

5 June 2014

Our Ref: BUT 09/38

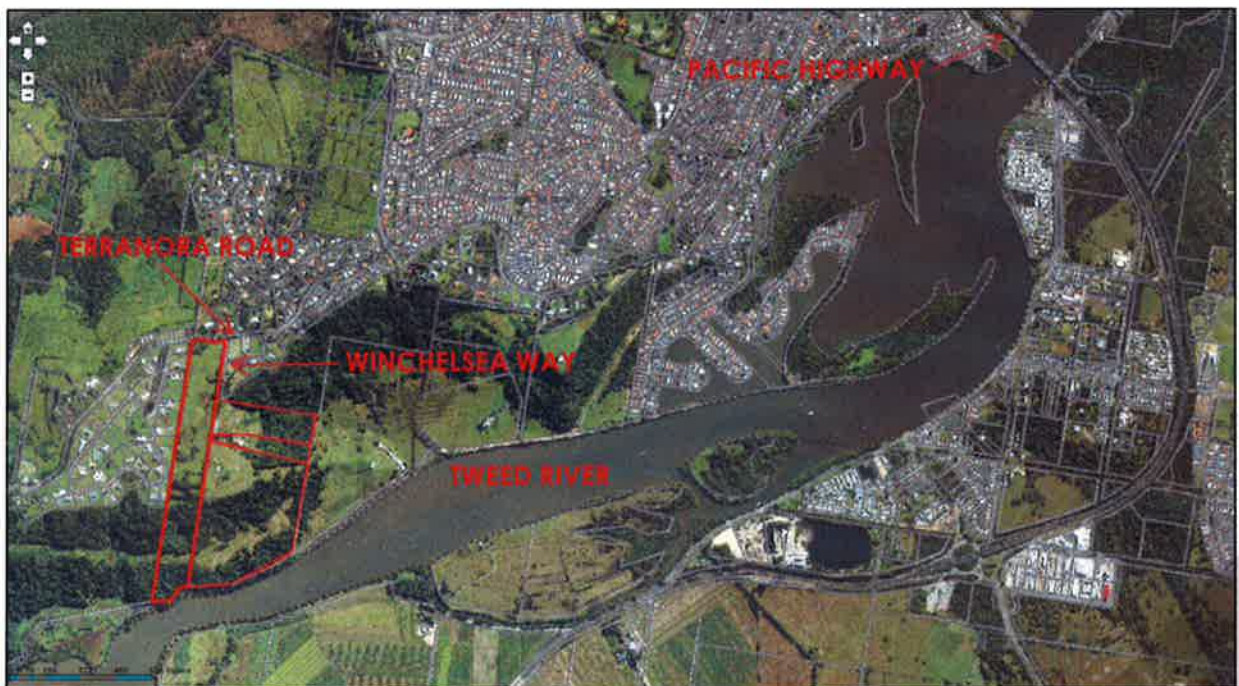
Secretary  
Department of Planning and Environment  
GPO Box 39  
Sydney NSW 2001

Dear Sir

**Submission to Northern Council's E-Zone Review Interim Report,**  
**Parsons Brinkerhoff, 30 September 2013**

**1.0 INTRODUCTION**

We act for the owners of Lot 1 DP 595863, Lot 3 DP 819065, Lot 2 DP 819065 and Lot 1 DP 807182 Winchelsea Way, Terranora (Tweed Local Government Area). Our principal client, Buttons With Bows Pty Ltd, owns Lot 1 DP 595863. The location of the subject land in relation to the Pacific Highway, Terranora Road and the Tweed River is shown on **Figure 1**.



**Figure 1 – Locality Plan**  
**Source: Tweed Shire Council, Date of Photography 2012**

## 2.0 BACKGROUND

Part of the site and adjoining land to the east and west was zoned for rural/residential purposes in 1988 when Tweed Local Environmental Plan 1987 came into force. Development Application No. 02/1159 was lodged in 2002 for a 56 lot rural residential subdivision over adjoining land to the west (Azure). In assessing that application, it became apparent that the location of the 1(c)/7(d) zone boundary was anomalous and accordingly Council prepared Tweed Local Environmental Plan Amendment No. 34 to relocate the zone boundary generally to the south where it abuts the subject land. That Amendment was gazetted on 17 October 2003. Development Consent No. 02/1159 was subsequently issued and the subdivision has been constructed.

Local Environmental Plan Amendment No. 34 did not include the subject land, however the location of the zone boundary is also anomalous within that land. A Development Application for Stage 1 of the proposal, limited to that part of the land currently zoned R5 (plus residue lots in the 7(d) zone) which did not rely on an LEP Amendment for permissibility, was lodged and approved by the Department of Planning (see Development Consent No. 242-10-2004 issued on 22 June 2007).

