

**TITLE: Planning Proposal (PP-2024-2340) for 133-193 Dulguigan Road, Dulguigan**

**Submitted By:** Strategic Planning and Urban Design

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**LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:**

**Growing – We want to work together to plan for the future so the Tweed grows and evolves in a sustainable way**

**Plan ahead so the Tweed is ready for the future.**

4.1.2 Strategic Land-use Planning – Plan for sustainable development which balances economic, environmental and social considerations. Promote good design in the built environment.

**ROLE:**

ADVOCATE - Council gives voice to the community by lobbying and advocating to achieve benefits and best possible outcomes for the Tweed.

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**EXECUTIVE SUMMARY**

Tweed Shire Council received a planning proposal to amend the Lot Size Map of the Tweed Local Environmental Plan (LEP) 2014 with respect of land at 133-193 Dulguigan Road in Dulguigan to enable a six lot subdivision of the subject site.

The subject site is a holding comprised of six allotments: Lot 1 in DP328107, Lot 1 in DP364474, Lot 1 in DP376131, Lot 1 in DP410859, Lot 8 in DP755685 and Lot A in DP174886. Each allotment within the holding has a confirmed dwelling entitlement, however amendment to the Tweed LEP 2014 Lot Size Map is required to enable re-subdivision and more orderly development of dwelling houses away from flood-affected areas and environmental constraints.

The planning proposal has been prepared by B & P Surveys, on behalf of the landowner and was submitted to the NSW Planning Portal on 23 October 2024. In their justification, B & P Surveys provided the following:

- To enable a more logical and appropriate use of the lands that remain compatible with the planning objectives and land uses; and
- To afford greater opportunity to provide necessary housing while continuing to achieve the objectives of the RU1 – Primary Production and RU2 - Rural Landscape zones and promote suitable land uses.

The holding is zoned RU1 Primary Production and RU2 Rural Landscape. Following a preliminary assessment of the proposal, the Sustainability and Environment Unit recommended that the C3 Environmental Management Zone be applied to a part of the site with High Environmental Value (HEV) assets, as discussed further in this report.

**RECOMMENDATION:**

**That for planning proposal (PP-2024-2340) for 133-193 Dulguigan Road, Dulguigan:**

1. **The planning proposal to amend the Lot Size Map of the Tweed Local Environmental Plan 2014 to enable subdivision into six lots be referred to the Department of Planning, Housing**

and Infrastructure for a Gateway determination.

2. The scope of the planning proposal is to be broadened to amend the Land Zoning Map to apply zone C3 Environmental Management over part of the subject site with identified HEV.
3. Upon receipt of a Gateway Determination, proceed with the public exhibition in accordance with the Gateway Determination conditions, Council's adopted Community Engagement and Participation Plan, and
4. Following the public exhibition, a further report be brought back to Council for further reconsideration including a review of any submissions received.

## **ATTACHMENTS**

1. Draft Rev B Planning Proposal PP-2024-2340 - 133-193 Dulguigan Road, Dulguigan

## **COUNCIL IMPLICATIONS:**

### **a. Legislation/Policy/Existing Strategic Plans**

Should this planning proposal be finalised, it will result in an amendment to Tweed Local Environmental Plan 2014. No inconsistencies with the existing strategic planning framework have been identified.

### **b. Sustainability:**

#### **i. Financial (Budget/Long Term Financial Plan/Whole of Life Cost):**

There is no perceived impact on the long-term financial plan or Divisional budget arising from this proposal. Council's Fees and Charges will be applied, where appropriate.

#### **ii. Environmental (including climate change):**

This planning proposal offers an opportunity to apply C3 Environmental Management zone over land with identified High Environmental Values. No adverse environmental implications have been identified as part of Council assessment of this proposal.

Any future development application will be assessed in accordance with Council's existing procedures, guidelines and requirements, and any approval will require consideration of potential adverse environmental impacts on the site or adjoining land and water bodies.

#### **iii. Social:**

The Gateway Determination and Council adopted Community Engagement and Participation Plan will specify the requirements for, and the extent of, community consultation for this planning proposal.

### **c. Legal Considerations:**

Should this planning proposal be finalised, it will result in an amendment to Tweed Local Environmental Plan 2014.

### **d. Risk Considerations:**

Risks arising in connection with the proposed LEP amendment from a land use planning perspective have been assessed by way of application of relevant policy and rules, and detailed precinct appraisal. There are no foreseeable and significant non-planning based risks identified.

### **e. Engagement/Communication:**

**Consult** - Actively seeking the community's views and exchanging information.

## REPORT:

Tweed Shire Council received a planning proposal seeking to enable dwelling houses on six lots zoned RU2 Rural Landscape, being Lot 1 in DP328107, Lot 1 in DP364474, Lot 1 in DP376131, Lot 1 in DP410859, Lot 8 in DP755685 and Lot A in DP174886 (the site). The site is a rural holding comprising sugar cane, undulated hills with scattered vegetation and a principal residence (ref Figure 1, below). Each lot has a separate dwelling entitlement however the subdivision pattern, combined with environmental constraints, particularly flooding, limits opportunities to develop the dwellings.

The site is zoned part RU1 Primary Production and part RU2 Rural Landscape (ref. Figure 2). The applicant has requested an amendment to the Lot Size Map of Tweed LEP 2014 to enable a subdivision of the holding from the current six lots into six lots offering a more orderly development of dwelling houses away from the floodplain and environmental constraints. The proposed lots will have varied sizes (ref Figure 3, below), from 1.6 hectares to approx. 22 hectares. Figure 3 includes indicative locations of future dwellings.

The portion of land zoned RU1 Primary Production is currently used for sugar cane and is mapped as Important Farmland under North Coast Regional Plan 2041. No impacts to the Important Farmland are expected to occur in result of this planning proposal.

As part of the preliminary assessment, Council staff consulted NSW Department of Planning, Housing and Infrastructure. The Department advised that the Lot Size Map should be amended based on the proposed subdivision layout proposed by the Applicant and assessed by Council staff. Detailed Lot Size Maps will be prepared by Council at the Gateway Determination stage, prior to the public exhibition. The preliminary assessment, including consultation with the Department and concluded that this planning proposal can proceed further to the Gateway Determination phase, pending Council resolution to support this pathway.

It is important to point out that Council has a strong policy formulated through the Rural Land Strategy, State and Regionally Significant Farmland Protection Project, and North Coast Regional Plan 2041 to prevent rural subdivisions for the purpose of rural residential development. In this particular proposal, the applicant has demonstrated that the combined land holding has six existing dwelling entitlements although the prevailing land constraints would prevent those dwellings from being approved and constructed. As such the applicant is now seeking a planning proposal pathway to enable the re-subdivision of the site which would in turn allow for a more appropriate and orderly development away from land affected by the flooding risk, with minimised environmental impacts. Further, Council assessment as discussed further in this report has concluded that this planning proposal can proceed further to Gateway Determination and public exhibition stages.

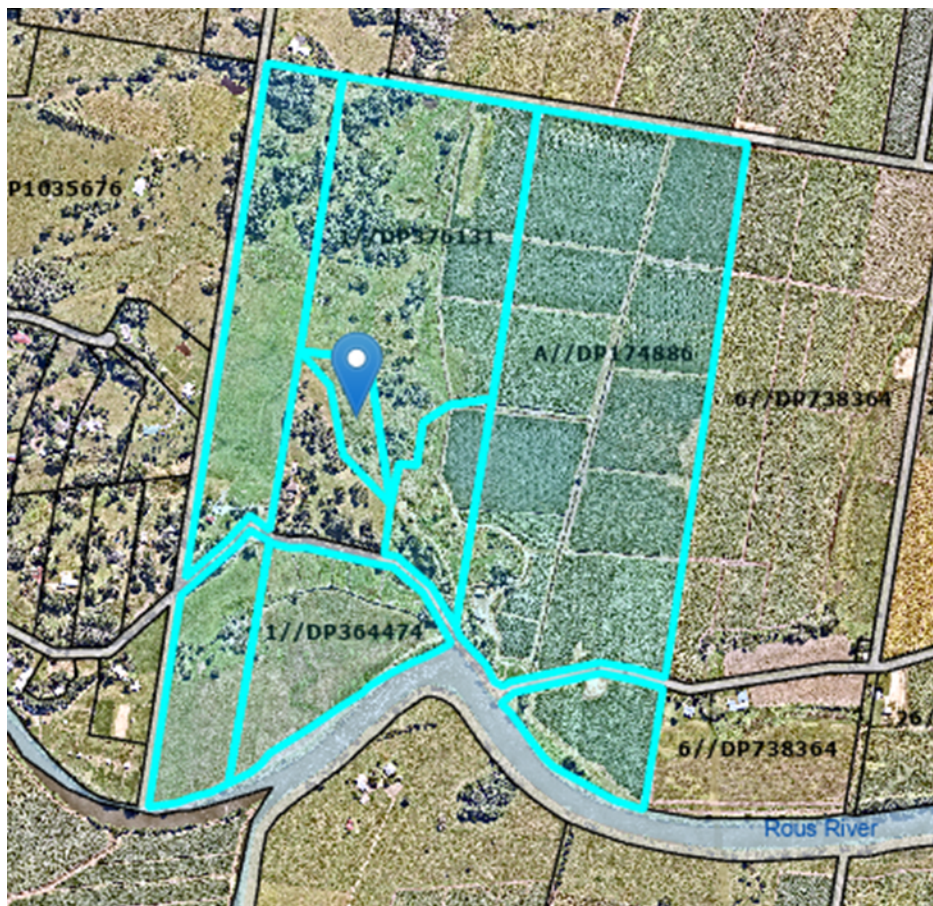


Figure 1. The site subject to this planning proposal



Figure 2. Current zoning (Source: Tweed External Mapping)





