

Review of Coffs Harbour LEP 2013 - minor amendments

Proposal Title : **Review of Coffs Harbour LEP 2013 - minor amendments**

Proposal Summary : **The planning proposal is the first round of amendments of the Coffs Harbour Local Environmental Plan (LEP) 2013 since its commencement on 27th September 2013.**

The content of the planning proposal consists of 25 'housekeeping' issues - additional uses, minor rezonings, alterations to minimum lot sizes, correcting descriptions of heritage items, new clause for temporary events and minor alterations to existing clauses.

PP Number : **PP_2015_COFFS_003_00** Dop File No : **15/05320**

Proposal Details

Date Planning Proposal Received : **20-Mar-2015** LGA covered : **Coffs Harbour**

Region : **Northern** RPA : **Coffs Harbour City Council**

State Electorate : **COFFS HARBOUR** Section of the Act : **55 - Planning Proposal**

LEP Type : **Housekeeping**

Location Details

Street :

Suburb : City : **Coffs Harbour** Postcode : **2450**

Land Parcel : **Various area within the Coffs Harbour LGA including Bonville, Korora, Moonee Beach and Woolgoolga.**

DoP Planning Officer Contact Details

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RPA Contact Details

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Mid North Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with :	Yes		
If No, comment :	The Department's Code of Conduct in relation to communication and meetings with Lobbyists has been complied with to the best of the Region's knowledge.		
Have there been meetings or communications with registered lobbyists? :	No		
If Yes, comment :	Northern Region has not met any lobbyists in relation to this proposal, nor has Northern Region been advised of any meeting between other agencies and lobbyists concerning the proposal.		

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes : A wide range of issues, mostly correcting anomalies or errors which arose during
production of CHLEP 2013. Minor alterations to provisions for advertising structures in
the SP2 zone, transferring some earthworks provisions to the exempt development
schedule and correcting the inadvertent omission of environmental protection works as a
consent use in the E2 zone. There are two proposed additions to environmental zones -
one at Rutland Street Bonville to reflect a proposed bio-banking agreement, and the other
involving Crown Land at West Coffs Harbour (which was inadvertently zoned for Forestry
in the 2013 LEP).

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment : The statement of objectives adequately describes the intention of the planning proposal.
The planning proposal seeks to amend the Coffs Harbour LEP 2013 to update a number of
clauses and Schedules and also correct minor mapping anomalies. This will improve the
overall efficiency of the LEP.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment : Twenty five (25) housekeeping issues are proposed for the Coffs Harbour LEP 2013 which
include additional uses, minor rezonings, alterations to minimum lot sizes, correcting
descriptions of heritage items, new clause for temporary events and minor alterations to

existing clauses.

The Explanation of Provisions lacks detail for each of the proposed 25 amendments. Although the Performance Review included as supporting information provides detailed explanations there is no reference to this review within the planning proposal. This document does not negate the need to properly explain the provision proposed in the planning proposal or how the planning proposal will address the intended method of achieving the objectives of the proposed amendment.

It is preferable that the Explanation of Provisions be expanded to include some detail of each provision and reference the Performance Review that provides the detailed information of all 25 amendments. The Performance Review should be attached as an appendix to the planning proposal.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

1.5 Rural Lands

2.1 Environment Protection Zones

2.2 Coastal Protection

2.3 Heritage Conservation

3.1 Residential Zones

3.2 Caravan Parks and Manufactured Home Estates

3.4 Integrating Land Use and Transport

3.5 Development Near Licensed Aerodromes

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

5.4 Commercial and Retail Development along the Pacific Highway, North Coast

6.2 Reserving Land for Public Purposes

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)

SEPP No 71—Coastal Protection

SEPP (Infrastructure) 2007

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **See the Assessment section of this report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The proposal includes mapping which adequately shows the land which is affected by the proposed amendments. These maps are suitable for exhibition purposes.

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Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has advised that a 28 day public exhibition period is suitable for a planning proposal of this nature. This is considered to be appropriate.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : **The planning proposal satisfies the adequacy criteria by:**

- 1) Providing appropriate objectives and intended outcomes;
- 2) Providing an adequate justification for the proposal;
- 3) Outlining a proposed community consultation period;
- 4) Completing an evaluation for the issuing of an authorisation to exercise delegation. Delegation is acceptable in this instance;
- 5) Providing a time line for the completion of the proposal. Council has suggested a time frame of six (6) months. A six month time frame is not considered sufficient time to complete this planning proposal due to the extent of the amendments proposed. A nine (9) month time frame is considered more appropriate.

