
COFFS HARBOUR LOCAL ENVIRONMENTAL PLAN AND COFFS HARBOUR DEVELOPMENT CONTROL PLAN

Purpose:

The purpose of this report is to present the results of the public exhibition of the Coffs Harbour draft Local Environmental Plan (LEP) 2012, the draft Development Control Plan (DCP) 2012 and a draft Boundary Adjustment Clause. A copy of the draft LEP and draft DCP has been made available in the Councillor's room and is on Council's website.

The report includes a summary of submissions received and issues raised by the community and Government agencies. A full copy of all submissions has been made available for perusal by Councillors in the Councillor's Room. A summary of the submissions is attached as Attachment 1. An assessment of all submissions has been made and this is attached to this report as Attachment 1.

The Coffs Harbour LEP, upon gazettal, will apply to the whole of the Coffs Harbour City Council Local Government Area (LGA); with the exception of specific deferred areas; and will repeal the provisions of both the Coffs Harbour City LEP 2000 and the Coffs Harbour City Centre LEP 2011.

The Coffs Harbour DCP will similarly apply to the whole of the LGA, with the exception of the areas covered by the current DCPs for Moonee and Hearn's Lake/Sandy Beach, and will supersede the provisions of all current DCPs.

Background:

In September 2004 the Minister for Planning announced new planning reforms to create a more efficient planning system. The Standard Instrument (LEPs) Order was introduced as part of this suite of reforms to provide a standard approach to LEP content and writing. LEPs prepared under the Standard Instrument format will eventually exist for every LGA throughout the State of NSW and are required to be consistent with State and regional directions and strategies in addition to delivering all mandatory development controls.

The City-wide draft Coffs Harbour LEP 2012 for the whole LGA, has been prepared in accordance with the Standard Instrument Orders.

The City-wide draft LEP 2012 has been prepared with the intent of updating LEP 2000 by bringing it into alignment with the Standard Instrument LEP format being applied across the State. It is an administrative LEP, which has been prepared as much as possible to create zones and land use permissibilities that are essentially "*like for like*" with LEP 2000 and incorporating policy changes from State Government and/or Council resolutions.

Coffs Harbour City Council, at its Ordinary Meeting 23 February 2012, resolved:

1. *That Council endorse draft Coffs Harbour Local Environmental Plan 2012.*
2. *That Council seek authority from NSW Planning and Infrastructure to issue a certificate under Section 65 of the Environmental Planning and Assessment Act, 1979 to allow draft Coffs Harbour Local Environmental Plan 2012 to be exhibited.*

3. That upon complying with all conditions established at Section 65 certification, draft Coffs Harbour City Local Environmental Plan 2012 be exhibited for a period of six weeks (or such other period to be advised by NSW Planning and Infrastructure) in accordance with NSW Planning and Infrastructure's project timeframe.
4. That Council seek a suitable split lot subdivision clause from NSW Planning and Infrastructure for insertion into draft Coffs Harbour Local Environmental Plan 2012 (and any modification of the Lot Size Maps to suit the intention of the clause), as a condition of the certificate under Section 65 of the Environmental Planning and Assessment Act, 1979, should such a clause become available prior to the exhibition of draft Coffs Harbour Local Environmental Plan 2012.
5. All persons directly affected by the draft Plan be advised of Council's decision by notification in relevant newspapers at the time the draft Plan is placed on exhibition.

Council, subsequently at its Ordinary Meeting 24 May 2012 resolved:

1. That Council adopt the draft Coffs Harbour Development Control Plan 2012 as separately appended.
2. That Council in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Act Regulations 2000, publicly exhibit the draft Coffs Harbour Development Control Plan 2012 for a period of six weeks, concurrent with draft Coffs Harbour Local Environmental Plan 2012.
3. That Council notes that the following matters have been identified during the preparation of draft Coffs Harbour Development Control Plan 2012 and require further investigation:
 - The creation of site specific controls for the lands zoned B6 Enterprise Corridor under draft Coffs Harbour Local Environmental Plan 2012, located (east) adjacent to the Pacific Highway within the South Coffs urban release area.
 - The creation of site specific controls for the lands zoned IN1 General Industry under draft Coffs Harbour Local Environmental Plan 2012, located (west) adjacent to the Pacific Highway within the South Coffs urban release area.
 - A detailed investigation into the effectiveness of the Local Environmental Plan 2000 Environmental Protection 7B Scenic Buffer zone and determine its future status/application.
 - A review of the application of the place management strategies and character statements for Nana Glen/Bucca, Coramba/Karangie/ Upper Orara, Bonville, Lowanna/Ulong and the Coastal and Hinterland Rural Lands.
 - A detailed examination of the existing character statements, and development of appropriate site specific controls for the draft Coffs Harbour Local Environmental Plan 2012 R1 General Residential zoned lands within the local government area.
 - A review of the Moonee Creek Estuary Management Plan, and application to the Moonee Beach Development Control Plan provisions, including but not limited to the buffer requirements for Skinners Creek.
 - That any future Coastal Zone Management Plans and Estuary Management Plans be accompanied by a concurrent Development Control Plan review to establish the most appropriate Development Control Plan controls to meet the objectives of the Plans.
 - A review of Section 94 Contributions Plans be undertaken to establish which lands zoned for open space are to be dedicated to Council, and at what cost, and to liaise with appropriate landowners and State Government authorities.

- *A detailed investigation to establish specific controls that address potential land use conflicts in rural areas.*

Description of Item:

In accordance with Council's resolution of 23 February 2012, authority was sought from NSW Planning and Infrastructure (P&I) to issue a certificate under Section 65 of the Environmental Planning and Assessment (EP&A) Act, 1979 to allow draft Coffs Harbour LEP 2012 to be exhibited for a period of six weeks in accordance with NSW P&I's project timeframe.

Also, in accordance with the above resolution, successful negotiations were held with NSW P&I to obtain a split lot clause. The split lot clause and resultant amendment to lot size maps were forwarded to NSW P&I with a request that the written instrument and maps be replaced in draft LEP 2012, prior to certification.

Council subsequently resolved at its meeting on 24 May 2012 that Council, in accordance with the provisions of the EP&A Act 1979 and EP&A Act Regulations 2000, publicly exhibit the draft Coffs Harbour DCP 2012 for a period of six weeks, concurrent with draft Coffs Harbour LEP 2012.

The Section 65 Certificate and covering letter was received by Coffs Harbour City Council on 27 August 2012, however it contained a typographical error. A replacement Section 65 Certificate and letter was received by Council on 29 August 2012. This final certificate allowed Council to exhibit the draft Plan as required by the EP&A Act 1979. The covering letter attached to each Certificate was also required to accompany the exhibition of the draft LEP 2012.

The Certificate contained several conditions requiring amendments to be made to draft LEP 2012 prior to exhibition. These conditions are summarised below:

- i) amend the written instrument to one supplied by NSW P&I titled 'Exhibition draft' and dated June 2012;
- ii) amend the written instrument and the additional permitted uses map to include use of certain land at Beryl St, Coffs Harbour, so as to support the proposed development of State infrastructure on the subject site;
- iii) amend the written instrument and certain maps, so as to support the proposed Sandy Shores development at Sandy Beach, Coffs Harbour, in accordance with the Part 3A Application 05_0083 granted on 20 December 2010; and
- iv) minor administrative amendments to legend titles on certain maps.

Amendments were made to draft LEP 2012 to satisfy all conditions of the Certificate, to allow the draft LEP to commence exhibition.

Administrative amendments were also made to draft LEP 2012 post the report to Council on 23 February 2012, in accordance with the intent of five amendments which have been made to Coffs Harbour City LEP 2000 during 2012. These amendments consist of:

- LEP 2000 Amendment No 34 (land in North Coffs);
- LEP 2000 Amendment No 38 (Thakral lands in North Coffs);
- LEP 2000 Amendment No 46 (lands adjoining Bonville Golf Resort);
- LEP 2000 Amendment No 48 (land on the corner of Clarence Street and Pullen Street, Woolgoolga); and
- LEP 2000 Amendment No 49 (land fronting Backhouse Street, Woolgoolga).

These administrative amendments to draft LEP 2012 consisted of changes to maps and written instrument to reflect Council's policy intent for the lands affected by the five amendments listed above.

NSW P&I also advised that a boundary adjustment clause was available for Council to use and whilst it could not be included at this late date into the draft LEP, certified it for exhibition. Council adopted a clause allowing for boundary adjustments between certain rural and rural residential lots in 2010 (8 July 2010). However, the Department, at the time, instructed this clause be removed.

The draft Boundary Adjustment Clause provides a mechanism to allow for boundary adjustments in certain rural and rural residential zones, which may or may not contain lands zoned for environmental conservation, which are not able to be approved using Standard Instrument Clause 4.6 Exceptions to Development Standards or State Environmental Planning Policy (SEPP) (Exempt and Complying Development Codes) 2008.

It is proposed that a boundary adjustment would be permissible where one or more resultant lots do not meet the minimum lot size as shown on the Lot Size Map, where no additional lots, dwellings or dwelling entitlements would be generated, where potential for land use conflicts would not be increased; and where agricultural viability of rural land would not be compromised. Further, it would be necessary to establish that any land zoned E2 Environmental Conservation in the resultant lots will be able to be protected and maintained long term.

The draft Clause was exhibited as a separate matter to draft Coffs Harbour LEP 2012. However, it is intended for inclusion in the LEP when made, if appropriate.

The draft documents were exhibited and 99 submissions were received. A summary of the matters raised and how these will be addressed are attached to this report.

The primary matters raised in submissions are addressed in the Issues section of this report.

- **Public Hearing**

All Council owned land is given a classification as either community or operational land. Community land, as the name suggests is "community" focused land such as parks and walkways. Operational land includes Council's infrastructure, such as sewer pump stations, car parks and gravel pits.

With the reclassification of Council land it is a necessary procedure to hold a public hearing. A public hearing was held 14 November 2012, as the draft LEP 2012 proposed to reclassify the following Council owned lands as Operational lands:

- Lot 30, DP262078, Bray Street, Coffs Harbour;
- Lot 3, DP841017, Opal Boulevard, Korora; and
- Lot 37, DP1123008 (formerly being Lots 5 and 18, DP1140702), 8 Estuary Drive, Moonee

The public hearing was advertised on 18 October 2012 in the newspaper in accordance with the EP&A Act 1979. This matter is further discussed in the "Issues" section of this report.

- **Requests for Public Hearing**

In addition to the Public Hearing for reclassification of Council lands, three submissions sought a public hearing be held into the draft LEP under Section 68 of the EP&A Act.

This matter is also discussed in the "Issues" section of this report.

- **Reason for Deferral of Some Lands**

The deferred area is over the land that numerous landowners have had concerns that the proposed zoning has been applied without a comprehensive Local Environmental Study (LES) or equivalent studies being undertaken. The previous environmental work undertaken for these lands was a considerable period of time ago. Accordingly, and after reviewing these submissions in detail, it is considered the most appropriate method to determine the potential use of the land is to defer the subject lands from the draft Coffs Harbour LEP 2012 until such time as the environmental investigations are updated and completed.

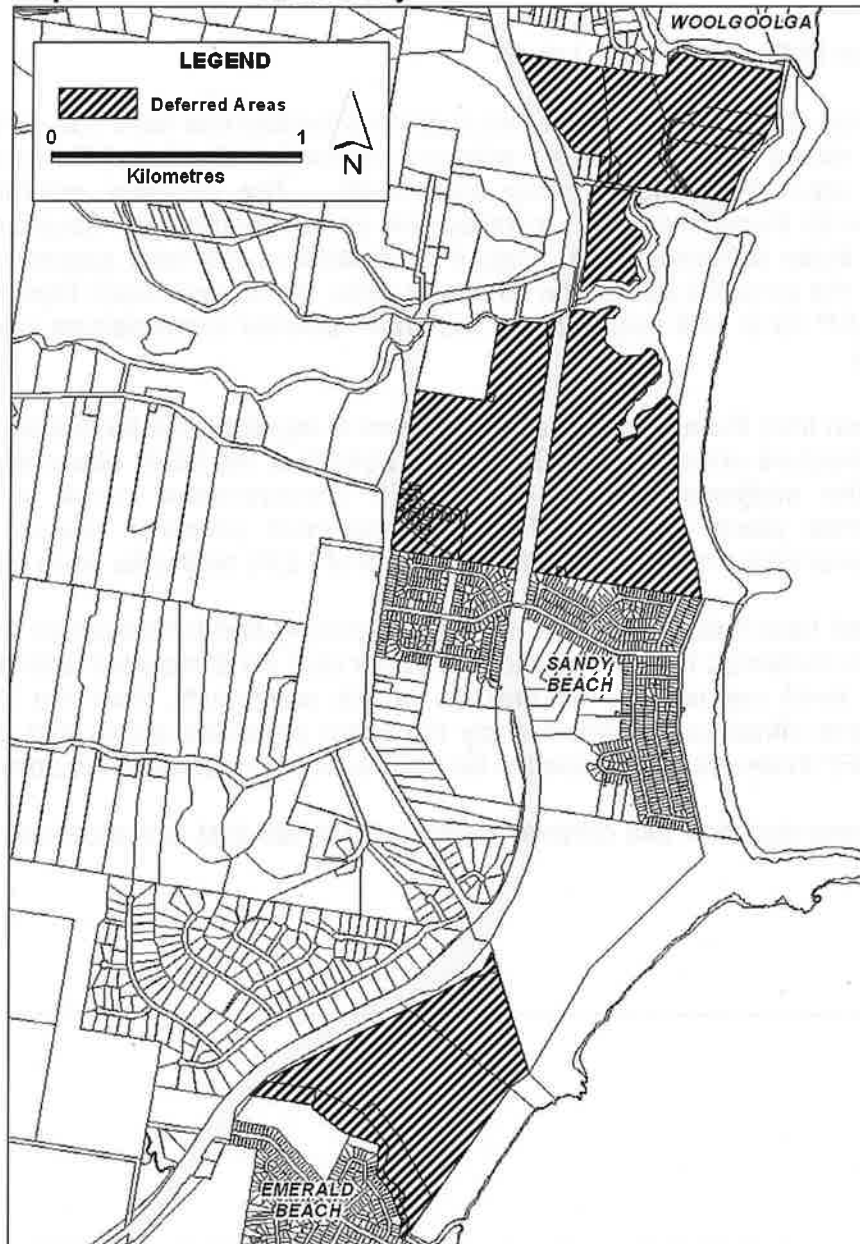
Following on from the above, it is also important to highlight that the Minister for Planning and Infrastructure announced in September 2012 that the NSW Government would not endorse the additional use of E2 and E3 environmental zones in council local environmental plans (LEPs). This announcement primarily related to proposed environmental zones over rural land in a number of LEPs on the far north coast.

Council staff have liaised with Department of Planning and Infrastructure over this issue. It has been confirmed that if draft Coffs Harbour LEP 2012 included additional E2 zones that have been opposed by landholders or the community, then the Department of Planning and Infrastructure would apply the same principles above and thereby excise from the LEP those areas proposed to be covered by the increased E2 zone.

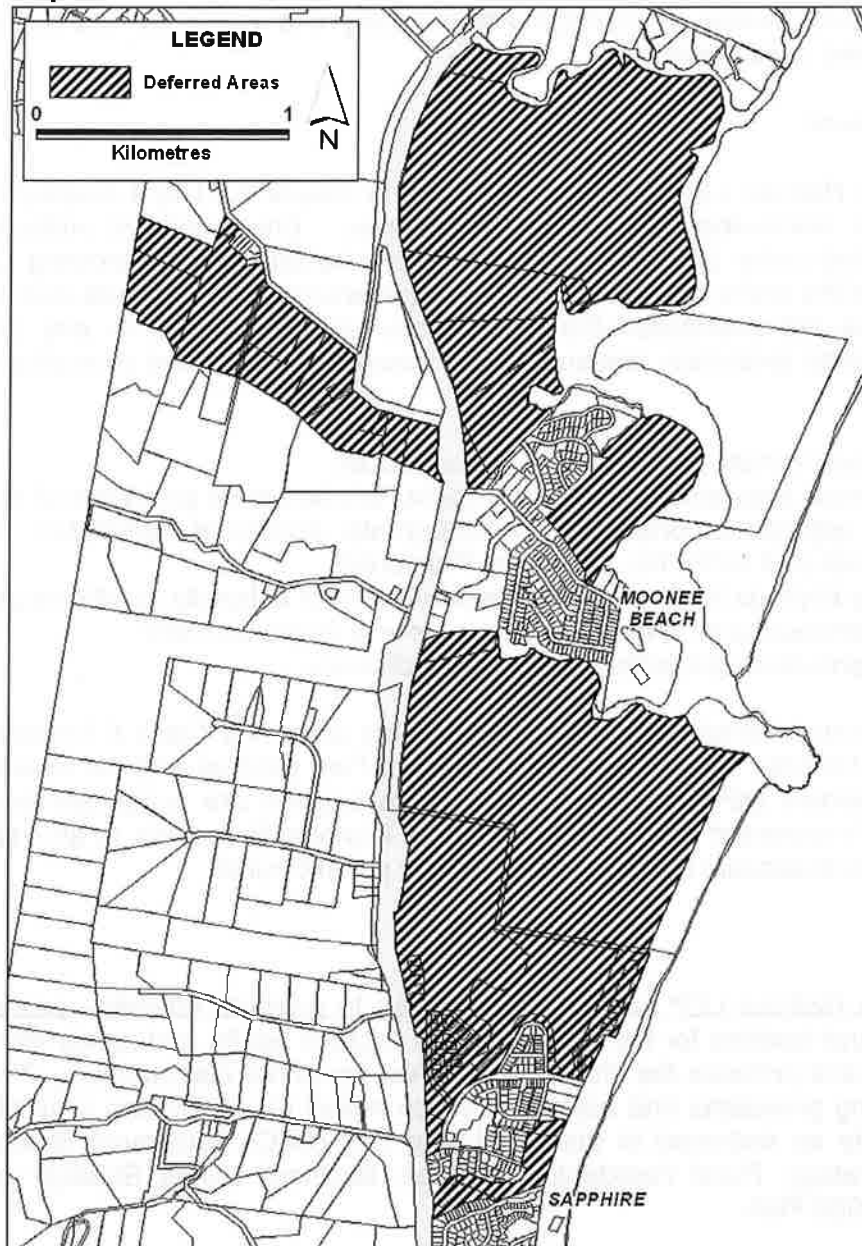
It is recommended that this deferral apply to the lands that are shown on the following maps:



Map 1: Hearn's Lake/Sandy Beach



Map 2: Moonee



Once further investigations are complete, they can be used to inform a Planning Proposal to NSW P&I. In the interim these “deferred areas” would remain subject to the provisions and zones of Coffs Harbour City LEP 2000. Council would also need to ensure the existing 2000 series DCPs for these areas are maintained on an interim basis to provide development guidelines.

