in-principal support is provided to the inclusion of conservation zoning/s, where:</p> <ul style="list-style-type: none"><li>• compliant with the methodology detailed within the Northern Council’s E Zone Review – Final Recommendations Report, and</li></ul>	<p>The PPA team is satisfied that the proponent’s response to Councils concerns regarding clarity around the application of the R5 zoning.</p> <p>As noted above, Councils existing planning should proceed in order to address the conservation zoning on the site.</p> <p>The PPA team is satisfied that these matters do not prevent the proposal from progressing to finalisation.</p>

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	<p>statement under Parts 2 and 4 as appended above may be read as inconsistent with the mapping and should be corrected throughout the document.</p> <p>2. Council's Sustainability &amp; Environment (S&amp;E) Unit is now advancing a planning proposal for re-instatement of Conservation Zones into the Tweed LEP 2014. A previous planning proposal was recently completed, bringing C2 and C3 zones into the Tweed LEP 2014. Consistently with the current approach to the conservation zoning, we require that C2 Environmental Conservation zone is applied to the land described as "a residue lot of the remaining land, which is intended to be primarily used for conservation purposes".</p>	<ul style="list-style-type: none"><li>the mapping does not unreasonably delay the progress of the PP.</li></ul> <p>To-date, the subject site has been excluded from Council's 'Stage 1' Conservation Zone mapping area.</p> <p>Further, no visibility of proposed conservation mapping as it would relate to the subject site has been received from Council staff, or available in the public domain. Finally, no clarity of whether the mapping is intended to comprise C2 Environmental Conservation, C3 Environmental Management, or a composition of the 2x is also unknown.</p> <p>Acknowledging that conservation zone mapping for the subject site has not been available for review, it is not considered appropriate to include the mapping at this time, void of a review process.</p> <p>We also raise concern that doing so would trigger an amended Gateway Determination and re-exhibition of the PP. Accordingly, no change to the PP, as it relates to conservation zones, is identified as warranted.</p>	

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