

## Planning and Assessment

IRF19/6270

### Gateway determination report

<b>LGA</b>	Coffs Harbour
<b>PPA</b>	Coffs Harbour City Council
<b>NAME</b>	Residential rezoning of land at Bark Hut & Newmans Roads, Woolgoolga (262 lots)
<b>NUMBER</b>	PP_2019_COFFS_002_00 & PP_2019_COFFS_003_00
<b>LEP TO BE AMENDED</b>	Coffs Harbour Local Environmental Plan 2013
<b>ADDRESS</b>	Bark Hut and Newmans Roads, Woolgoolga
<b>DESCRIPTION</b>	Lot 202 DP 874273
<b>RECEIVED</b>	19 September 2019
<b>FILE NO.</b>	EF19/26772
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 1. INTRODUCTION

### 1.1 Description of planning proposals

Council has submitted two planning proposals that affect different parts of the same lot. The lot comprises two parcels separated by public open space land. The lot includes a northern portion on Bark Hut Road and a southern portion on Newmans Road (Figure 1). The lot functions as two independent sites and the two planning proposals are for each separate parcel of land.

Council considered the two separate proponent-led planning proposals concurrently at their meeting of 12 September 2019 and initially supported the Department considering the planning proposals similarly. However, they have since requested the proposals remain separate due to the physical separation of the parcels, the separate access points and different environmental and topographical attributes.

The two planning proposals seek to amend the Coffs Harbour LEP 2013 to facilitate the residential development of the land. Part of the site is also proposed to be zoned for environmental management purposes.

### 1.2 Site description

The subject site, Lot 202 DP 874273, includes a northern portion on Bark Hut Road and a southern portion on Newmans Road, Woolgoolga. The lot has a total area of 25.6 hectares and is located approximately 22 km north of Coffs Harbour and 1.5 km north west of Woolgoolga. The site is located west of Solitary Islands Way and is in proximity to the established residential areas of Woolgoolga and Safety Beach.



Figure 1 – Lot 202 DP 874273 – Bark Hut Road parcel to the north, Newmans Road parcel to the south

### 1.3 Existing planning controls

The land is currently zoned RU2 Rural Landscape with a minimum lot size of 40ha under the Coffs Harbour LEP 2013. It is predominantly mapped as having class 5 acid sulfate soils with a small area of class 4 and is adjacent to land mapped as having terrestrial biodiversity values. There are no heritage items in the vicinity and no floor space ratio provisions apply. The current and proposed planning controls are shown in Figures 2 – 11 on the following pages.

### 1.4 Surrounding area

Lot 202 is split by public open space that is earmarked for use as a future sports complex. The lot is adjacent to existing residential areas including large lot residential land to the west and low-density residential land to the south and north east. Agricultural land adjoins the site to the north.

### 1.5 Summary of recommendation

The planning proposals are considered to have merit as they provide additional housing in an area identified as being suitable for future urban investigation by both local and regional strategic planning frameworks.