Sustainability Assessment:

Any amendment to the Coffs Harbour LEP (and DCP) has to address environmental, social and economic sustainability criteria.

Many of the Standard Instrument zones to be used in the LEP directly relate to existing zones in LEP 2000, others have no equivalent. Whenever possible, zones were transferred to those that closely reflect existing zones but in some cases minor changes to the zone nature or intent have been applied to better reflect the endorsed strategic policies of State Government and Council. The zones in the Coffs Harbour City Centre Plan 2011 have also been transferred into the draft Coffs Harbour LEP 2012.

In addition to previously prepared information Council completed the Business Centres Hierarchy (BCH) Review to identify/confirm appropriate zones for the subject lands and appropriate land uses permitted.

- **Environment**

The Coffs Harbour LEP and DCP 2012 aim to ensure the City's development is carried out in an environmentally sustainable manner. Environmental protection measures incorporated under LEP and DCP 2012 are adapted from the existing LEP 2000 and existing DCPs where appropriate and in accordance with instructions received from NSW P&I. It is not anticipated that these documents will result in any deterioration of environmental protection measures. To ensure environmental protection the LEP and DCP:

- apply appropriate provisions for Koala Habitat;
- recognises appropriate zoning and control provisions for protection of riparian areas;
- apply appropriate protection to ecologically significant vegetation, SEPP No. 14 Wetlands and SEPP No. 26 Littoral Rainforest;
- identify heritage items and includes provisions for culturally significant places;
- apply provisions for preservation of trees and vegetation; and
- apply provisions protecting terrestrial biodiversity.

Further environmental work is being completed under the Class 5 Vegetation Mapping, the Coffs Harbour Coastal Zone Management Plan process and the revised Koala Plan of Management (KPoM) Study. Once these projects are completed and adopted by Council it is expected they may inform future Planning Proposals, to amend the LEP and incorporate necessary changes, which will be put to Council.

- **Social**

The Coffs Harbour LEP and DCP 2012 seek to promote equitable provision of social services and facilities for the community, to improve health and safety for residents and to protect and enhance the character and livability of our communities. This is achieved by including provisions and objectives which reflect Council's long term strategic vision for the City as endorsed in the Our Living City (OLC) Settlement Strategy, Industrial Lands Strategy, Rural Residential Strategy, Business Lands Strategy and the Coffs Harbour 2030 Plan.

- **Civic Leadership**

The preparation of the Coffs Harbour LEP and DCP 2012 will implement appropriate and relevant actions of the Coffs Harbour 2030 Plan to achieve the following outcomes:

- Council has a strong and diverse local economy underpinned by sustainable business and industry;
- our City is a lively and diverse place where people live, work and play;
- our built environment achieves sustainable living by only best practice urban design and infrastructure development to create attractive buildings;
- Council has a diverse range of housing options that are affordable and adaptable for all the community;
- Coffs Harbour has urban spaces that are functional, accessible and useable by all the community to enjoy;
- Coffs Harbour has integrated, accessible, eco focused transport system achieved by implementing plans and policies with cycleways, walking tracks and footpaths; and
- Our transport system and road network is well maintained safe and functional.

By implementing these community endorsed actions, as part of the Coffs Harbour LEP and DCP 2012 project, Council demonstrates a decision making process integrating the aims and objectives of the 2030 Plan.

Coffs Harbour LEP 2012 and DCP 2012 will provide clear direction to the elected Council as governing body and for staff in administering the LEP, and will guide future development within the LGA. This is consistent with the Coffs Harbour Community Strategic Plan outcomes PL1 *"We have designed our built environment for sustainable living"*, PL2 *"We have created through our urban spaces, a strong sense of community, identity and place"*, and LE3 *"We manage our resources and development sustainably"*.

- **Economic**

The continued economic growth and development of the City is a primary aim of the draft LEP 2012 and DCP 2012. The process for these documents has identified appropriate areas for proposed land uses to enable compatible development to prevail.

The draft LEP 2012 and DCP 2012 reinforce the business hierarchy established in the endorsed OLC Settlement Strategy, Business Lands Strategy and BCH Review, leading to enhancement of functional smaller business centres whilst maintaining the primacy of the CBD and ensuring Council's longer term strategic vision is achieved.

Broader Economic Implications

The draft LEP 2012 and DCP 2012 aim to improve our City as a place to live, work and play.

The aims, objectives and controls contained in the draft LEP 2012 and DCP 2012 seek to improve educational and employment opportunities; foster new business and industry opportunities that serve our community while creating a highly livable urban place in both the built environment and public domain while making efficient use of existing and future infrastructure.

Delivery Program/Operational Plan Implications

There are no immediate financial implications or impacts on Council by progressing the draft LEP 2012 and draft DCP 2012. However sufficient funds will need to be allocated to undertake appropriate environmental investigations for the deferred areas to inform and progress a Planning Proposal to establish the final zone configuration for the deferred areas.

The implementation of a new LEP and DCP are key outcomes sought by the Council's Delivery Program. Council's resolution to progress the plans will enable these outcomes to be achieved.

The preparation of draft LEP 2012 and draft DCP 2012 is endorsed in the current Operational Plan. As much work as possible has been undertaken in-house, and the draft LEP and DCP aims to *"slide across"* as much of existing LEP 2000 and existing DCPs as possible within the constraints of NSW P&I requirements, State policies and Council resolutions. This approach sought to ensure costs to Coffs Harbour City Council were minimised.

Consultation:

Council staff have been working closely with the NSW P&I and other Government agencies to finalise the draft LEP 2012 and draft DCP 2012.

Section 62 Consultation with Government agencies has been carried out and relevant matters raised have been incorporated into the draft LEP 2012 and draft DCP 2012. The S62 commenced in 2007 for the draft LEP, however letters have continued to be received from government agencies over the life of the plan preparation. These have been provided to Council as part of the Section 62 consultation requirements over the time.

Community consultation in accordance with the provisions of the EP&A Act and Council's Community Consultation Plan for the project has been carried out.

A number of briefings with the elected Council have been held throughout the course of preparation of the draft LEP 2012 and draft DCP 2012.

Explanatory information sheets, including a plain English version of the draft LEP, were prepared to assist with community engagement and were placed on public exhibition with the draft LEP 2012 and draft DCP 2012.

Council, at its meeting of 23 February 2012, resolved the LEP would be exhibited for a six week period. Council subsequently resolved, on 24 May 2012 to publicly exhibit the draft Coffs Harbour DCP 2012 for a period of six weeks, concurrent with draft Coffs Harbour LEP 2012.

The exhibition period of the draft documents and additional clause was from 13 September 2012 to 26 October 2012 and copies of the LEP, DCP and associated documentation were available to be viewed at Coffs Harbour City Council Administration Building, Coffs Harbour Library, Toormina Library and Woolgoolga Library during normal office hours. A free copy of the documents was available on CD and the documents were provided on Council's website.

A Strategic Management Plan (SMP) was prepared to set out details of changes in the new LEP and the rationale behind decisions made throughout the LEP preparation.

A Conversion Plan was prepared to set out details of changes made in the draft DCP and the reasoning behind decisions made throughout the DCP's preparation.

To assist with providing simple clear information to the community, a summary brochure entitled Exhibition Explanatory Information was prepared and freely made available to the community, to accompany the draft LEP and draft DCP.

A specific website was established to carry the information relating to LEP, DCP and additional boundary adjustment clause for the purposes of the public exhibition.

This website was extremely beneficial with visits from 4,585 interested parties. The Welcome page received 1,833 hits, while the Maps page received 1,024 hits. During the first week these were 414 and 260 times respectively. The website also provided a mechanism for the public to lodge submissions to the exhibition. Eleven submissions were generated in this manner.

A Business/Industry/Key Stakeholder Information Shop Front was held on the morning of the 18 September and had four attendees.

Community Information Shop Fronts were held to assist with providing information on the plan to the community. The five community information shop fronts took place on:

- Tuesday, 18 September 2012 at Coffs Harbour City Council Chamber
- Wednesday, 19 September 2012 at Red Rock Multi-Use Centre and Woolgoolga Library
- Thursday, 20 September 2012 at Coramba Community Hall and Toormina Library.

The Community Information Shop Fronts were attended by a total of 11 people even though participants were able to attend at any time between the times listed in the notification advertisement. Council staff were available to discuss matters of interest and to answer any questions raised by members of the community at the shop fronts.

Council received 99 submissions to the public exhibition. Of the submissions received, 10 were from Government Agencies.

A full copy of the submissions has been made available in the Councillor's Room. They are confidential as they contain personal and private information that is not appropriate to be fully disclosed under the Privacy and Personal Information Protection Act. An assessment of all submissions is provided as Attachment 1 to this report.

The State agency submissions and a list of administrative amendments are included in Attachment 1 to this report. A copy of the draft LEP and draft DCP has been made available in the Councillor's room and is on Council's website.

Public Hearing:

- **Reclassification of Lands**

Under Section 29 of the Local Government Act 1993, where Council is reclassifying Community land to Operational land, a public hearing is required. The public hearing was advertised and held commencing at 5.30pm on 14 November 2012. The hearing was facilitated by Mr Geoff Smyth, no members of the community were in attendance, so at 6.00pm Mr Smyth closed the hearing. Attached to this report is Mr Smyth's letter of confirmation of the details of the public hearing (Attachment 1).

- **Request for Public Hearing**

Three submissions sought a public hearing under Section 68 of the EP&A Act.

Council staff assessed the requests and liaised with the NSW P&I. It was determined that the requests were either:

- based on zonings of individual properties; and/or
- not significant matters to the entire draft LEP, draft DCP process; and/or
- not to the benefit of the broader community.

Therefore, a public hearing was not warranted based on the matters raised in submissions.

Related Policy and / or Precedents:

The draft LEP 2012 and draft DCP 2012 have been prepared in accordance with the Standard instruments (LEPs) Orders 2006, the EP&A Act and Regulations. All statutory requirements of these Instruments have been complied with.

In preparing a draft LEP Council is required to ensure that the LEP is either consistent, or justifiably inconsistent, with the surrounding land use patterns and local character. Ensuring the plan is within the strategic context set by other State, regional and local policy is also necessary. Draft LEP 2012 is consistent with, or justifiably inconsistent, with:

- the NSW State Plan;
- the Mid North Coast Regional Strategy;
- State Environmental Planning Policies;
- Ministerial Section 117(2) Directions;
- the Coffs Harbour 2030 Plan;
- the Our Living City Settlement Strategy;
- the Coffs Harbour Industrial Lands Strategy;
- the Coffs Harbour Rural Residential Strategy; and
- the Coffs Harbour Business Lands Strategy.

Statutory Requirements:

The draft LEP 2012 and draft DCP 2012 is consistent with, or justifiably inconsistent with:

- the DoP Standard Instrument (LEPs) Orders (gazetted March 2006, amended September 2006 and July 2008);
- Mid North Coast Regional Strategy;
- various Ministerial 117 Directions; and
- Planning Practice Notes issued by NSW P&I.

Issues:

The following section addresses the major matters raised in the community consultation and Section 62 Government agency consultation process. The issues are related to the relevant component of the draft LEP 2012 and draft DCP 2012.

The recommendations made in Attachment 1 and summarised in the following analysis have been integrated into the amended LEP and DCP.

Administrative Amendments

During the exhibition process, a number of administrative issues were identified on the draft LEP and draft DCP. These issues have been assessed and a summary is included as Attachment 1 to this report.

The matters identified:

- **Amendment to Schedule 5 Heritage list**

Comments

In Schedule 5 Item I34 contains an incorrect property description.

Recommendation

That Item I34 of Schedule 5 of draft LEP 2012, be amended to read Lot 1, DP612294.

- **Schedule 1 Additional Uses**

Comments

Schedule 1 Additional permitted uses has had several items added in response to submissions. It is necessary to rearrange all items in Schedule 1 to ensure they are listed alphabetically, prior to lodging the draft LEP 2012 with NSW P&I for making.

Recommendation

It is recommended that:

1. Schedule 1 be re-ordered so Items 1 – 18 are listed alphabetically as required by the Standard Instrument template; and
2. the Additional Permitted Uses Map be amended to reflect the amended listing in Schedule 1.

- **CBD Hierarchy**

Comments

During 2011, Council commissioned an independent review of the BCH, to establish its relevance and importance to the growth of Coffs Harbour as a city, and to provide input into the preparation of draft LEP 2012. In adopting the BCH, Council has endorsed an aim of the Plan: *'(c) to maintain the primacy of the Coffs Harbour Central Business District as the principal business, office and retail hub of the city centre while supporting the objectives of other business zones'*. It is considered important to add this aim to draft LEP 2012, so as to reinforce Council's position.

Recommendation

It is recommended that:

1. An additional aim be added to draft LEP 2012, being:
(d) to maintain the primacy of the Coffs Harbour Central Business District as the principal business, office and retail hub of the city centre while supporting the objectives of other business zones; and
2. all remaining aims of the Plan be re-ordered to allow for the insertion of aim (d) above.

- **Incorrect Zone Used**

Comments

Land Zoning Map Sheet 006 in draft LEP 2012 shows land at Bonville zoned RU1 Primary Production. Council does not intend using this zone. This small parcel of land incorrectly retained the RU1 zone.

Recommendation

It is recommended that:

1. Land Zoning Map sheet 006 be amended to show land north of Reedy Road, Bonville, in zone RU2 Rural Landscape.

- **Height – TS Vendetta site**

Comments

The site leased to TS Vendetta is shown on the Height of Buildings Map 006B as 5.4 metres (blue). The current TS Vendetta building is located well below the carpark level to its immediate north (estimated at between 4 and 5 metres). The Jetty Foreshores Plan of Management identifies this site for 'community based commercial' uses in Management Precinct 3. It is considered that the building height of 5.4 metres over this site in draft LEP 2012 does not accurately represent the intent of the Plan of Management. Any redevelopment of buildings here should not be severely restricted by the natural form of the land to a single storey. As such, it is considered that a height limit of 8.5 metres should be shown in draft LEP 2012.

Recommendation

It is recommended that:

1. Height of Buildings Map sheet 006B be amended to show the TS Vendetta site with an 8.5 metre height limit.

- **Land Zone – Woolgoolga Bowling Club**

Comments

The Woolgoolga Bowling Club has acquired a small parcel of land in Boundary Street, Woolgoolga. The parcel of land has been amalgamated into the overall site. The strip of land is proposed to be zoned RE1 Public Recreation however, given that it is not included in Council ownership, it should be added to the RE2 Private Recreation zone.

Recommendation

It is recommended that:

1. Land Zoning Map sheet 005C be amended to show the strip of land zoned RE2 Private Recreation.

- **Dictionary Order Error**

Comments

Draft LEP 2012 has been advertised with a Dictionary alphabetical error, where 'wetland' is placed incorrectly.

Recommendation

Move 'wetland' to its correct alphabetical listing in the Dictionary of draft LEP 2012.

- **Development Without Consent**

Comments:

Several items which are listed in draft LEP 2012 as not requiring consent, would be better to list in Schedule 2 'Exempt Development', which would allow Council to list limitations to trigger a development application. This should be undertaken as a body of work in a 'housekeeping LEP amendment' Planning Proposal.

Recommendation

That no amendments to draft LEP 2012 be undertaken, however that Council consider this matter in a future amendment.

• Coffs Harbour Regional Airport

Comments

The Coffs Harbour Regional Airport is in the process of updating its adopted Airport Master Plan. Component E1 of draft DCP 2012, which deals specifically with the Airport, should be deferred so that appropriate content of Component E1 can be considered.

Recommendation

It is recommended that:

1. Component E1 be deferred from draft DCP 2012.
2. That Component E1 be prepared and reported to Council after completion of the revised Airport Master Plan.

LEP Document

The following are the matters, relating to the draft LEP, raised in submissions. Because of the legislative nature of preparing an LEP, submissions relating to the draft LEP have been further summarised and addressed in a table to accompany the Section 68 report to NSW P&I. This summary is also included in the attachment to this report (Attachment 1), and provides more details about submissions and how they have been assessed and addressed.

Public Submissions

The main issues raised in submissions received from the public include the following topics/matters:

- rezoning/zoning amendment on specific properties;
- Environmental zoning on lands;
- the B6 Enterprise Corridor zoning (mainly focused on the Pacific Highway strip, Marcia Street to Bray Street);
- zonings relating to the Hearnese Lake/Sandy Beach area;
- the "Bulky Goods" being removed from the list of permitted uses in the Industrial zones;
- requesting rezoning of properties in Murdock Street and West High Street;
- the Raj Mahal site, Woolgoolga;
- amendments relating to the Neighbourhood Business zonings;
- zonings relating to the Moonee area;
- the Woolgoolga town centre and business areas; and
- requests for public hearings.

• Rezoning/Zoning Amendment Requests on Specific Properties

Some 38 submission received raised matters in regard to the zoning of or requesting rezoning of specific parcels of land. The assessment of the submissions considered:

- the current zone – under either Coffs Harbour LEP 2000 or Coffs Harbour City Centre LEP 2011;
- the proposed zone as suggested by the author of the submission;
- the inherent site constraints;
- a Strengths, Weaknesses, Threats and Opportunities (SWOT) analysis;

- the potentially applicable zones; and
- comments/input from various relevant sections of Council,

and then made a recommendation on the action to be taken.

Given this process the following summary is made:

- **Submission P1: Part Lot 2 DP882689, North Boambee Road, North Boambee**

The landowner has requested a rezoning of the cleared portion of the site, being generally the central eastern corner of the site, via a submission to draft LEP 2012.

It is recommended that:

1. the Land Zoning Map, the Lot Size Map and Height of Buildings Map (Map Series 006A) be amended to reflect zoning of part of Lot 2 DP882689 generally as shown in Submission No. 1, but with minor modifications to ensure that the steep embankment is retained in its entirety within the IN1 zone, such that it continues to be used as a buffer between residential and industrial land uses;
2. a statement be made to NSW P&I (contained within the Section 68 Report which requests that the Plan be made) that the inconsistency with 117(2) Direction 1.1 is justified in the circumstances;
3. Council's Local Growth Management Strategy (LGMS) – Industrial Component be revised at the time it is next amended, to reflect these changes; and
4. draft DCP 2013 be amended to address future access provisions to the site.

- **Submission P2: Lands South of the B2 Local Centre Zone, fronting Trafalgar Street, Woolgoolga**

This submission was lodged on behalf of the Woolgoolga Business Group. It requests that the B2 Local Centre zone, which is currently located from Beach Street south to Trafalgar Lane, be extended further south to Trafalgar Street.

It is recommended that:

1. this land be included in the review of the Woolgoolga Master Plan;
2. if deemed appropriate, Council's LGMS – Business Lands Component be revised, and endorsed by Council and NSW P&I; and
3. a Planning Proposal be progressed after completion of 1. and 2. above, at a time when either Council's budget allows it or as funded by landowners, to reflect the appropriate zone boundary as identified in the strategic work.

