

Planning Proposal PP23/0001
Introduction of the C2 Environmental Conservation
and C3 Environmental Management zones to Tweed
Local Environmental Plan 2014

Version 3 for Exhibition
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Background

Since publication of the *Northern Council's E Zone Review Final Recommendations Report* (the Final Recommendations) in 2016, Tweed Shire Council has been actively undertaking a contemporary review of the way land use zones in the Tweed Local Environmental Plans (LEPs) are used for protection of environmental values. This includes a strategic review of where conservation zones should apply to land, and development of the C2 Environmental Conservation and C3 Environmental Management zone land use tables.

The spatial land application zoning review is being undertaken in two stages. Stage 1 (Tweed Coast) includes all public and private land east of the Pacific Motorway, and areas west of the motorway in the suburbs of Banora Point, Chinderah, Cobaki, Tweed Heads West, Piggabeen and some parts of Bilambil Heights and Terranora. Draft zone mapping has been produced for the Stage 1 area, and during 2022 Council carried out informal consultation with landowners who are directly affected by a change in zone on the Stage 1 draft mapping. Feedback was also sought on Council's methodology for applying conservation zones to land, and the proposed zone objectives and land use permissibility.

On 6 October 2022 Council received and noted a submission review report and resolved to progress drafting of a planning proposal. On 16 March 2023, Council resolved to separate the administrative introduction of the conservation zones from the spatial application of zones to land and submit this planning proposal seeking introduction of the C2 and C3 land use tables to the Tweed Local Environmental Plan 2014.

Part 1 Objectives and intended outcomes

Objective

To amend the Tweed Local Environmental Plan (LEP) 2014 to introduce the C2 Environmental Conservation and C3 Environmental Management zones. This planning proposal does not propose the spatial application of conservation zones to any land.

This planning proposal is the first of a staged series of planning proposals intended to apply conservation zones across the Tweed local government area and integrate the land that was deferred under the Northern Council's E Zone review into the Tweed LEP 2014.

Intended Outcomes

When the Tweed LEP 2014 was made, the C1 National Park zone was included in the land use table in Section 2.1, however the remaining conservation zones described in the Standard Instrument LEP were omitted. This was a direct result of the Department of Planning's 2012 – 2016 review of the application of environmental protection zones and consequential deferral of land proposed for such zoning.

Since that time, no conservation zones have been available for use on private land regulated by Tweed LEP 2014. Nonetheless, Council receives regular enquiries from land holders and developers on how they can progress with an application to rezone land where conservation zones are required to achieve appropriate development outcomes on sites with high conservation value land.

To date, Council's approach has been to enter into Voluntary Planning Agreements which support the application of an interim alternative zone to those areas, whilst guaranteeing their protection and/or restoration, and ensuring it will be transferred to the appropriate conservation zone when those zones become available within the Tweed LEP 2014. That process is resource and financially intensive on both Council and proponents, and the Department of Planning has advised it will be unlikely to support the use of that approach within future planning proposals.

Council is progressing with its comprehensive review of the application and use of zoning for environmental protection across the local government area in accordance with the Final Recommendations. The original intention was the submission of a comprehensive Stage 1 planning proposal seeking to introduce the C2 and C3 zones into the land use table under Section 2.1 of the Tweed LEP 2014 and apply zones to all relevant land on the Tweed Coast. A Stage 2 planning proposal would have entailed the application of conservation zones across the remainder of the LGA.

The process for applying conservation zones to land and amending the LEP accordingly is technically and administratively complex and involves a significant number of landholders, therefore takes a long time to progress. Council has not advanced as efficiently through this process as was originally expected, therefore the intended outcome of this planning proposal is to expedite part of the overall Tweed Conservation Zone Review process to:

- Introduce the C2 Environmental Conservation and C3 Environmental Management zones to the list of available land use zones under Section 2.1 and to include relevant provisions for each of those zones within the Land Use Table at the end of Part 2.
- Facilitate effective and efficient development outcomes through the practical application of the C2 Environmental Conservation and C3 Environmental Management land use zones to high conservation value and other appropriate land during landowner initiated rezonings.

