

TWEED SHIRE COUNCIL MEETING TASK SHEET

User Instructions

If necessary to view the original Report, double-click on the 'Agenda Report' blue hyperlink above.

Action Item - PLANNING COMMITTEE MEETING Thursday, 1 August 2019

Action is required for Item **10** as per the Planning Committee Recommendation outlined below.

ATTENTION:

PLEASE NOTE THE ADOPTION OF THE COMMITTEE RECOMMENDATIONS BY COUNCIL AT ITS MEETING HELD Thursday, 1 August 2019 (Minute No 297 Refers)

TITLE: [PR-PC] Request to Prepare a Planning Proposal - 225 Terranora Road, Banora Point

Cr K Milne
Cr C Cherry

RECOMMENDED that in respect of the request to prepare a Planning Proposal for Lot 16 DP 856265 at No. 225 Terranora Road, Banora Point, Council endorses that:

1. Council's resolution of 17 November 2016 stands;
2. The proponent be advised that their request is not supported; and
3. The Department of Planning, Industry and Environment be advised of Council's decision and provided with this report and the report of 17 November 2016.

The Motion was **Carried**

FOR VOTE - Unanimous

ABSENT. DID NOT VOTE - Cr W Polglase, Cr R Byrnes

[PR-PC] Request to Prepare a Planning Proposal - 225 Terranora Road, B...

TITLE: [PR-PC] Request to Prepare a Planning Proposal - 225 Terranora Road, Banora Point

SUBMITTED BY: Strategic Planning and Urban Design

mhm



Leaving a Legacy

Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.4 Managing Community Growth
- 1.4.1 Strategic Land-Use Planning - To plan for sustainable development which balances economic environmental and social considerations. Promote good design in the built environment.

ROLE: **Leader**

SUMMARY OF REPORT:

Council is in receipt of a request to prepare a planning proposal for Lot 16 DP 856265, No. 225 Terranora Road Banora Point.

Whilst the majority of the site lies within 7(d) Environmental Protection (Scenic/Escarpment) zoned land under Tweed LEP 2000 and Deferred Matter under Tweed LEP 2014, the request seeks to change the zoning to facilitate a large lot residential development.

On 17 November 2016, in relation to this site and a previous request from the proponent, Council resolved to reduce the area of land to be rezoned and limit the development potential to two allotments consistent with previous, but lapsed, development consent.

This request seeks to remove the requirement that the development potential be limited to two allotments.

Because this request is fundamentally a re-issue of the previous request of 2016, to minimise duplication, Council's resolution and report of that meeting is attached and should be referred to in conjunction with this report.

As addressed in detail in the report of 2016, while the site was previously a hard rock quarry, scenic protection, water supply, effluent disposal and geotechnical matters are of concern.

Council has a lengthy history of ensuring the protection of the escarpment both recently and historically, leading Council officers to recommend in this report that Council's resolution of 17 November 2016 remain in effect and the proponent be notified that Council does not support the request.

Where a council does not support a request to prepare a planning proposal, the proponent, if they choose, can seek a review of Council's decision through the Gateway process. This

process is administered by the Department of Planning, Industry and Environment, and usually conducted by the local planning panel.

Whilst this request is considered to lack strategic merit and is not of regional significance, until such time as a Pre-Gateway review is sought by the proponent no indication of the Department's response is possible.

RECOMMENDATION:

That in respect of the request to prepare a Planning Proposal for Lot 16 DP 856265 at No. 225 Terranora Road, Banora Point, Council endorses that:

- 1. Council's resolution of 17 November 2016 stands;**
- 2. The proponent be advised that their request is not supported; and**
- 3. The Department of Planning, Industry and Environment be advised of Council's decision and provided with this report and the report of 17 November 2016.**

REPORT:

Council is in receipt of a request from Planit Consulting (the proponent) for Council to prepare a planning proposal for Lot 16 DP 856265, No. 225 Terranora Road, Banora Point.

The request seeks a rezoning of part of the land from 7(d) Environmental Protection (Scenic/Escarpment) under *Tweed Local Environmental Plan 2000* to R5 Large Lot Residential under *Tweed Local Environmental Plan 2014*.

The request essentially seeks the same rezoning outcome, without the nomination of the number of lots, as was subject of an earlier planning proposal which Council resolved upon on 17 November 2016.

While Council resolved in 2016 to endorse a rezoning of part of the site, the resolution restricted the area and the development potential of the site to two allotments (not the 16 proposed in concept plans). Upon receipt of a Gateway Determination which supported Council's resolution, the proponent withdrew their request.

Two allotments were considered reasonable given the sensitivity of the site within the scenic escarpment, imposition of development restrictions on adjoining properties (on property titles) to prevent housing within the escarpment, and considerable constraints affecting a site which lies within what was previously a hard rock quarry.