- **Submissions P3 and P68: 122 West High Street, Coffs Harbour**

These submissions state that the subject property is suitable for use as a commercial premise, and that it contains adequate onsite parking and disabled access. They further state that there are a number of adjoining and nearby properties which contain commercial uses, and it would be appropriate to zone the property for commercial uses

If the subject land (including the drainage line) were to be rezoned to B3, there would be a 20% increase in commercial activity on the site compared to the current allowable residential activity. As a result, this would reduce the available medium density zoned land in the area and subsequently adversely impact on future housing needs.

The SEPP (Infrastructure) permits educational establishments and health service facilities such as hospitals, medical centres and health consulting rooms in residential zones precluding the need to rezone the subject site and adjoining/surrounding lands to a commercial zone. The subject site, 122 West High Street (Lot 1, DP340019), has been approved for an educational establishment under Development Consent No. 1422/04. It is not necessary to add the use as a permissible use under draft LEP 2012.

It is recommended that no amendments be made to draft LEP 2012 as a result of these submissions

- **Submissions P4 and P5: 40 and 44 William Sharp Drive, Coffs Harbour**

These submissions state that the subject properties are partially zoned for commercial uses, and they are not suitable for such a use. They further state that since the construction of the flood retention basin in William Sharp Drive, access to these land parcels and the ability to service these lands have been impacted. They seek the lands revert to a residential zone.

It is recommended that:

1. the Land Zoning Map, Lot Size Map, Height of Building Map and Floor Space Ratio (FSR) Map (Map Series 006A) be amended to remove the B1 Neighbourhood Centre zone from this location in William Sharp Drive and instead to zone the land R2 Low Density Residential have a 400m² lot size and a 8.5 metre building height;
2. the West Coffs DCP be amended to remove the reference to a neighbourhood shopping centre on this site, and to include a reference to sourcing a neighbourhood shopping centre in the West Coffs precinct as a matter of priority;
3. in the West Coffs DCP, the reference to Community Centre is removed and the reference to a covered meeting area/function place is added;
4. a statement be made to P&I (contained within the Section 68 Report which requests that the Plan be made) that the inconsistency with 117(2) Direction 1.1 is justified in the circumstances; and
5. Council's LGMS – Business Lands Component be revised to reflect these changes.

- **Submission P6: 36 Walter Morris Close, Coffs Harbour**

The submission states that the subject property is zoned for R1 General Residential uses, and it is not suitable for such a use. Noting that proximity to the railway, highway and Park Beach Road makes the location unsuitable for residential development, it requests that the subject property be rezoned to B2 Local Centre to conform with other business lands in the street block.

It is recommended that:

1. the Land Zoning Map, Lot Size Map and FSR Map be amended to move the B2 Local Centre zone to include Lots 11, 12 and 13, DP107053;
2. the City Centre Component of the draft DCP 2012 be amended to remove the reference to active street frontages, street awnings and street alignment and setbacks on all remaining properties included in R1 General Residential;

3. a statement be made to P&I (contained within the Section 68 Report which requests that the Plan be made) that the inconsistency with 117(2) Direction 1.1 is justified in the circumstances; and
4. Council's LGMS – Business Component be revised to reflect these changes.

- **Submission P8: 3 Willis Road, Woolgoolga**

The submission states that the rear of the property contains part of an environmental protection zone, and advises that the land has been cleared of significant vegetation for many years, and that there are no attributes of the land that warrant an environmental zone over the rear of the property. The submission further states that the balance of the land is zoned and used for industrial purposes and that it is appropriate to rectify the zoning anomaly on the land.

The current draft shape of the E2 Environmental Conservation zoned land on the subject site accords with the current mapped SEPP No 14 Wetland boundaries as defined by NSW P&I. Council is unable to alter the SEPP No 14 Wetland mapping boundaries on the land, as this layer is controlled by P&I. It is not considered appropriate to amend the zone at this time.

It is recommended that no amendments be made to draft Coffs Harbour LEP 2012 as a result of this submission

- **Submission P9: Lot 30, Safety Beach Drive, Safety Beach**

This submission relates to Lot 30, DP1092921, Safety Beach Drive, Safety Beach. It requests that the site be amended from a business zone to a residential zone because the submission claims there is no justifiable need for the neighbourhood business zone, and that the land is better suited to low density residential development.

Given that the Safety Beach population is only expected to reach 1,930 persons by 2031, it is anticipated that one or two neighbourhood shops, which are permissible in the R2 Low Density Residential zone, would be sufficient to meet this need.

It is recommended that:

1. the Land Zoning Map, Lot Size Map and FSR Map (map series 005C) be amended to remove the B1 Neighbourhood Centre zone from this location in Safety Beach Drive, and instead to zone the land R2 Low Density Residential;
2. a statement be made to P&I (contained within the Section 68 Report which requests that the Plan be made) that the inconsistency with 117(2) Direction 1.1 is justified in the circumstances; and
3. Council's LGMS – Business Lands Component be revised to reflect these changes.

- **Submission P12: Lot 13, DP591220, Cook Drive, Coffs Harbour**

This submission relates to Lot 13, DP591220, Cook Drive, Coffs Harbour. It requests that the zone of the property be amended from an environmental protection zone, because part of the site is cleared. The submission references a map, showing the overall site area of Lot 13 as 1.433 hectares; and identifying the top north west corner of the overall site as containing 2787m² of cleared land, which should not be zoned for environmental protection; and which should instead be added to the IN1 General Industrial zone.

The flood prone nature of the land would indicate that flood study work would be required prior to any consideration for a rezoning of the site. It is considered that the optimum way forward for this land is consideration of a planning proposal to rezone the land. The necessary environmental studies could then be prepared to better inform decisions.

It is recommended that no amendments be made to draft Coffs Harbour LEP 2012 as a result of this submission.

- **Submission P14: 1768 Pacific Highway, Emerald Beach**

This submission relates to 1768 Pacific Highway, Emerald Beach, being Lot 58, DP1143405, Pacific Highway, Emerald Beach. It requests that the site be amended from a RE2 Private Recreation zone to a R5 Large Lot Residential allotment and that the land formerly had a dwelling on it prior to highway works.

Given that the land is not immediately adjacent to the R5 Large Lot Residential zone, and that the land is not included in Council's LGMS – Rural Residential Strategy, it is considered the optimal solution is to apply a RU2 Rural Landscape zone to the property, but also to include the land in Schedule 1 to ensure the dwelling entitlement is maintained.

It is recommended that:

1. the Land Zoning Map and Lot Size Map (map series 005D) be amended to remove the RE2 Private Recreation zone from Lot 58, DP1143405, and instead to zone the land RU2 Rural Landscape and show it with a minimum 40 hectare subdivision standard;
2. the land is included in Schedule 1 Additional Permitted Uses, with a listing relating to Lot 58, DP1143405 that development for the purpose of a dwelling house is permitted with consent; and
3. additional Permitted Uses Map No. 13 be amended to identify the site.

- **Submission P15: Lot 147, DP1118502, Sapphire Beach**

This submission relates to Stages 5-9 of the North Sapphire Beach development. The land is formally known as Lot 147, DP1118502. It requests that the zone boundaries proposed at the site be modified generally in accordance with a plan provided with the submission, for an amended subdivision layout that *"will be provided to NSW Planning and Infrastructure before the end of 2012"*. The submission states that it is premature to impose a detailed residential zone boundary where development is yet to be finalised.

It is considered that the most appropriate method to determine the environmental value of the land and its potential use for residential development, including appropriate zone footprints, is to defer the land from draft LEP 2012 until appropriate environmental investigations are completed for the land, which will better identify and determine the land which should have an environmental zoning. It is recommended this be undertaken for the area which was subject to Coffs Harbour City LEP Amendment No 24 (Moonee). This process would then be used to inform a Planning Proposal to NSW P&I to rezone the land to reflect the environmental zones represented in the environmental investigations. This means that Coffs Harbour City LEP 2000 will prevail in the short term.

It is recommended that:

1. the subject site, being land formerly known as Lot 147, DP1118502, along with lands which were subject to Coffs Harbour City LEP Amendment No 24 (Moonee), where residential land is proposed to be rezoned to environmental protection be deferred from draft Coffs Harbour City LEP 2012 and DCP 2012; and
2. Council undertake appropriate environmental investigations for the area which was subject to Coffs Harbour City LEP Amendment No 24 (Moonee), so as to inform a Planning Proposal for a 'Gateway determination', to establish a final zone footprint for residential areas in the locality.

- **Submission P16: 9 Maccues Road, Moonee**

This submission relates to 9 Maccues Road, Moonee, being Lot 19, DP1141168. It requests that the site be amended from a RU2 Rural Landscape zone to a R5 Large Lot Residential allotment.

Whilst the subject site is located within a candidate area in Council's LGMS – Rural Residential Component, it is pre-emptive to zone the site R5 Large Lot Residential in advance of environmental studies to investigate the suitability of the site and all the surrounding lands for this type of development. The area is not listed for investigation in the LGMS until Stage 2, in 3-5 years time, and after Stage 1 investigations and possible rezoning of the Bonville lands are completed. To rezone the land for rural residential development would be inconsistent with Section 117(2) Direction 3.1 Residential Zones and Council's LGMS.

It is recommended that no amendments be made to draft Coffs Harbour LEP 2012 as a result of this submission.

- **Submission P19: Lot 62, DP1143405, Pacific Highway, Emerald Beach**

This submission relates to Lot 62, DP1143405, Pacific Highway, Emerald Beach. It requests that the zone of the property be amended from an environmental protection zone, to allow low density residential development. The submission states that the landowner has intended to develop the land for residential purposes, and that Council has proposed that the land be zoned in its entirety for environmental purposes without completing full environmental studies for the land.

The submission concludes with a request that, in the event that Council does not support the request for an amended zoning, that the land be deferred from the LEP and be subject to a Public Hearing in accordance with the provisions of Section 57(5) of the EP&A Act 1979.

The landowner is concerned that the zone has been prepared without a comprehensive LES or equivalent being undertaken. It is considered that the most appropriate method to determine the environmental value of the land and its potential use for residential development, including appropriate zone footprints, is to defer the land from draft LEP 2012 until appropriate environmental investigations are completed for the land, which will better identify and determine which part of the site should have an environmental zoning. This process would then be used to inform a Planning Proposal to P&I to rezone the land to reflect the environmental zones represented in the environmental investigations. This means that Coffs Harbour City LEP 2000 will prevail in the short term.

It is recommended that:

1. the subject site, being Lot 62, DP1143405, be deferred from draft Coffs Harbour City LEP 2012 and DCP 2012; and
2. Council undertake appropriate environmental investigations for the site, to inform a Planning Proposal for a 'Gateway determination', so as to establish a final zone footprint for residential areas on the site.

• **Submission P24: Lots 1 and 2, DP725785, Pacific Highway, Moonee**

This submission relates to the residential development of the Glades Estate, on land formally known as Lots 1 and 2, DP725785. It states that a large part of the land holding is proposed to be zoned E2 and is considered to be an inappropriate zone given the approved development over this land. Although a project approval (06_0143) has been issued, on 5 March 2009, by the Minister for Planning under Part 3A of the EP&A Act 1979, the landowner is still concerned that if the proposed zones are adopted as per the exhibited draft LEP 2012, this could dramatically limit the landowner's ability to amend the project to take into account site conditions and changing circumstances.

The submission states that part of the proposed zonings, specifically the E2 zone and permissibility of development within that zone, is inconsistent with existing planning provisions and the approved residential development. Furthermore, it goes on to state that the proposed E2 zone over the open space area of the Glades Estate is not consistent with the approved development, including the construction of water reticulation infrastructure and stormwater management systems (i.e. to facilitate drainage works). Therefore, the submission is recommending a REI Public Recreation zone instead of the proposed E2 zone.

It is considered that the most appropriate method to determine the environmental value of the land and its potential use for residential development, including appropriate zone footprints, is to defer the land from draft LEP 2012 until appropriate environmental investigations are completed for the land, which will better identify and determine the land which should have an environmental zoning. It is recommended this be undertaken for the entire area which was subject to Coffs Harbour City LEP Amendment No 24 (Moonee). This process would then be used to inform a Planning Proposal to NSW P&I to rezone the land to reflect the environmental zones represented in the environmental investigations. This means that Coffs Harbour City LEP 2000 will prevail in the short term.

It is recommended that:

1. the subject site, Lots 1 and 2, DP725785, along with lands which were subject to Coffs Harbour City LEP Amendment No 24 (Moonee), where residential land is proposed to be rezoned to environmental protection be deferred from draft Coffs Harbour City LEP 2012 and DCP 2012; and
2. Council undertake appropriate environmental investigations for the area which was subject to Coffs Harbour City LEP Amendment No 24 (Moonee), so as to inform a Planning Proposal for a 'Gateway determination', to establish a final zone footprint for residential areas in the locality.

• **Submission P25: Sawtell Surf Club**

This submission relates to Sawtell Surf Club, which sits over part of Lot 7003, DP1113530, and is accessed via Second Avenue, Sawtell.

The submission states that the current and proposed draft LEP 2012 zonings do not reflect the existing club house boundaries. The submission requests that the draft zones be amended to accord with the footprint of the proposed clubhouse development application; and plans are included in the submission to identify proposed works at the site.

It is appropriate that the RE2 zone be consistent with the Sawtell Surf Club's lease boundary with the exception of the SEPP 26 Littoral Rainforest that should be zoned E2 Environmental Conservation

The zone boundary should only be modified as a result of further work, in a future Planning Proposal (housekeeping LEP amendment).

It is recommended that no amendments be made to draft LEP 2012 as a result of this submission.

- **Submission P26: 48 Split Solitary Road, Sapphire Beach**

This submission relates to 48 Split Solitary Road, Sapphire Beach, formally known as Lot 31, DP840116, and currently used as the Sapphire Beach Holiday Park.

The submission states that an environmental zone is being imposed on the land, when it is currently zoned for residential development in Coffs Harbour City LEP 2000; that it is not a direct 'roll across' of zones from the old LEP; and that it does not reflect the on-ground situation that significant cleared areas have been included in the zone. It further states that the information used in producing draft Coffs Harbour City draft LEP 2000 (Amendment No 24) is now dated, and was not prepared with rigorous scientific testing. It refers to the current draft Class 5 Vegetation mapping which has been prepared by Council and states that there is a mapping contradiction between the newly prepared draft Class 5 vegetation and dated mapping that informed Amendment No 24. It requests that the land remain zoned for residential development until the planning proposal, which informs the environmental conservation zones of the LGA, proceeds. It further requests that in the event this is not achievable, that Council officers discuss the matter further with the planning consultant who wrote the submission.

It is considered that the most appropriate method to determine the environmental value of the land and its potential use for residential development, including appropriate zone footprints, is to defer the land from draft LEP 2012 until appropriate environmental investigations are completed for the land, which will better identify and determine the land which should have an environmental zoning. It is recommended this be undertaken for the area which was subject to Coffs Harbour City LEP Amendment No 24 (Moonee). This process would then be used to inform a Planning Proposal to NSW P&I to rezone the land to reflect the environmental zones represented in the environmental investigations. This means that Coffs Harbour City LEP 2000 will prevail in the short term.

It is recommended that:

1. the subject site, 48 Split Solitary Road, along with lands which were subject to Coffs Harbour City LEP Amendment No 24 (Moonee), where residential land is proposed to be rezoned to environmental protection be deferred from draft Coffs Harbour City LEP 2012 and DCP 2012; and
2. Council undertake appropriate environmental investigations for the area which was subject to Coffs Harbour City LEP Amendment No 24 (Moonee), so as to inform a Planning Proposal for a 'Gateway determination', to establish a final zone footprint for residential areas in the locality.

- **Submission P27: Lot 21, DP1050895, Harbour Drive, Coffs Harbour**

This submission relates to Lot 21, DP1050895, Harbour Drive, Coffs Harbour, being the site owned by Galambila Aboriginal Health Services Incorporated and used as a medical centre. The submission objects to the fact that medical centres are prohibited in the R3 Medium Density Residential zone under draft LEP 2012, and requests that the land instead be zoned B1 Neighbourhood Centre, which would allow medical centres as permissible with consent.

The submission acknowledges that the SEPP (Infrastructure) 2007 applies and allows medical centres with consent, essentially overriding the Land Use Tables of draft LEP 2012; however it states concern over possible future modifications to the SEPP which might remove this use. It continues to state that it does not want existing use rights to apply at the site, and would rather prefer the site be provided a zone which allows medical centres as a permissible use under the provisions of draft LEP 2012.

The requested B1 Neighbourhood Centre zone is not in accordance with Section 117(2) Direction 1.1 Business and Industrial Zones, which states a planning proposal must ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of P&I. Because the site is 4,673m² in area, it could not be considered minor in the circumstances, and therefore cannot be considered as a justified inconsistency with the Direction.

In terms of the issue of SEPP (Infrastructure), existing use rights and the permissibility of medical centres in the R3 Medium Density Zone, medical centres are a form of health services facilities that are permitted in the R3 zone by both private and public organizations. P&I have specific instructions in relation to the preparation of draft Standard Instrument LEPs, and how medical centres should be referenced. Draft LEP 2012 conforms with the requirements of the Standard Instrument template. There is no indication by the State government that medical centres would be removed from the SEPP (Infrastructure), and it is considered that there is no reason to amend the zone to allow the use to be retained.

There is no reason to amend draft LEP 2012 to include medical centres as a permissible use because of the Infrastructure SEPP.

It is recommended that no amendments be made to draft LEP 2012 as a result of this submission.

- **Submission P36: 190 Pacific Highway, Coffs Harbour**

This submission relates to 190 Pacific Highway, Coffs Harbour, formally known as Lot K, DP378489. It objects to the restrictions which limit development to 150m² for business and office uses in the B6 Enterprise Corridor on the site.

The submission states that it has concerns with the restrictions being placed on the B6 zone in this location, and all lands in the B6 zone between Marcia Street to Bray Street, Coffs Harbour. It requests that Clause 7.4(3) be amended or deleted to remove the 150m² office and business use restrictions from the B6 zone in the location between Marcia to Bray Street, and states that the clause as written is not consistent with the second zone objective (Objective 2 states: '*To provide a range of employment uses (including business, office, retail and light industrial uses)*'); and that business uses are a mandated land use within the B6 zone and the limitations imposed by Clause 7.4(3) create a subzone which is not permissible within the Standard Instrument. The submission addresses various strategic documents of Council and states that this location between Marcia to Bray Street is better suited to a B4 Mixed Use zone, and that residential development should be permitted in this zone.

Council understands the request for the inclusion of residential land use permissibilities within the B6 zone, particularly in the precinct nominated within the submission. It is agreed that appropriate forms of residential accommodation in this location could assist to alleviate potential urban design issues in the B6 locality. The B6 zone permits shop top housing, but not stand alone residential development (for example multi dwelling housing and residential flat buildings). The BCH recommended that residential accommodation in the form of residential flat buildings be allowed here. However, NSW P&I have advised during the preparation of the City Centre LEP 2011 and draft LEP 2012 that because the land has flooding issues, and the land was previously low density residential, that to allow more dense residential accommodation would be contrary to the 117(2) Directions relating to flooding. However, Council considers the flood prone nature of the land could be dealt with at the development application stage, and that this proposal has merit.

