

Post-Exhibition Report – PP-2021-5615

The planning proposal seeks to amend the Tweed Local Environmental Plans 2000 and 2014 to facilitate a 3 residential lot community title subdivision with a residue lot for non-residential purposes at 225 Terranora Road, Banora Point (approximately 3 dwellings)

1 Introduction

The planning proposal is at the post exhibition stage, which is the last stage before an LEP may be made and finalised. The Northern Regional Planning Panel (the Panel) determined at a rezoning review that the proposal had strategic and site merit, on 26 August 2020. Subsequently, after several amendments to the proposal it was lodged for Gateway on 4 November 2023, and a Gateway determination was issued on 24 November 2023 for the proposal to proceed, subject to conditions. Consultation with agencies and the community required by the Gateway determination conditions has now been completed.

The purpose of this report is to provide a summary of the key matters raised by members of the public, Tweed Shire Council (Council) and public agencies during the public exhibition of the planning proposal (**Attachment A**) for 225 Terranora Road, Banora Point. The report makes a recommendation to the Panel that it submit the proposal to the Department of Planning, Housing and Infrastructure for finalisation.

Element	Description
Date of request to exhibit PP	29 January 2024
Date of panel determination on rezoning review	26 August 2020
Planning Proposal no.	PP-2021-5615
LGA	Tweed Shire Council
LEP to be amended	Tweed Local Environmental Plan 2000 (Tweed LEP 2000) and Tweed Local Environmental Plan 2014 (Tweed LEP 2014)
Address	225 Terranora Road, Banora Point
Brief overview of the timeframe/progress of the planning proposal	<p>February 2020 – Planning proposal submitted to Tweed Shire Council.</p> <p>May 2020 – Council resolved not to support the Planning Proposal.</p> <p>August 2020 – At a rezoning review, the Panel determined the proposal should be submitted for a Gateway determination subject to conditions, as it demonstrated strategic and site-specific merit.</p> <p>29 March 2022 – The Panel determined that the proposal was not</p>

Element	Description
	<p>consistent its decision of 26 August 2020, and that amendments were necessary, followed by a further briefing report.</p> <p>May 2022 – Updated Planning proposal submitted by proponent.</p> <p>4 November 2023 – Panel determined that the planning proposal be submitted to the Department for Gateway assessment, and that no further updates are required.</p> <p>24 November 2023 – Gateway Determination issued.</p> <p>15 December 2023 – Planning proposal submitted to the Department for exhibition.</p> <p>31 January 2024 to 28 February 2024 – Public exhibition.</p> <p>13 February 2024 – Tweed Byron Local Aboriginal Land Council (TBLALC) provides submission.</p> <p>28 February 2024 – Tweed Shire Council provides submission.</p> <p>6 March 2024 – NSW Rural Fire Service provides submission.</p> <p>18 March 2024 – NSW Biodiversity Conservation and Science (BCS) provides submission.</p> <p>26 March 2024 – Proponent response to submission received.</p> <p>5 April 2024 – Proponent response to BCS received.</p> <p>1 May 2024 - TBLALC provided a second submission.</p> <p>8 May 2024 – Further response from BCS received.</p>
Finalisation date required by Gateway Determination	23 August 2024
Department contact:	Timothy Coorey – Planning Officer

1.1 The Site and local context

The planning proposal applies to a portion of 225 Terranora Road, Banora Point which is highlighted red in Figure 1 and is referred to in this report as the site. 225 Terranora Road, Banora Point is legally described as Lot 16 DP 856265 and is highlighted yellow in Error! Reference source not found. and is referred to in this report as the lot.

The lot has an area of 10.04 hectares. The site has an area of approximately 4.1 hectares and was previously used as a hard rock quarry with this land predominately cleared.

The site is located approximately 3.5 kilometres south-west of the Tweed Heads South commercial centre. The site has frontage to Terranora Road and adjoins large lot residential land to the north, north-east and north-west. Old Ferry Road and the Tweed River are to the south. A vegetated escarpment traverses the lot.

The lot is undulating, including an escarpment with a general north-east to south-east slope ranging from 10°- 30° with some isolated steeper sections. Dense vegetation covers the escarpment and does not form part of the proposed rezoning. A 10-metre-wide handle links the site with Terranora Road and provides vehicle access to the lot.