**Figure 3. Proposed lot layout – Lot Size Map amendment required**

Preliminary assessment of the planning proposal has been undertaken by Council's internal units, with the following feedback provided:

### **Ecology Assessment**

No objection to the proposal to reduce the minimum lot size to establish a future 6-lot subdivision subject to consideration of the following:

1. A C3 Environmental Management Zone is applied to the portion of the site, as per Figure 4 of this report.

The C3 zone is considered necessary to comply with the North Coast Regional Plan 2041 and the relevant local planning directions and with consideration for the presence of the following HEV assets:

- Native vegetation meeting the NSW state government criteria for a conservation zone in accordance with the Northern Councils E Zone Review Final Recommendations Report.
- Threatened species habitat for koala.



**Figure 4. Proposed C3 Environmental Management Zone and habitat restoration zone (darker colour)**

2. The planning proposal is revised to:
  - a. identify that in the event of any map inconsistency, that the planning proposal map is to prevail.
  - b. acknowledge that each item listed below as 'Considerations for Future Development Application' will be addressed with any future relevant development application on the subject site.

Considerations for Future Development Application:

With consideration for any future development application at the subject site, the applicant is advised:

- Red flag values as per DCPA19 Biodiversity and Habitat Protection are to be identified and protected and provided appropriate ecological buffers. The site contains several significant habitat trees that should be retained and protected.
- Where incursions of Red Flag Values or ecological buffers are proposed show how the variation impact is consistent with the relevant planning principles and objectives of DCP A19. This may include compensatory actions such as habitat restoration.
- Asset protection zones shall not include land zoned C3 Environmental Management.

As part of the preliminary assessment, Council staff consulted the landowner with respect of zoning part of land C3 Environmental Management, as per Figure 4. A written confirmation was received to the effect that the landowner raised no objections to the application of the C3 Environmental Management land use zone over this part of the site.



## **Development Engineering Assessment**

The following key comments were provided from Council's Development Engineer which will be taken into consideration at the DA stage, should the planning proposal be finalised.

- Applicant has opted for a right of access carriageway driveway for lots 2,3,4 and 5.
- A minimum 4.5m wide driveway width to be provided. Will need to condition that easement to be provided for width of driveway plus width required for earthworks, batters, retaining walls, longitudinal drainage and services.
- A sealed pavement only 3m in property boundary to be provided. Development applications must demonstrate that an environmentally sensitive, 2-wheel drive standard access can be located between the driveway (referred to above) and the nominated building platform on each lot.
- Given the steep gradients of the site a sealed 4.5m pavement should be provided (can also condition).
- Property access roads shall comply with section 5.3.2 of 'Planning for Bush Fire Protection 2019'. To ensure safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation.

## **Roads and Stormwater**

Council's Roads and Stormwater engineers provided in principle support to the Planning Proposal given that it would ensure that the six current rural dwelling entitlements are only exercised on land that is above the probable maximum flood, instead of them being enacted on the floodplain.

## **Environmental Health**

Council's Environmental Health Officers provided advice that the planning proposal and the proposed subdivision are to consider the following matters:

### **Acid Sulfate Soils**

It is considered that where the Planning Proposal and subdivision are considered as one package and there is no possibility that further subdivision of land occurs, the Acid Sulphate Soils Investigation Report satisfactory identifies Acid Sulphate Soils will not be encountered in this proposal.

### **Contaminated Lands**

It is recommended the applicant engage a suitably qualified environmental consultant to prepare a Detailed Site Investigation to address the proposal in accordance with *State Environmental Planning Policy (Resilience and Hazards) 2021* and NSW EPA contaminated land guidelines with the Development Application. The Detailed Site Investigation shall include, but not be limited to:

- Previous contaminated land investigations for the subject sites;
- Preparation of a Remedial Action Plan, and where required supporting documents, to address the HMC Preliminary Site Investigation Report recommendations that confirm that the sites are suitable for the proposed land use; and
- Confirm that the site is suitable for the proposed use.

The following considerations will apply post Planning Proposal, at the DA stage:

- Amenities
- Land Use Conflict Risk Assessment
- Onsite Sewerage Management Systems
- Waste/Fire Ant general considerations

## **Strategic Planning & Urban Design**

While the intent of this Planning Proposal is not directly addressed in key goals and objectives of the Tweed Local Strategic Planning Statement and the North Coast Regional Plan 2041 (NRCP), those same plans recognise that Tweed should support ongoing growth through an increase of diverse housing opportunities. This proposal, which is considered relatively minor in nature, would enable new rural housing

opportunities outside of the floodplain while protecting and enhancing the site's environmental characteristics and limiting impact on agricultural activities. This Planning Proposal is therefore consistent with the broader intent of the NCRP 2041.

The Tweed Local Strategic Planning Statement 2020 (LSPS) provides the following relevant planning priorities:

10. Ensure productive agricultural land is protected and sustainably managed while creating innovative and diverse economic opportunities through compatible boutique industries, rural living and recreation.

17. Deliver well-planned residential and rural residential housing.

Action 10.2 of the LSPS speaks to creating a balanced interface between rural, urban and environmental land that minimises land-use conflict and protects agricultural capacity in a sustainable manner for current and future generations. It is considered that realigning boundaries to enable dwelling envelopes beyond the floodplain, while protecting agricultural activities and high environmental values on site accords with this priority and action. For these reasons, the planning proposal also aligns with Action 17.2 of the LSPS which requests that rural land-use conflicts are avoided, and natural and physical constraints and opportunities of the land respected.

The planning proposal was assessed against the Scenic Landscape Protection Policy and it is considered as consistent. This policy will be further referred to at the DA stage, once detailed dwelling design plans are submitted to Council for assessment.

#### **SUMMARY:**

This planning proposal has been properly assessed by Council staff and consulted with the Department of Planning, Housing and Infrastructure. This preliminary assessment identified a need to apply C3 Environmental Management zone over part of this site as an appropriate pathway in order to protect the site's HEV assets.

It is recommended that this planning proposal proceed further to the Gateway Determination phase.

#### **OPTIONS:**

##### **Option 1**

That for planning proposal (PP-2024-2340) for 133-193 Dulguigan Road, Dulguigan:

1. The planning proposal to amend the Lot Size Map of the Tweed Local Environmental Plan 2014 to enable subdivision into six lots be referred to the Department of Planning, Housing and Infrastructure for a Gateway determination;
2. The scope of the planning proposal is to be broadened to amend the Land Zoning Map to apply zone C3 Environmental Management over part of the subject site with identified HEV.
3. Upon receipt of a Gateway Determination, proceed with the public exhibition in accordance with the Gateway Determination conditions, Council's adopted Community Engagement and Participation Plan, and
4. Following the public exhibition, a further report be brought back to Council for further reconsideration including a review of any submissions received.

##### **Option 2**

Not proceed with the Planning Proposal and advise the Applicant about the Rezoning Review pathway.

Council officers recommend Option 1.

#### **PREVIOUS COUNCIL RESOLUTIONS:**

Nil.



# PLANNING PROPOSAL

## TWEED SHIRE COUNCIL

### PROPOSAL:

MINIMUM LOT SIZE AMMENDMENT TO THE  
TWEED LOCAL ENVIRONMENTAL PLAN 2014  
(TLEP) TO ENABLE A PROPOSED SIX (6) LOT  
INTO SIX (6) LOT SUBDIVISION WITH  
DWELLING ENTITLEMENTS.