It is recommended that draft LEP 2012 be amended by:

1. adding 'attached dwellings', 'boarding houses', 'dwelling houses', 'multi dwelling housing', 'residential flat buildings', 'semi-detached dwellings', 'seniors housing', 'exhibition homes' and 'exhibition villages' to Item 3 Permissible with Consent in the Land Use Table for the B6 zone; and
2. that future strategic work is undertaken in consultation with the local development industry to provide some urban design guidelines for this locality.

• **Submission P38: 2 Cook Drive, Coffs Harbour**

This submission relates to 2 Cook Drive, Coffs Harbour, formally known as Lot 102, DP819270. It requests that the land be zoned for bulky goods and business development rather than industrial uses in draft LEP 2012.

The proposed loss of industrial zoned land is not in accordance with Section 117(2) Direction 1.1 Business and Industrial Zones, which states a planning proposal must retain the areas and locations of existing business and industrial zones; and must not reduce the total potential floor space area for industrial uses in industrial zones. Whilst it is understood the site is clearly visible from the Pacific Highway and could be developed as an extension of the bulky goods zone at the south, the loss of 1.37 hectares of industrial zoned land is considered a significant quantity of industrial zoned land, which is already being used for industrial purposes and for which the land constraints are well suited. It is difficult to argue that this loss is of minor significance and that it is justifiably inconsistent with Section 117(2) Direction 1.1.

It is recommended that no amendments be made to draft Coffs Harbour LEP 2012 as a result of this submission.

- **Submission P41: Lot 100, DP865803, Titans Close, Bonville**

This submission relates to Lot 100, DP865803, Titans Close, Bonville. It states that the land is a disused hard rock quarry, with the majority of the land being disturbed or affected by past quarrying activities and of little environmental importance. The submission requests that the environmental protection zone on the subject property be removed, and that the entire parcel of land be zoned RU2 Rural Landscape.

Council's Coffs Harbour Biodiversity Action Strategy proposes a planning framework be undertaken for biodiversity assets, which recommends work be undertaken during 2013 via a Planning Proposal to formalise and realign vegetation throughout the LGA in accordance with findings and recommendations of that Strategy. This land is within the identified Bonville Rural Residential Strategy area and Council have just closed a Tender process to engage suitable consultants to prepare environmental studies to determine the most appropriate zones for the area under a Planning Proposal. It is appropriate that any rezoning for rural residential and/or environmental purposes is determined by those studies. It would be pre-emptive to undertake this realignment now, as the Planning Proposal in 2013 will identify recommended zone boundaries.

It is recommended that no amendments be made to draft Coffs Harbour LEP 2012 as a result of this submission.

- **Submission P42: 13 Hearn's Lake Road, Woolgoolga**

This submission relates to 13 Hearn's Lake Road, Woolgoolga, formally known as Lot 32, DP1047234. The submission requests that the proposed residential tourist zone on site be moved to a more suitable location; that the collector road be moved to a more suitable location; that the draft LEP and DCP be modified to amend the location of the environmental protection zone; and that Council not require the dedication of the environmental protection zone to Council at no cost.

Council understands the landowner concern that the zone has been prepared without a comprehensive LES or equivalent being undertaken. Previous environmental work undertaken for the land may be time damaged. It is considered that the most appropriate method to determine the environmental value of the land and its potential use for residential development, including appropriate zone footprints, is to defer the land from draft LEP 2012 until appropriate environmental investigations are completed for the land, which will better identify and determine the land which should have an environmental zoning. It is recommended this be undertaken for the area which was subject to Coffs Harbour City LEP Amendment No 29 (Hearn's Lake). This process would then be used to inform a Planning Proposal to NSW P&I to rezone the land to reflect the environmental zones represented in the environmental investigations. This means that Coffs Harbour City LEP 2000 will prevail in the short term.

It is recommended that:

1. the subject site, being Lot 22, DP1070182, along with lands which were subject to Coffs Harbour City LEP Amendment No 29 (Hearn's Lake), be deferred from draft Coffs Harbour City LEP 2012; and
2. Council undertake appropriate environmental investigations for the area which was subject to Coffs Harbour City LEP Amendment No 29 (Hearn's Lake), so as to inform a Planning Proposal for a 'Gateway determination', to establish a final zone footprint for residential areas in the locality.

- **Submission P43: Lot 22 DP1070182, Sandy Beach**

This submission relates to the zoning of land on the southern boundary of Hearn's Lake, Woolgoolga, which is formally known as Lot 22, DP1070182. The submission states that the proposed zoning of the land in draft LEP 2012 from residential to predominantly environmental protection contradicts a number of local, State and Federal policies, and that the lands are proposed to be rezoned without environmental studies being undertaken for the land. It states that the site has negligible environmental value. It further states the draft LEP will exacerbate current social problems, generates sustainability issues, achieves no environmental benefit and no socio-economic benefits to the Sandy Beach suburb. It states that 99.9% of Sandy Beach residents are not opposed to the development of the entire area for residential development. The submission requests that the land revert to its zones as per Coffs Harbour City LEP 2000.

Regardless of the actions of Council in assessing the environmental attributes of the land, Council received an instruction from NSW P&I to ensure that the property aligns with the Part 3A approval 05_0083 issued by NSW P&I on 20 December 2010 (Section 65 Certificate dated 29 August 2012). Council was unable to proceed to exhibition of the draft LEP 2012 until this condition was satisfied. Therefore the land has been mapped in accordance with instructions from the State Government to Council.

Council understands the landowner concern that the zone has been prepared without a comprehensive LES or equivalent being undertaken. Previous environmental work undertaken for the land may be time damaged. It is considered that the most appropriate method to determine the environmental value of the land and its potential use for residential development, including appropriate zone footprints, is to defer the land from draft LEP 2012 until appropriate environmental investigations are completed for the land, which will better identify and determine the land which should have an environmental zoning. It is recommended this be undertaken for the area which was subject to Coffs Harbour City LEP Amendment No 29 (Hearn's Lake). This process would then be used to inform a Planning Proposal to NSW P&I to rezone the land to reflect the environmental zones represented in the environmental investigations. This means that Coffs Harbour City LEP 2000 will prevail in the short term.

It is recommended that:

1. The subject site, being Lot 22, DP1070182, along with lands which were subject to Coffs Harbour City LEP Amendment No 29 (Hearn's Lake), be deferred from draft Coffs Harbour City LEP 2012 and DCP 2012; and
2. Council undertake appropriate environmental investigations for the area which was subject to Coffs Harbour City LEP Amendment No 29 (Hearn's Lake), so as to inform a Planning Proposal for a 'Gateway determination', to establish a final zone footprint for residential areas in the locality.

- **Submission P45: 58 Buchanans Road, Coffs Harbour**

This submission relates to 58 Buchanans Road, Coffs Harbour, formally known as Lot 630, DP1080041. The submission requests that the land be rezoned from rural to part low density residential in draft LEP 2012, because the land has been identified in Council's Our Living City Settlement Strategy for possible future residential development. It states that the highest and best use of the land is for residential development, that there are few environmental constraints applying to the land that would preclude its development, and that the land has been previously cleared for agricultural purposes.

Council placed a note on maps contained within the LGMS – Urban Lands Component (including Maps 7 – 7C, relating to the subject site), advising ‘Minor areas not contained within ‘growth areas’ of the Mid North Coast Regional Strategy growth area maps are NOT endorsed by this Strategy, and cannot be progressed by Council. Consequently, and contrary to claims contained within the submission, the land is not contained within the endorsed LGMS – Urban Lands Component. Even if the land was included in the area, the notation is simply as an area for further investigation, and does not in any way imply a zone boundary. As such, it is not considered appropriate to amend draft LEP 2012.

It is recommended that no amendments be made to draft LEP 2012 as a result of this submission.

- **Submission P46: 2275 Pacific Highway, Woolgoolga**

This submission relates to 2275 Pacific Highway, Woolgoolga, formally known as Lot 1, DP1033452. The submission requests that the site be zoned from rural to rural residential purposes in draft LEP 2012. It further states that this request is justified because the land is not prime agricultural land; it is not viable to farm the land because a corridor of vegetation runs through it; its development for horticulture would create visual impacts from the highway (white synthetic covers); and because of its proximity to nearby residential areas.

The subject site is not located within a candidate area in Council’s LGMS – Rural Residential Component. To rezone the land for rural residential development would be inconsistent with Section 117(2) Direction 3.1 Residential Zones and Council’s LGMS. It is not considered appropriate to rezone the land for rural residential development.

It is recommended that no amendments be made to draft Coffs Harbour LEP 2012 as a result of this submission.

- **Submissions P48, P51, P52, P55 and P68: Western Side Of Murdock Street, 81-95 West High Street And 120-124 West High Street, Coffs Harbour**

These submissions relate to the western side of Murdock Street, 81-95 West High Street (Lot 71, DP564827; Lot 721, DP1067564; Lot 722, DP1067564; Lot 73, DP564827; Lot 74, DP564827; Lot 4, DP4883; Lot 3, DP4883; Lot 2, DP4883; and Lot 11, DP604678) and 120-124 West High Street, southern side (Lot 1, DP1043508 (Lots 1/2, SP68104); Lot 1, DP340019; Lot 151, DP531003) and objects to the R3 Medium Density Residential zone as a number of the properties are operating as commercial properties.

It should be noted that 124 West High Street (Lot 151, DP531003) is already zoned B3 Commercial Core.

The submissions state that since most of the subject properties are operating as commercial properties under existing use rights, rezoning the subject properties to B3 would legitimise the current businesses operating on these properties, and provide a better amenity for the area.

If the subject lands were to be zoned to B3, there would be an additional 8,184.7m² of commercial land available for business related activities; however, this would reduce the medium residential zoned land in the area and subsequently adversely impacting on future housing needs.

The Infrastructure SEPP permits educational establishments and health service facilities such as hospitals, medical centres and health consulting rooms in residential zones precluding the need to rezone the subject lands to a commercial zone.

In adopting the BCH, Council has endorsed its position not to erode the vitality of the CBD. The BCH Review referenced the NSW Government's draft Centres Policy, and identifies that the role of the B3 zone is to reinforce the primacy of the City Centre CBD by providing a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.

It is recommended that no amendments be made to draft LEP 2012 as a result of these submissions.

- **Submission P50: Sawtell Golf Club, Tindarra Drive, Sawtell**

This submission relates to part of Sawtell Golf Course, being Lot 20, DP539984, Tindarra Drive, Sawtell. The submission requests that part of the site be amended from an open space zone to a residential zone (that part of the site with direct frontage to Tindarra Drive). Reasons listed in the submission for the requested rezoning are because it is the highest and best use of the land, and to assist in maintaining the financial viability of the Club and associated services.

When considering the environmental, social, economic and governance issues surrounding the request to rezone the land, and taking into account all the above information, it is recommended that Council not approve the request to re-zone Lot 20 DP539984 to the R2 Low Density Residential zone. The land is therefore recommended to be included in the RE2 Private Recreation zone upon commencement of the Coffs Harbour Standard LEP.

It is considered that if this project is to proceed, a separately advertised Planning Proposal should be used to progress the application. This would allow feedback to be sought from Sawtell residents, particularly those in Tindarra Drive, who would be directly affected by the proposal. One submission has been received (P88) objecting to the Golf Club's proposal.

It is recommended that no change to draft LEP 2012 as a result of this submission.

- **Submission P60: Lot 60, DP1143405, Emerald Beach**

This submission relates to Lot 60, DP1143405, Emerald Beach Road, Emerald Beach. It requests that the site be amended from a rural zone to a residential zone because the property was been approved for a seniors living (serviced self care housing) facility on 17 November 2005, which has been officially 'commenced' on the land.

The submission states that Development Consent No 978/05 was issued as a deferred commencement consent for 177 dwellings as part of a seniors living (serviced self care housing) facility, and that the consent has now been commenced. It notes the land is nominated in Council's LGMS – Urban Lands Component (Our Living City Settlement Strategy) shows the land as an investigation area for residential purposes from 2016 onwards. It states that the requested residential zone over the property will simply reflect the use of the site, being for residential purposes in accordance with DC 978/05, and that the site's capability of accommodating residential uses at the site has been addressed in the assessment of the development application.

Since the development on the land has been approved and commenced, it would be appropriate to rezone the land to reflect its intended use. This would be consistent with recommendations of Council's LGMS – Urban Lands Component and the growth area footprint of the Mid North Coast Regional Strategy. The zone amendment is slightly ahead of the projected timeline contained within the LGMS, however it is considered consistent with other locations where Development Consents have been issued (including Part 3A applications by NSW P&I) and the development is not yet commenced. It is considered that the timeline variation is justified in the circumstances.

It is recommended that:

1. the Land Zoning Map and Lot Size Map (map series 005D) be amended to remove the RU2 Rural Landscape zone from Lot 60, DP1143405 generally as requested in Submission No. 60), and instead to zone the land R2 Low Density Residential with a minimum subdivision size of 400 square metres.

- **Submission P61: Club Coffs, West High Street, Coffs Harbour**

This submission relates to "Club Coffs", which is in several land parcels, being Lot 1, DP1163042 (residence at 57A West High Street), Lot 2, DP1163042 (club premises) and Lot 1, DP803462 (pump building). The submission states that draft LEP 2012 should be modified in the following manner:

- amend the zone from private recreation to medium density residential in the rear (northern) part of the property;
- amend the permissible building height over the rear part of the land from 8.5 metres to 17-19 metres, to allow for a four storey residential development over ground floor car parking (because of flood levels, it is not appropriate to build basement parking), and to amend the height over the club site itself to allow for vertical motel accommodation; and
- amend the land use permissibilities to allow for a seniors living development to be built on the site (which is currently prohibited on the site).

It is considered that further work is required to analyse the site, in terms of impact on surrounding land uses, flood prone land and future use of the site. The flood prone nature of the land means that Council is unable to amend the zone from RE2 Private Open Space to R3 Medium Density Residential without addressing Section 117(2) Direction 4.3 Flood Prone Land. This 117 Direction states that '*a planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone*'.

Council could only consider such a proposal to amend the zones at the site in the manner as requested in the submission, if a planning proposal was lodged with Council. This would allow for appropriate studies to be undertaken, and for separate community engagement of the proposal. It is not appropriate to simply amend the maps contained within draft LEP 2012.

It is recommended that no amendments be made to draft Coffs Harbour LEP 2012 as a result of this submission.

- **Submission P65: Geoff King Motors, Pacific Highway, Coffs Harbour**

This submission relates to land fronting the Pacific Highway, Coffs Harbour, formally known as Lot 1, DP616809, Lot 2, DP607441 and Lot 31, DP716388, currently used as the Geoff King Motors site. The submission states that the Geoff King Motors showroom, which is located on the northern lands (Lot 1, DP616809), is zoned Business 3B City Support under the provisions of Coffs Harbour City LEP 2000, which is a far more liberal zone than the proposed B6 Enterprise Corridor in draft LEP 2012. It requests this land be zoned B4 Mixed Use rather than B6 Enterprise Corridor, to more accurately reflect the existing Business 3B City Support zone of Coffs Harbour City LEP 2000.

The submission also states that the southern lands (Lot 2, DP607441 and Lot 31, DP716388), which are currently zoned Industrial 4A under the provisions of Coffs Harbour City LEP 2000, will be prohibited from development for bulky goods premises as currently permitted in LEP 2000. It acknowledges a development application for bulky goods premises has been approved for this site, with site works having commenced, but it does not wish to evoke existing use rights for this use on the property.

Draft Coffs Harbour LEP 2012 has been prepared as a Standard Instrument LEP, and the zone locations and permissible uses for the IN1 Industrial Zones and the B6 Business Development Zones contained in the draft LEP have followed the recommendations of the adopted and endorsed LGMS - Industrial Lands Component, LGMS – Business Lands Component, and BCH Review. The BCH Review specifically addressed this Pacific Highway/Tolhurst Road area and states: *'This land is mainly occupied by car related uses. A B6 Enterprise Corridor zone would allow these uses to continue as well as permit other support uses to evolve on the land without detracting from the vitality of other centres'*. Vehicle sales or hire premises will be permissible within the B6 zone, and will not be subject to the 150m² site constraints for office and business premises (Clause 7.4(3)).

In adopting the BCH, Council has endorsed its position not to erode the vitality of the CBD. The BCH Review referenced the NSW Government's draft Centres Policy, and identifies that the role of the B6 zone is to maintain the economic strength of centres by limiting retailing activity (p 30). As such, it is considered appropriate to maintain the B6 zone on this site, rather than to transfer the site to a B4 Mixed Use zone.

It is considered appropriate to add bulky goods premises into Schedule 1 Additional Permitted Uses, to capture the approval for a bulky goods saleroom on the subject site in accordance with the development consent issued for the land.

It is recommended that:

1. An item be added to Schedule 1 of draft LEP 2012, to state:

Use of certain land at Farrow Close, Coffs Harbour

(1) This clause applies to land at Lot 2, DP607441 and Lot 31, DP716388, Farrow Close, Coffs Harbour, on the Additional Permitted Uses Map.

(2) Development for the purpose of bulky goods premises is permitted with consent."

- **Submission P77: Lot 149 DP1129414, Dunlop Drive, Boambee East**

This submission relates to Lot 149, DP1129414, Dunlop Drive, Boambee East. It requests that part of the site fronting Dunlop Drive be changed from a residential to an environmental protection zone. The submission states that the land is a designated public reserve and that whilst much of the lot is zoned for environmental protection, part of it fronting Dunlop Drive is zoned for residential development. However, the submission advises the vegetation and flood constraints on the land are similar to those parts of the land which are zoned for environmental protection. It requests that Council amend the residential zone to an environmental protection zone.

The proposed E2 Environmental Conservation zone boundary is directly related to the footprint of the SEPP No. 14 Wetland boundary on the site. Whilst Council is not at liberty to adjust the SEPP No. 14 Wetland boundary, it is able to zone lands around this site for environmental protection and as a buffer to any such wetlands.

New generation vegetation mapping will be a key source of advice on ecological matters and amended environmental zoning boundaries. Council's Class 5 vegetation mapping is now completed in draft form, but is yet to be adopted by Council. Council's Coffs Harbour Biodiversity Action Strategy proposes a planning framework be undertaken for biodiversity assets, which recommends work be undertaken during 2013 via a Planning Proposal to formalise and realign vegetation throughout the LGA in accordance with findings and recommendations of that Strategy. It would be pre-emptive to amend the zone boundary at this time prior to this work being completed.

It is recommended that no amendment be made to draft LEP 2012 as a result of this submission.