Figure 1: The site highlighted red and the lot highlighted yellow (source: Nearmap, July 2024)

1.2 Planning Proposal

Table 1 – Overview of planning proposal

Element	Description
Site Area	The site is approximately 4.1ha
Site Description	Part Lot 16 DP 856265
Proposal summary	<p>The site contains several zones under two different planning instruments, being the Tweed Local Environmental Plan 2000 and Tweed Local Environmental Plan 2014. The planning proposal seeks to introduce the entire site into the Tweed LEP 2014.</p> <p>The objectives of the planning proposal are to rezone the site and apply appropriate provisions to facilitate residential development under the Community Land Development Act 2021 with a non-residential lot managed in accordance with a vegetation management plan.</p>

Element	Description
	<p>To facilitate this objective the proposal seeks to amend the LEP provisions applying to the site by:</p> <ul style="list-style-type: none"> including it into the Tweed LEP 2014; rezoning it from part 7(d) Environmental Protection (Scenic/Escarpment) and part 1(c) Rural Living to R5 Large Lot Residential (R5); introducing a maximum FSR of 0.55:1; introducing a maximum building height of 9m; introducing a maximum minimum lot size of 1.3ha; and introducing a Class 5 acid sulfate soil classification. <p>The planning proposal also includes <i>‘a new additional local provision, or like control, may be required to enforce that the development will be undertaken under the Community Land Development Act 2021 and the non-residential lot will be managed as Community Land in accordance with an Environmental Management Plan’</i>.</p> <p>The planning proposal is supported by a development concept scheme which proposes (Figure 2):</p> <ul style="list-style-type: none"> the subdivision of the site into three residential lots with indicative building envelopes. It is intended the subdivision occur under the <i>Community Land Development Act 2021</i>; and the remainder of the lot will become a residue lot with an area of approximately 58,709m². This residue lot is not proposed to be rezoned under this planning proposal and is intended to be used for non-residential purposes.
<p>Relevant State and Local Planning Policies, Instruments</p>	<ul style="list-style-type: none"> North Coast Regional Plan 2041 Tweed Local Strategic Planning Statement Tweed Urban and Employment Land Release Strategy 2009 Tweed Rural Land Strategy 2036 Community Strategic Plan 2022-2032 Section 9.1 Ministerial Directions: <ul style="list-style-type: none"> 3.1 Conservation zones 4.2 Coastal management 4.3 Planning for Bushfire Protection State Environmental Planning Policies (SEPPs): <ul style="list-style-type: none"> SEPP (Resilience and Hazards) 2021 SEPP (Biodiversity and Conservation) 2021