Two lots are also consistent with a previous consent (K99/0355, 3 September 2002) for a two lot subdivision which was not acted upon and has lapsed.

Due to the proponent requesting the same planning outcome as previously reported to Council the resolution and detailed planning report to the 17 November 2016 Planning Committee Meeting is attached and should be read in conjunction with this report.

The proponent has provided copies of studies previously sent to Council for consideration and updated geotechnical and visual impact studies.

This report seeks Council's endorsement of a response to this request, and outlines the options to proceed with a rezoning of the site without any limitations on development capacity, or to maintain Council's existing position as resolved in 2016 and refuse the request.

The Site

The site is accessed off Terranora Road and adjoins large lot residential development in The Parapet. The part of the property subject of the rezoning request is identified in figures below.

The site is almost entirely located within the 7(d) Environmental Protection (Scenic/Escarpment) zone and contains a small section of RU5 at the entrance to the site and RU2 Rural Landscape to the lower access handle to the site.

Whilst the site was previously operated as a quarry and rehabilitation back to native vegetation occurred, the site has been kept in a grassed state, lack of trees should not be considered a primary factor in determining the suitability of a site for residential development, especially within the escarpment where environmental protection and scenic impact are highly significant.

A more detailed description of the site can be found in the attachment to this report.

This request

This current request is seeking a development outcome consistent with the request resolved upon by Council in 2016 but without a limitation on, or expressed number of lot yields.

Should Council resolved to rezone the site as requested without restricting the development capacity of the site, the landowner would be in a position to seek subdivision and obtain lot yields similar to those previously sought and refused by Council.