- **Submission P82: 30 Maccues Road, Moonee**

This submission relates to 30 Maccues Road, Moonee, being Lot 20 DP1141168. It requests that the site be amended from a RU2 Rural Landscape zone to a R5 Large Lot Residential allotment, because the land is close to Moonee township and nearby services; because nearby small lots have all been taken up and there is a strong demand for rural residential sized allotments; and because no land use conflicts would occur with its subdivision.

The land is isolated from any existing R5 Large Lot Residential zone, however it is located within a candidate area for future rural residential investigation in Council's LGMS – Rural Residential Component. The objectives of the large lot residential zone are to provide residential housing in a rural setting while preserving and minimising impacts on, environmentally sensitive locations and scenic quality.

Whilst the subject site is located within a candidate area in Council's LGMS – Rural Residential Component, it is nominated as likely to be environmentally constrained land. It would be pre-emptive to zone the site R5 Large Lot Residential in advance of environmental studies to investigate the suitability of the site and all the surrounding lands for this type of development. The candidate area is not listed for investigation in the LGMS until Stage 2, in three to five years time, and after Stage 1 investigations and possible rezoning of the Bonville lands are completed.

It is recommended that no amendments be made to draft Coffs Harbour LEP 2012 as a result of this submission.

- **Submission P87: Bundagen Community**

This submission relates to Lot 1, DP732149 and Lot 334, DP755553, Bundagen. The submission states that the rural and environmental protection zones on the property need minor adjustment to show areas of clearing and areas which contain significant vegetation.

New generation vegetation mapping, will be a key source of advice on ecological matters and amended environmental zoning boundaries. Council's Class 5 vegetation mapping is now completed in draft form, but is yet to be adopted by Council. Council's Coffs Harbour Biodiversity Action Strategy proposes a planning framework be undertaken for biodiversity assets, which recommends work be undertaken during 2013 via a Planning Proposal to formalise and realign vegetation throughout the LGA in accordance with findings and recommendations of that Strategy. It would be pre-emptive to amend the zone boundary at this time prior to this work being completed.

It is recommended that no amendment be made to draft LEP 2012 as a result of this submission.

Environmental Zoning on land

Some 18 submissions received raised matters in regard to the environmental zoning of land. Some of these have been addressed in the previous section and the others are addressed below. Again the assessment of the submissions considered:

- the current zone – under either Coffs Harbour LEP 2000 or Coffs Harbour City Centre LEP 2011;
- the proposed zone as suggested by the author of the submission;
- the inherent site constraints;
- a Strengths, Weaknesses, Threats and Opportunities (SWOT) analysis;
- the potentially applicable zones; and
- comments/input from various relevant sections of Council,

and then made a recommendation on the action to be taken.

- **Submission P39: Lot 322, DP752834, Korora Basin Road, Korora**

This submission relates to Lot 322, DP752834, Korora Basin Road, Korora. It requests that the zone of the property be amended to better align the environmental protection zone away from the cleared parts of the property.

Council's Strategic Management Plan, Appendix 5, Item 4, recognises that this land has been requested to have the zone boundaries realigned since 2009, and states the vegetation boundaries should be realigned in consultation with Council's Biodiversity Officer once vegetation studies are completed. Council's Coffs Harbour Biodiversity Action Strategy proposes a planning framework be undertaken to for biodiversity assets, which recommends work be undertaken during 2013 via a Planning Proposal to formalise and realign vegetation throughout the LGA in accordance with findings and recommendations of that Strategy. It would be pre-emptive to undertake this realignment now.

Council's Biodiversity Section have agreed that a review, under a Planning Proposal, undertaking appropriate environmental studies to better identify and determine lands that should have an environmental zoning throughout the LGA be considered at some future time.

It is recommended that no amendments be made to draft Coffs Harbour LEP 2012 as a result of this submission

- **Submissions P57 and P58: Lot 231, DP740659 and Lot 22 DP602006, Pacific Highway Boambee**

These submissions state that the western, south-western and north-western limits of the General Industrial zone should align with the edge of the existing bushline, which will require amendments to the various zoning maps. This assertion is made on the basis that any bushfire asset protection zone can be accommodated (at a future date) within the Industrial zone (and any new Industrial allotments) whenever future Development Applications are determined by Council.

The zone boundaries were determined through the LES process that accompanied LEP Amendment No. 17.

In response to this issue, a review of zone boundaries could be undertaken on this as well as other similarly affected properties. As part of the review, new generation vegetation mapping will be a key source of advice on ecological matters and amended environmental zoning boundaries at the rear of industrial allotments. Council's Class 5 vegetation mapping is now completed in draft form, but is yet to be adopted by Council.

Council's Coffs Harbour Biodiversity Action Strategy proposes a planning framework be undertaken for biodiversity assets, which recommends work be undertaken during 2013 via a Planning Proposal to formalise and realign vegetation throughout the LGA in accordance with findings and recommendations of that Strategy. It would be pre-emptive to undertake this realignment now.

It is recommended that no amendments to draft LEP 2012 be made in response to these submissions.

- **Submission P63: Lot 1, DP1097743, Pacific Highway, Moonee Beach**

This submission relates to the development potential of land known as Lot 1, DP1097743. It states that draft LEP 2012 proposes the extension of the environmental zone up to 185 metres further into the site compared to LEP 2000 and as a result reduces the residential zoned portion of the site by approximately 1.8 hectares. The submission states that Council's reliance upon generalised ecology and flood data does not correlate with site specific data generated through investigations and advice for a Part 3A Concept Plan currently being prepared for the site. The landowner's consultant is currently preparing an Environmental Assessment report and will be submitting the Part 3A Application to P&I in the near future.

Council understands the landowner concern that the zone has been prepared without a comprehensive LES or equivalent being undertaken. Previous environmental work undertaken for the land may be time damaged. It is considered that the most appropriate method to determine the environmental value of the land and its potential use for residential development, including appropriate zone footprints, is to defer the land from draft LEP 2012 until appropriate environmental investigations are completed for the land, which will better identify and determine the land which should have an environmental zoning. It is recommended this be undertaken for the area which was subject to Coffs Harbour City LEP Amendment No 24 (Moonee Beach). This process would then be used to inform a Planning Proposal to NSW P&I to rezone the land to reflect the environmental zones represented in the environmental investigations. This means that Coffs Harbour City LEP 2000 will prevail in the short term.

It is recommended that:

1. the subject site, being Lot 1, DP1097743, along with lands which were subject to Coffs Harbour City LEP Amendment No 24 (Moonee Beach), be deferred from draft Coffs Harbour City LEP 2012; and
2. Council undertake appropriate environmental investigations for the area which was subject to Coffs Harbour City LEP Amendment No 24 (Moonee Beach), so as to inform a Planning Proposal for a 'Gateway determination', to establish a final zone footprint for residential areas in the locality.

The B6 Enterprise Corridor Zoning

Some 14 submissions received raised matters in regard to the B6 zone with a focus on the Pacific Highway strip from Marcia Street to Bray Street. Some submissions applied to specific parcels of land. The process for assessment of the submissions was as previously established.

• Submissions P18 and P36: Planning Consultancy and Land owner

The submissions suggest that the B6 Enterprise Corridor zone along the Pacific Highway should allow housing as an alternative land use to avoid the potential for creating an unattractive City entryway (e.g. Parramatta Road syndrome). Council should undertake a detailed urban design exercise including streetscape improvement works for Rose Avenue and lands on the western side of the highway.

It is agreed that appropriate forms of residential accommodation in this location could assist to alleviate potential urban design issues in the B6 locality. The B6 zone permits shop top housing, but not stand alone residential development (for example multi dwelling housing and residential flat buildings). The BCH recommended that residential accommodation in the form of residential flat buildings be allowed here. However, NSW P&I have advised during the preparation of the City Centre LEP 2011 and draft LEP 2012 that because the land has flooding issues, and the land was previously low density residential, that to allow more dense residential accommodation would be contrary to the 117(2) Directions relating to flooding. However, Council considers the flood prone nature of the land could be dealt with at the development application stage, and that this proposal has merit.

***It is recommended that* draft LEP 2012 be amended by:**

3. adding 'attached dwellings', 'boarding houses', 'dwelling houses', 'multi dwelling housing', 'residential flat buildings', 'semi-detached dwellings', 'seniors housing', 'exhibition homes' and 'exhibition villages' to Item 3 Permissible with Consent in the Land Use Table for the B6 zone; and
4. that future strategic work is undertaken in consultation with the local development industry to provide some urban design guidelines for this locality.

- **Submission P21, P28, P36, P47, P64, P69, P78, P79 and P80: Pacific Highway, Coffs Harbour**

These submissions relate to the Pacific Highway, Coffs Harbour between Marcia and Bray Streets. They object to the B6 Enterprise Corridor on the site (currently in the City Centre LEP 2011 and proposed in draft LEP 2012) and the restrictions which limit development to 150m² for business and office uses. The submissions state that they have concerns with the restrictions being placed on the B6 zone in this location, and requests that if the B6 zone is to be imposed over the area, that all restrictions should be lifted.

The BCH Review report recommended the addition of Clause 7.4 in the draft LEP to restrict the development for business or office premises on land within Zone B6 to premises that are not greater than 150m² GFA per allotment to reflect provisions of Coffs Harbour City Centre DCP 2011. Council, at a meeting of 23 February 2012, resolved to adopt this provision and to place the draft LEP on exhibition in this format. This zone will restrict business and office premises to a footprint of 150m² on each allotment in the B6 zone, however it does not restrict other forms of commercial premises to this minimum size. There has been confusion as to what land uses the 150m² applies to. It is confirmed that the 150m² restriction applies only to office and business premises as defined by the draft LEP 2012. The 150m² restriction does not apply to those forms of retail premises which are permissible in the B6 zone, including restaurants or cafes, take-away food or drink premises, garden centres, hardware and building supplies, kiosks, landscaping material supplies, plant nurseries, vehicle sales or hire premises, industrial retail outlets, service stations sex services premises, veterinary hospitals, and wholesale supplies.

Particularly with regard to the B5 Business Development zone and the B6 Enterprise Corridor zone, the statement is made on page 34 of the BCH Review that 'care needs to be taken that development in these zones does not erode the vitality of centres, particularly the City Centre CBD. While relatively low land costs or rent and frequently larger site sizes makes the B6 Enterprise Corridor a superficially attractive place for retail and offices to locate, this "attraction" should not be allowed to over-ride the policy imperative of supporting the City Centre and other centres by taking damaging actions such as permitting a wide range of land uses to locate in the B6 Enterprise Corridor zone'.

In adopting the BCH, Council has endorsed its position not to erode the vitality of the CBD. The BCH Review referenced the NSW Government's Draft Centres Policy, and identifies that the role of the B6 zone is to maintain the economic strength of centres by limiting retailing activity. As such, it is considered that to remove the 150m² minimum from the plan would undermine the intent of the BCH for the LGA, and would also undermine the aims (Clause 1.2)(2)(a) and (c)) of draft LEP 2012.

It is recommended that no amendments to draft LEP 2012 be made in response to these submissions.

- **Submission P75 and P83: B6 Zone, Pacific Highway, Coffs Harbour**

These submissions are made on behalf of the B6 Owners Group, which comprises 16 landowners covering 21 lots, along the Pacific Highway in Coffs Harbour. These landowners as nominated in the submission as owning 41.8% of the overall zone, and 50% of privately owned land in the zone.

The submissions provide a legal opinion that states that the draft LEP fails to comply with the Standard Instrument template; fails to comply with S117 Directions of the EP&A Act 1979; has down-zoned business land along the Pacific Highway; has sterilised the range of land uses within the Corridor by denying economically viable standard uses; and artificially protects the CBD, which is not sustainable in the medium to long term. It states that Council has chosen to ignore its responsibilities and obligations to the local economy and electorate; that the B6 zone holds much of the redevelopment potential within the LGA, and this action by Council is a damaging outcome to economic stimulus. It quotes the loss of a commercial redevelopment of the Midway Motel site as an impact of the City Centre LEP 2011.

The submissions provide a consulting planning firm's opinion that few other Councils in the state have used the Standard Instrument B6 Enterprise Corridor zone, instead preferring the B4 Mixed Use zone. They state that no other Councils have provided floorspace limits to land uses in the B6 zone; and further state that the B6 zone is 'near irrelevant' in the planning framework.

The submissions conclude with a request that Council reconsider the use of the B6 zone in this location, or at the very least remove the 150m² restrictions to land uses in this zone.

The BCH Review report recommended the addition of Clause 7.4 in the draft LEP to restrict the development for business or office premises on land within Zone B6 to premises that are not greater than 150m² GFA per allotment to reflect provisions of Coffs Harbour City Centre DCP 2011. Council, at a meeting of 23 February 2012, Council resolved to adopt this provision and to place the draft LEP on exhibition in this format. This zone will restrict business and office premises to a footprint of 150m² on each allotment in the B6 zone, however it does not restrict other forms of commercial premises to this minimum size.

There has been confusion as to what land uses the 150m² applies to. It is confirmed that the 150m² restriction applies only to office and business premises as defined by the draft LEP 2012. The 150m² restriction does not apply to those forms of retail premises which are permissible in the B6 zone, including restaurants or cafes, take-away food or drink premises, garden centres, hardware and building supplies, kiosks, landscaping material supplies, plant nurseries, vehicle sales or hire premises, industrial retail outlets, service stations sex services premises, veterinary hospitals, and wholesale supplies. In this manner, it is considered that draft LEP 2012 does not conflict with contents of the Standard Instrument or 117 Directions.

Particularly with regard to the B5 Business Development zone and the B6 Enterprise Corridor zone, the statement is made on page 34 that 'care needs to be taken that development in these zones does not erode the vitality of centres, particularly the City Centre CBD. While relatively low land costs or rent and frequently larger site sizes makes the B6 Enterprise Corridor a superficially attractive place for retail and offices to locate, this "attraction" should not be allowed to over-ride the policy imperative of supporting the City Centre and other centres by taking damaging actions such as permitting a wide range of land uses to locate in the B6 Enterprise Corridor zone'.

In adopting the BCH, Council has endorsed its position not to erode the vitality of the CBD. The BCH Review referenced the NSW Government's Draft Centres Policy, and identifies that the role of the B6 zone is to maintain the economic strength of centres by limiting retailing activity (p 30). As such, it is considered that to remove the 150m² minimum from the plan would undermine the intent of the BCH for the LGA, and would also undermine the aims (Clause 1.2)(2)(a) and (c)) of draft LEP 2012.

Regarding the statement by the consulting planning firm that the Standard Instrument B6 Enterprise Corridor is a 'near irrelevant' part of the planning framework, this is considered an important zone for use by those cities where a major arterial (such as the Pacific Highway) will not be bypassed for many years to come. This has been confirmed by the BCH Review recommendations. At some point in the future, once the bypass has been completed, it may be appropriate to amend the zone, however it is considered very appropriate in the current circumstances.

Regarding the statement that no other Councils have restricted the B6 landuses, the consulting planning firm has separately recognised that many Councils around the State have used the B4 Mixed Use zone. What the submission fails to mention is that some Councils have imposed restrictions on the B4 Mixed Use zone, in a similar manner to what is proposed for the B6 zone in Coffs Harbour. These instruments have been 'made' by Parliamentary Counsel.

It is recommended that no amendments to draft LEP 2012 be made in response to this submission.

- **Submission P89: B6 Zone - Clarence Street, Woolgoolga**

The submission is made by a private property owner who owns land at Clarence Street Woolgoolga. Clarence Street is proposed to be zoned B6 Enterprise Corridor under draft LEP 2012.

The submission objects to the restrictions which limit development to 150m² for business and office uses in the B6 zone. The submission states that the prime purpose of a B6 zoning is to restrict development in this zone so as not to compete with other business zonings, so why introduce more restrictive measures. The submission further states that the land is currently zoned 3D (Business 3D Tourist Service Centre) where this restriction does not apply. The submission is also concerned that the value of the land will be drastically reduced by this restriction, and that none of the permitted uses in B6 are commercially viable with a limited gross floor area (GFA) of 150m².

In adopting the BCH, Council has endorsed its position not to erode the vitality of the CBD. The BCH Review referenced the NSW Government's Draft Centres Policy, and identifies that the role of the B6 zone is to maintain the economic strength of centres by limiting retailing activity (p 30). As such, it is considered that to remove the 150m² minimum from the plan would undermine the intent of the BCH for the LGA, and would also undermine the aims (Clause 1.2)(2)(a) and (c)) of draft LEP 2012.

It is recommended that no amendments to draft LEP 2012 be made in response to this submission.

Hearnes Lake Sandy Beach Area Zoning

Some 8 submission received raised matters in regard to the zoning of land in the Hearnes Lake Sandy Beach area – some applied to specific parcels of land. The assessment of the submissions again considered the previously established protocol.

- **Submission P67: Sandy Beach Resident**

This submission, from a resident of Sandy Beach, speaks in general terms, and is not specific to any particular property. The submission objects to the draft LEP 2012, as exhibited, on the grounds of proposed environmental zonings. It states that proposed amendments in draft LEP 2012 to amend residential zoned lands to environmental protection zones is a major backzoning and this has been misrepresented to the community. It also raises access from the Pacific Highway to Sandy Beach in reference to a letter from the NSW Government - Transport for NSW.

Council understands the landowner's concern that the zones have been prepared without a comprehensive LES or equivalent being undertaken. Previous environmental work undertaken for the land may be time damaged. It is considered that the most appropriate method to determine the environmental value of the land and its potential use for residential development, including appropriate zone footprints, is to defer the land from draft LEP 2012 until appropriate environmental investigations are completed for the land, which will better identify and determine the land which should have an environmental zoning. It is recommended this be undertaken for the area which was subject to Coffs Harbour City LEP Amendment No 29 (Hearnes Lake). This process would then be used to inform a Planning Proposal to NSW P&I to rezone the land to reflect the environmental zones represented in the environmental investigations. This means that Coffs Harbour City LEP 2000 will prevail in the short term.

It is recommended that:

1. lands which were subject to Coffs Harbour City LEP Amendment No 29 (Hearnes Lake), be deferred from draft Coffs Harbour City LEP 2012 and DCP 2012; and
2. Council undertake appropriate environmental investigations for the area which was subject to Coffs Harbour City LEP Amendment No 29 (Hearnes Lake), so as to inform a Planning Proposal for a 'Gateway determination', to establish a final zone footprint for residential areas in the locality.

- **Submission P43, P67, P70, P71, P74 and P76 : Hearnes Lake , Sandy Beach**

These submissions relate to the zoning of land in the Hearnes Lake Sandy Beach Area.

The submissions state that the proposed zoning of the land in draft LEP 2012 from residential to predominantly environmental protection has been undertaken without environmental studies having been undertaken for the land. They state that the site has negligible environmental value, and that environmental studies prepared by the landholder identify there are no endangered species of flora and fauna at the site. It further states the Council will not provide compensation for loss of capital investment. The submissions request that draft LEP 2012 be withdrawn from the land.