### LOCATION:

133-193 DULGUIGAN ROAD, DULGUIGAN  
LOT 1 IN DP328107, LOT 1 IN DP364474, LOT 1  
IN DP376131, LOT 1 IN DP410859, LOT 8 IN  
DP755685, AND LOT A IN DP174886

PREPARED FOR  
**MR JOHN TILTON**

#### Document Record: FINAL

Revision C	Date	Prepared by:	Reviewed by:
Final	27/11/2024	CSS	CSS

**Our Reference:** M31754 / CSS



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**Appendix A** – Planning Proposal Pre-Lodgement Meeting Minutes and Memo prepared by Tweed Shire Council;

**Appendix B** – Proposed Subdivision Plan No. 25464B by B & P Surveys;

**Appendix C** – Registered Title Searches;

**Appendix D** – Essential Energy Assets Information Sheet;

**Appendix E** – Telstra Telecommunication Cable Mapping;

**Appendix F** – Engineering Infrastructure Report prepared by Oska Consulting Group;

**Appendix G** – Conceptual Stormwater Management Report prepared by Oska Consulting Group;

**Appendix H** – On-Site Sewer Management Assessment by HMC Environmental Consulting Pty Ltd;

**Appendix I** – Preliminary Acid Sulfate Soils Management Plan by HMC Environmental Consulting Pty Ltd;

**Appendix J** – Preliminary Site Investigation by HMC Environmental Consulting Pty Ltd;

**Appendix K** – NRCLP - Contamination Report Summary by HMC Environmental Consulting Pty Ltd;

**Appendix L** – Land Use Conflict Risk Assessment by HMC Environmental Consulting Pty Ltd;

**Appendix M** – Environmental Values and Impact Assessment prepared by Bower Ecology;

**Appendix N** – Bushfire Assessment Report prepared by Bushfire Consultancy Australia;

**Appendix O** – Aboriginal Cultural Heritage Report by Tweed Byron Local Aboriginal Land Council; and

**Appendix P** – Assessment Against the NSW Coastal Design Guideline.





## 1.0 Introduction & Background

### 1.1 OVERVIEW

This Planning Proposal has been prepared by B & P Surveys on behalf of Mr. John Tilton to seek Gateway Determination to amend the Minimum Lot Size Map (Map - LSZ\_004) of the *Tweed Local Environmental Plan 2014 (TLEP)* to enable a future six (6) lot subdivision as per the Proposed Plan of Subdivision, accessible in **Appendix B**, over Lot 1 in DP328107, Lot 1 in DP364474, Lot 1 in DP376131, Lot 1 in DP410859, Lot 8 in DP755685, and Lot A in DP174886; 133 – 193 Dulguigan Road, Dulguigan (hereby referred to as the ‘subject lands’).

On July 5th, 2023, a Planning Proposal Pre-Lodgement Meeting was held with Strategic Planning Officers from Tweed Shire Council to deliberate on environmental planning considerations to be addressed to support justification of the proposed amendment to the TLEP. Please refer to **Appendix A**, for a copy of the Pre-Lodgement Meeting Memo and Minutes.

This Planning Proposal seeks to amend Map - LSZ\_004 (Minimum Lot Size Map) of the *Tweed Local Environmental Plan 2014 (TLEP)* to allow a future development application be made for a proposed six (6) lot into six (6) lot subdivision as per the Proposed Plan of Subdivision, accessible in **Appendix B**, over the subject lands with all lots benefitting from dwelling entitlements in accordance with Clause 4.2B of the TLEP. The proposed amendment and subsequent subdivision would affect the subject lands only and would provide greater opportunity for necessary housing and appropriate residential uses under the TLEP.

This Planning Proposal has been prepared in accordance with the requirements of the NSW Department of Planning, Housing and Infrastructure’s advisory documents ‘*Local Environmental Plan Making Guideline 2023*’ and ‘*A Guide to Preparing Planning Proposals*’, and statutory planning controls pursuant to the *Environmental Planning and Assessment Act 1979 (EP&A Act)* and is structured as follows:

- Section 1 – Introduction and Background;
- Section 2 – Objectives and Intended Outcomes;
- Section 3 – Explanation of Provisions;
- Section 4 – Justification;
- Section 5 – Mapping;
- Section 6 – Community Consultation;
- Section 7 – Project Timeline; and
- Section 8 – Summary and Conclusions.



## 1.2 PROPOSAL SUMMARY

*Table 1. Application Details.*

Application Details	
Applicant	John Tilton  C/- <b>B &amp; P Surveys</b>  10 Nerang Street,  Nerang, QLD 4211
Description of Planning Proposal	To amend the Minimum Lot Size Map (Map - LSZ_004) under the Tweed Local Environmental Plan 2014 (TLEP) to enable a future development application be made for a proposed six (6) lot into six (6) lot subdivision as per the Proposed Plan of Subdivision, accessible in <b>Appendix B</b> , with dwelling entitlements over Lot 1 in DP328107, Lot 1 in DP364474, Lot 1 in DP376131, Lot 1 in DP410859, Lot 8 in DP755685, and Lot A in DP174886.
Site Location	133 - 193 Dulguigan Road, Dulguigan NSW 2484;  Lot 1 in DP328107, Lot 1 in DP364474, Lot 1 in DP376131, Lot 1 in DP410859, Lot 8 in DP755685 and Lot A in DP174886.
Approval Sought	Amendment to the Tweed Local Environmental Plan 2014 (TLEP)
Site Zoning	RU1 – Primary Production  RU2 – Rural Landscape
Consent Authority	<ul style="list-style-type: none"><li>➤ NSW Government Department of Planning, Industry &amp; Environment;</li><li>➤ Planning Proposal Authority; and</li><li>➤ Tweed Shire Council.</li></ul>
Contact	Ms. Chelsea Smith or Mr. Keith Savage  <b>B &amp; P Surveys</b>  P: 07 5596 0370  Email: <a href="mailto:chelsea.s@bpsurveys.com.au">chelsea.s@bpsurveys.com.au</a> or <a href="mailto:nerang@bpsurveys.com.au">nerang@bpsurveys.com.au</a>

### 1.3 SITE DESCRIPTION AND DETAILS

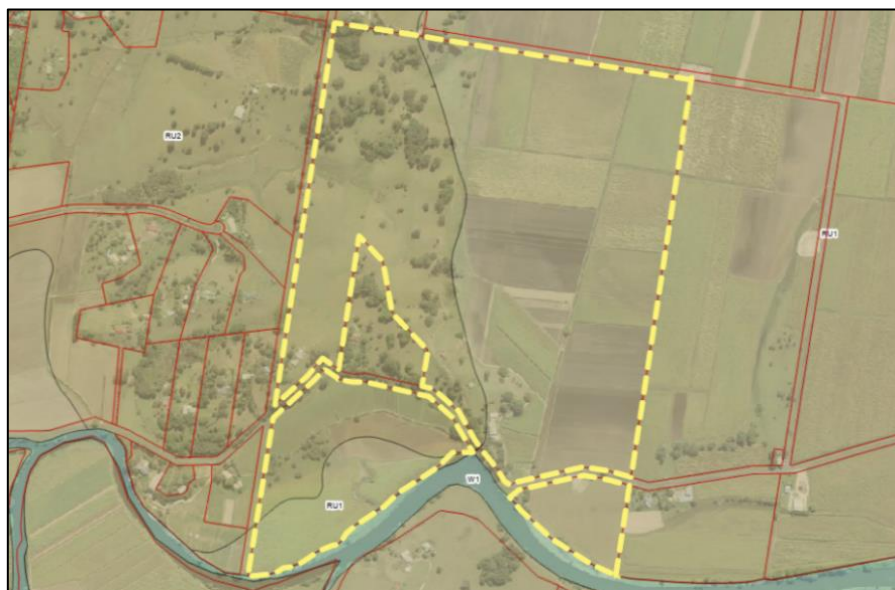
The subject lands, as depicted in **Figure 1** below, are known as Lot 1 in DP328107, Lot 1 in DP364474, Lot 1 in DP376131, Lot 1 in DP410859, Lot 8 in DP755685 and Lot A in DP174886; 133 - 193 Dulguigan Road, Dulguigan. The site is irregular in shape with an approximate area of 101.02ha. The site is bisected by Dulguigan Road which is constructed to a sealed standard without kerb and gutter. The site is currently improved by an existing dwelling, farm buildings, agricultural fields and scattered mature vegetation.



*Figure 1. Aerial image of the subject site (Source: ePlanning Spatial Viewer, 2024).*

### 1.4 LAND USES

The subject site is zoned RU1 Primary Production and RU2 Rural Landscape. The land uses surrounding the subject site include RU2 Rural Landscape to the north-west, RU1 Primary Production to the north-east and W1 Natural Waterways to the south with the lot adjoining the Rous River. Please refer to **Figure 2** below.



*Figure 2. Subject Site in relation to Land Zoning Mapping (Source: ePlanning Spatial Viewer, 2024).*



## 1.5 CADASTRAL DETAILS

The registered landowner of the subject lands is John Tilton Pty Ltd. Inspection of Title Searches reveals that the subject land is subject to easements.