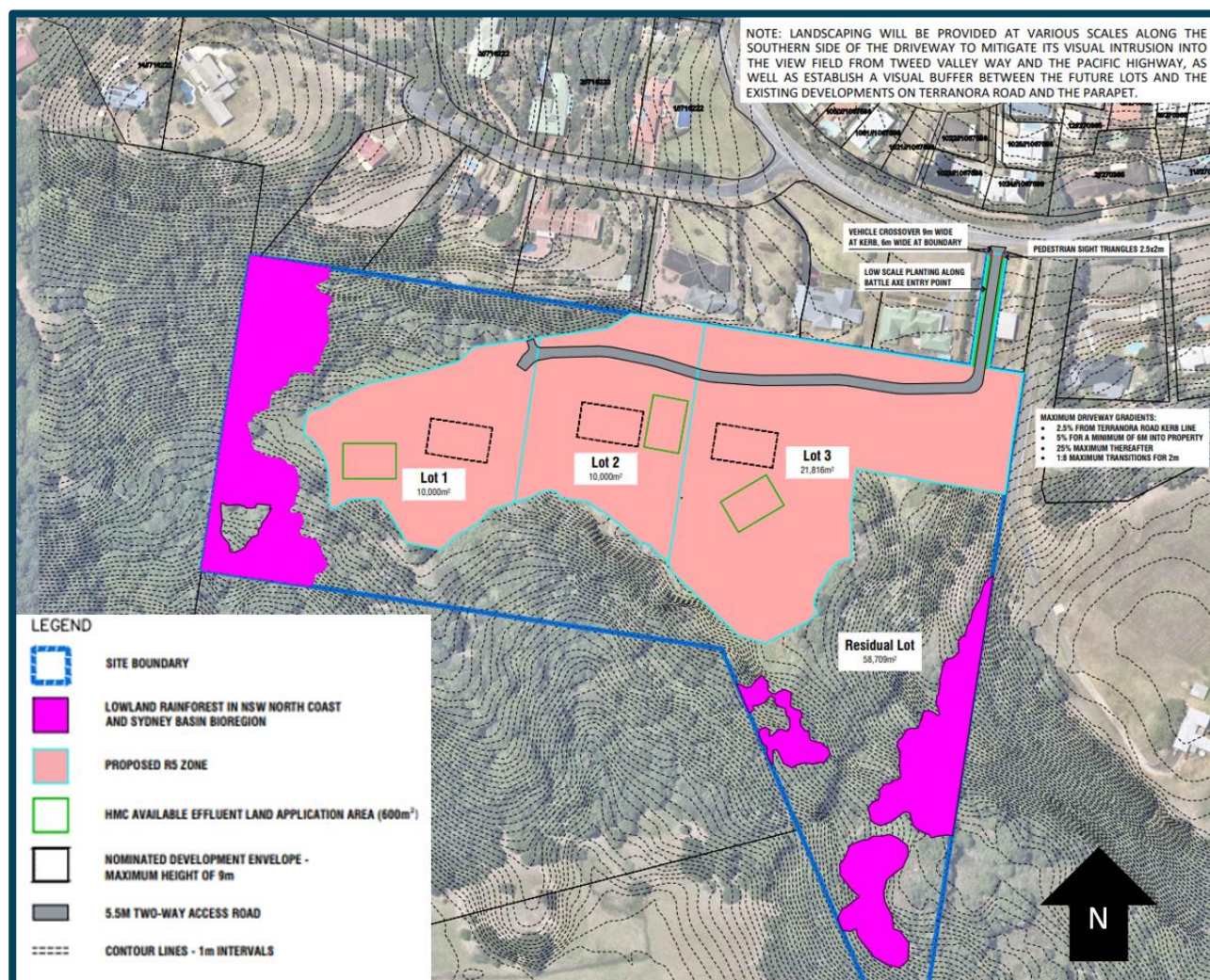


Figure 2 – Development Concept Scheme (source: Planning Proposal, January 2024)

The planning proposal (**Attachment A**) seeks to amend the Tweed Local Environmental Plan 2000 and Tweed Local Environmental Plan 2014.

The site contains several zones under two different planning instruments, being the Tweed Local Environmental Plan 2000 and Tweed Local Environmental Plan 2014.

The site is predominantly zoned 7(d) Environmental Protection (Scenic/Escarpment) with a small area zoned as 1(c) Rural Living under the Tweed LEP 2000 and a small portion of the site zoned R5 Large lot Residential under the Tweed LEP 2014. The planning proposal seeks to introduce the entire site into the Tweed LEP 2014. The remainder of the Lot will retain its existing zones under the two LEPs.

The existing and proposed LEP provisions for the site are described below in **Table 1**:

Table 2 – Current and proposed controls

Control	Current LEP provisions	Proposed Tweed LEP 2014 provisions
Land Application	Part Tweed LEP 2000 and part Tweed LEP 2014.	The site to be introduced into the Tweed LEP 2014

Control	Current LEP provisions	Proposed Tweed LEP 2014 provisions
Zone	<p>Tweed LEP 2000 –</p> <p>Part 7(d) Environmental Protection (Scenic/Escarpment) and 1(a) Rural and 1(c) Rural Living</p> <p>Clause 8 of the LEP does permit development where specific requirements around site suitability, community need, local character and employment generation are satisfied.</p> <p>Tweed LEP 2014 –</p> <p>R5</p>	<p>R5 Large Lot Residential</p> <p>NB: The remainder of the lot outside the site will retain the 7(d) Environmental Protection (Scenic/Escarpment) and 1(c) Rural Living under the Tweed LEP 2000 and a small portion to the southern side of the lot will remain RU2 Rural Landscape under the Tweed LEP 2014.</p>
Maximum height of the building	<p>Tweed LEP 2000 –</p> <p>No maximum height of building controls</p> <p>Tweed LEP 2014 –</p> <p>9m</p>	<p>9m maximum building height</p>
Maximum floor space ratio (FSR)	<p>Tweed LEP 2000 –</p> <p>No maximum FSR</p> <p>Tweed LEP 2014 –</p> <p>0.55:1</p>	<p>0.55:1</p>
Minimum lot size	<p>Tweed LEP 2000 –</p> <p>Clause 20(2) - minimum 40ha.</p> <p>Clause 20(3) - consent may be granted to the subdivision of land where an allotment to be created is less than 40 hectares, if the consent authority is satisfied that the allotment will be used for a purpose, other than for an agricultural or residential purpose, for which consent could be granted.</p> <p>Tweed LEP 2014 –</p> <p>Part 40ha and part 1ha.</p> <p>Clause 4.2A 'Area A' applies to the land with a 1ha minimum lot size. This provision allows for a reduction in the minimum lot size to 0.4ha if the consent authority is satisfied the site:</p> <ul style="list-style-type: none"> • will be adequately connected to a water reticulation system or a rainwater tank; • will be adequately connected to the Council's sewage reticulation system; and 	<p>1.3ha</p>

Control	Current LEP provisions	Proposed Tweed LEP 2014 provisions
	<ul style="list-style-type: none"> will not jeopardise the semi-rural character and environmental values of the area. 	
Local Provisions	N/A	Insert a new local provision or the like, to enforce that the development will be undertaken under the <i>Community Land Development Act 2021</i> and the non-residential lot (proposed residue lot in Figure 2 of this report) will be managed as Community Land in accordance with an Environmental Management Plan.