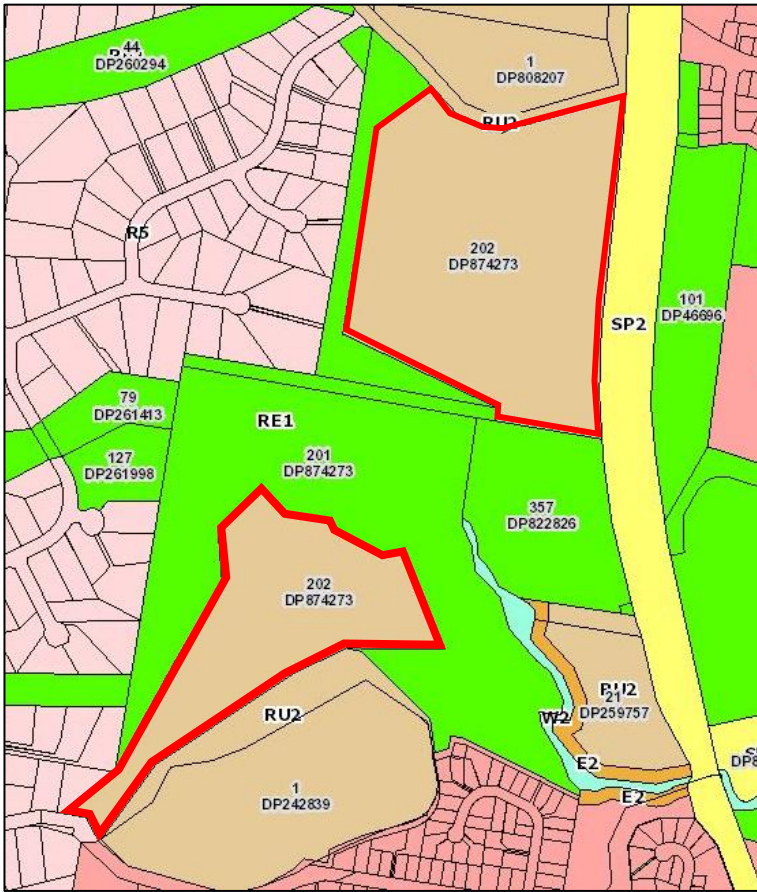


Figure 2 – Current zoning of the land

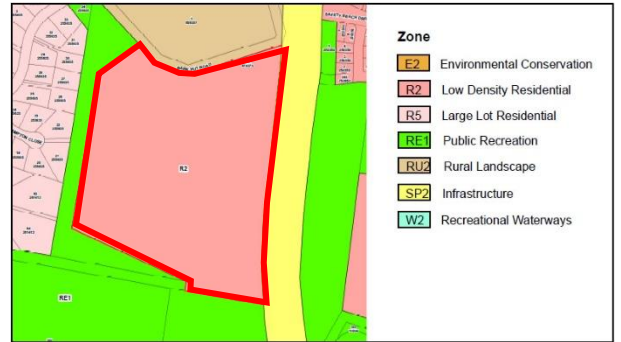


Figure 3 – Proposed zoning of the land, Bark Hut Road

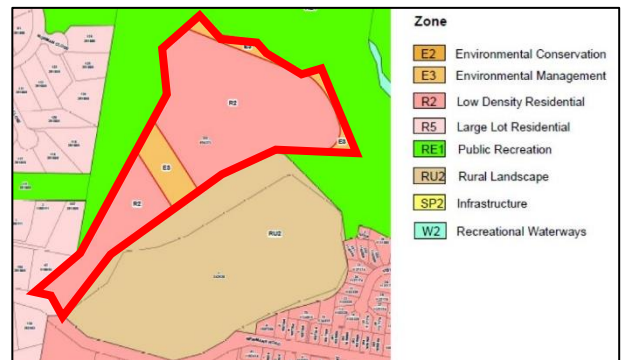


Figure 4 – Proposed zoning of the land, Newmans Road

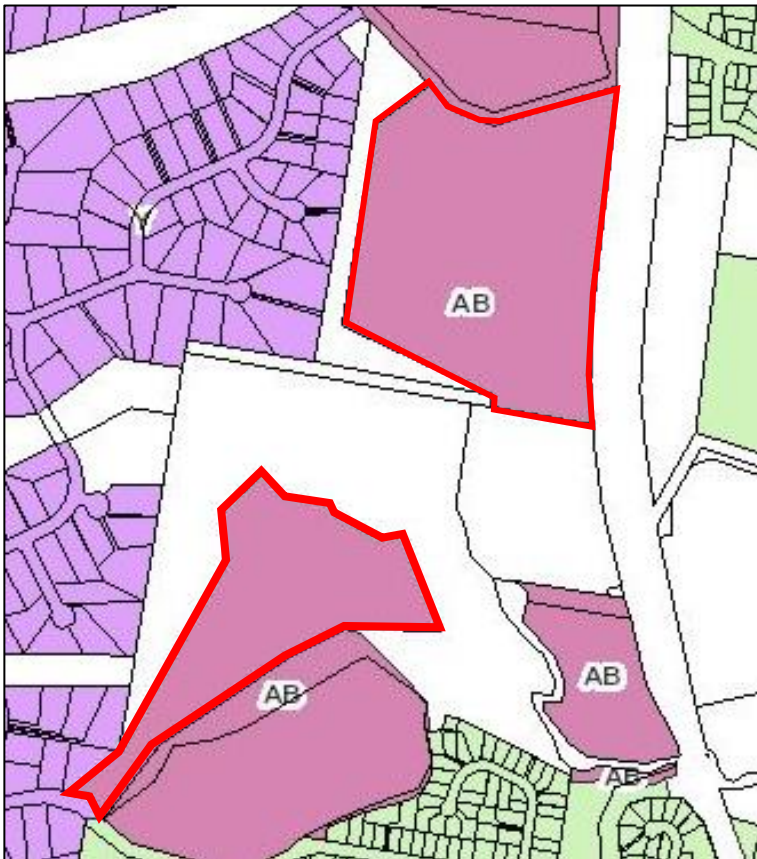


Figure 5 – Current minimum lot size of the land

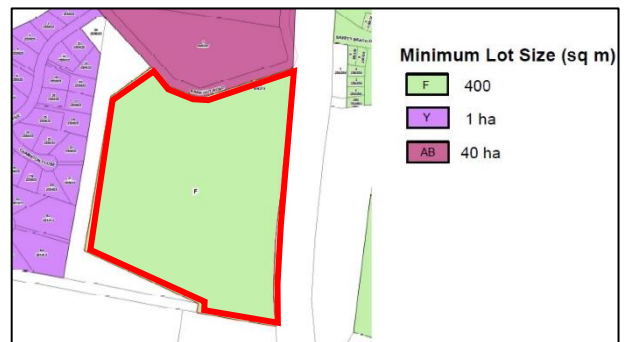


Figure 6 – Proposed minimum lot size of the land, Bark Hut Road

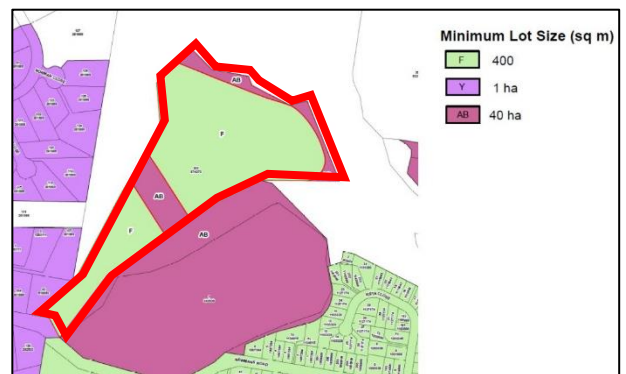


Figure 7 – Proposed minimum lot size of the land, Newmans Road

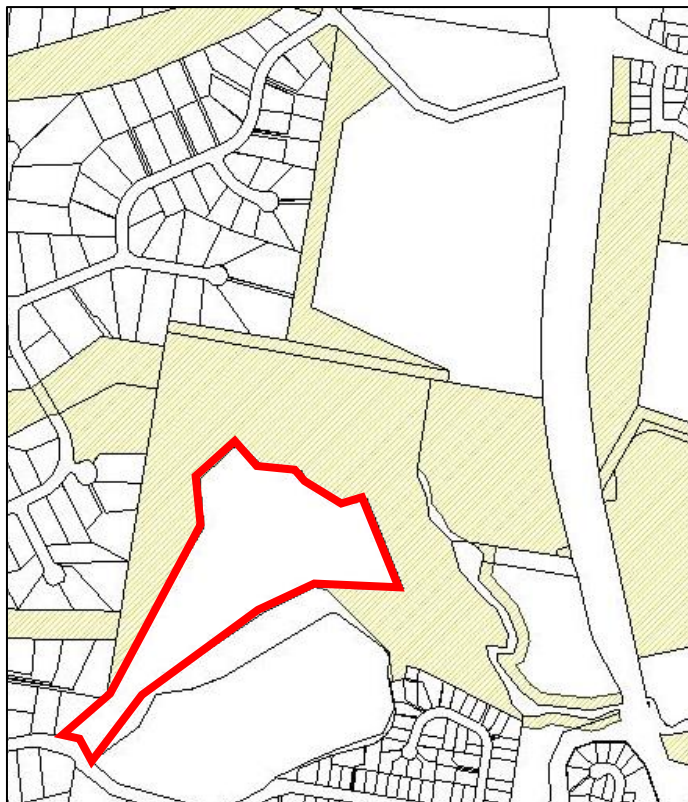


Figure 8 – Current terrestrial biodiversity map of the land

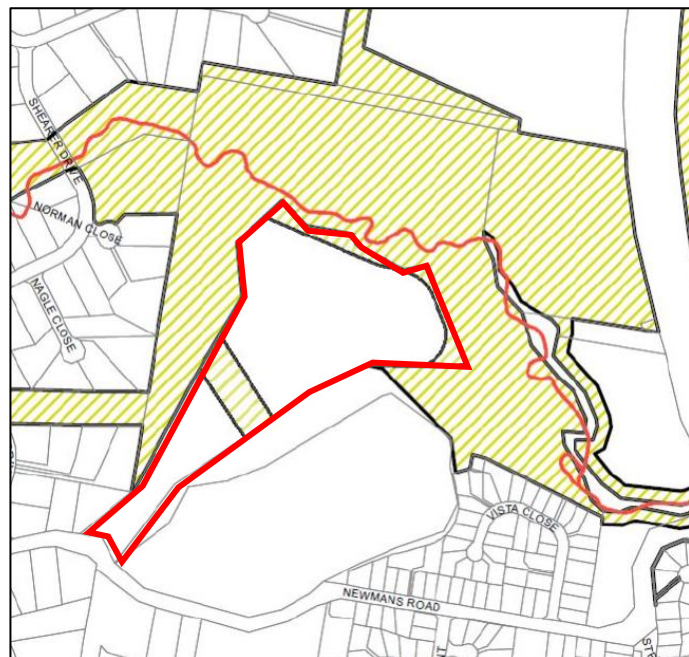


Figure 9 – Proposed terrestrial biodiversity map of the land

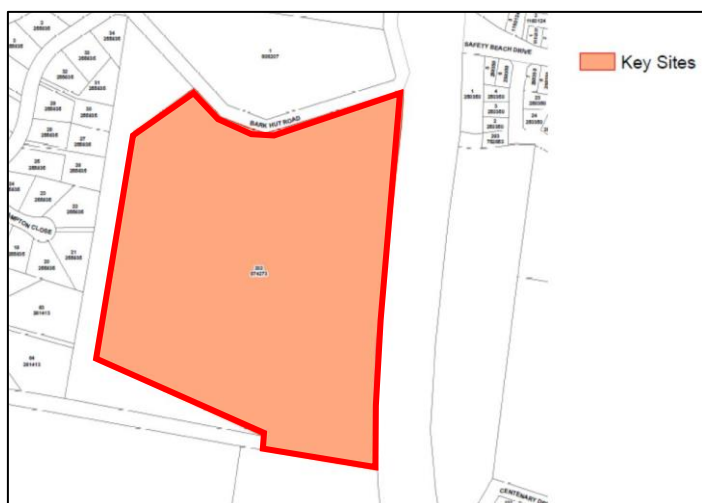


Figure 10 – Proposed key sites map of the land, Bark Hut Road

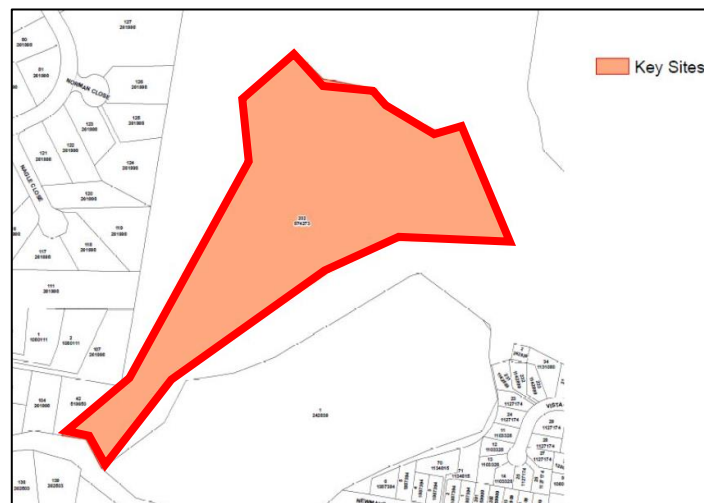


Figure 11 – Proposed key sites map of the land, Newmans Road

## 2. PROPOSAL

### 2.1 Objectives or intended outcomes

The objective and intended outcomes of the planning proposals are clearly stated and are appropriate for public consultation.

The proposals seek to amend the Coffs Harbour LEP 2013 to facilitate low density residential development on the subject land.

## 2.2 Explanation of provisions

The provisions contained within the planning proposals are clearly stated and are suitably detailed to implement the objectives and intended outcomes.

The proposals seek to amend the LEP 2013 map series by:

- rezoning the land from RU2 Rural Landscape to part Zone R2 Low Density Residential and part Zone E3 Environmental Management;
- applying a 400m<sup>2</sup> minimum lot size to the proposed R2 Low Density Residential area (the proposed E3 Environmental Management area will retain the existing 40ha minimum lot size);