**Appendix C** contains copies of the above-described current Title Searches.

## 1.6 ACCESS & PARKING

Multiple standard vehicular crossovers off Dulguigan Road provide legal and practical access to the site. Ample space for parking is available on site.

## 1.7 UTILITIES AND INFRASTRUCTURE SERVICES

Electricity is available to the subject site and connected to the existing dwelling on current Lot 8 in DP755685. Please refer to the Essential Energy Assets Information, accessible in **Appendix D**. A telecommunications cable runs through Proposed Lots 1, 2 and 6 to the north of Dulguigan Road. Please refer to the Telstra Telecommunications Mapping, accessible in **Appendix E**. An on-site sewage management system and water tanks provide necessary sewer and water services to the existing dwelling on current Lot 8 in DP755685.

## 1.8 ENVIRONMENTAL FEATURES

As shown in **Figure 1** above, the subject site is currently improved by scattered mature vegetation. It is noted that no vegetation within subject lands is identified as being of high biodiversity value pursuant to the *Biodiversity Conservation Regulation 2017*.

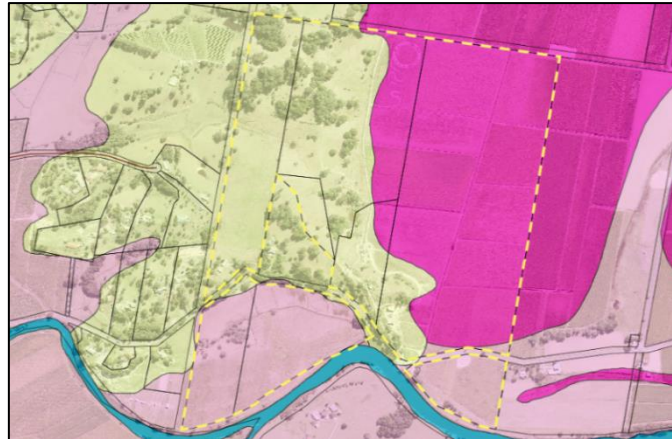
It is noted, the subject land contains third, second and first order streams. Please refer to **Figure 3** below.



Figure 3. Subject Site in Relation to Streams (Modified From: TSC Mapping, 2024).



In accordance with Council mapping, the subject site has been identified as containing Class 2, 3 and 5 Acid Sulfate Soils. Please refer to **Figure 4** below.



*Figure 4. Subject Site in Relation to Council's Acid Sulfate Soil Mapping (Source: Tweed Shire Council Planning Information Mapping, 2024).*

As shown in **Figure 5** and **6** below, the subject site has been identified as being located within the Coastal Use and Coastal Environment Area.



*Figure 5. Subject Site in Relation to the Coastal Use Area Mapping (Source: ePlanning Spatial Viewer, 2024).*



*Figure 6. Subject Site in Relation to the Coastal Use Area Mapping (Source: ePlanning Spatial Viewer, 2024).*

Pursuant to Council's Groundwater Vulnerability Mapping, the site is mapped as containing high (identified in red), moderately high (orange) and moderate (yellow) areas of groundwater vulnerability. Please refer to **Figure 7** below.

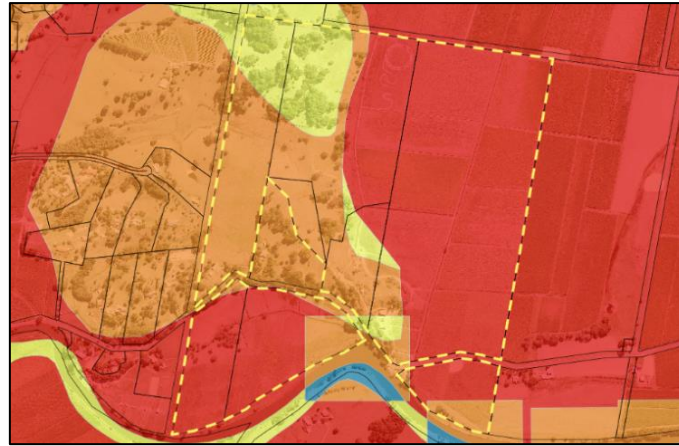


Figure 7. Subject Site in Relation to the Groundwater Vulnerability Mapping (Source: Tweed Shire Council Planning Information Mapping, 2024).

In accordance with Council mapping and as shown in **Figure 8** below, the Knights TD Cattle Dip Site (Dip) was located on the southeastern portion of the property. The Dip was decommissioned and capped in 2002.

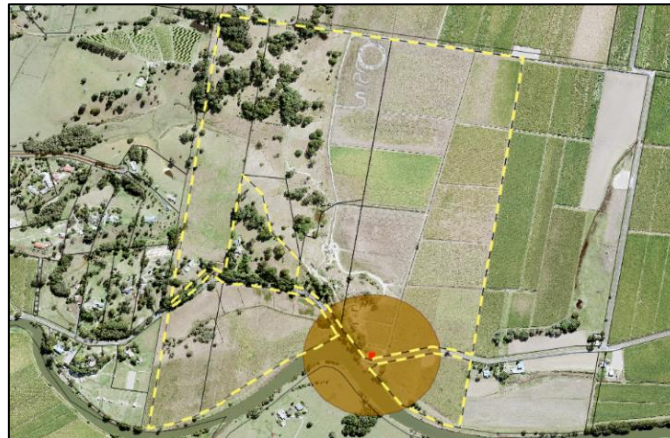


Figure 8. Subject Site in Relation to Cattle Dip Mapping (Source: Tweed Shire Council Planning Information Mapping, 2024).

## 1.9 AGRICULTURAL LAND SUITABILITY

Please refer to **Figure 9** below. In accordance with Council mapping the subject site has been identified as containing regionally significant farmland pursuant to the *Northern Rivers Farmland Protection Project Final Recommendations February 2005*.



Figure 9. Subject Site in Relation to the Farmland Protection Project Mapping (Source: Tweed Shire Council Planning Information Mapping, 2024).



### 1.10 STATE SIGNIFICANT AGRICULTURAL LAND

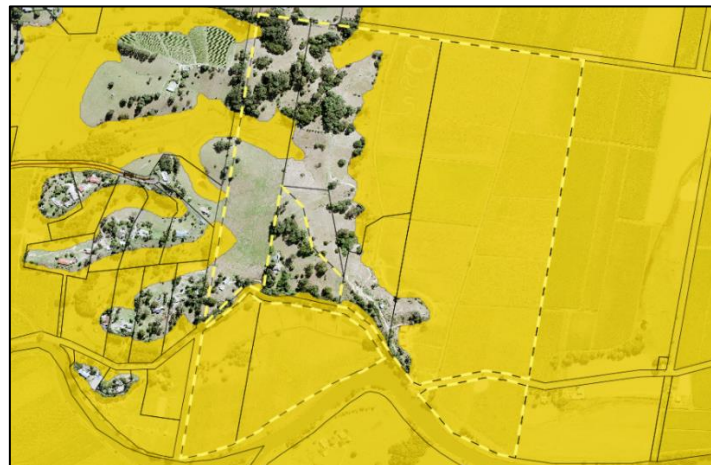
The subject site has been identified as containing biophysical characteristics of State Significant Agricultural Land (SSAL) pursuant to the New South Wales Department of Primary Industries draft SSAL mapping. Please refer to **Figure 10** below.



*Figure 10. Subject site in relation to the NSW State Significant Agricultural Land Mapping (Modified from: NSW Department of Primary Industries Mapping Tool, 2024).*

### 1.11 FLOODING RISK

In accordance with Council's mapping, a large portion of the site has been identified as being subject to the Design Flood Level (DFL) and consequently, the Probable Maximum Flood (PMF). Please refer to **Figure 11** below.



*Figure 11. Subject Site in Relation to Probable Maximum Flood (Source: Tweed Shire Council Planning Information Mapping, 2024).*

### 1.12 BUSHFIRE HAZARD

In accordance with Council mapping, the subject site has been identified as being located within Vegetation Category 3 Bushfire Prone Land. Please refer to **Figure 12** below.



Figure 12. Subject Site in Relation to Council's Bushfire Mapping (Source: Tweed Shire Council Planning Information Mapping, 2024).

### 1.13 ABORIGINAL CULTURAL HERITAGE

In accordance with Council's Aboriginal Cultural Heritage Management Plan (2018) mapping, the subject land is mapped as containing Predictive Aboriginal Cultural Heritage. Please refer to **Figure 13** below.