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

1.2.1 Mapping

The below maps show the current and proposed maps (**Figures 3 to 8**):

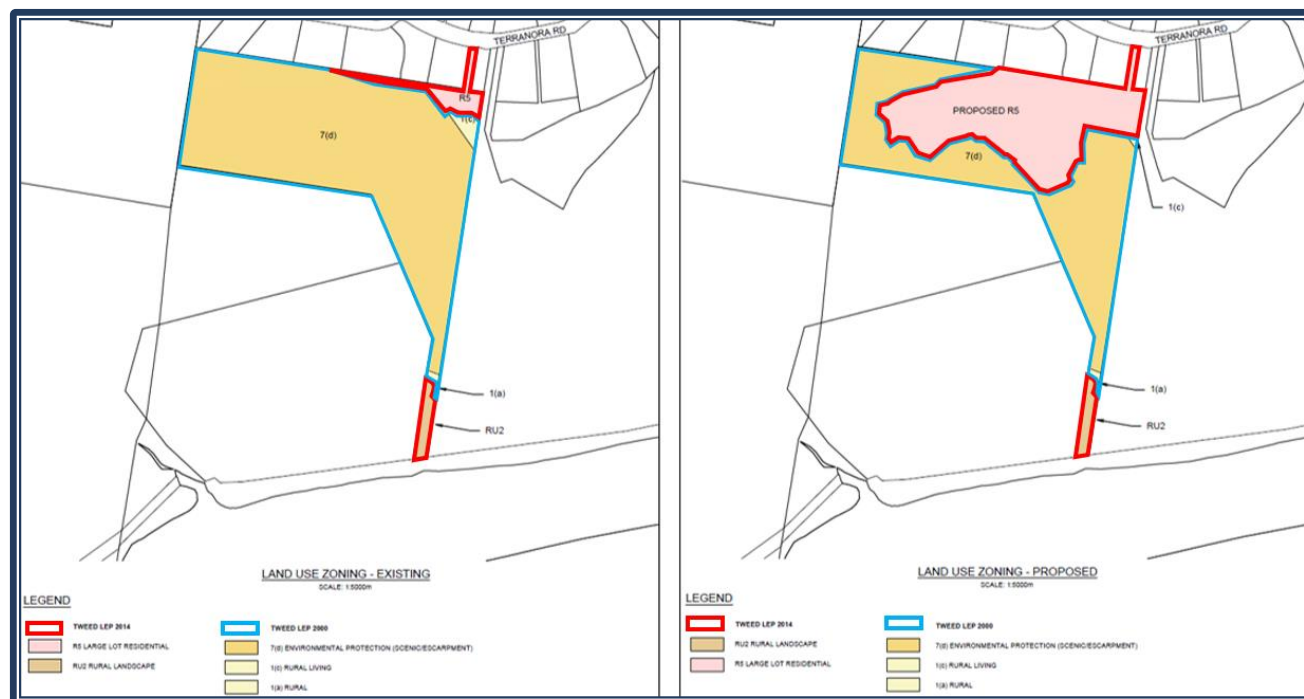


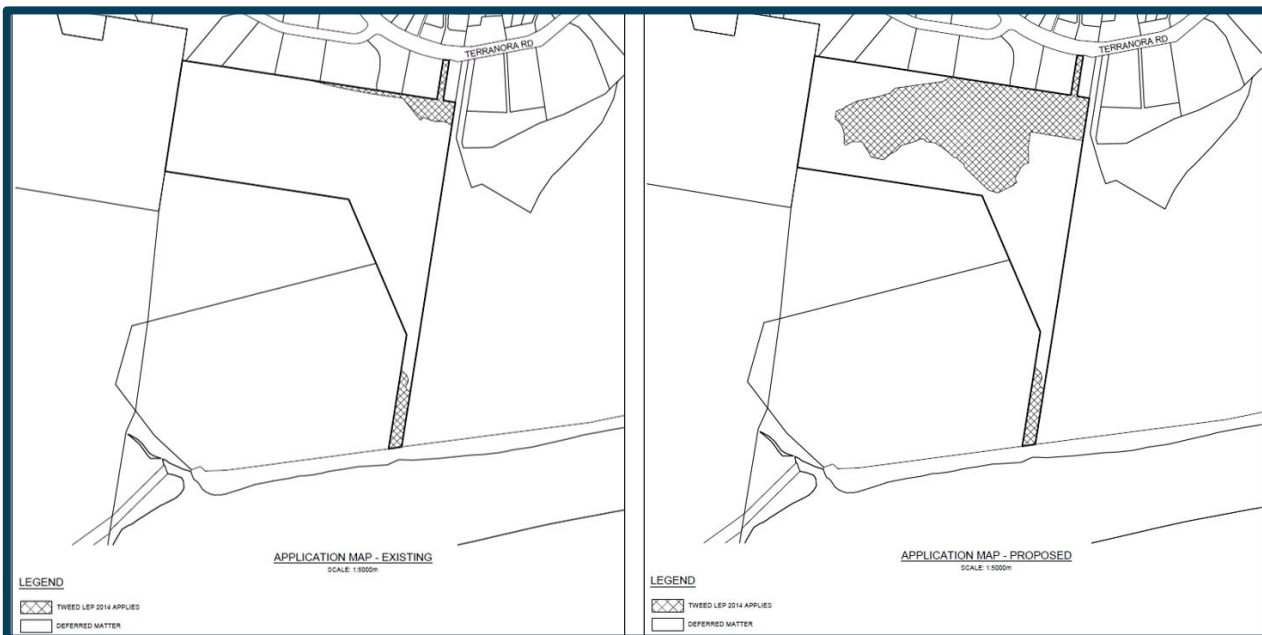
Figure 3: Existing (left) and proposed (right) zoning maps (source: planning proposal, 2024)