- amending the LEP terrestrial biodiversity map to include areas proposed to be zoned E3 Environmental Conservation;
- amending the Coffs Harbour LEP 2013 Key Sites Map to identify the subject land; and
- introducing a new key sites clause into the LEP that will require the preparation of a masterplan and site-specific Development Control Plan before development consent can be granted on the land.

Rather than introducing a new key sites clause, Council staff have raised no objection to amending the existing key sites clause 7.19 of Coffs LEP 2013 which incorporates the same provisions to include the subject land. It is recommended that the Gateway determination require the proposal be amended prior to agency or community consultation to address this issue

## 2.3 Mapping

A number of LEP map changes will be required. This includes amending the land zoning, lot size, terrestrial biodiversity and key sites maps. The planning proposal includes maps showing the subject land, current and proposed development controls. These maps are suitable for exhibition purposes. Amending LEP maps will need to be prepared in accordance with the Department's technical guidelines for standard instrument mapping prior to the plan being made.

## 3. NEED FOR THE PLANNING PROPOSAL

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The planning proposals have been prepared in response to a landowner's request. The site is identified in Council's Department approved *Local Growth Management Strategy 2008 – Urban Lands* Component for future urban investigation. Council is currently updating this document and its recently adopted *Local Growth Management Strategy* (Chapters 1 to 4) identifies the land within the Woolgoolga North West Growth Area in the LGMS as a high priority land release (Years 1-4).