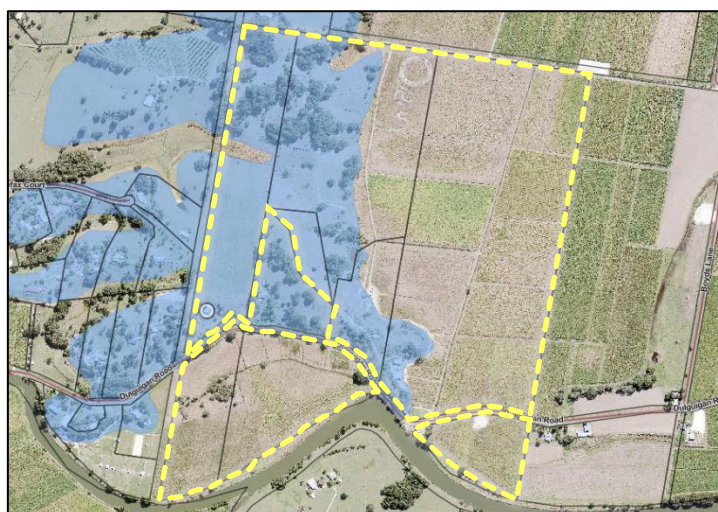


Figure 13. Subject site in relation to Council's Aboriginal Cultural Heritage Mapping (Modified from: Council Online Mapping Tool, 2023).

## 2.0 Objective & Intended Outcomes (Part 1)

### 2.1 OBJECTIVES

This Planning Proposal relates to lands described as Lot 1 in DP328107, Lot 1 in DP364474, Lot 1 in DP376131, Lot 1 in DP410859, Lot 8 in DP755685 and Lot A in DP174886; 133 - 193 Dulguigan Road, Dulguigan (the subject lands). The lands subject to this proposal are zoned as RU1 – Primary Production and RU2 - Rural Landscape under the *Tweed Local Environmental Plan 2014 (TLEP)*.

The objective of this Planning Proposal is to amend the Minimum Lot Size Map (Map - LSZ\_004) of the *Tweed Local Environmental Plan 2014 (TLEP)* to achieve the preferred long-term land use strategy and enable a future development application be made for a proposed six (6) lot into six (6) lot subdivision as per the Proposed Plan of Subdivision, accessible in **Appendix B**, with all lots benefitting from dwelling entitlements in accordance with





Clause 4.2B, 'Erection of dwelling houses and dual occupancies on land in certain rural and residential zones' of the TLEP over the subjects lands, subject to development approval.

## **2.2 INTENDED OUTCOMES**

The intention of this Planning Proposal is as follows:—

- To amend the Minimum Lot Size Map (Map - LSZ\_004) of the *Tweed Local Environmental Plan 2014 (TLEP)* to reduce the minimum lot size that applies over the subject lands;
- To permit a future proposed six (6) lot into six (6) lot subdivision with all lots benefitting from dwelling entitlements in accordance with Clause 4.2B, 'Erection of dwelling houses and dual occupancies on land in certain rural and residential zones' of the TLEP;
- To enable a more logical and appropriate use of the lands that remain compatible with the planning objectives and land uses; and
- To afford greater opportunity to provide necessary housing while continuing to achieve the objectives of the RU1 – Primary Production and RU2 - Rural Landscape zones and promote suitable land uses.

## **3.0 Explanation of Provisions (Part 2)**

### **3.1 PROPOSED AMENDMENT TO THE TWEED LOCAL ENVIRONMENTAL PLAN 2014**

The lands subject to this proposal are zoned as RU1 – Primary Production and RU2 - Rural Landscape and are afforded a 40 hectare minimum lot size pursuant to the Minimum Lot Size Map (Map - LSZ\_004) under the *Tweed Local Environmental Plan 2014 (TLEP)*. Clause 4.2B 'Erection of dwelling houses and dual occupancies on land in certain rural and residential zones' of the TLEP states that development consent must not be granted for the erection of a dwelling house on a lot that does not meet the minimum lot size shown on the Lot Size Map in relation to that land.

The *Tweed Local Environmental Plan 2014 (TLEP)* does not currently contain provisions that would enable Tweed Shire Council to approve a future proposed six (6) lot into six (6) lot subdivision with all lots benefitting from dwelling entitlements over the subject lands, that being 133 – 193 Dulguigan Road, Dulguigan.

This Planning Proposal therefore seeks to amend Map - LSZ\_004 (Minimum Lot Size Map) of the *Tweed Local Environmental Plan 2014 (TLEP)* to enable a six (6) lot into six (6) lot subdivision over the subject lands as per the Proposed Plan of Subdivision (**Appendix B**). The proposed amendment to the Minimum Lot Size Map (Map - LSZ\_004) and subsequent subdivision would provide greater opportunity for necessary housing and appropriate residential uses under the TLEP with all future lots benefitting from dwelling entitlements in accordance with Clause 4.2B.

## 4.0 Justification (Part 3)

### Section A      Need for the Planning Proposal

#### **Q1.      Is the Planning Proposal a result of an endorsed LSPS, strategic study or report?**

This Planning Proposal is not the result of any endorsed strategic study or report.

The intended outcome of this proposal is to amend Map - LSZ\_004 (Minimum Lot Size Map) of the *Tweed Local Environmental Plan 2014 (TLEP)* over the subject lands to enable a future proposed six (6) lot into six (6) lot subdivision over the subject lands with all lots benefitting from dwelling entitlements in accordance with Clause 4.2B of the TLEP and provide greater opportunity for necessary housing and appropriate residential uses under the TLEP.

This Planning Proposal is considered minor in nature and not of a kind that would generally be identified in a broad strategic planning process.

#### **Q2.      Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The *Tweed Local Environmental Plan 2014 (TLEP)* does not currently contain provisions that would enable Tweed Shire Council to approve a future proposed six (6) lot into six (6) lot subdivision with all lots benefitting from dwelling entitlements over the subject lands, that being 133 – 193 Dulguigan Road, Dulguigan.

Review of State Planning Policies, Development Control Plans and alternative approaches to achieve the objectives and intended outcome of this proposal have concluded that a Planning Proposal is considered the most appropriate and best approach to delivering the desired outcome.

A pre-lodgement meeting was held between Council staff and the proponent on 5<sup>th</sup> July, 2023. A copy of the pre-lodgement meeting memo and minutes was subsequently issued to the proponent, outlining the processes and considerations for progressing a planning proposal. The Planning Proposal Pre-Lodgement Meeting Minutes and Memo prepared by Tweed Shire Council are accessible in **Appendix A**.

### Section B      Relationship to the Strategic Planning Framework

#### **Q3.      Will the Planning Proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?**

##### *North Coast Regional Plan 2041*

The Tweed local government area is located within the North Coast region, subject to the NSW *North Coast Regional Plan 2041 (NCRP)*. The NCRP identifies 20 Objectives to support the delivery of its goals and to promote the regions vision of “*healthy and thriving communities, supported by a vibrant and dynamic economy that builds on the region's strengths and natural environment*” (page 12).

The focus goals under the *North Coast Regional Plan (NCRP)* directly applicable to this Planning Proposal are:



- Goal 1: Liveable, Sustainable and Resilient;
- Goal 2: Productive and Connected; and
- Goal 3: Growth, Change and Opportunity.

The *North Coast Regional Plan 2041 (NCRP)* recognises that Tweed local government area needs to support ongoing growth through an increase of diverse housing and job supply. The amendment to Map - LSZ\_004 (Minimum Lot Size Map) of the *Tweed Local Environmental Plan 2014 (TLEP)* over the subject lands would provide new rural residential housing opportunities while protecting and enhancing the region's environment and character without impacting on wider agricultural or economic practices, or infrastructure services. This Planning Proposal is considered to be consistent with the objectives and outcomes of the NCRP.

**Q4. Is the Planning Proposal consistent with a council Local Strategic Planning Statement that has been endorsed by the Planning Secretary or GCC, or another endorsed local strategy or strategic plan?**

*Tweed Local Strategic Planning Statement*

The *Tweed Local Strategic Planning Statement (TLSPS)* provides eighteen planning priorities to provide a framework to guide to deliver the 20-year vision for land-use planning in the Tweed local government area.

Planning Priority 10 of the *Tweed Local Strategic Planning Statement (TLSPS)* aims to—

10. 'Ensure productive agricultural land is protected and sustainably managed while creating innovative and diverse economic opportunities through compatible boutique industries, rural living and recreation'.

Action 2 of Planning Priority 10 identifies the need for a balanced interface between rural, urban and environmental land that minimises land-use conflicts. The allowance of amending Map - LSZ\_004 (Minimum Lot Size Map) of the *Tweed Local Environmental Plan 2014 (TLEP)* to facilitate a future proposed six (6) lot into six (6) lot subdivision with all lots benefitting from dwelling entitlements over the subject lands is not anticipated to create any land-use conflicts or impede on surrounding agricultural activities.