Note: Although the 'Explanation of Provisions' was not adequate to satisfy the adequacy criteria, a condition of Gateway will require it to be amended prior to exhibition.

It is recommended that Council resubmit the amended planning proposal for review by the Department before community consultation, to ensure the conditions of the Gateway that require action prior to exhibition have been completed.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP :

The Coffs Harbour LEP was published in September 2013. This planning proposal seeks general amendments to the Coffs Harbour LEP 2013.

Assessment Criteria

Need for planning proposal :

As part of the transition from Coffs Harbour LEP 2000 to the Standard Instrument LEP 2013 a Strategic Management Plan was prepared, which recommended a regular review of the new LEP. The proposal relates to 25 minor amendments which have arisen as a result of continued review and monitoring of the accuracy of the LEP. The proposed amendments are listed as follows:

1) Zone SP2 Infrastructure - Building identification signs and business identification signs permissible with consent: These uses are currently a prohibited use in the SP2 zone. The identification signs are considered appropriate for activities adjacent or on a particular site along highway corridors. It is proposed to make them permissible with consent. Transport for NSW (Roads and Maritime Services - RMS) will need be consulted with prior to exhibition to ensure no issues with this permissibility.

2) Part 7 Additional Local Provisions - Temporary Events clause: A Temporary events clause that does not require development consent. The provision only allows for a

temporary event to occur for not more than 30 days (whether or not consecutive) in any period of 12 months. The Upper Hunter has a similar clause in its LEP. Transport for NSW (RMS) will need be consulted with prior to exhibition regarding potential issues that may affect traffic during these proposed 'temporary events'.

3) Clause 4.2B - Erection of dwelling houses on land in certain rural and environmental protection zones: Addition to allow for lots that are created for housing under the new LEP 2013. The clause as it exists now relates only to lots created before the commencement of the current plan.

4) Part 7 Additional Local Provisions 7.2 Earthworks and Schedule 2 - Exempt Development: an addition to allow for earthworks that are 'minor in nature' to be allowed without development consent. The changes to Schedule 2 are to ensure the terminology is consistent and sets out what is defined as 'minor in nature'.

5) Zone E2 Environmental Conservation - Environmental Protection works permitted without consent. This will correct the inadvertent omission of environmental protection works as a consent use in the E2 zone.

6) Schedule 1 - Additional permitted uses.: The Big Banana site (main tourist component adjoining the Pacific Highway) zoned SP3 Tourist was not included in the North Coffs DCP which included provisions for density control of retail development. The LEP prohibited 'shops' under the plan. This omission prevents retail development for the Big Banana site. Applying the density provision to the specific site in Schedule 1 will prevent the use being inappropriately applied to other land parcels zoned SP3 Tourist. Council has advised the Additional Permitted Uses (APU) map sheets will also need updating.

7) Schedule 1 - Additional Permitted Uses. The Coffs Harbour Men's Shed needs to relocate and has identified land at the end of Howard Street, however the land straddles both IN1 and SP2 zoned land. This type of development is prohibited on SP2 zoned land. Inclusion of the SP2 portion of Lot 5 DP 90246 as an additional permitted use will allow the use of the land for the Men's Shed. Council has advised the APU map sheets will also need updating.

8) Mapping - Zone E2 Environmental Conservation: This is a proposed addition to E2 environmental zone at Rutland street, Bonville to reflect a proposed bio-banking agreement.

9) Mapping - Height of Building / Additional Permitted Uses: Amendment to Height of Building map at Marina Drive to ensure consistency with the Jetty4Shores Concept Plan and remove the land from Schedule 1 Additional Permitted Uses.

10) Mapping - Heritage: Heritage maps have been identified to have a number of errors that need to be adjusted to reflect the correct parcels of land. Adjustments to Schedule 5- Environmental Heritage will also need to reflect these changes.

11) Mapping - Cadastre: Adjustment of land zoning map to align with the cadastre at Cavanaghs Rd.

12) Mapping - Lot Size: This site is an omission of a Minimum Lot Size (MLS) being applied to land at Bray Street Coffs Harbour. The land is zoned R2 Low Density Residential and therefore should have a 400m2 MLS applied to the land.