Part 2 Explanation of provisions

The intended outcomes will be achieved by amending the Tweed Local Environmental Plan 2014 as follows:

- Addition of C2 Environmental Conservation and C3 Environmental Management to the list of available land use zones under Section 2.1, and
- Addition of relevant provisions for each of those zones within the Land Use Table at the end of Part 2.

Having regard to the Final Recommendations along with the environmental characteristics and development history of the Tweed local government area, Council proposes that conservation zones be introduced to the Tweed LEP 2014 as described below.

Zone C2 Environmental Conservation

The C2 zone is designed for use in areas of the Tweed with high conservation value that should be protected primarily for conservation purposes, particularly in areas experiencing high development pressure such as the Tweed Coast. Future planning proposals will seek to apply the C2 zone to coastal wetlands, littoral rainforests, endangered ecological communities, threatened species habitat, over-cleared vegetation communities and other land that meets the specific criteria outlined in the Final Recommendations.

The first two proposed objectives align with the Standard Instrument LEP mandatory objectives.

The intent of objective 3 is to clarify that the primary intent for land zoned as C2 is that it be set aside and protected, rather than considered in all instances appropriate for limited development.

Tweed Shire Council proposes a limited range of permissible land uses as a means of strengthening protection in the above areas, acknowledging the intended targeted application of the C2 zone to areas of highly significant value, and the limited range of permissible land uses in the equivalent existing environmental protection zones 7(a) Environmental Protection (Wetlands and Littoral Rainforests) and 7(l) Environmental Protection (Habitat).

In accordance with the Final Recommendations (Recommendation 14) *extensive agriculture* is to be 'permitted with consent' in the C2 zone.

Relevant provisions for the C2 Environmental Conservation zone within the Land Use Table at the end of Part 2 are proposed as follows:

Zone C2	Environmental Conservation
1	Objectives of zone
	<ul style="list-style-type: none"> To protect, manage, and restore areas of high ecological, scientific, cultural or aesthetic values.
	<ul style="list-style-type: none"> To prevent development that could destroy, damage or otherwise have an adverse effect on those value.
	<ul style="list-style-type: none"> To identify land set aside primarily for conservation and habitat restoration.
2	Permitted without consent
	Environmental protection works, Home occupations
3	Permitted with consent
	Bed and breakfast accommodation, Environmental facilities, Extensive Agriculture, Home-based childcare, Home business, Oyster aquaculture, Recreation areas, Roads
4	Prohibited
	Business premises, Hotel or motel accommodation, Industries, Local distribution premises, Multi dwelling housing, Pond-based aquaculture, Recreation facilities (major), Residential flat buildings, Restricted premises, Retail premises, Seniors housing, Service stations, Tank-based aquaculture, Warehouse or distribution centres. Any other development not specified in item 2 or 3.

Zone C3 Environmental Management

The C3 zone is designed to provide for the protection and management of areas with high ecological value in areas that would otherwise meet the C2 criteria, while recognising the need for flexibility in the use of that land through a broader range of compatible land uses, particularly in areas where established and lawful rural or agricultural uses are ongoing and mixed use outcomes may be sought.

The first two objectives align with the Standard Instrument LEP mandatory objectives.

The third objective had been drafted to provide further context to mandatory objectives 1 and 2, by emphasising the scale and types of permissible tourism and residential development that Council considers able to meet the mandatory objectives in areas of high ecological value. Areas of high ecological value in the Tweed are almost all exclusively bushfire prone, and many are flood affected. This objective emphasises the absolute need to mitigate risk from these and other natural hazards and require consideration of whether such protection can be achieved without detrimental environmental impacts.

The final drafted objective seeks again to provide context to the permissibility of agricultural uses in the C3 zone, which must be compatible with and complement vegetated or bushland settings and maintain or enhance those areas.

The proposed range of permissible uses for the C3 zone attempts to reflect, as closely as possible, the range of land uses that are permissible in the RU2 Rural Landscape zone. However, land uses that would not otherwise be contemplated in bushland areas are proposed to be prohibited in the C3 zone, for example, group homes due to bushfire risk; other

development types that cannot reasonably be carried out in a manner that is sympathetic to bushland settings and areas of high conservation value or require extensive clearing.