Figure 4: Existing (left) and proposed (right) minimum lot size maps (source: planning proposal, 2024)



Figure 5: Existing (left) and proposed (right) building height maps (source: planning proposal, 2024)



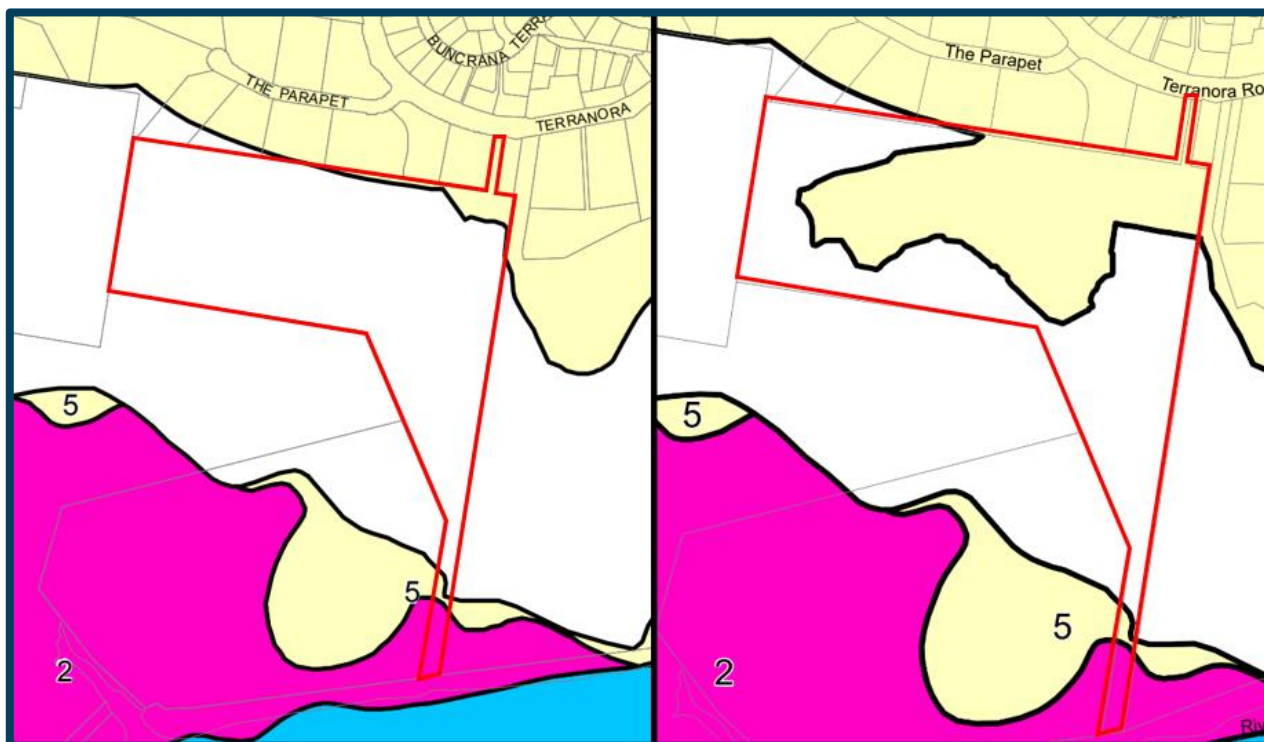


Figure 8: Existing and proposed acid sulfate soil map (source: the Department's Planning Proposal Authority Team draft LEP maps, 2024)

1.3 Rezoning Review

On 26 August 2020, the Panel considered the planning proposal and determined that the proposal had merit and should proceed to Gateway subject to conditions (**Attachment B**).

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

In March 2022, the planning proposal was referred to the Panel again to consider whether the revised proposal and supporting information met the conditions of the rezoning review decision. The Panel determined the proposal was not consistent with its original decision and required further revision and supporting information to be provided before the planning proposal could be considered for a Gateway determination (**Attachment C**).

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

On 25 October 2023, the Panel reconvened and confirmed that the proponent's revised documentation adequately addressed the Panel's decision and could now be lodged for a Gateway determination (**Attachment D**). As part of this decision the Panel appointed itself as the planning proposal authority (PPA) and requested that when drafting the amendments to the Tweed LEP 2014 it is made clear the proposed subdivision must be undertaken under the Community Land Development Act 2021 and the non-residential lot is to be managed as Community Land in accordance with an Environmental Management Plan.

On 6 November 2023, the proposal was submitted to the Department for a Gateway determination.