Planning Priority 17 of the *Tweed Local Strategic Planning Statement (TLSPS)* aims to—

17. 'Deliver well-planned residential and rural residential housing'.

Planning Priority 17 identifies the need to deliver well-planned residential and rural residential housing opportunities. The allowance of amending Map - LSZ\_004 (Minimum Lot Size Map) of the *Tweed Local Environmental Plan 2014 (TLEP)* to facilitate a future proposed six (6) lot into six (6) lot subdivision with all lots benefitting from dwelling entitlements over the subject lands has considered the effects of residential use with regard to minimising conflict with rural areas and limiting impacts on environmental assets and is not anticipated to create any land-use conflicts or impede on surrounding agricultural activities.



This Planning Proposal to amend Map - LSZ\_004 (Minimum Lot Size Map) of the *Tweed Local Environmental Plan 2014 (TLEP)* to facilitate a future proposed six (6) lot into six (6) lot subdivision with all lots benefitting from dwelling entitlements over the subject lands is considered to be consistent with the abovementioned actions and upholds the intent of the *Tweed Local Strategic Planning Statement (TLSPS)*.

**Q5. Is the Planning Proposal consistent with any other applicable State and regional studies or strategies?**

This Planning Proposal seeks to amend the Minimum Lot Size Map (Map - LSZ\_004) under the *Tweed Local Environmental Plan 2014 (TLEP)* over the subject lands to enable a future proposed six (6) lot into six (6) lot subdivision over the subject lands with all lots benefitting from dwelling entitlements in accordance with Clause 4.2B of the TLEP. It is not directly linked with any State and regional studies or strategies.

The subject site has been identified as containing biophysical characteristics of State Significant Agricultural Land (**SSAL**) pursuant to the New South Wales Department of Primary Industries draft SSAL mapping. This Planning Proposal does not intend to affect the use of this land for agriculture, achieving consistency with the Northern Rivers Farmland Protection Project endorsed by the NSW Government in 2005.

**Q6. Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPPs)?**

This Planning Proposal is consistent with the applicable State Environmental Planning Policies (**SEPP**). An assessment of the applicable policies has been undertaken below:

*State Environmental Planning Policy (Primary Production) 2021*

Chapter 2 – Primary Production and Rural Development

The aim of this policy is to facilitate the orderly economic use and development of rural lands for rural purposes and reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources. Part 2.2, clause 2.7 outlines protection objectives to land identified as being of State or Regional Agricultural Significance.

A detailed Land Use Conflict Resolution Assessment (**LUCRA**) has been prepared by HMC Environmental (**Appendix L**), to address relevant requirements relating to the preservation of agricultural lands and the minimisation of land use conflicts.

This Planning Proposal is consistent with the provisions of the SEPP and will directly assist in the identification of State or Regional Agricultural Significant Land, minimise potential land use conflict between existing and proposed development and support the orderly economic use of rural lands for rural and related purposes. Any future development application subject to Chapter 2 of this SEPP would be assessed in accordance with these provisions and any future development will be sufficiently setback from lot boundaries with appropriate buffers for the site and its surrounds.





*State Environmental Planning Policy (Resilience and Hazards) 2021*

Chapter 2 – Coastal Management

The aim of this Chapter is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the *Coastal Management Act 2016*, including the management objectives for each coastal management area.

This Planning Proposal is consistent with this SEPP as it seeks to reconfigure lot boundaries to enable future housing that would otherwise not exist and is not anticipated to contradict or hinder the application of the Coastal Management provisions. Any future development application subject to Chapter 2 of this SEPP would be assessed in accordance with these provisions.

In accordance with Direction 4.2 of the Local Planning Directions, Section 3.2 of the *NSW Coastal Design Guidelines 2023* must be addressed in respect of Planning Proposals in the coastal zone. Please refer to **Appendix P** for an assessment of the proposal against NSW Coastal Design Guidelines 2023.

Chapter 4 – Remediation of Land

Pursuant to Section 4.6, a consent authority must not permit development unless it has considered whether the land is contaminated based on a preliminary investigation in accordance with the Contaminated Land Planning Guidelines.

A Preliminary Site Investigation was undertaken by HMC Environmental to explore the subject site's current and historic agricultural uses for potentially contaminating activities and assess the suitability of the site for this proposal. The investigation concluded that the subject site, "*is considered suitable for the proposed development*" (refer to **Appendix J**).

This Planning Proposal is consistent with this SEPP as it does not contradict or hinder the application of the remediation of land provisions. Any future development application within contaminated land would be assessed in accordance with these provisions.

*State Environmental Planning Policy (Transport and Infrastructure) 2021*

Chapter 2 – Infrastructure

The objective of Chapter 2 is to facilitate the effective delivery of infrastructure across the State and identify matters to be considered in the assessment of development adjacent to particular types of infrastructure and provide for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing.

This Planning Proposal is consistent with this SEPP as it does not contradict or hinder the application of the infrastructure provisions. Any future development application considered to result in substantial traffic generation or within proximity to any infrastructure would be assessed in accordance with these provisions.

**Q7. Is the Planning Proposal consistent with applicable Ministerial Directions (section 9.1 Directions) or key government priority?**

Directions issued by the Minister for Planning to relevant planning authorities under Section 9.1(2) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* apply to planning proposals lodged with the NSW Department of Planning & Environment. Section 9.1 allows the Minister for Planning to give directions to councils with regard to the principles, aims, objectives or policies to be achieved or given effect to in the preparation of planning proposals.

**Table 2** provides consistency of the applicable Section 9.1 Ministerial Directions for consideration in this Planning Proposal:

**Table 2. Consistency with relevant section 9.1 Directions by the Minister for Planning.**

<b>Focus Area 1 – Planning Systems</b>		
<b>1.1 – Implementation of Regional Plans</b>		
<b>Application :</b>  This direction applies to land to which a Regional Plan has been released by the Minister for Planning.	<b>Objective :</b>  Planning Proposals must be consistent with a Regional Plan released by the Minister for Planning.	<b>Consistent –</b>  This Planning Proposal is considered to give effect to the <i>North Coast Regional Plan 2041 (NCRP)</i> .  This Planning Proposal is consistent with the objectives and actions relating to housing, agriculture, rural landscapes and rural communities of the NCRP. This is demonstrated in Section B of Q3 of this report.
<b>1.3 – Approval and Referral Requirements</b>		
<b>Application :</b>  This Direction provides that a LEP shall minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or Public Authority, not contain these provisions unless Council has obtained approval from the relevant Authority and not identify development as designated	<b>Objective :</b>  The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	<b>Consistent –</b>  This Planning Proposal does not result in provisions that would require concurrence, consultation or referral to a Minister or public authority. Further, it does not identify development as designated development. All existing applicable referrals applying to the site will be undertaken at Development Application stage.

development unless certain prerequisites can be met.		
<b>1.4 – Site Specific Requirements</b>		
<p><b>Application :</b></p> <p>A LEP that amends another environmental planning instrument in order to allow a particular development proposal shall either allow that land use to be carried out in the zone that the land is situated on or rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already existing or allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal planning instrument being amended.</p>	<p><b>Objective :</b></p> <p>The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls.</p>	<p><b>Consistent –</b></p> <p>The Planning Proposal can be considered consistent with outlined objectives of this direction as it seeks to amend the Minimum Lot Size Map (Map - LSZ_004) of the <i>Tweed Local Environmental Plan 2014 (TLEP)</i> to reduce the amount of site-specific provisions and deal with the development of rural allotments through a clause, rather than through site-specific provisions and without imposing any additional development standards or requirements.</p>
<b>Focus Area 3 – Biodiversity and Conservation</b>		
<b>3.2 – Heritage Conservation</b>		
<p><b>Application :</b></p> <p>A planning proposal must contain provisions that facilitate the conservation of items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area. Including the protection of Aboriginal objects and Aboriginal places that are protected under the <i>National</i></p>	<p><b>Objective :</b></p> <p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p>	<p><b>Consistent –</b></p> <p>The planning proposal has been prepared with reference to the Tweed Aboriginal Cultural Heritage Management Plan 2018. The subject site has been identified as containing “Predictive Aboriginal Cultural Heritage”.</p> <p>Please refer to the Aboriginal Cultural Heritage Report prepared by the Tweed Byron Local Aboriginal Land Council (<b>TBLALC</b>), accessible in <b>Appendix O</b>, confirming the TBLALC Cultural Heritage Unit “considers that there is only a very</p>