13) Mapping - Lot Size: Adjustment to the MLS for 111 Bruxner Park Korora from 2ha to 1ha due to the determination that the slope of the land is <15% allowing a 1ha MLS, as opposed to a 2ha MLS for slopes >15%.

14) Mapping - Floor Space Ratio: Removal of floor space ratio controls on R4 High Density Residential zoned land. The floor space ratio is no longer considered necessary as Council

has other development controls that achieve a similar outcome. It now is deemed unnecessary to apply these controls for the areas identified on the LEP maps.

15) Mapping - Height of Building: Amendment to the Height of Building map for 81 Ocean Parade (Lot 100 DP 747702) to align to a Council resolution to increase the Height of Building controls from 22m to 40m.

16) Mapping - Zoning: Rezoning Lot 372 DP 1026829, 97 Pacific St Corindi Beach from RU2 Rural Landscape to B1 Neighbourhood Centre to reflect the current land use of shops which provide commercial services to the local neighbourhood.

17) Mapping - Zoning: Rezoning Lot 71 DP 1203025 from R2 Low Density Residential / E2 Environmental Conservation to RE1 Public Recreation to reflect the current land use, as the land has been dedicated to Council for use as a park. Office of Environment & Heritage (National Parks and Wildlife Service) will need be consulted with prior to exhibition to address the proposed reduction of E2 land.

18) Mapping - Zoning: Incorrect zoning of 22 Duke Street Coffs Harbour. Council previously purchased the land from Defence however it has been incorrectly zoned SP2 Defence. Council seeks to amend the reference to the SP2 zoned land from SP2 Defence to SP2 Community Facilities in accordance with the SP2 Community Facilities land to the south of the site.

19) Mapping - Zoning / Height of Building: Incorrect zoning of High Tech Drive and Hogbin Drive Toormina. Aligning the zoning of High Tech Drive with the same zoning containing the Hogbin Drive road corridor, from IN1 General Industrial to RE1 Public Recreation. Amend the Height of Building map to include the land in the 1 - 8.5m limit category.

20) Mapping - Zoning: Incorrect zoning at Pacific Highway Coffs Harbour (Pacific Bay West). A small portion of Lot 5 DP 820652 is zoned RU2 Rural Landscape and fronts the Pacific Highway. The surrounding land uses are R1 General Residential and SP2 Infrastructure. It is appropriate to zone this land R1 General Residential as the rural land holds no particular rural enterprise. The land is likely to be too small for any residential development to be approved.

21) Mapping - Zoning / Lot Size Map / Height of Building: Incorrect zoning at Shepard's Lane Coffs Harbour. Crown Reserve 63790 is zoned RU3 - Forestry but the land is not State Forest having been revoked by gazette on 15 February 1929. As the land has some ecological value this error can be rectified with an E2 Environmental Conservation zoning. The Lot Size map be amended to AB - 40ha and Height of Building Map to 1-8.5m limit. Trade and Investment (Crown Land) will be consulted with prior to exhibition to comply with s117 Direction 6.2. Reserving land for Public Purpose.

22) Mapping - Zoning / Lot Size: Incorrect zoning at 544-590 Solitary Island Way Moonee Beach. Lot 7 DP 1140702 and Lot 1 DP 1142657, from SP2 Infrastructure to R2 Low Density Residential which better reflects the current land use. Council have indicated that the land is no longer needed for the Pacific Highway upgrade project. The land adjoins (excluding the local service road) other R2 zoned land. Transport for NSW (RMS) will need be consulted with prior to exhibition to ensure it has no objections to the change in zone.

23) Mapping - Zoning: Incorrect zoning at Arrawarra Road and The Boulevard Mullaway. The land was previously zoned RE1 Public Recreation but the land is now under the ownership of Minister administering the National Parks and Wildlife Act 1974. This ownership and the adjoining land supports the change from RE1 Public Recreation to E1 National Parks and Reserves. Office of Environment & Heritage (National Parks and Wildlife Service) will need be consulted with prior to exhibition to address the proposed addition to E1 land.

24) Mapping - Zoning / Lot Size: Incorrect zoning at Pacific Highway and Unwins Road

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Woolgoolga. Lot 59 DP 1145438 and Lot 104 DP 1144462, from SP2 Infrastructure to RU2 Rural Landscape which better reflects the current land use as Council has indicated that the land is no longer needed for the Pacific Highway upgrade project. The land adjoins (excluding the service road of Unwins Road) other RU2 zoned land. Transport for NSW (RMS) will need be consulted with prior to exhibition to ensure it has no objections to the change in zone.

