

Coffs Harbour LEP 2013 Amendment - Cooks Drive, Coffs Harbour

Proposal Title : **Coffs Harbour LEP 2013 Amendment - Cooks Drive, Coffs Harbour**

Proposal Summary : **This Planning Proposal seeks to amend the Coffs Harbour LEP 2013 by:**

1. Rezoning part of Lot 13, DP 591220 from E2 Environmental Conservation Zone to B5 Business Development Zone; and

2. Altering the minimum lot size, floor space ratio and height of buildings controls that apply to part of the subject land to match the development controls of adjoining B5 Business Development zoned land.

PP Number : **PP_2014_COFFS_003_00** Dop File No : **14/17367**

Proposal Details

Date Planning Proposal Received : **24-Oct-2014** LGA covered : **Coffs Harbour**

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

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

LEP Type : **Spot Rezoning**

Location Details

Street : **Cook Drive**

Suburb : City : **Coffs Harbour** Postcode : **2452**

Land Parcel : **Lot 13, DP 591220**

DoP Planning Officer Contact Details

Contact Name : **Jon Stone**

Contact Number : **0267019688**

Contact Email : **jon.stone@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Marten Bouma**

Contact Number : **0266484657**

Contact Email : **marten.bouma@chcc.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :		Consistent with Strategy :	
MDP Number :		Date of Release :	
Area of Release (Ha) :	0.28	Type of Release (eg Residential / Employment land) :	Employment Land
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment : **The Department of Planning and Environment's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge. The Northern Region has not met with any lobbyists in relation to this proposal, nor has the Northern Region been advised of any meeting between other Departmental Officers and lobbyists concerning the proposal.**

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **This proposal seeks to alter the zone boundaries, minimum lot size, floor space ratio and height of building controls within part of the subject land to permit commercial development and to improve the management of the vegetated areas of the site.**

The subject land has an area of approximately 1.433 hectares with a cleared area of approximately 2787m2 in the northern part of the site. This proposal aims to zone the cleared area of land to permit the development of commercial premises, including bulky good retailing, whilst improving the ecological, aesthetic and functional values of the existing native vegetation on the balance of the land.

Adequacy Assessment

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

Is a statement of the objectives provided? **Yes**

Comment : **The objectives and intended outcomes of the Planning Proposal are adequately expressed for the proposed amendment to Coffs Harbour LEP 2013.**

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

Is an explanation of provisions provided? **Yes**

Comment : **The Planning Proposal provides a explanation of the intended provisions to achieve the objectives and intended outcome. However, it is recommended that, if supported, the Planning Proposal be amended to make it clearer that amendments to the minimum lot**

size, floor space ratio and height of buildings controls are also proposed in association with the rezoning.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

1.5 Rural Lands

2.1 Environment Protection Zones

2.2 Coastal Protection

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

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

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

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

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP No 71—Coastal Protection

SEPP (Infrastructure) 2007

North Coast REP 1988

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

Mid North Coast Regional Strategy;

Council's local settlement strategy 'Our Living City Settlement Strategy 2008' and supporting strategic planning work.

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The Planning Proposal includes mapping that identifies the location and proposed zoning of the subject land. Additional mapping showing the proposed changes to zoning, minimum lot size, floor space ratio and height of buildings will need to be prepared prior to the exhibition of the Planning Proposal.

Mapping, prepared in accordance with the Department's standard technical requirements for LEP maps in relation to zoning, minimum lot size, floor space ratio and height of buildings will need to be prepared prior to the legal drafting of the amendment

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council has identified a 28 day exhibition period for the proposal due to the inclusion of a draft Voluntary Planning Agreement (VPA) to ensure that the rehabilitation and maintenance program for the vegetated area is secured in perpetuity. In accordance with s93G of the Environmental Planning and Assessment Act 1979, VPAs cannot be entered into unless public notice has been given and an explanatory note is made available for inspection for at least 28 days.

The exhibition period is considered appropriate.

Additional Director General's requirements

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

If Yes, reasons :

Overall adequacy of the proposal

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

If No, comment :

The Planning Proposal and accompanying documentation are considered to satisfy the adequacy criteria by:

- 1. Providing appropriate objectives and intended outcomes;**
- 2. Providing a suitable explanation of the provisions proposed by the LEP to achieve the outcomes;**
- 3. Providing an adequate justification for the proposal;**
- 4. Outlining a proposed community consultation program.**

Council did not specifically indicate whether an authorisation to exercise its plan making delegations was requested - although they did provide the required checklist which indicates that authorisation would be appropriate. As the Planning Proposal deals with matters of only local significance, it is considered appropriate that an authorisation to exercise plan making delegations be issued to Council, if the Planning Proposal is supported.