In accordance with the Final Recommendations, *extensive agriculture* is to be 'permitted without consent' in the C3 zone.

Relevant provisions for the C3 Environmental Management zone within the Land Use Table at the end of Part 2 is proposed as follows:

Zone C3	Environmental Conservation
1	Objectives of zone
	<ul style="list-style-type: none"> To protect, manage, and restore areas of high ecological, scientific, cultural or aesthetic values.
	<ul style="list-style-type: none"> To provide for a limited range of development that does not have an adverse effect on those values.
	<ul style="list-style-type: none"> To facilitate low scale tourism and residential development that has adequate protection from natural hazards and will not have detrimental impact on the environmental attributes.
	<ul style="list-style-type: none"> To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
2	Permitted without consent
	Environmental protection works, Extensive agriculture, Home occupations
3	Permitted with consent
	Bed and breakfast accommodation, Boat launching ramps, Boat sheds, Camping grounds, Cellar door premises, Dual occupancies (attached), Dwelling houses, Eco-tourist facilities, Environmental facilities, Farm buildings, Farm stay accommodation, Flood mitigation works, Forestry, Home-based child care, Home business, Home industries, Horticulture, Jetties, Kiosks, Oyster aquaculture, Pond-based aquaculture, Recreation areas, Research stations, Roads, Roadside stalls, Rural workers dwellings, Tank-based aquaculture, Water recreation structures, Water supply systems
4	Prohibited
	Industries, Local distribution premises, Multi dwelling housing, Residential flat buildings, Retail premises, Seniors housing, Service stations, Warehouse or distribution centres. Any other development not specified in item 2 or 3.

Inconsistencies with Tweed (City Centre) LEP 2012

The Tweed (City Centre) LEP 2012 was made prior to the DPE's E Zone Review. The C2 zone is therefore already in place in the Tweed LEP 2012.

The broader Tweed Conservation Zone Review Stage 1 has identified some changes to the spatial application of the C2 zone across the Tweed Heads area, and minor changes to the land use table are also required to align the zone objectives and schedule of permissible uses with the Final Recommendations.

The C2 land use table for Tweed LEP 2014 as proposed within this planning proposal is therefore not the same as the existing C2 land use table in Tweed (City Centre) LEP 2012.

Council's long-term objective is to combine its two primary LEPs, which would remove many existing inconsistencies between the land use tables and other provisions across the two

instruments. In the meantime, a separate single proposal to amend the statutory controls and the Tweed (City Centre) LEP 2012 map series will be submitted in tandem with the broader complex planning proposal that seeks application of the conservation zones to all Stage 1 land subject to Tweed LEP 2014.

The primary reason for separating amendments to the Tweed LEP 2014 statutory controls from the mapping in this planning proposal is to expedite the introduction of C zones for use in rezoning applications across land subject to TLEP 2014. The C2 zone is already in place in Tweed (City Centre) LEP 2012, so that immediate need does not exist. Seeking a single holistic amendment to the Tweed (City Centre) LEP 2012 at the same time as the application of conservation zones across the Stage 1 area is therefore preferred.

To date no land in the Tweed Heads area is considered appropriate for the C3 zone so there is no intention to introduce the C3 zone to the Tweed (City Centre) LEP 2012.

Part 3 Justification

Section A

Need for the planning proposal

1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

Yes. This planning proposal seeks to introduce conservation zones in accordance with the recommendations of the NSW Department of Planning and Environment in the *Northern Councils E Zone Review Final Recommendations Report 2016*.

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

The objective and intended outcome can only be achieved by way of an amendment to the Tweed LEP 2014. There are no other methods by which new land use zones can be introduced into the Tweed LEP 2014.

Section B

Relationship to strategic planning framework

3 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)?

Yes.

The proposal is consistent with Objective 3 of the NSW North Coast Regional Plan (NCRP) 2041 which is to protect regional biodiversity and areas of high environmental value.

Specific actions in the NCRP 2041 for the Tweed LGA include to retain and protect local biodiversity through effective management of environmental assets and ecological communities.