Parks and Wildlife Act 1974 (NSW).		<p><i>low likelihood of Aboriginal Heritage Objects or materials being encountered as a result of an amendment of the Lot boundaries".</i></p> <p>Pursuant to Schedule 5 of the <i>Tweed Local Environmental Plan 2014 (TLEP)</i>, the subject site is not listed as containing any heritage items, nor is the site mapped on Council's Heritage Map.</p> <p>Measures to protect and conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance will be exercised as part of any future development application.</p>
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#### **Focus Area 4 – Resilience and Hazards**

##### **4.1 – Flooding**

<b>Application :</b>	<b>Objective :</b>	<b>Consistent –</b>
<p>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>	<p>(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</p> <p>(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>In accordance with Council mapping, a large portion of the site has been identified as being subject to the Design Flood Level (<b>DFL</b>) and consequently, the Probable Maximum Flood (<b>PMF</b>).</p> <p>This Planning Proposal seeks to amend the Minimum Lot Size Map (Map - LSZ_004) under the <i>Tweed Local Environmental Plan 2014 (TLEP)</i> to facilitate the creation of six (6) lots with the opportunity for dwellings over the subject site away from flood affected areas and environmental constraints.</p> <p>This proposal is not expected change the flood behaviour or impact of the site and adjoining land.</p> <p>Any subsequent application on the site would be assessed on merit according to the applicable clauses of the TLEP and <i>Tweed Development Control Plan 2008 (DCP)</i>.</p>

##### **4.2 – Coastal Management**

<b>Application :</b>	<b>Objective :</b>	<b>Consistent –</b>
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<p>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 <i>Coastal Management Act 2016</i> - 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 <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>.</p>	<p>The objective of this direction is to protect and manage coastal areas of NSW.</p>	<p>The subject site has been identified as being located within the Coastal Use and Coastal Environment Area.</p> <p>This Planning Proposal can be considered consistent with the <i>Coastal Management Act 2016</i> and compliant with the outlined objectives of this direction.</p> <p>This proposal does not seek to rezone land which would enable increased development or more intensive land-use of land within the Coastal Use and Coastal Environment Area.</p>
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#### 4.3 – Planning for Bushfire Protection

<b>Application :</b>	<b>Objective :</b>	<b>Consistent –</b>
<p>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.</p>	<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> <li>(a) protect life, property and the environment for bushfire hazards, by discouraging the establishment of incompatible land uses in bushfire prone areas, and</li> <li>(b) encourage sound management of bushfire prone areas.</li> </ul>	<p>The subject site has been identified as being located within Vegetation Category 3 Bushfire Prone Land in accordance with Council Bushfire Mapping.</p> <p>Please refer to the Bushfire Hazard Assessment prepared by Bushfire Consultancy Australia, (<b>Appendix N</b>), which confirms this Planning Proposal meets the requirements of the ministerial direction. Liaison with the commissioner of the NSW Rural Fire Service is expected to occur to demonstrate compliance with the outlined objectives of this direction.</p> <p>Any future proposed development will need to comply with the requirements of <i>Planning for Bushfire Protection 2019</i> which will be considered at the development assessment stage.</p> <p><b>Appendix N</b> confirms that appropriate Asset Protection Zones (<b>APZ</b>) can be established between any future onsite dwellings and the surrounding bushfire threat. Please refer to the preliminary Proposed Plan of Subdivision, accessible in <b>Appendix B</b>.</p>

#### 4.4 – Remediation of Contaminated Land

##### Application :

This direction applies to land on which development on land to be known as contaminated or been determined to be contaminated.

##### Objective :

The objective of this direction is to reduce the risk and harm to human health and environment by ensuring that contamination and remediation are considered by planning proposal authorities.

##### Consistent –

A Preliminary Site Investigation was undertaken by HMC Environmental to explore the subject site's current and historic agricultural uses for potentially contaminating activities and assess the suitability of the site for this Planning Proposal and any future proposed development.

Please refer to the Preliminary Site Investigation report and Northern Rivers Contaminated Land Program - Contamination Report Summary Table accessible in **Appendices J and K**, which demonstrate compliance with the outlined objectives of this direction.

In addition to the above, a detailed Land Use Conflict Resolution Assessment (**LUCRA**) has been prepared by HMC Environmental (**Appendix L**), to address relevant requirements relating to the preservation of agricultural lands and the minimisation of land use conflicts. It is considered that the buffers proposed are appropriate for the site and its surrounds.

#### 4.5 – Acid Sulfate Soils

##### Application :

This direction applies to all relevant planning authorities that are responsible for land having a probability of containing acid sulfate soils, as shown on Acid Sulfate Soils Planning Maps held by the Department of Planning.

##### Objective :

The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.

##### Consistent –

In accordance with Council mapping, the subject site has been identified as containing Class 2, 3 and 5 Acid Sulfate Soils (**ASS**).

This planning proposal is not anticipated to result in the lowering of the water table or lead to ASS disturbance. Acid Sulfate Soils will be considered and assessed against Clause 7.1 of the *Tweed Local Environmental Plan 2014 (TLEP)* at the development assessment stage.

Please refer to the Preliminary Acid Sulfate Soils Management Plan, prepared by HMC Environmental Consulting Pty Ltd (**Appendix I**),

		which confirms “no disturbance of ASS would be expected”.
<b>Focus Area 9 – Primary Production</b>		
<b>9.1 – Rural Zones</b>		
<p><b>Application :</b></p> <p>This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).</p>	<p><b>Objective :</b></p> <p>The objective of this direction is to protect the agricultural production value of rural land.</p>	<p><b>Consistent –</b></p> <p>This Planning Proposal seeks to amend the Minimum Lot Size Map (Map - LSZ_004) under the <i>Tweed Local Environmental Plan 2014 (TLEP)</i> to facilitate the creation of six (6) lots with the opportunity for dwellings over the subject site.</p> <p>A detailed Land Use Conflict Resolution Assessment (<b>LUCRA</b>) has been prepared by HMC Environmental (<b>Appendix L</b>), to assess the compatibility of future development with the relevant requirements relating to the preservation of agricultural lands and the minimisation of land use conflicts.</p> <p>This Planning Proposal does not seek to rezone or prohibit existing opportunity for agricultural activity. The proposal can be considered compliant with the outlined objectives of this direction.</p>
<b>9.2 – Rural Lands</b>		
<p><b>Application :</b></p> <p>This direction applies when a relevant planning authority prepares a planning proposal for land outside the local government areas of Lake Macquarie, Newcastle, Wollongong and LGAs in the Greater Sydney Region (as defined in the <i>Greater Sydney Commission Act 2015</i>) other than Wollondilly and Hawkesbury, that:</p> <p>(a) will affect land within an existing or proposed rural or</p>	<p><b>Objective :</b></p> <p>The objectives of this direction are to:</p> <p>(a) protect the agricultural production value of rural land,</p> <p>(b) facilitate the orderly and economic use and development of rural lands for rural and related purposes,</p> <p>(c) assist in the proper management, development</p>	<p><b>Consistent –</b></p> <p>The subject site contains land zoned as RU1 Primary Production and RU2 Rural Landscape.</p> <p>A detailed Land Use Conflict Resolution Assessment (<b>LUCRA</b>) has been prepared by HMC Environmental (<b>Appendix L</b>), to assess the compatibility of future development with the relevant requirements relating to the preservation of agricultural lands and the minimisation of land use conflicts. Any future development will be sufficiently setback from lot boundaries with appropriate buffers for the site and its surrounds</p>

<p>conservation zone (including the alteration of any existing rural or conservation zone boundary) or</p> <p>(b) changes the existing minimum lot size on land within a rural or conservation zone.</p>	<p>and protection of rural lands to promote the social, economic and environmental welfare of the State,</p> <p>(d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses,</p> <p>(e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land,</p> <p>support the delivery of the actions outlined in the NSW Right to Farm Policy.</p>	<p>This Planning Proposal does not seek to rezone or prohibit existing opportunity for rural land activity. The proposal can be considered compliant with the outlined objectives of this direction.</p>
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#### 9.4 – Farmland of State and Regional Significance on the NSW Far North Coast

<b>Application :</b>	<b>Objective :</b>	<b>Consistent –</b>
<p>This direction applies when a relevant planning authority prepares a planning proposal for land within Ballina Shire, Byron Shire, Kyogle Shire, Lismore City, Richmond Valley and Tweed Shire local government areas, except land identified as “urban growth areas” mapped in the <i>North Coast Regional Plan 2041</i> when preparing a planning proposal, that applies to land:</p> <p>(a) mapped as</p> <ol style="list-style-type: none"> <li>State significant farmland, or</li> <li>regionally significant farmland, or</li> <li>significant non-contiguous farmland,</li> </ol>	<p>The objectives of this direction are to:</p> <p>(a) ensure that the best agricultural land will be available for current and future generations to grow food and fibre,</p> <p>(b) provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and</p> <p>(c) reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused</p>	<p>This Planning Proposal affects land zoned RU1 Primary Production and RU2 Rural Landscape.</p> <p>The subject site has been identified as containing biophysical characteristics of State Significant Agricultural Land (<b>SSAL</b>) pursuant to the New South Wales Department of Primary Industries draft SSAL mapping.</p> <p>A detailed Land Use Conflict Resolution Assessment (<b>LUCRA</b>) has been prepared by HMC Environmental (<b>Appendix L</b>), to address the relevant requirements relating to the preservation of agricultural lands and the minimisation of land use conflicts. Any future development will be sufficiently setback from lot boundaries with appropriate buffers for the site and its surrounds</p> <p>This Planning Proposal does not seek to rezone or prohibit existing opportunity for agricultural</p>