Ensuring there is sufficient residential zoned land to meet present and future demand is also an important consideration in maintaining housing affordability. The proposals are supported by a residential land demand analysis for the locality that concludes the proposals are needed as there is only three years of serviced residential land supply available.

It is considered that this planning proposal has merit and is the only means for achieving the intended outcomes.

## 4. STRATEGIC ASSESSMENT

### 4.1 State

The planning proposal is generally consistent with the NSW Premiers Priorities and particularly the priority of making houses more affordable (in this instance by increasing land supply).

### 4.2 Regional / District

The *North Coast Regional Plan 2036* identifies the site as being within the Woolgoolga urban growth boundary and designated as an urban investigation area (Figure 12). The planning proposals are generally consistent with the Directions of the Regional Plan including:

- Direction 1: Deliver environmentally sustainable growth;
- Direction 7: Coordinate the growth of regional cities;
- Direction 14: Provide great places to live and work;
- Direction 15: Develop healthy, safe, socially engaged and well-connected communities;
- Direction 22: Deliver greater housing supply;
- Direction 23: Increase housing diversity and choice; and
- Direction 25: Deliver more opportunities for affordable housing.

The proposals are however potentially inconsistent with Direction 2 of the Regional plan as the land contains areas of potential high environmental value (Figure 13) that are proposed to be zoned R2 Low Density Residential.