This planning proposal will give effect to the above actions and objectives making the C2 and C2 land use zones available for use during rezoning applications, securing appropriate retention and protection of local and regional biodiversity, and areas of high environmental value, at the strategic planning phase.

4 Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Yes. The planning proposal responds to the following planning priorities outline in the Tweed Local Strategic Planning Statement (LSPS) 2020:

Planning Priority 1: "Protect the Tweed's significant natural environment, resources and landscape qualities, while cultivating growth and development, which promotes the health and vitality of the community".

Planning Priority 2: "Promote, protect, conserve and enhance the Tweed's high scenic quality, biological and ecological values for future generations and ecosystem health".

Specifically, this planning proposal is the first step in advancing Action 2.4 of the LSPS: "Promote the protection of biological and ecological values, through the application of appropriate environmental and waterway zones in accordance with the Northern Council E Zone Review – Final Recommendations Report, and development of biodiversity overlays and associated development controls".

Tweed Community Strategic Plan (CSP) 2022-2032 Goal 1.1 reads "Take action as caretakers for our internationally significant environment to pass onto our next generation" and Goal 2.2 reads "work together to reduce our impact on the natural environment and adapt to climate change for a sustainable future". This planning proposal facilitates Council reaching those goals through the introduction of land use zones which allow protection of high value natural environmental areas through the contemporary local planning framework.

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

This planning proposal is consistent with *Tweed Regional City Action Plan 2036*, particularly Objective 16: "Grow tourism, events and visitor experiences in a culturally and environmentally sensitive way". This Action Plan recognises Tweed's tourism offering as based heavily on its stunning natural environment, with Action 16.1 being to "plan for events and nature-based tourism, including infrastructure and supporting uses and mitigate land use conflict."

In recognition of the need to accommodate and facilitate tourism-based land uses within the natural areas of the Tweed, the proposed C3 land use table includes a range of appropriate low-impact permissible uses.

6 Is the planning proposal consistent with the applicable State Environmental Planning Policies (SEPPs)?

The introduction of zones that are appropriate for the protection of koala habitat through the local land use planning framework is consistent Chapter 4 (Koala Habitat Protection 2021) of State Environmental Planning Policy (Biodiversity Conservation) 2021 which encourages the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present-day range and reverse the current trend of koala population decline.

This planning proposal is also consistent with Chapter 2 (Coastal Management) of State Environmental Planning Policy (Resilience and Hazards) 2021 which seeks to manage development in the coastal zone and protect the environmental assets of the coast. Future planning proposals will seek to apply the proposed C2 zone over land verified as Coastal Wetland or Littoral Rainforest which are two important coastal environmental assets identified under that policy.

7 Is the planning proposal consistent with applicable Ministerial Directions (s9.1 Directions)?

Consistency of this planning proposal with the relevant and applicable s9.1 Ministerial Directions is discussed in Table 1 below:

Table 1- Consistency with s9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
1. Planning Systems			
1.1 Implementation of Regional Plans	<p><u>Summary of Objectives</u> The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions, and actions contained in Regional Plans.</p> <p><u>Application</u> This direction applies to a relevant planning authority when preparing a planning proposal for land to which a Regional Plan has been released by the Minister for Planning.</p>	This planning proposal affects land subject to North Coast Regional Plan 2036	Consistent. Refer to Section B Point 3 above for details.
1.3 Approval and Referral Requirements	<p><u>Objectives:</u> The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p> <p><u>Application:</u> This direction applies to all relevant planning authorities when preparing a planning proposal.</p>	This planning proposal is relevant to this Direction as it seeks to amend provisions that will affect the assessment of planning proposals and development applications.	Consistent. This planning proposal is advancing the main objective of this Direction, which is to encourage the efficient and appropriate assessment of development.
3. Biodiversity and Conservation			
3.1 Conservation Zones	<p><u>Objective</u> The objective of this direction is to protect and conserve environmentally sensitive areas.</p> <p><u>Application</u></p>	This direction is relevant as the planning proposal is seeking the introduction of conservation zones to the Tweed LEP 2014.	Consistent. The introduction of the C2 and C3 zones to the Tweed LEP 2014 will by its nature facilitate the protection and conservation of environmentally sensitive areas.

