

BCS Comment	Planning Commentary / Response
<p>Based on our review, further work is required on the planning proposal including:</p> <ul style="list-style-type: none"> • updating the flora and fauna studies with current biodiversity information about the planning area, 	<p>As identified within the Updated Terrestrial Flora and Fauna Assessment, additional ecological assessment, including site inspection, was undertaken in 2023. Through ecological review, the specific footprint of the Planning Proposal (PP) has not been identified as containing areas of high environmental value. Accordingly, no change to the PP, as it relates to ecological assessment, is identified as warranted.</p>
<ul style="list-style-type: none"> • applying conservation zones to areas of confirmed high environmental value land, and 	<p>The PP applies to a discreet portion of 225 Terranora Road, Banora Point (the subject site) which has not been identified as possessing high environmental value land. As identified within the Updated Terrestrial Flora and Fauna Assessment, as well as Attachment A05 - Ecological Assessment of Northern Council's E Zone Review, none of the land subject to the PP aligns with the Northern Council's E Zone Review Final Recommendations Report criteria for conservation zoning. Accordingly, the imposition of a conservation zoning to this land is not consistent with Ministerial Direction 3.4.</p> <p>Outside the footprint of the PP, vegetation of high environmental value has been identified. This land is already 'zoned' for conservation, by virtue of an existing application of the 7(d) Environmental Protection zone within the <i>Tweed Local Environmental Plan 2000</i>.</p> <p>As previously advised and 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 beyond the proposed R5 Large Lot Residential footprint, where:</p> <ul style="list-style-type: none"> • 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 PP. <p>During this on-site meeting, the various key stakeholders walked the land identified for R5 Large Lot Residential zoning and raised no concern 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</p>

	<p>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. 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>
<ul style="list-style-type: none"> addressing the 30m ecological setbacks from threatened ecological communities required by the Tweed Development Control Plan 2008 Section A19 Biodiversity and Habitat Management. 	<p>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.</p> <p>We acknowledge the comments made will need to be addressed within any future Development Application lodged with Tweed Shire Council. We confirm that the referred DCP also facilitates variations to the prescribed buffer guidelines where practical. We also acknowledge that it would be an error and directly against the planning framework to apply buffer guidelines through a land use zoning.</p> <p>Accordingly, no change to the PP, as it relates to applying new conservation zones, is identified as warranted.</p>
<p>Given the planning proposal does not include conservation zones for areas of high environmental value land containing threatened ecological communities, BCS objects to the planning proposal in its current form as it does not accord with the North Coast Regional Plan 2041.</p>	<p>Portions within the subject site 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 <i>Tweed Local Environmental Plan 2000</i>. Further, these areas are outside the extent of the PP. Accordingly, no inconsistency with the North Coast Regional Plan 2041 is identified. Further, no change to the PP, as it relates to applying 'new' conservation zones, is identified as warranted.</p>
<p>In summary, BCS recommends that:</p> <ol style="list-style-type: none"> 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>As previously advised and 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 beyond the proposed R5 Large Lot Residential footprint, where:</p> <ul style="list-style-type: none"> compliant with the methodology detailed within the Northern Council's E Zone Review – Final Recommendations Report, and

	<ul style="list-style-type: none"> the mapping does not unreasonably delay the progress of the PP. <p>During this on-site meeting, the various key stakeholders walked the land identified for R5 Large Lot Residential zoning and raised no concern 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 <i>Tweed Local Environmental Plan 2014</i>, 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. 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 <i>Tweed Local Environmental Plan 2014</i> 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 at this time, 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>
<p>2. The flora and fauna assessment for the planning proposal be updated with contemporary biodiversity information on the biodiversity values of the planning</p>	<p>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>

<p>area to map areas of high environmental value land.</p>	
<p>3. Based on the information currently provided in the planning proposal:</p> <p>a. the areas mapped as Vegetation Community 4 and identified as a threatened ecological community (i.e. an area of high environmental value) in 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>	<p>As previous, 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"> 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 PP. <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 Environmental Protection zoning under the <i>Tweed Local Environmental Plan 2000</i>.</p> <p>Accordingly, no change to the PP, as it relates to applying new conservation zones, is identified as warranted.</p>
<p>4. The planning proposal be revised to</p> <p>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</p> <p>b. demonstrate how the planning proposal will ensure future development can avoid these ecological setback areas.</p>	<p>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.</p> <p>Accordingly, no change to the PP, as it relates to applying alternate zone footprints are identified as warranted.</p>

225 Terranora Road – Submissions & Response

TBLALC

Whilst no Aboriginal Heritage Information Management System (AHIMS) registered Aboriginal Objects or Places are located within 200m of 225 Terranora Road, 7x sites are located within 1km.