The land has been mapped in accordance with instructions from the State Government to Council. Council understands the landowner concern that the zone has been prepared without a comprehensive LES or equivalent being undertaken. Previous environmental work undertaken for the land may be time damaged. It is considered that the most appropriate method to determine the environmental value of the land and its potential use for residential development, including appropriate zone footprints, is to defer the land from draft LEP 2012 until appropriate environmental studies are completed for the land, which will better identify and determine the land which should have an environmental zoning.

It is recommended this be undertaken for the area which was subject to Coffs Harbour City LEP Amendment No 29 (Hearnes Lake). This process would then be used to inform a Planning Proposal to NSW P&I to rezone the land to reflect the environmental zones represented in the environmental studies. This means that Coffs Harbour City LEP 2000 will prevail in the short term.

It is recommended that:

1. lands which were subject to Coffs Harbour City LEP Amendment No 29 (Hearnes Lake), be deferred from draft Coffs Harbour City LEP 2012 and DCP 2012; and
2. Council undertake appropriate environmental studies for the area which was subject to Coffs Harbour City LEP Amendment No 29 (Hearnes Lake), so as to inform a Planning Proposal for a 'Gateway determination', to establish a final zone footprint for residential areas in the locality.

Bulky Goods being removed from the list of permitted uses in Industrial Zones

Some six submissions received raised matters in regard to the Bulky Goods being removed from the list of permitted uses in Industrial Zones some applied to specific parcels of land. The assessment of the submissions is as follows:

• **Submission P35: 191 Orlando Street, Coffs Harbour**

This submission relates to 191 Orlando Street, Coffs Harbour, being Lot 1, DP880421. The submission identifies that the land is currently zoned for industrial purposes (IN1 General Industrial) and that bulky goods retailing is prohibited in this zone in draft LEP 2012. The site contains several industrial bays, and a bulky goods retail outlet.

The submission recognises that 'bulky goods' retailing is prohibited from the IN1 Land Use Table, also the restriction of an expansion limit of 10% of the floor space of existing approved 'bulky goods' premises. The submission expresses concern that expansion/continuation of current uses must rely on existing use rights.

Council's position regarding prohibition of Bulky Goods retail establishments in the IN1 zone is supported by the Review of Coffs Harbour BCH and the Industrial Lands Component of Council's LGMS. 'Out of Centre' retailing is identified by the LGMS as having potential impact on the viability of businesses in town centres. Therefore new Bulky Goods establishments are prohibited by Draft LEP 2012.

Regarding existing use rights, the relevant legislation is the EP&A Act Regulation 2000 (Clause 41), which includes the clause referring to maximum expansion of 10% floor space. The Act is outside the scope of Draft LEP 2012 and is a statutory constraint. Existing Use Rights, as applying to individual properties, is sometimes subject to legal assessment, particularly when the 12 month period of cessation of use has been exceeded.

Nevertheless, it is considered appropriate to add the land to Schedule 1 of draft LEP 2012 so as to alleviate the concerns of the landowner and to ensure existing use right provisions do not need to be used at this site.

It is recommended that:

1. An item be added to draft LEP 2012, to state:

Use of certain land at Coffs Harbour

(1) This clause applies to land at Lot 1, DP880421.

(2) Development for the purpose of bulky goods premises is permitted with consent.

- **Submission P37: Bulky Goods In Industrial Zones**

This submission does not relate to a specific location. It makes a general objection to the prohibition of bulky goods retail premises in all IN1 General Industrial zones within draft Coffs Harbour LEP 2012.

The Industrial Lands Strategy was adopted by Council on 9 July 2009, and endorsed by the (then) NSW Department of Planning on 21 July 2009. It is now known as the Coffs Harbour LGMS – Industrial Lands Component, as required by the Department.

Both Coffs Harbour City Centre LEP 2011 and draft Coffs Harbour LEP 2012 have been prepared as Standard Instrument LEPs, and the zone locations and permissible uses for the IN1 Industrial Zones and the B6 Business Development Zones contained in these LEPs have followed the recommendations of the adopted and endorsed LGMS Industrial Lands Component. It is not considered appropriate to add bulky goods retailing as a permissible.

It is recommended that no amendments be made to draft LEP 2012 as a result of this submission.

- **Submission P38: 2 Cook Drive, Coffs Harbour**

This submission relates to 2 Cook Drive, Coffs Harbour. It requests that the land be zoned for bulky goods and business development rather than industrial uses in draft LEP 2012.

The Mid North Coast Regional Strategy requires Councils to identify opportunities for bulky goods retailing in appropriate locations in commercial centres. Where it is not realistic to locate bulky goods retailing in retail centres, provisions are made to locate these facilities in one or two regional clusters to help moderate travel demand. The Mid North Coast Regional Strategy states the location of these clusters needs to be considered when Councils prepare their Standard Instrument LEPs, and suggests these may be best located at opposite sides of the City Centre.

The Coffs Harbour LGMS - Industrial Lands Component was prepared by independent consultants for Council and adopted by Council on 9 July 2009, and endorsed by the (then) NSW Department of Planning on 21 July 2009. A fundamental principle of the original draft report was to provide guidance on the future Standard Instrument industrial zones, both in terms of zone locations and permissible land uses. The draft report found a shortage of industrial zoned land and recommended protection of existing landstocks.

Draft Coffs Harbour LEP 2012 has been prepared as a Standard Instrument LEP, and the zone locations and permissible uses for the IN1 Industrial Zone and the B6 Business Development Zone contained in the draft LEP have followed the recommendations of the adopted and endorsed LGMS Industrial Lands Component.

The proposed loss of industrial zoned land is not in accordance with Section 117(2) Direction 1.1 Business and Industrial Zones, which states a planning proposal must retain the areas and locations of existing business and industrial zones; and must not reduce the total potential floor space area for industrial uses in industrial zones. Whilst it is understood the site is clearly visible from the Pacific Highway and could be developed as an extension of the bulky goods zone at the south, the loss of 1.37 hectares of industrial zoned land is considered a significant quantity of industrial zoned land, which is already being used for industrial purposes and for which the land constraints are well suited. It is difficult to argue that this loss is of minor significance and that it is justifiably inconsistent with Section 117(2) Direction 1.1.

It is recommended that no amendments be made to draft LEP 2012 as a result of this submission.

Zonings Relating to West High Street and Murdock Street

These matters have been addressed previously in the section above dealing with rezoning or zoning amendment on specific properties.

The Raj Mahal Site Woolgoolga

Five submissions received discussed the Raj Mahal site at Woolgoolga.

- **Submissions P11, P13, P17, P53 and P86: 39 and 41 Clarence Street, Woolgoolga (Raj Mahal Site)**

These submissions relate to Lot 500, DP776362 and Lot 1, DP579511, on the corner of Pullen Street and Clarence Street (Pacific Highway) in Woolgoolga. It is known locally as the Raj Mahal site, and has a total site area of 10,434m². This land is listed in Schedule 1 Additional Permitted Uses of draft LEP 2012 (Item 10). The submissions state that there is confusion in the size and building ratio of the listing as shown in Schedule 1. They ask for clarification of the matter.

The submissions highlight the need to change the numbers in the draft LEP 2012 to rectify the anomaly. The site area is 10,434m², and if the FSR was to be listed as 0.33:1, this would mean that the maximum size of construction would only be 3,443m². Conversely, if maximum floor area was to be listed as 3,840m², the FSR would need to be recorded as 0.37:1.

As two conflicting controls currently apply to the subject land, which causes confusion, and in order to provide clarity in response to public submissions, it is recommended that the anomaly be rectified, and only a single provision remain.

It is recommended that Schedule 1, Item 10 be modified to read:

(2) Development for the purpose of a shop (supermarket only, being a single self-service store retailing food and household products), not exceeding 3,443m² gross floor area is permitted with consent.

Amendments Relating to Neighbourhood Business Zonings (B1)

Four submissions received raised matters relating to B1 zoned properties. These matters have been addressed previously in the section above dealing with Rezoning or zoning amendment on specific properties.

Moonee LEP Matters

Three submissions received raised issues with Moonee and the impacts of the draft LEP on specific parcels of land. These matters have been addressed previously in the section above dealing with rezoning or zoning amendment on specific properties and/or in the section relating to Environmental zonings.

Homebase

A submission received raised matters in regard to the Homebase site.

• **Submission P32: Homebase And Gateway House Site, Coffs Harbour**

This submission relates to land identified as the Gateway House and Homebase site, Coffs Harbour. The submission states it relates to Lot 101, DP747447, Lot 1, DP2250074, Lot 1, DP606738, and Lot 10, DP614611; however Council's records identify this land as Lot 1, DP1015730, Mastracolas Road, Coffs Harbour.

The submission raises a strong objection to the removal of the 5000m² office permitted use from Schedule 1 of draft LEP 2012. It states that previously 7,000m² was requested for office uses on the site, and not only did the City Centre LEP 2011 not grant this request, it removed the office permissibility entirely from the schedule. The submission further states that it does not wish for offices and vehicle body repair workshops, both of which currently exist on the site, to be removed as permissible uses, that would then rely on existing use rights.

Draft Coffs Harbour City Centre LEP 2011 was exhibited from 12 August 2010 to 8 October 2010. It contained the following item in Schedule 1 Additional permitted uses:

'1 Use of certain land at Coffs Harbour

(1) This clause applies to land at Lot 1, DP1015730 Homebase, Mastracolas Road, Coffs Harbour, shown as "1" on the Additional Permitted Uses Map.

(2) Development for the purpose of office premises not exceeding 5,000 square metres of gross floor area is permitted with consent.'

Several submissions were received regarding lands at Park Beach Plaza and Homebase, requesting amendments to draft City Centre LEP 2011. The report to Council on 16 December 2010 recommended the removal of the 5000m² office space provision for Gateway House from Schedule 1, with the following comments made in the report. At that meeting Council resolved to adopt the draft LEP as reported, and to send to NSW P&I for making. The following are extracts from the 16 December 2012 report to Council:

'...With regard to the request for additional office space in the Homebase location, it is not considered appropriate that the existing office facility there be expanded by another 2,000m², as this will create further competition with office space provisions in the city centre core.

Discussions with Council staff and DoP during the preparation of Schedule 1 – Additional Permitted Uses within the comprehensive Standard Instrument LEP, has revealed that the Homebase site has already been built to the maximum 5,000m² of office space which is listed in Schedule 1 of the City Plan. Therefore, Item 1 can be deleted from Schedule and the site removed from the Additional Permitted Uses map.'

The discussions mentioned above were held between Council staff and officers from NSW P&I in November 2011. The Department advised that Schedule 1 should only be used in exceptional circumstances, and that the Department's preference would be to remove items from Schedule 1 which have already been built and to rely on existing use rights. The Department advised at that time that they were requesting the removal of as many items as possible from Schedule 1 in all Standard Instrument LEPs across the State. It is noted that the Department has a draft Practice Note regarding the use of Schedule 1, and this draft Practice Note states that Schedule 1 should only be used in exceptional circumstances.

Council staff followed NSW P&I request for the removal of the item (5000m² office space at Homebase) from Schedule 1. The debate centered on the discussion as to what would give the landowner the most flexible use of the land, and the ability to expand their business, over time. Whilst it is acknowledged that there are concerns with existing use rights, and the concept of abandonment in case law, it does afford the right to expand an existing use by 10%. However, Schedule 1 does not provide a mechanism to allow the 5,000m² to be increased.

Coffs Harbour City Centre LEP was made in November 2011, without the reference to the 5000m² office use permissibility for Gateway House. When draft Coffs Harbour LEP 2012 was prepared, it reflected the contents of Coffs Harbour City Centre LEP 2011, to the extent that the Schedule 1 does not include a reference to a 5000m² office use permissibility for Gateway House.

It is considered appropriate to add the land to Schedule 1 of draft LEP 2012 so as to alleviate the concerns of the landowner and to ensure existing use right provisions do not need to be used at the site.

During 2011, Council commissioned an independent review of the BCH, to establish its relevance and importance to the growth of Coffs Harbour as a city, and to provide input into the preparation of draft LEP 2012. The BCH Final Report recommended certain actions to strengthen the BCH and the primacy of the CBD. In adopting the BCH, Council has endorsed its position not to erode the vitality of the CBD.

It is considered that Council should ask NSW P&I that 'office' and 'vehicle body repair workshop' be added to Schedule 1 of draft LEP 2012.

It is recommended that:

1. An item be added to draft LEP 2012, to state:

Use of certain land at Coffs Harbour

(1) This clause applies to land at Lot 1, DP1015730 Homebase, Mastracolas Road, Coffs Harbour, shown on the Additional Permitted Uses Map.

(2) Development for the purpose of office premises not exceeding 5,000 square metres gross floor area and vehicle body repair workshops is permitted with consent."

Woolgoolga Business Lands

Three submissions received referred to Woolgoolga Business Lands and the Draft LEP – some applied to specific parcels of land.

- **Submission P17 and P53: Commercial Land Zonings In Woolgoolga**

One of these submissions was lodged on behalf of the Woolgoolga Retail Group and the other on behalf of the Woolgoolga Chamber of Commerce. Both submissions speak about the three commercial zones in Woolgoolga. The submissions strongly support the B2 Local Centre zone, and also support the B4 Mixed Use and B6 Enterprise Corridor in terms of the hierarchy created which identifies the B2 zone as the Woolgoolga town centre. The submissions request minor modifications to the zone objectives to ensure the hierarchy is reinforced. The submissions again raise the FSR and GFA issues previously identified in Submissions P11, P13, P17 and P86. They state the preference of the retail group remains to have a supermarket located in the B2 centre, rather than on the highway, and that Item 10 in Schedule 1 should be modified to correct the anomaly. Council's recommended response is included with each listing as follows.

The B1 zone is the Neighbourhood Centre zone (which is only applied to small neighbourhood shopping centres which take the lowest order in the commercial hierarchy), the B2 zone is the Local Centre zone (which is applied to Woolgoolga, Sawtell, Toormina and Moonee town centres and Park Beach Plaza) and the B3 zone is the Commercial Core zone (which is only applied to the CBD of Coffs Harbour). It is considered appropriate that the B2 zone be added to the zone objective as requested, but not the B1 and B3 zones.

Recommendation that the B4 Mixed Use Zone Objective 3 be modified to read: *'To facilitate the development of a mix of local scale facilities and services which do not detract from the core commercial functions of the Coffs Harbour CBD or other commercial functions of the B2 Local Centres zone'*.

The submissions raise a similar request in relation to the B6 zones, requesting that Objective 5 and 7 be modified to strengthen the BCH by inclusion of the reference to B1, B2 and B3 zones.

The B1 zone is the lowest zone in the hierarchy, and should not be referenced in the objective; and the B3 zone is already only applied to the Coffs Harbour CBD, and this would not make sense to add it to the objective.

Recommendation

1. That the B6 Enterprise Corridor Zone Objective 5 be modified to read: *'To facilitate the development of small scale business uses, which do not detract from the core commercial functions of the Coffs Harbour CBD or other commercial functions of the B2 Local Centres zone.'*
2. That the B6 Enterprise Corridor Zone Objective 7 be modified to read: *'To allow for the development of small scale office premises which support uses within the enterprise corridor zone but which do not detract from the core commercial functions of the Coffs Harbour CBD or other commercial functions of the B2 Local Centres zone.'*

The submissions also object to the location of a supermarket on the Pacific Highway Pullen Street site. They again raise the FSR and GFA issues previously identified in Submissions P11 and P13. They request that the FSR control be added to the FSR map.

As two conflicting controls currently apply to the subject land, which causes confusion, and in order to provide clarity in response to public submissions, it is recommended that the anomaly be rectified, and only a single provision remain.

It is recommended that Schedule 1, Item 10 be modified to read:

(2) Development for the purpose of a shop (supermarket only, being a single self-service store retailing food and household products), not exceeding 3,443 metres square gross floor area is permitted with consent.

Other Matters

Several submissions received raised other matters in regard to the Draft LEP – some applied to specific parcels of land.

- **Submission P23: 83 - 85 Ocean Parade, Coffs Harbour**

The site be afforded additional height and FSR controls to what is currently permitted on the land and it includes the narrow block of land to the south of the site (being Lot 100, DP747702, 81 Ocean Parade).

The submission states that the site was previously identified as a pivotal 'gateway' site under the Park Beach DCP 2003, and as such, it was afforded similar development controls (building height restrictions of 21 metres) to that land opposite it on the northern side of Park Beach Road (being 87 Ocean Parade). Now the land at 87 Ocean Parade to the north is permitted to be developed to a 40 metre height, but the subject site at 83 - 85 Ocean Parade is now limited to a 22 metre height.

Council has no readily accessed height information for the existing high-rise buildings on lands to the north and south of the subject site; however, heights can generally be determined from number of storeys in a building.

Council must therefore decide what extent of added height is feasible. The draft LEP as exhibited allows for 22 metres (say six storey residential); the submission requests 40 metres (say 11 storey residential over a permissible commercial use at street level, acting as a gateway entry into the precinct); the building to the south is roughly 30 metres (eight storey residential). It is therefore considered that somewhere between 30 (eight storey) and 40 metres (12 storey) would be acceptable. Given the Obstacle Height Limitation Surface over the centre of the site is 48 metres, a building height of 40 metres would be acceptable.

It is recommended that:

1. The Height of Buildings Map (Sheet HoB_006B) be amended to show Lots 8 and 9, DP17053 and Lot 100, DP747702 with a building height of 40 metres.
2. A statement be made to NSW P&I (contained within the Section 68 Report which requests that the Plan be made) that the inconsistency with 117(2) Direction 4.3 is justified in the circumstances.

- **Submission P31 and P34: York Street Site, Coffs Harbour**

These submissions relate to land identified as the York Street site, Coffs Harbour. The submissions state it relates to Lots 1 and 2, DP731016; however Council's records identify this land as Lot 2, DP731016, York Street, Coffs Harbour, as highlighted yellow in Figure 30.1 and with an area of 3.25 hectares. It is bound by York Street, Arthur Street and San Francisco Avenue.

The submissions state that, as previously requested, the site should be rezoned as per their previous submission. Council's records identify that a submission was lodged with Council during the 2010 exhibition of the (then draft) Coffs Harbour City Centre LEP 2011; and again during the 2011 exhibition of the BCH Review. These submissions have previously requested the establishment of a Business Park on the York Street site, utilising the B7 Business Park zone which is available in the Standard Instrument template. The submission also states that the provision of a regional business park would bring significant employment and investment to the city.

During 2010, Council completed its LGMS – Business Lands Component, which did not recommend the need to further extend business zones within the Coffs Harbour City Centre area. This LGMS – Business Lands Component was endorsed by NSW P&I in September 2010.

During 2011, Council commissioned an independent review of the BCH, to establish its relevance and importance to the growth of Coffs Harbour as a city, and to provide input into the preparation of draft LEP 2012. The BCH Final Report recommended certain actions to strengthen the BCH and the primacy of the CBD. In adopting the BCH, Council has endorsed its position not to erode the vitality of the CBD.