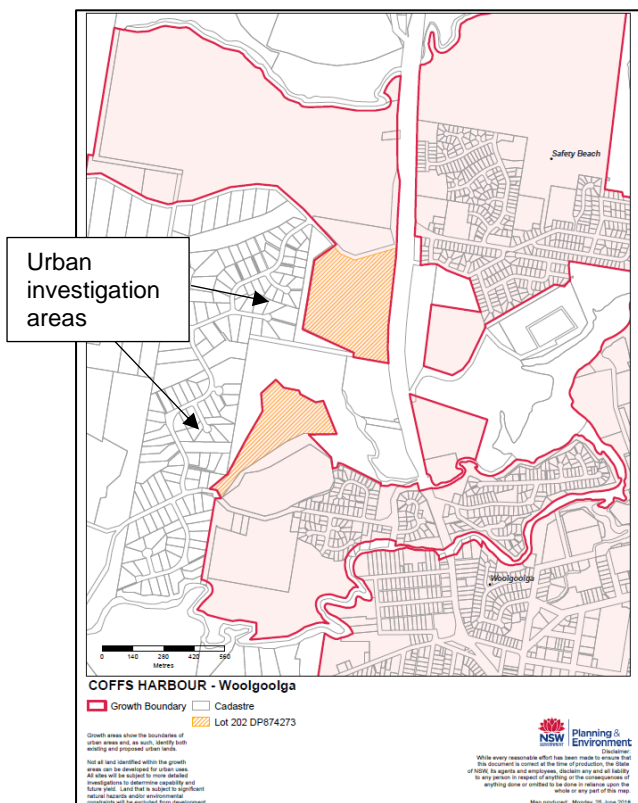


Figure 12 – Growth area boundary

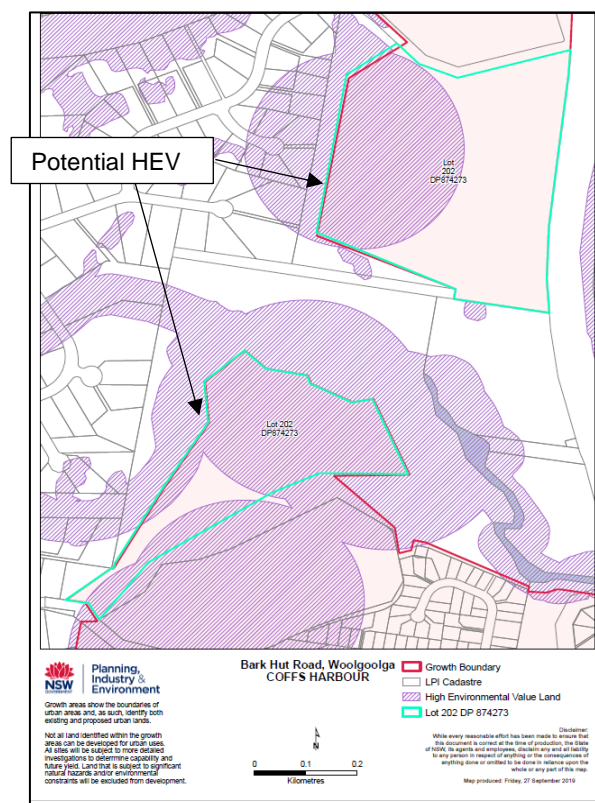


Figure 13 – Potential high environmental value land

The planning proposals include ecological reports and biodiversity impact assessments indicating the proposed development is appropriate and there will be minimal impact upon high environmental value land. It is however recommended that the consistency with this direction remain unresolved until after consultation with the Biodiversity and Conservation Division has been undertaken, confirming whether any high environmental value land will be affected and the suitability of the proposal.

### 4.3 Local

Council's Department approved *Local Growth Management Strategy – Urban Lands Component 2008* (LGMS) sets out the future growth and development of the LGA until 2031. The LGMS identifies the subject land for 'Possible Future Urban Investigation' and with dwellings from 2031.

Council is also updating its LGMS and has recently adopted Chapters 1 to 4 which identifies the land within the Woolgoolga North West Growth Area (Figure 14). This growth area has been identified as a high priority 1-4 year land release. Chapters 1 to 4 of the LGMS are currently with the Department for assessment and approval.

The development of the land for residential purposes is considered to be consistent with Council's local strategic planning framework.