1.4 Gateway determination

The Gateway determination issued on 24 November 2023 (**Attachment E**) determined that the proposal should proceed subject to the following conditions:

1. *'Prior to community and agency consultation, the proposal is to be amended to:*
 - a. *apply a 1.3ha minimum lot size to the proposed R5 Large Lot Residential zone area;*
 - b. *clarify that the development will be undertaken under the Community Land Development Act 2021 and the non-residential lot will be managed as Community Land in accordance with an Environmental Management Plan; and*
 - c. *include maps that show the current and proposed height of building controls, floor space ratio controls and minimum lot size controls, and a proposed land application map.*
2. *Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Environmental Planning and Assessment Act 1979 (the Act) as follows:*
 - a. *the planning proposal is categorised as standard as described in the Local Environmental Plan Making Guidelines (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 20 working days; and*
 - b. *the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Local Environmental Plan Making Guidelines (Department of Planning and Environment, 2021).*
3. *Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:*
 - *NSW Rural Fire Service; and*
 - *Biodiversity and Conservation Division (now Biodiversity, Conservation and Science).*

Consultation is also required with the following organisations:

- *Tweed Byron Local Aboriginal Land Council; and*
- *Tweed Shire Council.*

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal.

4. *A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).*
5. *The LEP should be completed on or before 9 months after the Gateway determination date'.*

Prior to exhibition, the planning proposal was revised to include clarification addressing Gateway Condition 1 (b) that 'A new additional local provision, or like control, may be required to enforce that the development will be undertaken under the Community Land Development Act 2021 and the non-residential lot will be managed as Community Land in accordance with an Environmental Management Plan.'

This will ensure that an environmental management plan is put in place and will apply to future development on the site.

The local plan making authority will define the wording of the required local provision when finalising the planning proposal.

All conditions of the Gateway determination have been met (**Attachment F**).

2 Community Consultation

2.1 Public Exhibition

On 29 January 2024, the former Agile Planning Team (now PPA Team) advised the Panel that the proposal have been satisfactorily amended to meet the Gateway Conditions for public exhibition to commence (**Attachment G**).

In accordance with the Gateway determination, the planning proposal and supporting material were publicly exhibited on the NSW Planning Portal for a minimum 20 working days, from 31 January 2024 to 28 February 2024.

3 Submissions

3.1 Submissions during exhibition

A total of six submissions were received during the exhibition period, including:

- one from the community objecting to the proposal;
- one from the proponent objecting to the proposal because of the proposed 1.3ha minimum lot size;
- three from government agencies, including an objection from Biodiversity, Conservation and Science (BCS) group; and
- a submission from Council.

A table outlining the Proponent's and the Department's PPA Team's responses to submissions is provided at **Attachment J**. The proponent's response to submissions is provided at **Attachment M**.

3.1.1 Submissions from the community

A single community submission was received objecting to the planning proposal (**Attachment H**), which included concerns with:

- contaminated land risking the environment and health;
- sewerage runoff;
- impacts on the Tweed River;
- damage to the ecosystem; and
- road safety and traffic.

An assessment of the community submission is at **Attachment I**.

No issues raised in the community submission prevents the progression of the planning proposal to finalisation.

3.1.2 Submission from the proponent

A submission was received from the proponent objecting to the proposal because:

- of the proposed 1.3ha minimum lot size; and
- exclusion of the site from Clause 4.2A 'Area A' of the Tweed LEP 2014.

Nonetheless, the proponent's submission clarifies that they do not wish to withdraw the current planning proposal, but rather that it should be amended post-exhibition to apply:

- a minimum lot size of 1ha; and
- Clause 4.2A 'Area A' of the Tweed LEP 2014.

An assessment of the submissions made by the proponent (**Attachment I**) is included in **Attachment J** and discussed in **Section** Error! Reference source not found. **of this report**.

No issues raised by the proponent prevent the progression of the planning proposal to finalisation.

3.1.3 Submissions from Government Agencies

In accordance with the Gateway Determination, the following agencies were consulted:

- NSW Rural Fire Service;
- Biodiversity and Conservation Division (now BCS); and
- Tweed Byron Local Aboriginal Land Council.

All agencies consulted made a submission. An assessment of the submissions made by agencies (**Attachment K**) is included in **Attachment J** and discussed in **Section** Error! Reference source not found. **of this report**.

No issues raised by agencies prevent the progression of the planning proposal to finalisation.

3.1.4 Submission from Council

In accordance with the Gateway Determination, Tweed Shire Council was consulted on the planning proposal.

A submission was received from Tweed Shire Council (**Attachment L**) which raised concerns with the proposal, including:

- written statement under Parts 2 and 4 of the planning proposal may be read as inconsistent with the mapping and should be corrected throughout the document; and
- requires that C2 Environmental Conservation zone is applied to land described as 'a residue lot of the remaining land, which is intended to be primarily used for conservation purposes'.

An assessment of the issues raised by the Council is included in **Attachment J** and outlined in **Section** Error! Reference source not found. **of this report**.

No issues raised by Council prevent the progression of the planning proposal to finalisation.