Council has not used the Standard Instrument B7 Business Park zone anywhere in the LGA during the preparation of draft LEP 2012. The objectives of this zone in the Standard Instrument Principal LEP are:

- To provide a range of office and light industrial uses.
- To encourage employment opportunities.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

The previous submissions were accompanied by a draft DCP for this York Street site prepared by a consultant on behalf of the landowner, which identifies a mix of uses at the site, including residential, office and possibly some retail. It would appear from reading the DCP that it is proposing more a Mixed Use type of development on the site.

It is considered that the type of uses proposed by the applicant would more readily suit a B4 Mixed Use than a B7 Business Park zone. In light of the recommendations of Council's LGMS – Business Lands Component and BCH Review, it is not considered appropriate at this time to further extend business zones within the City Centre Plan area. In the event that a future review of the LGMS – Business Lands Component is undertaken, Council could include the site within the review.

It is recommended that no amendments to draft LEP 2012 be made in response to these submissions

• **Submission P29: Land at Richmond Drive, Coffs Harbour**

This submission relates to land on the corner of Richmond Drive and Arthur Street, Coffs Harbour, being Lot 301, DP791505 and Lot 100, DP1080766 which is undeveloped land at this time. The submission states that the height limits imposed for this land will not provide for the higher density housing Council is seeking on this land. Without an increase in the height limit and subsequent potential for the provision of views from apartments, it is unlikely for high-rise buildings to be developed, as there is insufficient financial incentive. The submission requests that the height limits be re-examined with a view to providing building heights that will afford views of the ocean from most parts of the land.

The submission has raised a valid point that it may not be economic to develop the land for four storey apartments containing lifts. This same economic reasoning will apply to all those medium density residential zoned lands where the 15.5 metres is to be applied (including Park Beach, Jetty, Harbour Drive, Azalea Avenue, Woolgoolga and pockets at the northern beaches).

A body of work is necessary to be undertaken, to determine whether this height control should be lifted to allow development for five or more storeys (and thereby provision of a lift) to make it economic to undertake development. It is not considered appropriate to amend the draft LEP without completing this work. Amendments via a Planning Proposal at a future date would be the way to progress this matter. This could then be further assessed in terms of the view sharing provisions contained in draft DCP 2012 (Component C1.22).

It is recommended that no amendments be made to draft LEP 2012 as a result of this submission.

- **Submission P44 and P56 – Environmental/Vegetation - Climate Change**

These submissions raise a number of issues which are not specific to any particular property. They object to the draft LEP and DCP 2012 as exhibited, on a number of grounds including: *the draft LEP and DCP do not adequately reflect current thinking on climate change, bushfire risk and states that an APZ of 35 metres should be mandated throughout the Coffs Harbour area, with all residents having the right to establish an APZ on their land without reference to Council. It also mentions a tropical design standard should be adopted for stormwater systems.*

The draft LEP 2012 has been written to accord with the requirements of the Standard Instrument LEP, which requires all Councils across NSW to prepare an LEP which accords to the template prepared by the State government. It is recognised that it is a complex document, and it is prepared in accordance with the State government's requirements for the various environmental matters which need to be included. It is not appropriate to mandate a standard APZ across the LGA, because the width of an APZ is dependent on slope and vegetation applying to a particular site. However, Council will be updating its Bushfire Hazard maps for the LGA, as an outcome of the finalization of the Class 5 Vegetation Mapping.

Clause 5.11 of draft LEP 2012 is a compulsory clause contained within the Standard Instrument, and states that '*Bushfire hazard reduction work authorized by the Rural Fires Act 1997 may be carried out on any land without development consent.*' A footnote to the clause states that '*The Rural Fires Act 1997 also makes provision relating to the carrying out of development on bush fire prone land*'

Vegetation provisions contained within draft LEP 2012 should be driven by the distance of development from the vegetation being protected, rather than the size of the land on which the vegetation is located. Landowners should have the right to manage any vegetation within 35 metres of Council approved structures (regardless of whether located within urban or rural areas).

Clauses 5.9 and 5.9AA of draft LEP 2012 relate to protection and removal of vegetation, and invoke the requirements of a tree preservation order as part of a DCP. These are compulsory clauses of the Standard Instrument LEP, and cannot be removed.

Draft DCP 2012 Component B7 identifies that the size of lots in residential areas dictates whether a tree preservation order applies or not. This has been Council's policy for many years. Council's Biodiversity Officer has advised that a review be undertaken; to better identify and determine the rules that guide vegetation retention or removal.

It is recommended that no amendments to draft LEP or DCP 2012 be made in response to the submissions.

- **Submission P76 – Land Dedication- Sandy Beach**

The submission objects to the draft LEP 2012, as exhibited, on the grounds of proposed environmental zonings and land dedication to Council. It states that there is no scientific evidence to support the proposed rezoning; that the land does not contain any unique environmental value; that the zone will negate the extensive environmental rejuvenation planned for the site; that the site is uneconomic to develop in the zone footprint it is given; its rezoning for environmental protection will have a negative impact socially, economically and environmentally for the Coffs Harbour community. It further states that the proposal will be taken to the Land and Environment Court if draft LEP 2012 is made in the manner as exhibited.

It is recommended that lands which were subject to Coffs Harbour City LEP Amendment No 29 (Hearnes Lake), be deferred from draft Coffs Harbour City LEP 2012 and Draft DCP 2012

- **Submission P84: Prohibited Mining Developments**

The submission states draft LEP 2012 should not allow for mining development in areas with the following zones:

- E1 National Parks and Nature Reserves
- E2 Environmental Conservation
- RE1 Public Recreation
- RU2 Rural Landscape
- RU3 Forestry
- W1 Natural Waterway
- W2 Recreational Waterway
- W3 Working Waterway

The reasons given in the submission are that contamination from mining is a real threat to waterways and livelihoods and that no guarantees can be given that contamination will not occur.

The SEPP (Mining, Petroleum Production and Extractive Industries) 2007, which applies to the State of NSW and which has precedence over draft LEP 2012, provides details of certain mining and extractive industries which are permissible with and without consent. Council cannot prohibit development in draft LEP 2012 to override the contents of this SEPP.

Draft Coffs Harbour LEP 2012 as exhibited prohibits most forms of mining and extractive industries not covered by the SEPP. It does allow for extractive industries with consent in the RU2 Rural Landscape and RU3 Forestry zone, and the W2 Recreational Waterways and W3 Working Waterways zones. This is considered appropriate in the circumstances.

It is recommended that no amendments to draft LEP 2012 be made in response to this submission

Development Control Plan

Of the submissions received 32 matters were raised in regard to the DCP.

- **Submission G1 - Heritage.**

The submission recommends that an additional key objective be introduced in Part A of draft DCP 2012 relating to the protection and management of heritage in the LGA.

This request is supported as it will add strength to the controls that relate to environmental heritage.

It is recommended that

1. The following key objective be added to Component A1.10 of draft DCP 2012:

To conserve the environmental heritage of the City in accordance with the principles contained in the Burra Charter

The second issue raised recommends the inclusion of additional definitions for heritage management within the DCP dictionary (Part F - glossary).

1. The glossary to draft DCP 2012 includes the following definitions that relate to cultural heritage:

alter, in relation to

a) *a heritage item means to:*

i) *make structural changes to the outside of the heritage item, or ...*

conservation means all the processes of looking after a place so as to retain its cultural significance. It includes maintenance and may according to circumstances include preservation, restoration, reconstruction and adaptation in any one place and will be commonly a combination of more than one of these.

conservation management plan means a document prepared in accordance with the requirements of the NSW Heritage Office that establishes the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

cultural significance means aesthetic, historic, scientific or social value for past, present or future generations.

environmental heritage means those places, buildings, works, relics, movable objects and precincts of State or local heritage significance.

fabric means all the physical material of the place.

statement of heritage impact is a report which assesses the impacts a proposed development has on the significance of a heritage item and/or a conservation area.

1. Draft LEP 2012 also includes the following definitions that relate to cultural heritage:

Aboriginal object means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

Aboriginal place of heritage significance means an area of land, the general location of which is identified in an Aboriginal heritage study adopted by the Council after public exhibition and that may be shown on the "Heritage Map", that is: ...

archaeological site means a place that contains one or more relics.

demolish, in relation to a heritage item or an Aboriginal object, or a building, work, relic or tree within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item, Aboriginal object or building, work, relic or tree.

heritage conservation area means an area of land of heritage significance:

- (a) shown on the Heritage Map as a heritage conservation area, and
- (b) the location and nature of which is described in Schedule 5,

and includes any heritage items situated on or within that area.

heritage conservation management plan means a document prepared in accordance with guidelines prepared by the Division of the Government Service responsible to the Minister administering the Heritage Act 1977 that documents the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

heritage impact statement means a document consisting of:

- (a) a statement demonstrating the heritage significance of a heritage item or heritage conservation area, and
- (b) an assessment of the impact that proposed development will have on that significance, and
- (c) proposals for measures to minimise that impact.

heritage item means a building, work, place, relic, tree, object or archaeological site the location or nature of which is described in Schedule 5.

heritage management document means:

- (a) a heritage conservation management plan, or
- (b) a heritage impact statement, or
- (c) any other document that provides guidelines for the ongoing management and conservation of a heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

heritage Map means the Coffs Harbour Local Environmental Plan 2012 Heritage Map.

heritage significance means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

maintenance, in relation to a heritage item, Aboriginal object or Aboriginal place of heritage significance, or a building, work, archaeological site, tree or place within a heritage conservation area, means ongoing protective care, but does not include the removal or disturbance of existing fabric, alterations (such as carrying out extensions or additions) or the introduction of new materials or technology.

relic has the same meaning as in the Heritage Act 1977.

It is considered that while the definitions listed above will assist in the interpretation of terms used for the purposes of appropriate development assessment, the insertion of additional objectives will further assist such interpretation.

It is also apparent that some of the definitions contained in the draft DCP glossary are also contained within the draft LEP dictionary. It is considered appropriate to remove the "double ups" from draft DCP 2012.

It is recommended that:

1. the following definitions be inserted into the draft DCP 2012 glossary:

cultural significance (updated definition) *means aesthetic, historic, scientific, social or spiritual value for past, present or future generations.*

Cultural significance is embodied in the place itself, its fabric, setting, use, associations, meanings, records, related places and related objects. Places may have a range of values for different individuals or groups.

compatible use *means a use which respects the cultural significance of a place. Such a use involves no, or minimal, impact on cultural significance.*

place *means site, area, land, landscape, building or other work, group of buildings or other works, and may include components, contents, spaces and views.*

setting *means the area around a place, which may include the visual catchment.*

2. the following definitions be removed from the DCP glossary:

Conservation Management Plan; and Statement of Heritage Impact;

- **Submission P18 – Map Issues and Residential Design Controls**

The submission suggests that images of inspirational design should be used on the cover of the DCP document to set the tone for the kind of building design that is desirable for the area.

The images used on the cover of the DCP document are of local contemporary buildings. The images only form a part of the overall design of the cover of the document. The cover also includes Council's "branding" and has been designed by a graphic designer.

In response to this issue, additional images showing inspirational design, including images used in the City Centre Vision document should be added to the front cover of the DCP.

It is recommended that the front cover of the DCP be replaced with 'inspirational' images.

The submission suggests that there should be a review of all the objectives of the provisions to ensure they are comprehensive enough.

The objectives within the draft DCP were originally taken from the individual DCPs that applied under LEP 2000. Additional objectives were also considered and some of the original objectives were amended to reflect current policy and practice. Members of staff provided comment on the individual components of the DCP including the objectives. Relevant comments and suggestions were incorporated into the DCP document, and it is considered that the objectives have therefore been subject to a suitable review process. Notwithstanding the above, a review of all objectives within the document should be undertaken regularly, and this could be done as part of a 'housekeeping' type of DCP review process.

It is recommended that no change necessary to draft DCP 2012, but that all objectives in the DCP be reviewed as a result of further work, such as in a future housekeeping DCP review.

The submission suggests that there should be more graphics to explain the controls, particularly the complexity of setback controls.

The setback controls have been removed from the DCP and have been replaced by the setback controls that applied under LEP 2000 (see DCP conversion plan). All relevant graphics shown in the previous (LEP 2000) DCPs have been included within the new DCP document. Updated graphics and diagrams should be sought as part of further work undertaken on the DCP, or as part of the DCP review process.

It is recommended that no change necessary to draft DCP 2012, but that all graphics in the DCP be reviewed as a result of further work, such as in a future housekeeping DCP review.

The submission suggests that the DCP shows the western most access road from Stadium Drive into the South Coffs master plan area (as shown in the maps in Component E10 of the DCP) in the wrong location as a development proposal shifting of this road (further to the east) has been approved by Council

Review of mapping and site inspections confirm that the western most access road from Stadium Drive into the South Coffs master plan area is incorrectly located.

It is recommended that the maps in Component E10 be amended to show the correct location of the road.

Under Section B1.4.2a(ii) the provision intends to show the likely bulk and form of a (residential) building that is proposed to be built on the vacant lot created by an infill residential subdivision. The provision is activated when the subdivision proposes a vacant allotment that is smaller than the other existing lots in the neighbourhood. The provision results in the application of a condition of approval requiring the proposed residential building to be built to floor level prior to the releasing of the subdivision certificate.

The submission suggests that this section of the DCP will discourage urban consolidation.

This provision, originally applied in the (LEP 2000) Subdivision DCP was introduced to give Council and the neighbouring properties to a residential subdivision the chance to view and comment on the design of a residential building that will be built on the resultant vacant allotment created by a subdivision, where that vacant allotment is smaller than other lots in the neighbourhood.

The submission suggests that the minimum allotment size of 400m² (within the low density residential zone) is a new development standard, however it has been in place since LEP 2000. The provision has been "rolled over" into the new DCP document from the former (LEP 2000) Subdivision DCP. Given the length of time that the provision has been in place, it would benefit from a review to test its relevance and effectiveness in the current development landscape.

It is recommended that no change necessary to draft DCP 2012, but that this provision be reviewed as a result of further work, such as in a future housekeeping DCP review.

The submission objects to the provision within the DCP which limits dual occupancy development to a FSR of 0.4:1, as it will discourage urban consolidation

The related clause within draft DCP 2012 is as follows:

For dual occupancy development proposed on R2 Low Density Residential zoned lands, 40% of the land/allotment area.

This clause was introduced under LEP 2000 and the associated Low Density Housing DCP to address overly bulky buildings (dual occupancies) appearing on smaller sized allotments.

Clause 4.1B of draft LEP 2012 requires that the area of any R2 zoned allotment intended to be used for the purposes of a dual occupancy be equal to or greater than 800m² (not including driveway access handles). A total of 40% built upon area is easily achievable on an 800m² allotment, and as there is now a minimum lot size (for dual occupancies in the R2 zone) as a (LEP) development standard, it is not likely that this requirement alone will discourage urban consolidation. Conversely, it is important that the clause remain to prohibit overly bulky buildings that may dominate the streetscape. Again, given the length of time that the provision has been in place, it would benefit from a review to test its relevance and effectiveness in the current development landscape.

It is recommended that no change necessary to draft DCP 2012, but that this provision be reviewed as a result of further work, such as in a future housekeeping DCP review.

The submission suggests that Figure 1 (Section B1.5) should be reviewed as it suggests that a three lot subdivision is better than a four lot subdivision.

The intention of the diagram is to show two scenarios of a subdivision which includes multiple "battle-axe" handles, including an "undesirable" and a "preferable" design response. The related clause within draft DCP 2012 is as follows:

Subdivisions are not permitted where three or more 'battle-axe handles' will be directly adjoining each other (refer Figure 1).

The DCP provision suggests that (in this particular situation) a three lot subdivision would be preferable to a four lot subdivision, however the suggestion is based around the issue of multiple access handles located adjacent to one another, which is an undesirable design response.

It is recommended that no change necessary to draft DCP 2012.

The submission suggests that a review should be conducted to determine whether there is potential for dwellings to have access to laneways without the necessity for a two metre wide access way to the primary road. The related clause within draft DCP 2012 is as follows:

The lot adjoining the lane is to have a two metre wide frontage, fenced and paved to the primary road, to provide for pedestrian access, letter boxes and services (water, sewer, electricity, communication).

While it is agreed that such a review would be a very useful exercise for Council to undertake in the future, it is not possible to complete this in the timeframe allowed under the LEP/DCP process. A review of suitable laneways as the primary access for residential properties should be noted for future action.

It is recommended that a review of suitable laneways as the primary access for residential properties requires further investigation, such as in a future housekeeping DCP review.

- **Submission P24 – DCP is inconsistent with Development Proposals**

This submission relates to the residential development of the Glades Estate. It states that a large part of the land holding is proposed to be zoned E2 and is considered to be an inappropriate zone given the approved development over this land. Although a project approval (06_0143) has been issued, on 5 March 2009, by the Minister for Planning under Part 3A of the EP&A Act 1979, the landowner is still concerned that if the proposed zones are adopted as per the exhibited draft LEP 2012, this could dramatically limit the landowner's ability to amend the project to take into account site conditions and changing circumstances.

The submission states that part of the proposed zonings, specifically the E2 zone and permissibility of development within that zone, is inconsistent with existing planning provisions and the approved residential development. Furthermore, it goes on to state that the proposed E2 zone over the open space area of the Glades Estate is not consistent with the approved development, including the construction of water reticulation infrastructure and stormwater management systems (i.e. to facilitate drainage works). Therefore, the submission is recommending a REI Public Recreation zone instead of the proposed E2 zone.

It is considered that the most appropriate method to determine the environmental value of the land and its potential use for residential development, including appropriate zone footprints, is to defer the land from draft LEP 2012 until appropriate environmental studies are completed for the land, which will better identify and determine the land which should have an environmental zoning. It is recommended this be undertaken for the entire area which was subject to Coffs Harbour City LEP Amendment No 24 (Moonee). This process would then be used to inform a Planning Proposal to NSW P&I to rezone the land to reflect the environmental zones represented in the environmental studies. This means that Coffs Harbour City LEP 2000 will prevail in the short term.

It is recommended that the subject site, Lots 1 and 2, DP725785, along with lands which were subject to Coffs Harbour City LEP Amendment No 24 (Moonee), where residential land is proposed to be rezoned to environmental protection, be deferred from draft Coffs Harbour City LEP 2012 and DCP 2012.

- **Submission S1 - Airport**

The Coffs Harbour Regional Airport has advised that they are in the process of updating the Airport Master Plan.

It is appropriate that Component E1 of the DCP be deferred to incorporate the provisions of the new Master Plan.

It is recommended that:

1. Coffs Harbour City DCP Component E1 be deferred.
2. Component E1 be prepared in association with the revised Airport Master Plan.

- **AS 2890 compliance**

Five submissions received question whether the DCP controls within Component C2 (Access Parking and Servicing Requirements) comply with the provisions of the Australian Standard AS 2890.