(b) on the set of four maps held in the Department of Planning and Environment marked "Northern Rivers Farmland Protection Project, Final Map 2005 (Section 117(2) Direction)"	by urban encroachment into farming areas.	activity. The proposal can be considered compliant with the outlined objectives of this direction
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### Section C Environmental, Social and Economic Impact

**Q8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?**

This Planning Proposal will not result in the removal of any native vegetation or habitat. It is not expected that this Planning Proposal will result in any adverse effect on threatened species, populations or ecological communities or their habitats. Any potential impact on these habitats and communities would be assessed as part of the development application. Please refer to the Environmental Values and Impact Assessment prepared by Bower Ecology, accessible in **Appendix M**.

**Q9. Are there any other likely environmental effects of the Planning Proposal and how are they proposed to be managed?**

This Planning Proposal is not anticipated to result in any significant environmental effects.

#### *Environmental Health*

In accordance with Council mapping, the subject site has been identified as containing Class 2, 3 and 5 Acid Sulfate Soils (**ASS**). Please refer to the Preliminary Acid Sulfate Soil Investigation prepared by HMC Environmental, accessible in **Appendix I**, which confirms "no disturbance of ASS would be expected" and as such, no further investigations are necessary.

A Preliminary Site Investigation was undertaken by HMC Environmental to explore the subject site's current and historic agricultural uses for potentially contaminating activities and assess the suitability of the site for the proposed subdivision. Please refer to the Preliminary Site Investigation report and Northern Rivers Contaminated Land Program - Contamination Report Summary Table accessible in **Appendices J and K**. The report and subsequent results from this investigation concluded that the subject site, "*is considered suitable for the proposed development*".

In addition to the above, a detailed Land Use Conflict Resolution Assessment (**LUCRA**) has been prepared by HMC Environmental (**Appendix L**), to address the compatibility of the proposed development with the relevant



requirements relating to the preservation of agricultural lands and the minimisation of land use conflicts. It is considered that the buffers proposed are appropriate for the site and its surrounds.

#### *Bushfire Hazard*

The subject site is mapped under Council mapping database as being subject to Vegetation Category 3 Bushfire Prone Land. Further consideration and referral of this planning proposal will be undertaken with NSW Rural Fire Service to assess consistency with the *Planning for Bushfire Protection 2006* guidelines. Please refer to the Bushfire Assessment Report prepared by Bushfire Consultancy Australia, accessible in **Appendix N**.

#### *Aboriginal Heritage*

In accordance with Council's Aboriginal Cultural Heritage Management Plan (2018) mapping the subject site has been identified as containing "Predictive Aboriginal Cultural Heritage". Please refer to the Aboriginal Cultural Heritage Report prepared by the Tweed Byron Local Aboriginal Land Council (TBLALC), accessible in **Appendix O**, confirming the TBLALC Cultural Heritage Unit "*considers that there is only a very low likelihood of Aboriginal Heritage Objects or materials being encountered as a result of an amendment*".

It is not expected that this Planning Proposal will result in any other likely environmental effects.

#### **Q10. Has the Planning Proposal adequately addressed any social and economic effects?**

This Planning Proposal is likely to have both positive social and economic benefits as it aims to facilitate a future subdivision development that provides a more logical and efficient use of the subject site and increases the supply of housing choice and improved diversity of rural housing options in the Shire. No significant adverse social or economic impacts are anticipated as a result of this proposal.

### **Section D Infrastructure (Local, State and Commonwealth)**

#### **Q11. Is there adequate public infrastructure for the Planning Proposal?**

The intended outcome of this proposal is to amend the Minimum Lot Size Map (Map - LSZ\_004) of the *Tweed Local Environmental Plan 2014 (TLEP)* to enable a future proposed six (6) lot into six (6) lot subdivision over the subject lands with all lots benefitting from dwelling entitlements in accordance with Clause 4.2B of the TLEP.

This standard Planning Proposal can be considered minor in nature and is not anticipated to increase the demand for public infrastructure from that which currently exists. The subject lands are not serviced by reticulated water or sewer as is consistent with the wider locality.

Any future development application will provide the necessary provisions for civil engineering works including driveway access and on-site water supply in accordance with the requirements of *Tweed Shire Development Control Plan: Section A5* and would be assessed on merit at that time. Please refer to the Engineering Infrastructure Report prepared by Oska Consulting Group, accessible in **Appendix F**.



## Section E State and Commonwealth Interests

### **Q12. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?**

Consultation with State and Commonwealth public authorities has not yet been undertaken. The relevant authorities will be consulted in accordance with the requirements of the Gateway Determination. Views of consulted public authorities will be summarised and addressed in the final Planning Proposal.

## **5.0 Mapping (Part 4)**

As discussed above in Part 2 of this Planning Proposal, a series of mapping amendments to the *Tweed Local Environmental Plan 2014* (TLEP) will be required in order to facilitate the intended outcome. Specific amendments are detailed as follows:

1. Applying minimum lot size provisions as per the Proposed Plan of Subdivision (**Appendix B**) by amending Map - LSZ\_004 (Minimum Lot Size Map);

As mapping must be consistent with the Department of Planning and Environment's Standard Technical Requirements for Spatial Datasets and Maps, a suite of indicative draft LEPs maps is to be prepared in the near future.

## **6.0 Community Consultation (Part 5)**

In accordance with the requirements of Schedule 1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and conditions to be established following Gateway Determination, this Planning Proposal is expected to be publicly exhibited as a 'standard' proposal for community consultation and notification.

Public exhibition of this proposal may include notifying adjoining landowners in writing, placing a public notice in the local newspapers and on the website of the Tweed Shire Council and/or the Department of Planning and Environment. Council will place the Planning Proposal on public exhibition for a period of no less than 14 days and accord with conditions established by the Gateway Determination.

## **7.0 Project Timeline (Part 6)**

The Project Timeline is to assist with tracking the progress of the Planning Proposal through the various stages of consultation and approval. It will also provide as a mechanism for monitoring the progress of the planning proposal through the plan making process to more accurately manage resources to ensure there are no unexpected delays in the process. It is estimated that this amendment to the *Tweed Local Environmental Plan 2014* (TLEP) will be completed by August 2025.



Council requests delegation to carry out certain plan-making functions in relation to this proposal. Delegation would be exercised by Council's General Manager or Director of Planning and Environmental Services. The proposed timeframe is as follows:

*Table 3. Approximate Project Timeline.*

<b>Key Stages of Consultation and Approval</b>	<b>Estimated Timeline</b>
Gateway Determination	January 2025
Completion of Gateway Determination Requirements	February 2025
Public Exhibition	March 2025
Agency Consultation	April 2025
Review of Submissions	May 2025
Report to Council	June 2025
Submission to the Department of Planning & Environment for Finalisation	July 2025
Anticipated Date Plan is Published and Made Effective	August 2025

## 8.0 Summary & Conclusions

This Planning Proposal has been prepared to seek Gateway Determination to amend the Minimum Lot Size Map (Map - LSZ\_004) of the *Tweed Local Environmental Plan 2014 (TLEP)* to enable a future six (6) lot subdivision as per the Proposed Plan of Subdivision, accessible in **Appendix B**, over Lot 1 in DP328107, Lot 1 in DP364474, Lot 1 in DP376131, Lot 1 in DP410859, Lot 8 in DP755685, and Lot A in DP174886; 133 – 193 Dulguigan Road, Dulguigan.

This Planning Proposal has been prepared in accordance with the requirements of the NSW Department of Planning, Housing and Infrastructure's advisory documents '*Local Environmental Plan Making Guideline 2023*' and '*A Guide to Preparing Planning Proposals*' and is considered compliant with all statutory planning controls pursuant to the *Environmental Planning and Assessment Act 1979 (EP&A Act)*, as required.

As such, the proposal is considered to have sufficient planning merit to justify Council's favourable consideration and be recommended for approval subject to reasonable and relevant conditions established following Gateway Determination.

You are invited to contact **Ms. Chelsea Smith** of this office should you wish to discuss this proposal further, on (07) 5596 0370.