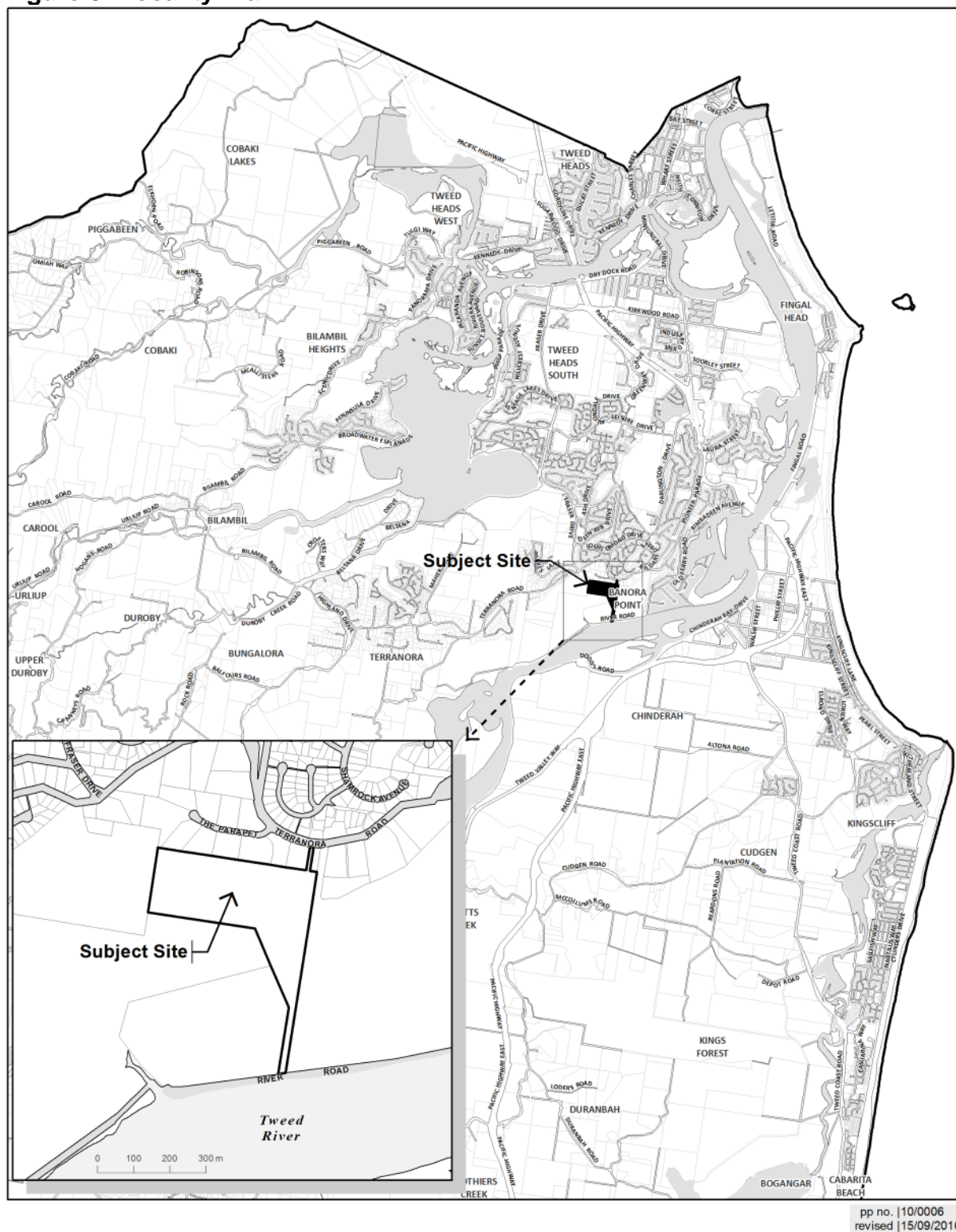


Figure 1: 2015 aerial image showing subject site, escarpment and locality



Figure 2: indicative area of rezoning as proposed by the proponent

Figure 3: Locality Plan



Locality Plan Planning Proposal

Affected Properties: Lot 16 DP 856265
No. 225 Terranora Road, Terranora

Cadastre:
Base Data 13/09/2016
© Land and Property Information (LPI)
Addendum Data 15/09/2016
© Tweed Shire Council
Boundaries shown should be
considered approximate only.



Figure 4: View of the site from the east showing adjoining properties on The Parapet and Terranora Road

Previous request to prepare a planning proposal

The property has previously been the subject of a number of requests; the most recent being reported to Council on 17 November 2016, requested by the same proponent.

As reported to Council in 2016, the proponent sought a rezoning of part of the land from 7(d) Environmental Protection (Scenic/Escarpment) under Tweed Local Environmental Plan 2000 to R5 Large Lot Residential under Tweed Local Environmental Plan 2014 to permit a 16 lot community title subdivision.

Whilst the site comprises an area of cleared land and it was previously operated as a hard rock quarry, the potential for significant scenic impact from its development within the escarpment is of major concern. In addition, there are other significant matters that Council must be satisfied can be adequately addressed, including:

1. Water supply;
2. Waste water disposal;
3. Potential for contamination from quarry operations and fill material, and
4. Geotechnical stability of the land.

Until Council has an endorsed Scenic Landscape Strategy, the impact of development on the scenic landscape and amenity of the locality remains as discussed in the attached report of 2016.

The 2016 report in part concludes that:

“While development consent for adjoining and nearby residential land has made specific reference to the need for protection of the escarpment and clear separation of housing development from the escarpment, to the point of having restrictions on use registered on title, Council has previously issued a development consent for a two lot subdivision of the site if the properties were connected to Council’s reticulated water and sewer systems.

While the landowner has previously been advised that any level of development would have significant impacts on the scenic amenity, a two lot subdivision is considered an appropriate planning response providing that further investigations support this outcome, and the location, form and features of the house, including colour and visual impact are adequately addressed.

Council officers recommend that limiting the development of land to a two lot subdivision is an appropriate planning response because it reflects an actual constraint of the land when viewed against the visual landscape importance of the Terranora escarpment, which collectively with other unique landscape management units is the defining natural feature of the Tweed. The integrity of the Tweed’s landscape is vital now and for the longer-term benefit it provides to the Tweed economy through tourism, and which has been cumulatively impacted over a long period through site by site development that individually have previously been perceived as imperceptible.”

Previous resolution of Council

At its meeting of 17 November 2016 Council unanimously resolved, in part, to reduce the area of land to be rezoned, and to restrict subdivision potential to two lots only.

Potential implications of refusing the request

Should Council resolve to maintain its existing position regarding zoning and development of this site by restricting the area to be rezoned and limiting development capacity of the site to two allotments, this would lead to a refusal of the current request.

Refusal of the request would provide the opportunity through the Gateway process (for amendments to the LEP) for the proponent to seek a Pre-Gateway Review.

A Pre-Gateway Review is administered by the Department of Planning, Industry and Environment, and is carried out independently by the Regional Planning Panel.