25) Mapping - Zoning: Incorrect zoning of 63A - 760 Dairyville Rd Upper Orara / Dairyville. This land has been incorrectly zoned E1 National Parks and Reserves when it should have been zoned W1 Natural Waterways. This is a simple mapping error.

Consistency with strategic planning framework :

The proposed amendments are generally consistent with the Mid North Coast Regional Strategy (MNCRS). The proposed changes to the zoning of properties and the minimum lot size controls are of minor significance and will rectify anomalies and errors in the LEP mapping.

The planning proposal is inconsistent with s117 Directions 1.1 Business and Industrial Zones, 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 4.4 Planning for Bushfire Protection and 6.2 Reserving land for public purposes.

The following Directions warrant consideration.

1.1 Business and Industrial Zones

This direction applies as it affects land within a proposed business zone (Amendment 16). The business zoning will better reflect the current uses of the land. This change is inconsistent with the direction as it is not in accordance with an approved strategy (as employment land). It should be noted that the area is inside the Town and Village Growth boundary of the MNCRS, it will not result in a reduction to the total floor space area in a business zone and is not reducing but increasing land used for business purposes. Therefore the inconsistency is of minor significance.

The junction of High Tech Drive and Hogbin Drive Toormina. Amendment 19 proposes to rezone land from IN1 General Industry to RE1 Public Recreation which is inconsistent with the direction. However this zoning applies to the road reserve of Hogbin Drive. The RE1 zoning will match the zone that extends along the length of Hogbin Drive. The inconsistency is of minor significance.

1.2 Rural Zones

This direction provides that a planning proposal should not rezone land from a rural zone to a residential or business zone. The planning proposal (Amendment 20) requests the zoning on the Pacific Highway at Coffs to be rezoned from RU2 Rural Landscape to R1 General Residential as the surrounding land uses are SP2 Infrastructure (Pacific Highway) and R1 land. Therefore the proposed rezoning is inconsistent with the direction. Retaining the rural zoning for this parcel of land will not protect the agricultural production value of the land which the direction strives to achieve as it lacks agricultural value due to its size, location and lack of connection to other rural land. Therefore the inconsistency can be considered as of minor significance.

The planning proposal seeks to rezone land from a RU2 Rural zone to a B1 Neighbourhood Centre zone (Amendment 16) at 97 Pacific St Corindi Beach to better reflect the current use of the land. The proposed rezoning is inconsistent with the direction, as it rezones rural land to a business zone. The two hectare portion of the site is small and will not reduce the agricultural production value of rural land. Agricultural practices still have the potential to occur on the remaining portion of the site. It should be noted that the area is inside the Town and Village Growth boundary of the MNCRS, and identified as a Future Urban Release Area and therefore unlikely to be utilised for agricultural purposes in the future. Therefore the removal of a small portion of this land for business purposes can be considered of minor significance.

1.5 Rural Lands

This direction provides that a planning proposal should not affect land within a rural or environmental protection zone or reduce the minimum lot size applying to land unless consistent with the Rural Planning Principles or Rural Subdivision Principles in SEPP (Rural Lands). The minimum lot size of 400m² being applied to Amendment 12 is to rectify the omission from the minimum lot size map.

2.1 Environmental Protection Zones

This direction provides that a planning proposal protect and conserve environmentally sensitive areas. The reduction of E2 Environmental Conservation land proposed at Shepard's Lane Coffs Harbour (Amendment 17) is based on the land left over from a residential subdivision being dedicated to Council for use as a park. The RE1 zoning will be the most appropriate zoning (post dedication). Therefore the inconsistency with the

direction is of minor significance.

4.4 Planning for Bushfire Protection

The direction requires that Council consult with the Commissioner of the NSW Rural Fire Service. This consultation has not yet occurred which makes the planning proposal inconsistent with the direction.

It is considered that the planning proposal will not raise significant issues in regard to these amendments. If written advice is obtained from the Commissioner of the NSW Rural Fire Service and has no objection to the progression of the proposal then the inconsistency may be assessed as of minor significance.