Table 1- Consistency with s9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	This direction applies to all relevant planning authorities when preparing a planning proposal.		
3.2 Heritage Conservation	<p><u>Objective</u> The objective of this direction is to conserve items, areas, objects, and places of environmental heritage significance and indigenous heritage significance.</p> <p><u>Application</u> This direction applies to all relevant planning authorities when preparing a planning proposal.</p>	This direction is relevant because the Final Recommendations identifies 'culturally significant land' as a criterion for inclusion of land in the C2 Environmental Conservation zone.	<p>Consistent.</p> <p>This planning proposal does not seek to apply the C2 zone to any land thereby does not seek any change in land use zoning or works that would impact on items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p>
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs.	<p><u>Objective</u> 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.</p> <p><u>Application</u> This direction applies when a relevant planning authority prepares a planning proposal within the Ballina, Byron, Kyogle, Lismore, and Tweed local government areas that introduces or alters an C2 Environmental Conservation or C3 Environmental Management zone or introduces or alters an overlay and associated clause</p>	This direction is relevant because it seeks to introduce the C2 and C3 zones to the Tweed Local Environmental Plan 2014.	Consistent. The proposed objectives and list of permitted and prohibited land uses is consistent with the Final Recommendations.

4. Resilience and Hazards

Table 1- Consistency with s9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
4.1 Flooding	<p><u>Objectives</u> The objectives of this direction are to: (a) ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and (b) ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood behaviour and includes consideration of the potential flood impacts both on and off the subject land.</p> <p><u>Application</u> This direction applies to all relevant planning authorities that are responsible for flood prone land when preparing a planning proposal that creates, removes, or alters a zone or a provision that affects flood prone land.</p>	This Direction is relevant as some parts of the Tweed area are affected by flooding risk.	Consistent. No land is directly affected by this planning proposal. Any future conservation zoning of flood prone land would require separate assessment and determination via separate planning proposal.
4.2 Coastal Management	<p><u>Objective</u> The objective of this direction is to protect and manage coastal areas of NSW.</p> <p><u>Application</u> This direction applies when a planning proposal authority prepares a planning proposal that applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016 - comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area - and as identified by chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.</p>	This Direction is relevant as some parts of the Tweed are within the Coastal Zone.	Consistent. No land is directly affected by this planning proposal. Any future conservation zoning of land within the Coastal Zone would require separate assessment and determination via separate planning proposal.
4.3 Planning for Bushfire Protection	<p><u>Objectives</u> The objectives of this direction are to: (a) protect life, property, and the environment from bush fire hazards, by discouraging the establishment of incompatible</p>	This Direction is relevant as some parts of the Tweed area are bushfire prone.	Consistent. No land is directly affected by this planning proposal. Any future conservation zoning of bushfire prone land would require separate assessment and

Table 1- Consistency with s9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>land uses in bush fire prone areas, and (b) encourage sound management of bush fire prone areas.</p> <p><u>Application</u> This direction applies to all local government areas when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to, land mapped as bushfire prone land. This applies where the relevant planning authority is required to prepare a bush fire prone land map under section 10.3 of the EP&A Act, or, until such a map has been certified by the Commissioner of the NSW Rural Fire Service, a map referred to in Schedule 6 of that Act.</p>		determination via separate planning proposal.
4.3 Acid Sulfate Soils	<p>This direction applies to all relevant planning authorities that are responsible for land having a probability of containing acid sulfate soils when preparing a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps held by the Department of Planning and Environment</p>	<p>This direction is relevant as some parts of the Tweed are affected by Acid Sulfate Soils.</p>	<p>Consistent. No land is directly affected by this planning proposal. Any future conservation zoning of land affected by acid sulfate soils would require separate assessment and determination via separate planning proposal.</p>

Section C

Environmental, Social and Economic Impact

- 1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal?**

No.

This planning proposal seeks to introduce land use zones designed specifically for the protection of threatened species habitat, endangered ecological communities, and other areas of high environmental value. It is administrative in nature and will not directly result in any changes to the spatial extent or occurrence of land use zones in the Tweed. The application of the proposed conservation zones to any land would be subject to future assessment and determination via the strategic planning framework.