It was generally agreed at the site view and Planning Focus Meeting held on 2 December 2003 that the zone boundary was incorrectly located and that the edge of the escarpment was the appropriate location. Further, the Department of Infrastructure Planning and Natural Resources representatives at the meeting advised that there will *"probably be no requirement for a local environmental study and the rezoning should be processed without any apparent difficulties."*

An application to amend the Local Environmental Plan to correct the zone boundary anomaly in accordance with the September 2004 Report (**attached**) was formally lodged with Council on 24 September 2004.

No Section 54 Resolution was obtained and in view of the amendments to the Act which came into force on 1 July 2009, it would now be necessary to submit a fresh Planning Proposal Request (Rezoning Application) to enable the rezoning process to recommence.

Since the date of preparation of the September 2004 Rezoning Application, there have been some changes including:

- ♦ Development Consent No. 242-10-2004 has been issued;
- ♦ Tweed Local Environmental Plan 2014 came into force on 4 April 2014.

Notwithstanding that a formal Rezoning Application was lodged in 2004, the application was not processed by Council and therefore, following further discussions with Council Officers in 2010, it was agreed that the 2004 Rezoning Application Report would be resubmitted to Tweed Shire Council together with a covering letter requesting Council to prepare a Planning Proposal for the subject land. However, given that Tweed Local Environmental Plan 2014 gazettal was imminent, and there was a possibility that the zoning anomaly would be corrected by Tweed Local Environmental Plan 2014, resubmission of the 2004 Application was deferred.

Tweed Local Environmental Plan 2014 did not correct the zoning anomaly and therefore it is considered that the current E-Zone Review Report provides an opportunity for the anomaly to be corrected when the final Environmental Protection zones are determined.

### 3.0 CURRENT ZONES

#### 3.1 Tweed Local Environmental Plan 2000

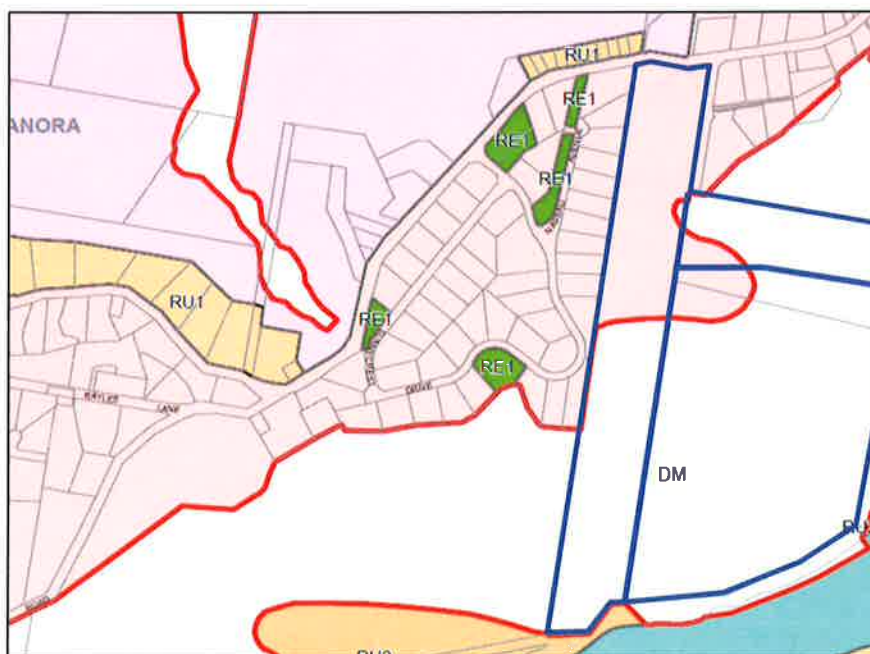
Under the provisions of this Plan, which applies to the deferred areas identified in Tweed Local Environmental Plan 2014, the subject land is zoned partly 7(d) Environmental Protection (Scenic Escarpment) as indicated on **Figure 2**.



**Figure 2 – Zoning Map**  
Source: Tweed Local Environmental Plan 2000

#### 3.2 Tweed Local Environmental Plan 2014

Part of the site is zoned R5 Large Lot Residential under the provisions of this Plan, being the land previously zoned 1(c) under Tweed Local Environmental Plan 2000. The existing R5 zoned land is shown on **Figure 3**.



**Figure 3 – Zoning Map**  
Source: Tweed Local Environmental Plan 2014



## 4.0 KEY SITE OPPORTUNITIES AND CONSTRAINTS

### 4.1 Vegetation

Tweed Shire Council Vegetation Mapping (2009) shows the area proposed to be zoned R5 as highly modified/disturbed, as indicated on **Figure 4**.