6.2 Reserving Land for Public Purposes is relevant to certain aspects of the planning proposal. The direction provides that a planning proposal must not create, alter or reduce zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director General.

The planning proposal intends to rezone two parcels of land which have been dedicated to Council as public reserve / road reserve this includes rezoning R2 Low Density Residential to RE1 Public Recreation (Amendment 17 - Shepard's Lane) as well as from IN1 General Industrial to RE1 Public Recreation (Amendment 19).

Amendment 23 is inconsistent with the direction as the proposal is to remove the RE1 Public Recreation zoning for a E1 zoning. The land is now under the ownership of the Minister administering the National Parks and Wildlife Act and an E1 zoning is more appropriate. This ownership and the adjoining land supports the change from RE1 Public Recreation to E1 National Parks and Reserves. This is a minor amendment and does not have a significant impact on Council's Open Space Strategy. Therefore the inconsistency may be assessed as of minor significance.

The amendment involving the Jetty4Shores Concept Plan (Amendment 9) and Amendment 21 which involves rezoning RU3 Forestry land to E2 Environmental Conservation land all involve Crown Land. It is being recommended that Trade & Investment (Crown Lands) be consulted before any decision is made to agree to any inconsistencies. Consultation should occur prior to public exhibition.

Environmental social
economic impacts :

The planning proposal involves minor housekeeping matters which are unlikely to involve any major negative environmental impacts.

The planning proposal has given consideration to cultural heritage values by correcting mistakes in Schedule 5 of the LEP as well as protecting the scenic and amenity values through reducing heights along the Jetty foreshore. Many of the amendments are minor in nature and will not result in significant social impacts.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	9 months	Delegation :	RPA
Public Authority Consultation - 56(2) (d) :	Department of Trade and Investment Office of Environment and Heritage - NSW National Parks and Wildlife Service NSW Rural Fire Service Transport for NSW - Roads and Maritime Services		

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Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Coffs Harbour City Council_20-03-2015_LEP 2013 Housekeeping Review - s56_.pdf	Proposal Covering Letter	Yes
2015-03-20 Planning Proposal - Housekeeping.pdf	Proposal	Yes
2015-03-20 Issue Summary Document - Housekeeping.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 5.4 Commercial and Retail Development along the Pacific Highway, North Coast
- 6.2 Reserving Land for Public Purposes

Additional Information : **It is recommended that:**

- 1) The planning proposal should proceed as a routine planning proposal;
- 2) The Secretary (or an officer nominated by the Secretary) agrees that the inconsistencies with s117 Directions 1.1 Business and Industrial Zones, 1.2 Rural Zones, 1.5 Rural Lands, and 2.1 Environmental Protection Zones are justified as minor

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significance;

3) The Secretary (or an officer nominated by the Secretary) note that inconsistencies with Directions 4.4 Planning for Bushfire Protection and 6.2 Reserving Land for Public Purposes will be considered through consultation prior to exhibition with the NSW Rural Fire Service and NSW Trade & Investment, Crown Lands respectively;

4) Council be required prior to exhibition to provide an amended planning proposal that includes:

- detailed 'Explanation of Provisions' &
- reference to the Coffs Harbour Local Environmental Plan 2013 Performance Review date March 2015 with it attached as an appendix;

5) Council will be required under section 56(2)(d) of the EP&A Act to consult with Transport for NSW - Roads and Maritime Services and Office of Environment & Heritage - National Parks & Wildlife Services prior to exhibition;

6) Council be required to lodge the planning proposal under section 57(2) for approval by the Secretary's delegate of the form and content of the planning proposal prior to community consultation;

7) That the planning proposal be exhibited for a period of 28 days;

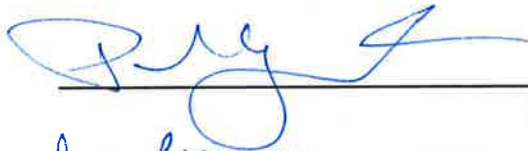
8) The planning proposal be completed in 9 months; and

9) Delegation to finalise the planning proposal be issued to Coffs Harbour City Council.

Supporting Reasons : The proposal by Council to apply a number of minor amendments to the Coffs Harbour LEP 2013 is appropriate to proceed.

The issue of delegation to Council to finalise the planning proposal is appropriate in this instance.

Signature:



Printed Name:

PAUL CARVETT

Date:

9 April 2015

Acting Team Leader Local Planning