- 2 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

No.

This planning proposal seeks to introduce land use zones designed specifically for the protection of threatened species habitat, endangered ecological communities and other areas of high environmental value. It is administrative in nature and will not directly result in any changes to the spatial extent or occurrence of land use zones in the Tweed. The application of the proposed conservation zones to any land would be subject to future assessment and determination via the strategic planning framework.

- 3 How has the planning proposal adequately addressed any social and economic effects?**

This planning proposal is expected to streamline and simplify the rezoning process for future proponents, Council, and the Department of Planning, by avoiding the need to use Voluntary Planning Agreements or other complicated legal mechanisms as a means of securing offset areas and/or the protection of high value environmental assets, in the absence of available conservation zones. The resulting social and economic effects include shorter assessment and processing timeframes, reduced costs, and an overall more efficient process.

Additional social benefits include facilitating positive community and landowner perceptions of the new conservation zones being used in the planning proposal process, protecting high value environmental areas of new land releases from inappropriate development from the outset.

Section D

State and Commonwealth interests

1 Is there adequate public infrastructure for the planning proposal?

This planning proposal will not result in an increased demand for public infrastructure.

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

In accordance with Gateway Condition 3, the NSW Biodiversity and Conservation Division was provided with a copy of the draft planning proposal and relevant supporting material on 3 April 2023.

BCD provided its response via the NSW Planning Portal on 1 May 2023, stating it had reviewed the proposal and has no further comments beyond emphasising it looks forward to reviewing the next planning proposal which will provide spatial context for the C2 and C3 zones.

Part 4 Maps

This planning proposal does not seek any mapping changes.

The application of the proposed C2 and C3 zones via amendments to the map series will be the subject of future planning proposals.

Part 5 Community consultation

Council has been performing targeted community engagement with landowners affected by a draft zone change on the Stage 1 mapping since March 2022. The engagement program to date has been aimed at building landowner and community understanding of Council's approach to the design and application of the new conservation zones in the Stage 1 area. The campaign also included site visits to verify ecological criteria and primary use.

The proposed C2 and C3 zone objectives, permitted and prohibited uses (the subject of PP23/0001) were publicly available and promoted throughout the early-stage consultation in 2022. Council did not receive any submissions or specific feedback in relation to the proposed land use table content during that time.

This planning proposal PP23/0001 was formally exhibited for 20 working days from Tuesday 2 May to Monday 29 May 2023 in accordance with Condition 2 of the Gateway Determination issued 3 April 2023, and as required by section 3.34(2)(c) and clause 4 of Schedule 1 to the EP&A Act.

Council received 33 formal submissions. Officers also answered several more informal phone and email enquiries and attended face to face meetings with several community representatives during the exhibition period.

Only 5 of the 33 submissions provided specific feedback on the proposed zone objectives or land use permissibility in the two conservation zones. Four were in support, stating the land use permissibility seemed reasonable for land that contains high ecological values.

Only one submission suggested changes to the proposed permissibility schedules, requesting *extensive agriculture* be permitted without consent in the C2 zone, and wanting to see additional permitted uses in the C3 zone including *agri-tourism* and restaurants / cafes.

Extensive agriculture is permitted with consent in the C2 zone. This is the most appropriate as it allows for merit-based consideration of development proposals in areas of high conservation value.

Agri-tourism, restaurants cafes etc and the associated services that accompany these land uses (e.g. car parking, amenities and the like) generate a level of disturbance that is materially incompatible with achieving a conservation outcome, therefore are not permitted in the C3 zone. Smaller scale uses that are normally associated with (and permitted alongside) rural land use, such as cellar door premises, are permitted. This is the most appropriate outcome for the C3 zone.

The key issues raised in the remainder of the submissions are addressed below, noting that most are not specific to the proposed land use tables proposed by PP23/0001, but provide feedback more broadly about the concept of conservation zoning, Council's exhibition processes, or the NSW planning system under which they are implemented.

1. Opposition to Conservation zones

One of the most common issues raised in the submissions on the current planning proposal was an overall objection to the application of conservation zones at all, particularly on rural land.