3.1.5 Representation from Parliamentary Members

To the team's knowledge, no member of parliament has made any written representations regarding the proposal.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

3.2 Key Issues from submissions

The key issues raised during community and agency consultation are discussed in detail below, including the proponent's and PPA Team's responses.

3.2.1 Issue – C2 Environmental Conservation Zoning

Council's submission:

Council noted that a previous planning proposal was recently completed, bringing C2 and C3 Environmental Management (C3) zones into the Tweed LEP 2014. Council stated that a C2 zone should be applied to the land described as '*a residue lot of the remaining land, which is intended to be primarily used for conservation purposes*'.

Biodiversity, Conservation and Science (BCS) submission dated March 2024:

BCS's first submission stated that the scope of the planning proposal and planning area should be expanded to consider appropriate land use zones over the entirety of the lot, particularly the areas of high ecological value. BCS stated that any areas mapped as Vegetation Community 2, 3 and 4 and identified as a threatened ecological community across the lot should be rezoned to C2. They also requested a revised Terrestrial Flora and Fauna Assessment be prepared to assess high environmental value (HEV) areas on the lot.

Proponent's Response:

The Proponent's has in-principal supported the inclusion of conservation zoning/s beyond the proposed R5 footprint, where:

- compliant with the methodology detailed within the Northern Council's E Zone Review – Final Recommendations Report; and
- the mapping does not unreasonably delay the progress of the planning proposal.

The proponent notes that the site has been excluded from Council's 'Stage 1' Conservation Zone mapping area and the proponent has not received the proposed conservation mapping from Council as it relates to the Lot. As such, there is no clarity around what conservation zoning, or combination of zoning, may apply to the site.

The proponent does not consider it appropriate to include the mapping at this time, void of a review process and has raise concern that doing so would trigger an amended Gateway Determination and re-exhibition of the planning proposal.

Portions within the lot that are identified as containing high environmental value land are currently 'zoned' for conservation, by virtue of the 7(d) Environmental Protection zone application within the Tweed LEP 2000. Further, these areas are outside the extent of the planning proposal. Accordingly, no inconsistency with the North Coast Regional Plan 2041 is identified; and whilst the C2 and C3 zones have been included within the Tweed LEP 2014, their inclusion has been limited to the respective land use tables.

The Proponent encourages Council to undertake and advance this work to uphold a contemporary legislative framework. In doing so, consistent application of environmental matters throughout the Tweed LEP 2014 are facilitated. It is not identified as appropriate to expand the scope, investigations or timeline of this planning proposal to include or pre-empt these broader considerations, particularly whilst an established Environmental Protection zone is in place.

BCS submission dated May 2024:

In response to the proponent's submission, BCS provided a further submission which objected to the progression of the planning proposal, because it does not include conservation zones for areas of HEV land containing threatened ecological communities, which are located outside the proposed R5 zone, and therefore is not consistent with the North Coast Regional Plan 2041.

This BCS submission also states that its objection would be reconsidered if the planning proposal was amended to apply the C2 zone to HEV land outside the proposed R5 zone.

PPA Team Response:

The PPA team does not recommend the application of a C2 zoning to the remainder of the lot, because:

- *Ministerial Direction 3.4 - Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs* requires that the application of either a C2 or C3 zone must be applied in accordance with the *Northern Councils E Zone Review Final Recommendations (the Recommendations Report)*. The recommendations include criteria which must be adequately verified and procedural steps which must be addressed for a C2 zone to be applied, including:
 - a detailed evidence base confirming the land satisfies the established criteria, including ecological significance. This includes clearly identifying how the proposed C2 zone satisfies the criteria. Neither Council nor BCS have provided any assessment justifying the proposed C2 zone against the Recommendation Report criteria;
 - early engagement with landowners when preparing a proposal to apply conservation zones to private land; and
 - consideration being given on whether the proposed conservation zoning in this instance should be publicly exhibited given *the Recommendations Report*.

Were the Panel to support the application of the C2 zone, the landowner would need to be notified for a minimum period of 28 days following a post-exhibition decision during which time they can request an independent review of the decision by the Department of Planning, Housing and Infrastructure. This independent review will be based on the evidence provided justifying the application of the proposed C2 zone.

Council is currently undertaking a comprehensive review to appropriately identify and map conservation zones as a part of a separate planning proposal, known is understood to be currently known as Stage 2 Conservation Zone Mapping Proposal. This process will provide for a comprehensive and consistent application of C2 and C3 zones across the LGA. This planning making process will be informed by consultation with BCS and the community. It's understood Council is working towards a submission for Gateway in 2025;

- the remainder of the lot in question is appropriately zoned 7(d) Environmental Protection (Scenic/Escarpment) with the Tweed LEP 2000 preventing agricultural and residential development of this land under clause 20(3). This provides adequate protections for any HEV land in conjunction with the proposed new local provision; and
- the planning proposal identifies the proposed subdivision as being undertaken under the *Community Land Development Act 2021*. This allows for the appropriate protection and management of the residue lot and any HEV land through the development application process. It is also noted that BCS's submission includes refinements to the flora and fauna assessment to inform the future management of the residue lot.