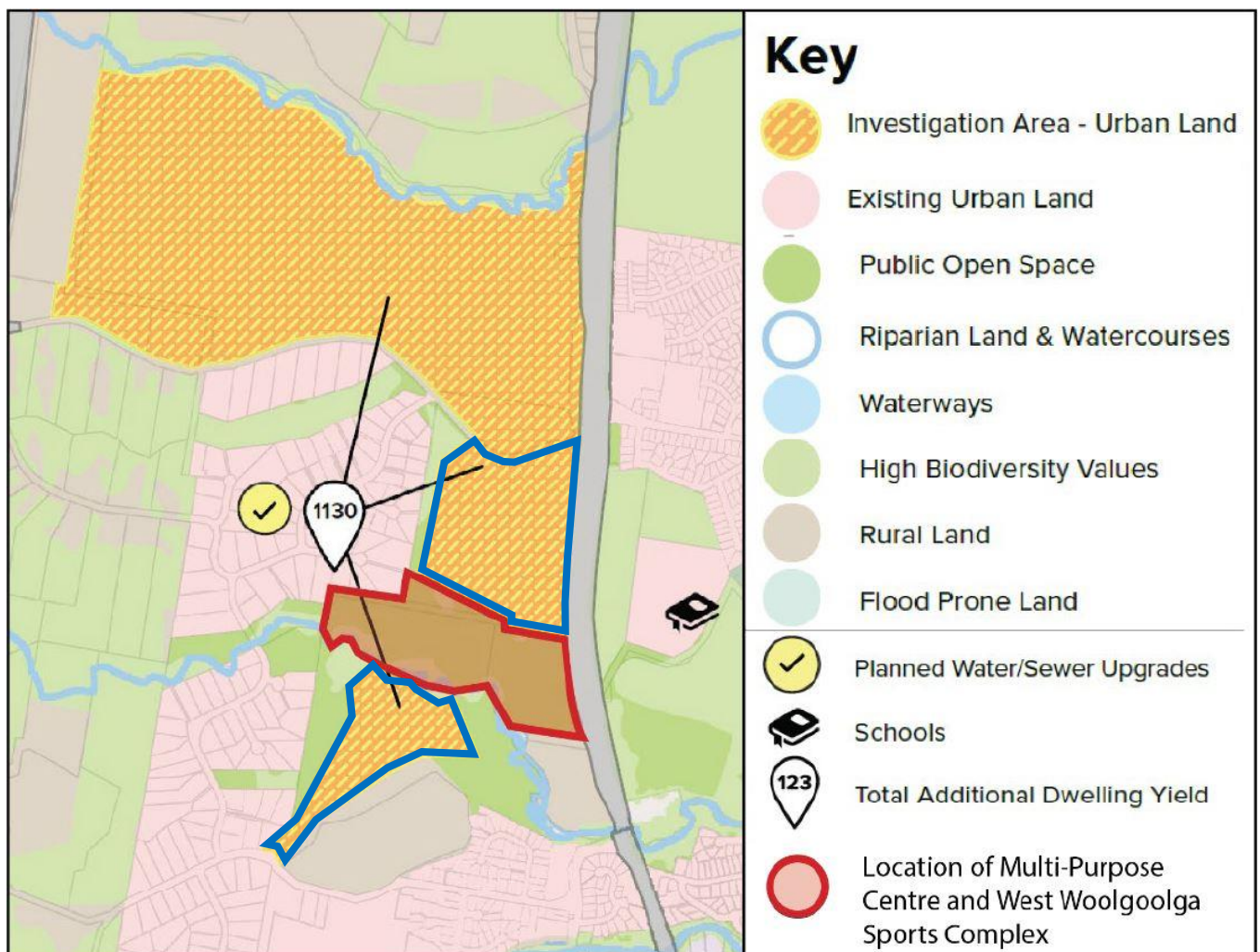


Figure 14 - Woolgoolga North West Growth Area from the LGMS

#### **4.4 Section 9.1 Ministerial Directions**

The proposal is consistent with all relevant section 9.1 Directions except for the following:

##### 1.2 Rural Zones

The proposals are inconsistent with this direction as they seek to rezone land from a rural zone to a residential zone. The inconsistency with this direction is justified as the land is identified in both the *North Coast Regional Plan 2036* and Council's Department approved local strategy for urban land investigation.

##### 1.5 Rural Lands

The proposals are inconsistent with this direction as they do not support farmers in exercising their right to farm, particularly in relation to the existing adjacent blueberry farm located north of Bark Hut Road. The inconsistency with this direction is justified as the land is identified in both the *North Coast Regional Plan 2036* and Council's Department approved local strategy for urban land investigation.

##### 2.1 Environment Protection Zones

The proposals are potentially inconsistent with this direction as the land contains areas of potential high environmental value identified in the *North Coast Regional Plan 2036* that are proposed to be zoned R2 Low Density Residential. While the proposals are supported by various ecological and biodiversity studies, it is recommended that the consistency with this direction remain unresolved until after consultation with the Biodiversity and Conservation Division has been undertaken confirming the suitability of the proposals.

##### 2.2 Coastal Management

The proposals are inconsistent with this direction as they do not include provisions that give effect to matters such as the *Coastal Management Act 2016* and the *NSW Coastal Design Guidelines 2003*. This inconsistency is considered to be minor significance as:

- only a very small part of the land is identified as being with the coastal environment area under the Coastal Management SEPP;
- no adverse impacts on any coastal areas or processes are anticipated as a result of the proposal; and
- the land is identified in both the *North Coast Regional Plan 2036* and Council's Department approved local strategy for urban land investigation.





Figure 15 – Coastal Environment Area

### 2.3 Heritage Conservation

The proposals are inconsistent with this direction as the land has been identified as containing two Aboriginal stone flake artefacts on the Bark Hut Road site and a potential archaeological deposit site on the Newmans Road land and do not contain provisions to facilitate their conservation. While the supporting Aboriginal cultural heritage assessment concludes the proposal is satisfactory subject to certain measures, it is recommended that the consistency with this direction remain unresolved until after formal consultation with the Department of Premier and Cabinet – Heritage and the Local Aboriginal Land Council has been undertaken confirming the suitability of the proposals.

### 4.1 Acid Sulfate Soils

The proposals are inconsistent with this direction as the subject land contains class 4 and 5 acid sulfate soils (Figure 16) and are not supported by an acid sulfate soils study. This inconsistency is considered to be of minor significance as Class 4 and 5 acid sulfate soils are low risk classes and suitable provisions already exist within the Coffs Harbour LEP 2013 that allow acid sulfate soils to be appropriately addressed at the development application stage.