Response:

This opposition is noted but is not relevant to this planning proposal as:

- PP23/0001 seeks only to introduce the planning controls for conservation zones.
- The planning controls are needed within the Tweed LEP to facilitate the use of conservation zones across the whole of the Tweed, including large areas of public land or dedicated private land.
- Protecting environmental values via land use zones has been part of the state and local government land use planning framework for over 4 decades with four existing Environmental Protection (7) zones in place across the Tweed, including in rural areas.
- The existing Environmental Protection (7) zones that were mapped many decades ago do not always accurately reflect the spatial distribution of the current areas of high environmental significance.
- There is a need to increase protection in some areas, and a corresponding need to remove conservation zoning from many areas that do not necessarily require it.

2. Problems with accessing exhibition material and request for extension of exhibition period.

During the exhibition the Northern Rivers branch of NSW Farmers made representations on behalf of their members to Council, seeking clarification and correction of Council's Your Say Tweed webpage. Council officers corrected this Page, and further met with the group, and provided a written response to a broad range of questions relating to conservation zones raised by their members.

A request by the group for an extension to the exhibition period and further consultation was not supported, given that Council has always intended on, and will continue to plan for tailored, targeted and inclusive consultation with affected landholders in Stage 2, when those landholders are identified on any draft mapping.

Response:

These issues are acknowledged and the actions and decisions made in response were based on:

- Council's staged approach being consistent with the approach taken to date by other northern councils introducing conservation zones in accordance with the *Northern Councils E Zone Review Final Recommendations Report*.
- Minor amendments were made in response to feedback to improve the clarity of the communications materials during the exhibition period.
- Whilst embedded links to the land use tables were not functional for two days of the exhibition period, these documents were accessible at an alternative location on the same Your Say Tweed page.
- Whilst the Stage 1 interactive mapping was not functional for two days of the exhibition period, PP23/0001 does not propose any changes to any maps, so the mapping was supplementary information rather than a crucial component of the current proposal on which community needed to give feedback.

3. Inadequate consultation with affected landowners in Stage 2

Several submissions demonstrated a clear view amongst rural landowners in Stage 2 that Council intends to move ahead with applying C zones to their land in a blanket approach without direct consultation. Submissions suggested that Council should have written to every landowner in Stage 2 to afford them the same engagement opportunity as Stage 1 landowners were given last year and

extend the exhibition of PP23/0001 to allow meaningful consultation with affected Stage 2 landowners.

Response:

These concerns are acknowledged but are not immediately relevant to PP23/0001 as:

- There has been no technical review of environmental values in the Stage 2 study area and no draft zone maps developed. Therefore, Council cannot identify which Stage 2 landowners will have any changes proposed in relation to zoning at this time.
- Council is committed to consulting with every affected landowner at the time that their property is identified for a C zone. This was demonstrated by the early informal consultation that took place with Stage 1 landowners in 2022 in relation to any draft zone changes proposed for their property.
- Once draft maps for Stage 2 have been produced and affected Stage 2 landowners have been identified, they will receive the same invitation to engage with Council and discuss any draft changes proposed for their property.
- The planning proposal currently before Council does not apply conservation zones to land. It introduces the rules that would apply should a conservation zone be applied.

4. No community information sessions

Several submissions pointed to one of the fact sheets on the Your Say Tweed site that refers to community information sessions, however no community information sessions were held as part of this exhibition.

Response:

Those submissions are correct, and concerns with clarity of the information understood. There were no community information sessions held as part of the exhibition of PP23/001. The community information sessions referred to in the fact sheet were part of the 2022 Stage 1 landowner consultation.

The fact sheet referred to is titled 'Stage 1 Consultation' and states in the first line "This fact sheet explains to the public how Tweed Shire Council is consulting with landowners whose properties are proposed for a zone change".

None of the communications material specific to PP23/0001 referred to or suggested community information sessions would be part of this exhibition. However, it is understood that this may not have been sufficiently clear in the materials available, given the staged approach.