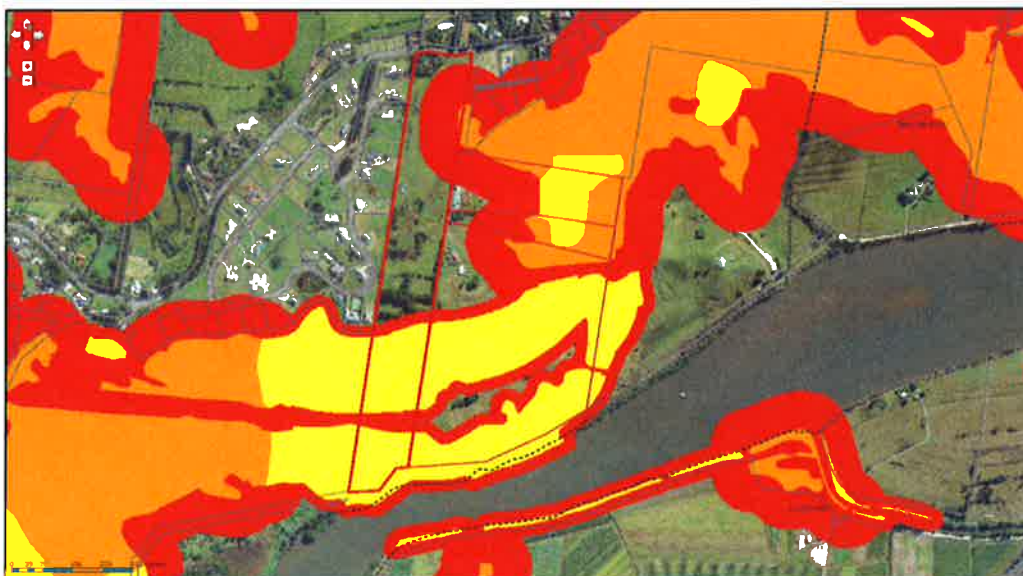


**Figure 4 – Vegetation Mapping 2009**  
Source: Tweed Shire Council

Existing vegetation does not impose a constraint to the proposed zoning of part of the 7(d) land to R5.

### 4.2 Bushfire Prone Land

Tweed Shire Council's Bushfire Prone Land Maps show the majority of the area proposed to be zoned R5 as not bushfire prone, or within the vegetation buffer area. Bushfire hazards do not impose a significant constraint to the proposed R5 zoning.



**Figure 5 – Bushfire Mapping**  
Source: Tweed Shire Council

## 5.0 E-ZONE REVIEW

In relation to the current 7(d) Environmental Protection (Scenic Escarpment) zoned land, Recommendation 7 is as follows:

*"7. Ballina SC, Byron SC, Lismore CC and Tweed SC should include environmentally sensitive areas into the E3 Zone on the basis of those areas meeting any of the following criteria Stated in the table below."*

6	<p>Land identified within a validated special data set comprising the areas of land where strict controls on development should apply. Such land includes those areas of native vegetation where the eco-system services provided by the vegetation is critical, including:</p> <ul style="list-style-type: none"><li>• Where the risks of severe erosion and landslide are extremely high (ie steep land) and the consequences are potentially catastrophic;</li><li>• Where native vegetation that is critical to watershed protection (ie when vegetation protects against catastrophic floods or droughts and the destruction of fisheries where supporting grounds are protected by mangroves or riparian forests.</li></ul>
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**Note:** E3 zone means E3 – Environmental Management.

The existing 7(d) zoned land north of the escarpment comprises predominantly cleared grazing land which is relatively unconstrained in terms of geophysical and biophysical constraints. The 7(d) (and equivalent E3) zones would not, in our opinion, be consistent with the criteria stated in Item 6 of the Recommendation above. The escarpment to the south running down to the Tweed River is generally consistent with the criteria above and should retain an E3 Environmental Management zone.

However, as acknowledged as early as 2003, by relevant State Agencies and Tweed Shire Council, zoning of the unconstrained area at the top of the escarpment as 7(d) is not appropriate and indeed that anomaly was corrected in respect of the adjoining land by way of Tweed Local Environmental Plan Amendment No. 34, but regrettably that Amendment did not extend to the subject land.

It is submitted that the current Review of Environmental Zones provides an opportunity to correct that anomaly and therefore the Department is requested to amend the zoning of the subject land as shown on the **attached** Concept Layout Plan prepared by McLauchlan Surveying, dated 17 May 2006.

Please do not hesitate to contact Darryl Anderson should you require any further information in relation to this matter.

Yours faithfully  
Darryl Anderson Consulting Pty Ltd



Darryl Anderson  
Director

Encl.

cc. Buttons with Bows Pty Ltd