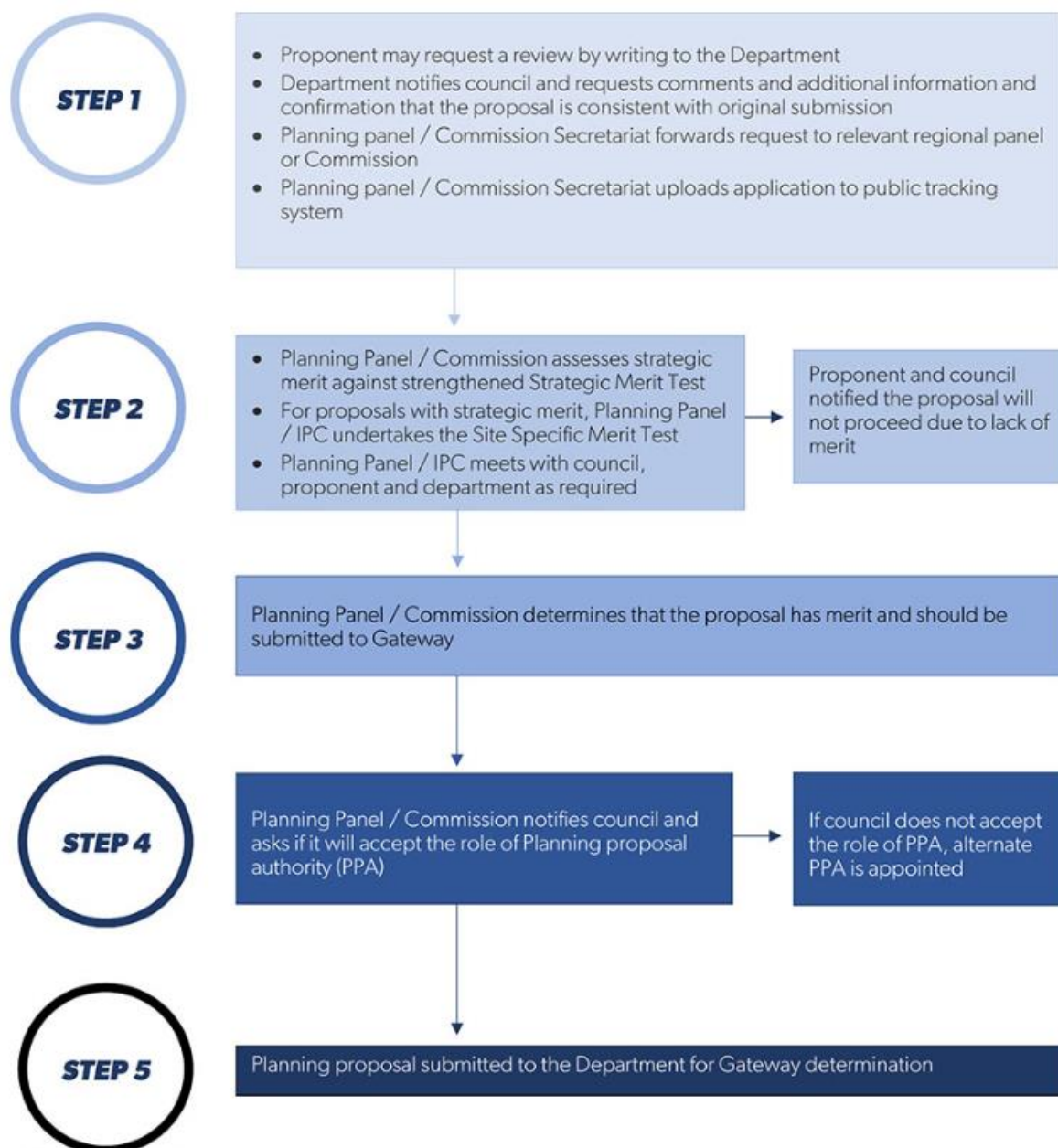
Whilst the Department has previously assumed the role of Relevant Planning Authority and rezoned land at 420-434 Terranora Road Terranora, a spot rezoning which is not considered to be of regional significance and lacks strategic merit would most likely be considered a matter outside the core roles of the Department.

Council has been clear, unanimous, and consistent, both recently and historically, with its determination to protect the escarpment from residential development not just on this site, but development along the top of the escarpment and Terranora Road. This position would be cited in any response to the Department should a Pre-Gateway review be sought by the proponent.

However, until such time as a Pre-Gateway Review Request is lodged with the Department, the nature of any response from the Department cannot be assumed.

Once finalised, it is envisaged that the implementation of the E Zone Review and Council's Scenic Landscape Strategy will provide further strategic guidance and support for protection of the escarpment in its entirety.

The process of having a Pre-Gateway review undertaken is summarised below.



OPTIONS:

1. Maintain Council's position of supporting a rezoning consistent with Council's resolution of 17 November 2016, being in part, a reduced area of land to be zoned R5 Large Lot Residential and not more than two lot subdivision; or
2. Prepare a planning proposal to be sent to the Gateway for a determination based on the request; or
3. Defer for a Councillor workshop.

Option 1 is recommended.

CONCLUSION:

The proponent has re-submitted a request for Council to rezone land within the scenic escarpment to RU5 Large Lot Residential and sought to vary Council's previous resolution by removing the requirement which restricted development capability to not more than two allotments.

Council has been successful over many years in establishing a clear position with respect to protection of the escarpment.

This report recommends that Council's resolution of 17 November 2016 remain as the position of Council for the development of this site and that the proponent and Department of Planning, Industry and Environment be notified accordingly.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Resolution and Report on 225 Terranora Road, Banora Point
Planning Committee Meeting held 17 November 2016
(ECM 5975227)