5. Complexity of information and modes of communication.

Some submissions objected to the overall level and complexity of information provided to landowners regarding planning and policy changes, and suggest it is unreasonable to expect landowners, particularly those who are time poor and/or not able to navigate digital information and websites, to understand it all and provide meaningful feedback.

Response:

These concerns are acknowledged and understood, and Council seeks to address these issues in meeting its legislative obligation to exhibit planning information by publishing information in as simple language as possible and providing information through a range of different forms (online, print, letters, phone, email, site visits and meetings/appointments)

6. Planning provisions should be proposed alongside the maps so landowners have context.

Some submissions suggested the separation of the introduction of the planning provisions from the proposed future mapping is inappropriate and they should be proposed and exhibited all together so affected landowners know who they are and have context to provide feedback on the land use tables.

Response:

This suggested approach was considered as part of the analysis of options and decision to proceed with the current planning proposal. The key issues that influenced the decision to proceed were:

- Making the C2 and C3 land use tables available within the Tweed LEP 2014 as soon as possible and separate to the broader conservation zone review provides a solution to the immediate need for the use of conservation zoning for development related zoning proposals.
- This approach provides greater certainty for landowners whose land is proposed for a zone change under future proposals, by giving them greater understanding of what each of the C zones would mean for them if or when their land is mapped with either C zone.
- This staged approach is consistent with the approach adopted to date by other northern councils introducing C zones under the Final Recommendations and is supported by the NSW Department of Planning.

7. Dissatisfaction with the lack of appeal mechanisms for C zones

This issue relates to the NSW land use planning system and is not specific to PP23/0001.

Response:

The *NSW Environmental Planning and Assessment Act 1979* does not provide a legal mechanism to appeal a rezoning through the NSW Land and Environment Court. However, the NSW Department of Planning does provide an independent review process specifically for Conservation zones.

8. Conservation zones should be voluntarily nominated by landowners and not forced upon them.

Multiple submissions opposed conservation zones and stated that conservation zones (or any rezoning of private land) should be nominated voluntarily by landowners and not imposed.

Response:

The opinions expressed in these submissions are acknowledged but are not relevant to this planning proposal as:

- the requirement to implement land use zones is established by the *Environmental Planning and Assessment Act 1979*, together with relevant regulations, policies, and Ministerial Directions
- PP23/0001 is proposed in accordance with the *Northern Councils E Zone Review Final Recommendations* (Final Recommendations) and seeks only to introduce the planning controls for conservation zones.

Conclusion

Analysis of the submissions received against the Final Recommendations and the intent of PP23/0001 has resulted in the recommendation to proceed with the planning proposal in its current form.

The most common issue from community submissions was an overall objection to the concept of conservation zones, particularly on rural land. This is a separate issue from the proposal itself, which

seeks only to introduce the planning controls for the conservation zones to enable those zones to be used where they are needed.

The issues raised about Council's exhibition process are acknowledged, however Council addressed all concerns raised as soon as it became aware of the technical issues, and all exhibition material was always available on both the website and via individual request throughout the exhibition period. There were 2 days when the Stage 1 mapping was non-operational, but that mapping is supplementary to and not part of the formal exhibition material for PP23/0001.

The requests through many submissions for more comprehensive, targeted and meaningful consultation with landholders in Stage 2 are acknowledged and fully supported. Council has always intended on, and will continue to plan for targeted and inclusive consultation with affected landholders in Stage 2, when those landholders are identified on draft mapping.

In the meantime, planning proposal PP23/0001 to introduce the planning controls for conservation zones is recommended to proceed to making.

Part 6 Timeframes

The following project timeline is intended to be a guide only and may be subject to changes in response to the public consultation process and/or community submissions.

Task	Timeframe	Completed
Referral of the planning proposal for a Gateway determination	March 2023	Y
Gateway Determination	3 April 2023	Y
Undertake requirements of the Gateway Determination and prepare V2 planning proposal	April 2022	Y
Public exhibition	May 2023	
Agency consultation	May 2023	
Review submissions, respond and prepare V3 planning proposal for Council's consideration	June 2023	
Council report to finalise and refer the plan to the DPE to be made	June 2023	
Referral of the Plan to the DPE for making	June 2023	
Plan to be made within 6 months of Gateway	September 2023	



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