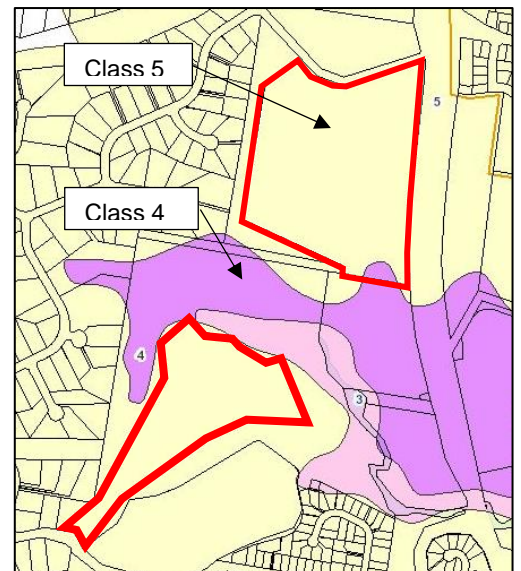


Figure 16 – Acid sulfate soils map

### Direction 4.3 Flood Prone

The proposals are inconsistent with this direction as part of the subject site is identified as being within the flood planning level (Figure 17) and may be impacted by a 1:500-year ARI or probable maximum flood event. The inconsistency with this direction is considered to be of minor significance as:

- none of the land is mapped within the 1:100-year ARI event;
- no residential development is proposed in the mapped flood planning area;
- and

- no development will occur in floodway areas and no residential development is proposed for the affected area in the concept masterplan.

#### Direction 4.4 Planning for Bushfire Protection

This direction applies as part of the land is identified as bush fire prone land (Figure 18). The direction requires Council consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued. Until this consultation has occurred the consistency of the proposals with the Direction remains unresolved.



Figure 17 – Flood Prone Land

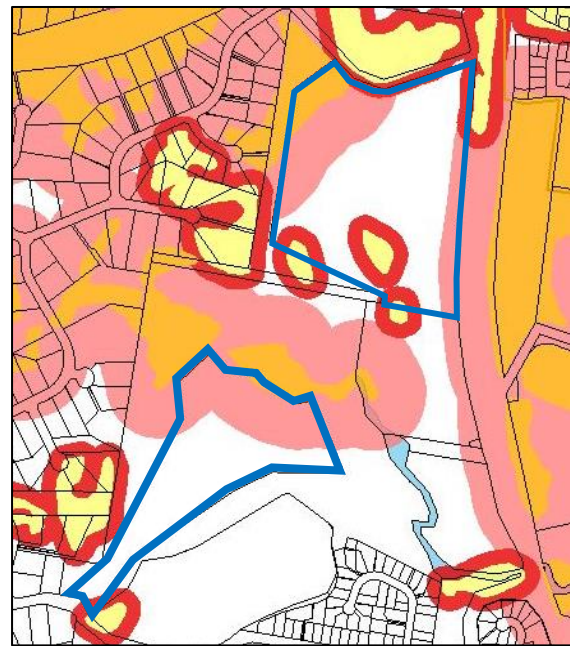


Figure 18 – Bushfire Prone Land

#### 5.10 Implementation of Regional Plans

The proposals are potentially inconsistent with this direction as the land contains areas of potential high environmental value identified in the *North Coast Regional Plan 2036* that are proposed to be zoned R2 Low Density Residential. It is recommended that the consistency with this direction remain unresolved until after consultation with the Biodiversity and Conservation Division has been undertaken confirming whether any high environmental value land will be affected and the suitability of the proposal.

#### **4.5 State environmental planning policies (SEPPs)**

The proposal is considered to be consistent with all applicable SEPP's including SEPP Coastal Management, SEPP (Primary Production and Rural Development), SEPP 55 Remediation of Land and SEPP 44 Koala Habitat Protection as the planning proposal does not contain provisions that are inconsistent with the application of the SEPPs.

### **5. SITE-SPECIFIC ASSESSMENT**

#### **5.1 Social**

The development of the site will have a positive impact through the provision of land for new housing close to public open space, the Woolgoolga State High School and urban facilities in Woolgoolga.

Passive connections between the subject land and the public open space will occur over time as the nearby sporting fields and pedestrian/cycleway connections are built. Adequate services are available in the Woolgoolga area to cater for a gradual growth of population and the increase in housing is likely to have a positive impact on the Woolgoolga community in terms of the provision of affordable housing, strengthening of existing community, commercial and retail services. Similarly, the development of the Northern Beaches Multi-Purpose Centre and West Woolgoolga Sports Complex that are located in between the two parcels will complement the growth of the Woolgoolga North West urban investigation area and provide important community facilities. The proposal seeks to identify the land on the LEP Key Sites Map and apply clause 7.19 of the LEP to ensure appropriate master planning is undertaken prior to development to assist this integration and help deliver the potential positive impacts.

Two stone flake artefacts were identified on the Bark Hut Road site and a potential archaeological deposit site was identified on the Newmans Road site comprising a knoll to the west of the water storage dam. The supporting Aboriginal cultural heritage assessment concludes the proposal is satisfactory subject to measures including:

- cultural heritage induction of all senior civil works staff;
- obtaining an Aboriginal heritage impact permit for the salvage of known Aboriginal objects; and
- application of an Aboriginal find procedure.

While it is anticipated that this approach is adequate due to the proposed measures and as consultation with the local Aboriginal community and the Coffs Harbour Local Aboriginal Council (LALC) has been undertaken which concluded the rezoning is acceptable, it is recommended that LALC and the Department of Premier and Cabinet – Heritage be consulted formally to ensure the appropriateness of the proposal.

## **5.2 Environmental**

The development of the land is unlikely to have any significant environmental impact. The subject land consists primarily of cleared land of low ecological value. No threatened ecological communities have been identified as likely to occur within the project area. As the site is mainly cleared and has low vegetation value it is also unlikely to support threatened fauna and flora species. The planning proposals are supported by appropriate environmental studies. It is recommended that the proposal be referred to the NSW Biodiversity and Conservation to confirm the adequacy of the studies.