There are two 'predictive' polygons that, in part, overlap the property - Terranora Ridgeline and River Road. There is also a 'known' polygon that overlaps a part of the property, which encompasses four AHIMS registered sites - not on the property.

Rezoning of the property will not, in itself, harm ACH but the future development of the rezoned property, which is the ultimate purpose of the rezoning, potentially will.

Therefore, the Cultural Heritage Unit of the Tweed Byron Local Aboriginal Land Council strongly agrees, and requests, that the Gateway determination for the site require an Aboriginal Cultural Heritage assessment to occur prior to exhibition of the planning proposal.

Response

The Planning Proposal (PP) applies to a discreet portion of 225 Terranora Road, Banora Point (the subject site). Whilst it is acknowledged that the surrounding locale includes an Aboriginal Place of Heritage Significance and Aboriginal Objects, these attributes are not found within the footprint of the PP.

As identified within the submission, the augmentation of the Large Lot Residential zone does not harm Aboriginal cultural heritage, rather, creates a framework for residential-based land use. 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 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.

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. Accordingly, no change to the PP, as it relates to heritage, is identified as warranted.

Tweed Shire Council

Reiterate that the current Council resolution with respect of the planning proposal site is to support a two lot subdivision.

Acknowledge that the current planning proposal is in line with the Planning Panel decision to support a 3-lot residential subdivision and residual lot for conservation and environmental management.

To improve consistency with the intended outcome, the following amendments are recommended:

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 statement under Parts 2 and 4 as appended above may be read as inconsistent with the mapping and should be corrected throughout the document.

2. Secondly, Council's Sustainability & Environment (S&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".

Response

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.

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.'

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:

- 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 PP.

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.

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. 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.

NSW Rural Fire Service

The strategic study for the site reflects this establish urban form and the future residential development that the planning proposal enables. Further it is accepted that the state and local governments are forecasting future services to facilitate urban growth in the locality including improved regional roads and water supply.

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).

Response

The commentary is noted and no change to the PP, as it relates to bushfire, is identified as warranted.

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.

Community Submission 1

First and foremost, the land in question is contaminated due to its previous use as a quarry and the presence of old machinery buried on the site. This contamination poses a significant risk to both the environment and public health, and any development on this land would only exacerbate the problem.

Furthermore, the proposed development will not be connected to the town of sewage, which means there would be no provisions for sewage runoff. This lack of infrastructure could lead to serious pollution of the surrounding area, particularly given the proximity of the site to the Tweed river. The soil in this area is not suitable to absorb runoff, further increasing the risk of contamination.

During heavy rain periods it is a natural runoff into the river, any contamination whether it be sewage or other contaminants they will end up in the river.

In addition, the proposed development site is too close in proximity to the Tweed river, which is a vital ecosystem that must be protected. The presence of any development in this area would pose a threat to the river's water quality and wildlife, including the prolific wildlife and birds that inhabit the region.

Lastly, the escarpment in the area needs to be preserved for the sake of the environment and the diverse wildlife that call it home. Any development on this land would disrupt the natural habitat and endanger the local ecosystem.

Moreover, the road leading to this development is Terranora Rd, which is already in poor condition and given the width of the road is not equipped to handle additional traffic. The proposed development would result in at least 60 extra cars using Terranora Rd in the morning and evening, calculated by 15 houses would be a considerable amount of traffic further straining the road infrastructure and posing safety risks to residents and commuters. There are already numerous accidents on this road due to its width and parking of residents cars.

Response

The PP is accompanied by a historic Detailed Site Investigation, as well as a contemporary Preliminary Site Investigation, which considers whether the site is contaminated, and its suitability for residential use.

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. Accordingly, no amendment to the PP, as it relates to contamination, is proposed or considered warranted.

Post PP, any future Development Application/s to pursue formal works 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.

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. Accordingly, no amendment to the PP, as it relates to essential services, is warranted.

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 not identified any notable impacts by the PP on the Tweed River or its environs. Accordingly, no amendment to the PP, as it relates to ecology, is warranted.

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 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 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.