The recommended approach is for Council to continue to undertake a comprehensive review of Tweed LEP 2014 Conservation zones, in a separate planning proposal to allow for a wholistic review and assessment of the site's conservation attributes in accordance with the requirements of *the Recommendations Report*.

3.2.2 Issue – Minimum lot size

Proponent's submission:

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:

- Council's Tweed Growth Management and Housing Strategy (GMHS) Draft Options Paper¹, 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.

Council's GMHS Draft Option Paper notes:

- 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;
- current minimum lot size requirement is 0.4ha if connected to Council's water and wastewater system; and
- a reduction in MLS would provide opportunity to provide additional housing, yet on allotments substantially larger than the 450m² minimum lot size for most residential zoned land.

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;

- 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:
 - was not supported by any form of visual impact assessment;
 - includes a total building footprint area of 2,460.65m² and a further 6,813m² of non-permeable area within a singular building footprint; and
 - includes a 6m wide landscape buffer as the sole means of visual softening from the broader public view fields.
- 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 land, or 0.4ha minimum lots size where connected to reticulated sewer (Clause 4.2A); and
- 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

¹ 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 draft Options Paper proposing ten (10) key themes related to the identified growth aspirations and challenges for the Tweed. The Options Paper also provides a vision for each theme, accompanied by associated planning principles which set the desired land use policy direction. These in turn have informed the development of proposed changes (options), which have been developed to respond to and manage anticipated growth in the Tweed Shire through to 2041.

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.

PPA Team Response:

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, being three residential lots and one residue lot for non-residential purposes. The Panel's rezoning review decision also noted that future development should minimise visual intrusion on the Terranora escarpment from both the north and south.

This was subsequently given further effect by the Gateway determination 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.

It is also considered that the increase in development potential through applying Clause 4.2A 'Area A' may require the re-exhibition of the planning proposal, because this may facilitate up to an additional 7 residential lots on the site.

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 planning proposal can be considered under Council's separate GMHS process. It is understood Council is working to finalise a final GMHS Options Paper in the second half of 2024.

4 Next Steps

The Department is the Local Plan-Making Authority (LPMA) for this planning proposal.

The Panel's decision and the final planning proposal will be submitted to the Department through the NSW Planning Portal for finalisation.

The Department will prepare a finalisation report in accordance with the LEP Making Guidelines (August 2023) and will determine whether to make the LEP, with or without variation. The Department may make post-exhibition amendments which differ to the Panel's post-exhibition decision, defer the inclusion of a matter in the proposed LEP or not make the LEP.

In accordance with section 3.36(1) of the Act, the Department will organise drafting of the LEP and finalisation of maps and will consult the Panel on any draft instrument.

5 Recommendation

Based on this post-exhibition report, it is recommended that the Panel determine that the planning proposal should be submitted to the Department for finalisation without amendment to be made.

The planning proposal is considered suitable for finalisation and to be made, because:

- it demonstrates strategic and site specific merit;
- the conditions of the Gateway have been met;
- agency and community consultation has occurred in accordance with the Gateway determination; and

- community and agency submissions have been adequately addressed.

5.1 Attachments

Attachment A – Planning Proposal and attachments (January 2024)

Attachment A1 – Visual Impact Assessment (December 2022)

Attachment A2 – Draft Environmental Management Plan

Attachment A3 – Community Management Statement

Attachment A4 – Terrestrial Flora and Fauna Assessment (March 2023)

Attachment A5 – Ecological Assessment of Northern Councils' E Zone Review (Oct 2022)

Attachment A6 – Water Supply Assessment (May 2023)

Attachment A7 – On-Site Sewage Management Assessment (March 2023)

Attachment A8 – Preliminary Site Investigation (April 2023)

Attachment A9 – Northern Rivers Contaminated Land Summary (September 2021)

Attachment A10 – Traffic Impact Assessment (May 2023)

Attachment A11 – Strategic Bushfire Study (April 2023)

Attachment A12 – Aboriginal Heritage Impact Management System search (May 2023)

Attachment A13 – Zone Comparison (May 2023)

Attachment B – Rezoning Review Record of Decision (August 2020)

Attachment C – Pre-Gateway Record of Decision (March 2022)

Attachment D – Pre-Gateway Record of Decision (November 2023)

Attachment E – Gateway Determination (November 2023)

Attachment F – Assessment Against Gateway determination

Attachment G – Authorisation of exhibition (January 2024)

Attachment H – Community submission

Attachment I – Proponent's submission

Attachment J – Summary of submissions and responses

Attachment K – Agency submissions

Attachment L – Council submission

Attachment M – Proponent response to submissions



13 August 2024

Alexander Galea

Manager, Planning Proposal Authority



(Signature)

22/8/24_____
(Date)

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