An E3 Environmental Management zone is to be applied to those areas of remnant vegetation with any potential biodiversity and habitat corridor value and is considered appropriate.

The land is not flood prone and a bushfire risk assessment supports the use of asset protection zones within the subject land to protect the proposed residential development. The NSW Rural Fire Service will be consulted in accordance with Section 9.1 Direction 4.4 Planning for Bushfire Protection.

A preliminary site contamination investigation supporting the planning proposals also found that there were no exceedances of adopted assessment criteria and it is considered that there is a low potential for soil contamination to be present within the subject land that would preclude the proposed R2 Low Density Residential use. The

report concluded any further detailed assessment can be adequately resolved at the development application stage.

The subject land has small areas of secondary and tertiary Koala habitat mapped by the *Coffs Harbour Koala Plan of Management 1999* (KPoM) (Figure 19). These areas are considered to have moderate conservation value and any future development within these areas must address the provisions of the KPoM. A biodiversity impact assessment supports the planning proposals and it recommends that development of the site be designed with due regard to the presence of potential (secondary and tertiary) koala habitat and to ensure minimal net loss of potential habitat through on-site habitat management and/or habitat offsetting measures.

It is considered that the proposal is satisfactory in terms of any potential koala habitat impacts.



Figure 9 – KPoM Mapping

### 5.3 Economic

The development of this land for residential purposes is not expected to generate any adverse economic impacts. Construction of site infrastructure and dwellings will also have a positive economic impact on the local community and tradespeople.

While the site is currently zoned for rural purposes, the land has not been used for productive agricultural uses for a significant amount of time. The land is also small in area and is inappropriately located for sustainable agriculture, given its proximity to adjacent residential land and its recognition as an urban investigation area by Council's LGMS 2008, new LGMS, and as a future residential growth area by the *North Coast Regional Plan 2036*. The proposal is also supported by an appropriate land use conflict risk assessment for the existing blueberry farm north of Bark Hut Road which identifies that appropriate buffer measures can be considered and incorporated at the development application stage to address any potential issues. It is recommended that the proposal be referred to NSW Primary Industries - Agriculture to confirm the suitability of the proposed land use mitigation measures to the adjoining rural land (noting that the land north of Bark Hut Road has also been

identified for urban purposes in both Council's growth management strategies and the *North Coast Regional Plan 2036*).

#### **5.4 Infrastructure**

No provision or funding of state public infrastructure has been identified as being necessary for these proposals.

Council's new LGMS identifies that the land currently has insufficient water and sewer capacity. Council have indicated that reticulated water supply and sewerage are available to service the Woolgoolga North West Investigation Area and that although insufficient capacity exists at the moment, there are planned upgrades to the network that will be able to service future residential development. The proposal is also supported by a traffic impact statement that concludes the development is satisfactory subject to certain road and intersection upgrading. It is recommended that the proposal be referred to Transport for NSW – Roads and Maritime Services to confirm the suitability of the proposed development.

### **6. CONSULTATION**

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#### **6.1 Community**

The planning proposals indicate that Council will make them publicly available for a 28-day period. This approach to community consultation is considered appropriate.

#### **6.2 Agencies**

It is recommended that the following agencies and organisations be consulted in accordance with section 3.34(2)(d):

- Environment, Energy and Science - Biodiversity & Conservation
- Department of Premier and Cabinet - Heritage
- Primary Industries - Agriculture;
- Transport for NSW - Roads and Maritime Services;
- Local Aboriginal Land Council; and
- NSW Rural Fire Service.

### **7. TIME FRAME**

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The planning proposal includes a project timeline which estimates the completion of the planning proposal in April – May 2020. To ensure the local plan-making authority has adequate time to complete the exhibition, reporting, and legal drafting, it is recommended that a time frame of 12 months be provided.

### **8. LOCAL PLAN-MAKING AUTHORITY**

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Council has requested an authorisation to exercise the functions of the local plan-making authority for this proposal. As the proposal is considered to be consistent with the *North Coast Regional Plan 2036* and Council's local strategic planning, it is recommended that an authorisation be issued to Council.

### **9. CONCLUSION**

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The land is identified within the *North Coast Regional Plan 2036* and Council's *Local Growth Management Strategies* as an urban investigation area and it is considered appropriate that the proposal proceed.

## 10. RECOMMENDATION

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It is recommended that the delegate of the Secretary:

1. agree that any inconsistency with section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands, 2.2 Coastal Management, 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land are justified in accordance with the terms of the Directions; and
2. note that the inconsistency with section 9.1 Directions 2.1 Environment Protection Zones, 2.3 Heritage Conservation; 4.4 Planning for Bushfire Protection and 5.10 Implementation of Regional Plans remains unresolved until further justification has been provided.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to agency or community consultation, the proposal is to be amended to identify the objectives will be achieved in part through the modification of clause 7.19 of Coffs Harbour LEP 2013 rather than the inclusion of an additional 'key sites' clause.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities:
  - Environment, Energy and Science - Biodiversity & Conservation
  - Department of Premier and Cabinet - Heritage
  - Primary Industries - Agriculture;
  - Transport for NSW - Roads and Maritime Services;
  - Local Aboriginal Land Council; and
  - NSW Rural Fire Service.
4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should be the local plan-making authority.



4/10/19

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11-10-2019

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