- **Submissions P29, P30, P31, P32 and P33**

The submissions state that *"The provisions of some clauses in this component conflict with AS2890. It is undesirable to mix and match clauses. Parking provisions should be specified to comply with AS 2890 and conflicting / repetitive clauses removed e.g. driveway widths, ramp grades."*

Consideration was given to:

- the issues raised in the submission;
- current commercial development requirements;
- relevant Australian Standards, Council procedures and policies; and
- comments/input obtained from relevant sections of Council.

Council's Engineering Services Section has confirmed that these controls are aimed at complementing the provisions of AS 2890, rather than conflicting with this particular standard. The particular controls do not contradict the provisions within AS 2890, and are considered to assist in interpreting the requirements for driveway design.

It is recommended that no amendments to draft DCP 2012 be made in response to these submissions.

- **Landscaping Component is too restrictive**

Five submissions received believe that Component C3 (Landscaping Requirements) is too restrictive.

- **Submissions P29, P30, P31, P32 and P33**

The submissions state that, with respect to Component C3: *"The entire component is excessively restrictive"*.

The assessment of the submissions considered:

- the issues raised in the submission;
- current landscaping requirements;
- relevant Council procedures and policies; and
- comments/input obtained from relevant sections of Council.

Council's Engineering Services Section has confirmed that the landscaping component (component C3) is based on the information contained in the Landscape Information Sheet that applied under LEP 2000. The controls adopted within component C3 are no more onerous than those contained in the information sheet. Previously, requirements for development to provide landscaping were contained in the Landscape Information Sheet. As landscaping is an important part of the site development process, it was considered appropriate to include it as a standalone component in the DCP.

It is recommended that no amendments to draft DCP 2012 be made in response to these submissions.

- **Landscaping Component should include tighter controls on Pacific Highway frontage at South Coffs**

Two submissions received believe that Component C3 (Landscaping Requirements) should be more restrictive on the Pacific Highway frontage at South Coffs.

- **Submissions P57 and P58**

The submissions state that *“given the frontage and exposure to the Pacific Highway, tight controls should be placed on landscaping within all future Development Applications to ensure good aesthetic outcomes are achieved within this area.”*

The assessment of the submissions considered:

- the issues raised in the submission;
- current landscaping requirements;
- relevant Council strategies and policies; and
- comments/input obtained from relevant sections of Council.

Council's Gateway Strategy included recommendations to improve the landscape character and screen some of the unsightly industrial development that aligns the Highway. This recommendation was directed towards the Pacific Highway South between Englands Road and Halls Road, however there would be merit in applying this recommendation further to the south to the industrial development that aligns the Highway.

Improvements to the landscape character should be investigated and incorporated into the South Coasts component of the DCP (Component E10) to screen some of the industrial development that aligns the Highway on the southern outskirts of Coasts Harbour. This work should be carried out in conjunction with any master planning/place making/precinct planning projects following the commencement of the draft LEP and DCP. This should be undertaken as Council allocates funds in the next budget allocation process.

It is recommended that no amendments to draft DCP 2012 be made in response to these submissions.

- **Commercial development design controls – solar access and unarticulated building wall length**

Four submissions received raised matters regarding particular design requirements for commercial buildings contained in Component C2 (Design Requirements).

- **Submissions P30, P31, P32 and P33**

The submissions state that:

- *“restrictions on distances from daylight are likely to render large floor plate commercial developments unviable”; and*
- *“restriction on commercial building wall length not exceeding 45 metres is unrealistic for large box format retail, industrial and commercial buildings and will stifle development”.*

The assessment of the submissions considered:

- the issues raised in the submission;
- current commercial development requirements;
- relevant Council procedures and policies; and
- comments/input obtained from relevant sections of Council.

It is recommended that no amendments to draft DCP 2012 be made in response to these submissions.

- **Commercial development design controls – pedestrian access to retail and commercial buildings where the flood planning level is above the existing street level**

One submission requests that the draft DCP be amended to permit street level access to retail and commercial buildings where the flood planning level is above the existing street level, stating that this will further contribute to the creation of an active and engaging streetscape and public domain.

- **Submission P62**

The submission requests that *“the draft DCP be amended to permit street level access to retail and commercial buildings where the flood planning level is above the existing street level, stating that this will further contribute to the creation of an active and engaging streetscape and public domain by:*

- *Promoting walking within the City Centre Core by providing uninterrupted pedestrian movement along footpaths without the disruption of level changes or limited access.*
- *Enhancing and activating the streetscape.*
- *Improving the commercial viability of shops.*
- *Encouraging al fresco dining.*
- *Balancing the risk of flood to person and property with the objective of street activation and commercial benefit.”*

The assessment of the submissions considered:

- the issues raised in the submission;
- current commercial development and pedestrian access requirements;
- relevant legislative requirements;
- relevant Council procedures and policies; and
- comments/input obtained from relevant sections of Council.

It is recommended that C1.2.2(a)(iv) of the DCP include the following controls as additional dot points:

- *Where al fresco dining is proposed it shall be provided at street level.*
- *Where development is affected by the ‘flood planning level,’ risk will be mitigated through innovative design solutions.*
- *Where building floors must be raised more than 1 stair to accommodate the ‘flood planning level’ this will be dealt with internally and/ or at the rear via a rear laneway to ensure that the relationship of the shop to the street is not compromised.*

It is also recommended that C1.3.2(a) of the DCP include the following additional control:

- v) *Retail and commercial shop fronts within the City Centre Core shall be accessible from all street frontages using no more than one stair.*

- **Subdivision design controls**

One submission objects to the subdivision design control that restricts the use of cul de sacs to 10% of lots serviced in a subdivision.

- **Submission P31**

The submission states that *"a restriction on cul de sacs to 10% of lots serviced in a subdivision will render many small scale subdivisions unviable. The local economy does not support large scale subdivision development in terms of land releases. Small scale releases are viable and traditionally have been economically workable. The restriction should be removed"*.

The assessment of the submissions considered:

- the issue raised in the submission;
- current subdivision design requirements; and
- relevant Council procedures and policies.

This provision was introduced to create and maintain the permeability, connectivity, energy efficiency and functionality of subdivision road network design. This section of the DCP also includes the following controls:

- *Cul-de-sacs should be avoided, but if used should be short in length. Cul-de-sacs shall not be the dominant element of road design.*
- *Minor cul-de-sacs coming off a road network that demonstrates a high overall degree of connectivity may be considered. The design is to demonstrate that it is appropriate given the local landform.*

This DCP control is necessary for reasons mentioned above, while the second dot point above allows for minor cul de sacs in certain situations.

It is recommended that no amendments to draft DCP 2012 be made in response to these submissions.

- **Bicycle/motorcycle parking rates**

Three submissions object to the bicycle parking rates contained in Table 3 of Component C2 (Access Parking and Servicing Requirements) as they relate to shopping centres. The same submissions are concerned that (given the requirements for bicycle parking) there are no requirements for motorcycle parking at shopping centres.

- **Submissions P31, P32 and P33**

The submissions state that:

- *Bicycle parking rates of one space per 200sqm GFA in development where rates are not specified in Table 3 are excessive, and the imposition of secure undercover bicycle parking is unwarranted under the Australian Standard. For example, shopping centres have no specific parking rate. At approximately 42,000m² the default provision at the rate of one per 200m² would result in 210 bicycle spaces in secure all weather protected space. This is unrealistic and unviable; and*
- *The DCP Table 3 makes an unrealistic provision for bicycle parking in a shopping centre yet does not require motor cycle parking in a shopping centre? This again is unrealistic.*

The assessment of the submissions considered:

- the issues raised in the submissions;
- relevant legislative requirements;
- relevant Council procedures and policies; and
- comments/input obtained from relevant sections of Council.

It is recommended that:

1. Table 3 within Component C2 Access, Parking and Servicing be amended to include the following bicycle parking requirements for shopping centre developments:
 - *One space/750m² for employees and one space /1000m² for customers;*
2. Further, that the following provision for motorcycle parking be incorporated into the requirements for shopping centres in Table 3 of Component C2:
 - *One motorbike space per 25 car spaces.*
3. Further, that control (xi) within C2.6.2 be amended to include the following:
 - xi) Bicycle parking is to be provided in accordance with Table 3, in secure and accessible locations, with all weather protection provided to at least 50% of spaces, where there are more than 10 spaces provided. Where no rates are specified, bicycle parking is to be provided at a rate of one space per 200 square metres of gross floor area, or a parking assessment study to be prepared.*

Government Agency Comments

The assessment of Government Agencies' submissions is included in Attachment 1 to this report. The assessment details the matters raised in the submission by each agency, provides a comment on the matter raised and makes a recommendation on how the matter should be actioned by Council.

The below provides a summary of the matters raised and whether the agency submission relates to LEP or DCP matters.

• **Heritage Council of NSW**

This submission requested five amendments to the LEP. Three of these matters are recommended to be incorporated into the final LEP, one matter requires direction from NSW P&I and the other matter is not to be actioned.

The submission raises three matters in regard to the DCP, two of these are recommended to be actioned and the changes have been made to the DCP for endorsement. The other matter is purely for noting as the Heritage Council endorses the DCP to assist in achieving good heritage management.

• **Primary Industries**

This submission was combination from Fisheries NSW and NSW Marine Parks Authority. The Fisheries component of the submission raised four matters relating to the LEP. The matters raised did not warrant amendment to the LEP. Fisheries NSW also raised an issue regarding the DCP. The DCP has been modified to include a note in Component B7 Biodiversity Requirements.

The Marine Parks Authority requested four changes to the LEP and again, after consideration of the matters raised it was considered that no change to the LEP was necessary. The submission suggested a change to the DCP. It is considered additional work is undertaken on this matter to determine whether the DCP should be modified or not.

- **RMS – Maritime**

This submission focused on the installation of moorings and whether the LEP needed to list these matters when the SEPP (Infrastructure) provides for them. After consideration of the matter raised it is recommended no change be made to the LEP.

- **Family and Community Services – Housing NSW**

This submission was purely supportive of the zones applied, and uses permitted as it provides a diverse range of housing opportunities, as such no change to the LEP or DCP is required.

- **Department of Primary Industries – Catchment and Lands**

This submission raised five matters relating to the LEP. Four of these matters do not require any amendment to the LEP. One matter, relating to Corindi Beach Reserve requires an amendment to the LEP.

- **Catchment Management Authority**

The submission raised 2 LEP and 2 DCP matters focusing on matters to do with vegetation management, Property Vegetation Plans and Coastal Zone Management Plans. As these matters have been appropriately addressed there are no resultant changes to be made to the LEP or DCP.

- **NSW Rural Fire Services**

This submission raised has no objection to the draft Environment Planning Instrument proceeding providing the draft instruments have considered the requirements of the *RFS Community Practice Note 2/12 – Planning Instruments and Policies*.

Council complied with feedback received from the RFS by addressing bushfire matters and Planning for Bushfire Protection guidelines at the development application stage on a site by site basis. Clause 5.11 of draft LEP 2012 allows bushfire hazard reduction works without development consent.

- **Roads and Maritime Services – Roads**

This submission requested prohibitions in the LEP that cannot be introduced as the LEP follows the Standard Instrument orders. The Submission also requested changes to the DCP by clarifying RMS uses “Austroads”. These changes have been integrated into the amended DCP.

- **Clarence Valley Council**

This submission supports and commends Coffs Harbour City Council's LEP and DCP.

Implementation Date / Priority:

As the Coffs Harbour draft LEP 2012 project is subject:

- i) to a signed Memorandum of Understanding and funding agreement between Council and NSW P&I; and
- ii) required to be progressed to achieve actions within Council's Delivery Plan,

it is appropriate to progress the Coffs Harbour draft LEP (and draft DCP) 2012 as a priority matter. The draft LEP should be progressed to NSW P&I to allow the Plan to formally be 'made'.

The amended DCP, once adopted by Council, can be enabled to be implemented and enforced upon gazettal of the LEP.

Subject to Council endorsing draft LEP 2012, it is acknowledged that by the time draft LEP is made, it will be 2013. Accordingly, from this date forward all references to both draft LEP 2012 and draft DCP 2012 will become known as draft LEP 2013 and draft DCP 2013.

Recommendation:

1. That Council adopt the Coffs Harbour Local Environmental Plan 2013.
2. That Council recommend to the Minister for Planning and Infrastructure to defer those lands identified on Map 1 (Hearnes Lake/Sandy Beach) and Map 2 (Moonee) from Coffs Harbour Local Environmental Plan 2013.
3. That a further report be presented to Council early in 2013 which outlines appropriate environmental investigations (including details on the timeframe, method and anticipated cost) for the deferred areas which will help to inform and enable a Planning Proposal to be progressed to establish the final zone configuration.
4. That in accordance with Section 68 of the Environmental Planning and Assessment Act 1979, Coffs Harbour Local Environmental Plan 2013 be submitted to the Department of Planning and Infrastructure for gazettal.
5. That Council adopt the Coffs Harbour Development Control Plan 2013 and that it is to be implemented and enforced upon the making of the Coffs Harbour Local Environmental Plan 2013.
6. That Council confirms the Moonee Beach Development Control Plan and Hearnes Lake / Sandy Beach Development Control Plan continue to apply to those deferred lands from Coffs Harbour Local Environmental Plan 2013.
7. That Council notes the report on submissions to draft Coffs Harbour Local Environmental Plan 2012 and draft Coffs Harbour Development Control Plan 2012 as detailed in Attachment 1.
8. That parties who made a submission to the draft Coffs Harbour Local Environmental Plan 2012 and draft Coffs Harbour Development Control Plan 2012 exhibition be informed of Council's decision in writing.

Attachments:

ATT - Coffs Harbour Local Environmental Plan 2012 and Coffs Harbour De...

**COFFS HARBOUR CITY COUNCIL
ORDINARY MEETING**

13 DECEMBER 2012

RESOLUTION NO. 331

Minutes confirmed at Council meeting: 14 February 2013
To view Report, double-click on Agenda Report link below

Agenda Report

**L12/32 COFFS HARBOUR LOCAL ENVIRONMENTAL PLAN AND COFFS
HARBOUR DEVELOPMENT CONTROL PLAN**

The purpose of this report is to present the results of the public exhibition of the Coffs Harbour draft Local Environmental Plan (LEP) 2012, the draft Development Control Plan (DCP) 2012 and a draft Boundary Adjustment Clause. A copy of the draft LEP and draft DCP has been made available in the Councillor's room and is on Council's website.

The report includes a summary of submissions received and issues raised by the community and Government agencies. A full copy of all submissions has been made available for perusal by Councillors in the Councillor's Room. A summary of the submissions is attached as Attachment 1. An assessment of all submissions has been made and this is attached to this report as Attachment 1.

The Coffs Harbour LEP, upon gazettal, will apply to the whole of the Coffs Harbour City Council Local Government Area (LGA); with the exception of specific deferred areas; and will repeal the provisions of both the Coffs Harbour City LEP 2000 and the Coffs Harbour City Centre LEP 2011.

The Coffs Harbour DCP will similarly apply to the whole of the LGA, with the exception of the areas covered by the current DCPs for Moonee and Hearn's Lake/Sandy Beach, and will supersede the provisions of all current DCPs.

331 RESOLVED (Rhoades/Palmer) that:

1. Council adopt the Coffs Harbour Local Environmental Plan 2013.
2. Council recommend to the Minister for Planning and Infrastructure to defer those lands identified on Map 1 (Hearn's Lake/Sandy Beach) and Map 2 (Moonee) from Coffs Harbour Local Environmental Plan 2013.
3. A further report be presented to Council early in 2013 which outlines appropriate environmental investigations (including details on the timeframe, method and anticipated cost) for the deferred areas which will help to inform and enable a Planning Proposal to be progressed to establish the final zone configuration.
4. In accordance with Section 68 of the Environmental Planning and Assessment Act 1979, Coffs Harbour Local Environmental Plan 2013 be submitted to the Department of Planning and Infrastructure for gazettal.
5. Council adopt the Coffs Harbour Development Control Plan 2013 and that it is to be implemented and enforced upon the making of the Coffs Harbour Local Environmental Plan 2013.

6. Council confirms the Moonee Beach Development Control Plan and Hearnese Lake / Sandy Beach Development Control Plan continue to apply to those deferred lands from Coffs Harbour Local Environmental Plan 2013.
7. Council notes the report on submissions to draft Coffs Harbour Local Environmental Plan 2012 and draft Coffs Harbour Development Control Plan 2012 as detailed in Attachment 1.
8. Parties who made a submission to the draft Coffs Harbour Local Environmental Plan 2012 and draft Coffs Harbour Development Control Plan 2012 exhibition be informed of Council's decision in writing.

AMENDMENT

MOVED (Degens/Sultana) that:

1. Council adopt the Coffs Harbour Local Environmental Plan 2013.
2. Council recommend to the Minister for Planning and Infrastructure to defer those lands identified on Map 1 (Hearnese Lake/Sandy Beach) and Map 2 (Moonee) from Coffs Harbour Local Environmental Plan 2013.
3. A further report be presented to Council early in 2013 which outlines appropriate environmental investigations (including details on the timeframe, method and anticipated cost) for the deferred areas which will help to inform and enable a Planning Proposal to be progressed to establish the final zone configuration.
4. In accordance with Section 68 of the Environmental Planning and Assessment Act 1979, Coffs Harbour Local Environmental Plan 2013 be submitted to the Department of Planning and Infrastructure for gazettal.
5. Council adopt the Coffs Harbour Development Control Plan 2013 and that it is to be implemented and enforced upon the making of the Coffs Harbour Local Environmental Plan 2013.
6. Council confirms the Moonee Beach Development Control Plan and Hearnese Lake / Sandy Beach Development Control Plan continue to apply to those deferred lands from Coffs Harbour Local Environmental Plan 2013.
7. Council notes the report on submissions to draft Coffs Harbour Local Environmental Plan 2012 and draft Coffs Harbour Development Control Plan 2012 as detailed in Attachment 1.
8. Parties who made a submission to the draft Coffs Harbour Local Environmental Plan 2012 and draft Coffs Harbour Development Control Plan 2012 exhibition be informed of Council's decision in writing.
9. The proposed 150m² floor space in the B6 Enterprise Corridor be adjusted to 600m² per allotment for business or office premise.
10. Murdock Street (western side), 81-95 West High Street (submission numbers P48, P51, P52, P55 and P68) and West High Street (southern side, lot numbers in relevant submission), that these be included in the B3 commercial core zoning.

The **AMENDMENT** on being put to the meeting was **LOST**.

VOTED FOR

Cr Degens
Cr Sultana
Cr Cowling

VOTED AGAINST

Cr Rhoades
Cr Townley
Cr Palmer
Cr Knight
Cr Arkan

The **MOTION** on being put to the meeting was declared **CARRIED**.

VOTED FOR

Cr Rhoades
Cr Townley
Cr Palmer
Cr Degens
Cr Knight
Cr Arkan
Cr Cowling

VOTED AGAINST

Cr Sultana