Council did not provide a project time line. However verbal comments from Council's Acting Strategic Planning Manager suggested that exhibition would take place in December 2014 with the proposal completed early next year. However given that there is no guarantee of an early exhibition and that a VPA is still to be finalised, a 9 month completion time is recommended.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP :

Coffs Harbour LEP 2013 was made in September 2013.

Assessment Criteria

Need for planning proposal :

The Planning Proposal has been initiated by the land owners who are seeking to develop the site for commercial purposes. The land was part of a future highway corridor that was to bypass the Coffs Harbour City Centre. The preferred route for a western bypass of the highway made this corridor redundant and surplus to the then Roads and Traffic Authority's needs. Under previous LEPs the land had been zoned special uses. It is currently zoned E2 Environmental Conservation due to its habitat and vegetation values.

During the preparation of the Coffs Harbour LEP 2013 a submission was considered to rezone the cleared section of the lot for industrial purposes. The Council Report considered the submission and concluded that "It may be more appropriate to zone the land the same as land adjoining the western boundary of the site, being the B5 Business Development zone, as proposed in draft LEP 2012." The Council report recommended that "the optimum way forward for a proposal of this nature is for a Planning Proposal to rezone the land. The necessary environmental studies could then be prepared to better inform decisions."

The whole of the site is located within the Mid North Coast Regional Strategy growth boundary and is identified for future urban development.

Coffs Harbour LEP 2013 Amendment - Cooks Drive, Coffs Harbour

The proposed amendment to the LEP is the most appropriate means of achieving the outcome for the Planning Proposal and will result in a community benefit through the creation of jobs during construction and additional land for commercial development.

Consistency with strategic planning framework :

The subject land is identified for potential development under the Mid North Coast Regional Strategy and is within the Growth Boundary for Coffs Harbour. Council's 'Our Living City' Settlement Strategy (OLCSS) identifies the need to make allowances to increase employment lands within Coffs Harbour LGA and to assess the demand for additional employment zones. The Strategy also recommends Council consider rezoning land to enable more appropriate land uses.

In terms of economic development, the OLCSS seeks to maintain the Coffs Harbour business centres hierarchy and increase employment and education opportunities. The strategy identifies significant growth around the South Coffs Harbour area including the North Boambee Valley release area (849 potential dwellings), South Coffs release area (477 potential dwellings) and Boambee Rural Residential release area (23 potential dwellings). New dwellings in these release areas will likely increase demand for bulky goods and/or light industrial uses associated with the construction industry.

Council's Industrial Lands Strategy provides informed advice on the preferred location, size, zoning and amount of industrial land required for sustainable employment generation and industry functioning and will be used to guide Council's future release of land for industrial purposes. The Industrial Lands Strategy prepared a clearly defined industrial lands hierarchical structure and recommends discouraging retail development in industrial zones. The subject land was not specifically analysed as part of the Industrial Lands Strategy due to the E2 Environmental Conservation zoning on the land but the adjoining land was identified as being appropriate for a B5 zoning.

The proposed re-zoning of the cleared section of Lot 13 is therefore considered to be a minor and logical extension of the B5 zone that occurs on land to the west.

The Planning Proposal is considered to be consistent with all applicable SEPPs including SEPP 71 Coastal Protection. The subject site is located within the Coastal Zone, and is therefore subject to the provisions of SEPP 71. The Planning Proposal satisfactorily addresses the matters for consideration under Clause 8 of the SEPP.

The Planning Proposal is considered to be consistent with all applicable section 117 Directions except the following:

1.2 Rural Lands and 1.5 Rural Lands

These directions are relevant as the Planning Proposal will affect land within an existing environmental protection zone. The objectives of the Directions are to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands. The inconsistency with each Direction is considered to be of minor significance due to the size of the land parcel involved and its location within an existing urban area.

2.1 Environmental Protection Zones

This direction is relevant as the Planning Proposal will affect land within an existing environmental protection zone. The objective of the Direction is to protect and conserve environmentally sensitive areas. The inconsistency with this Direction is considered to be of minor significance due to the size of the land involved (2787m²), the rezoning and change to development controls only affecting the cleared section of the site and the inclusion of the Voluntary Planning Agreement and Vegetation Management Plan that will ensure rehabilitation measures are carried out and the bush land retained in perpetuity, potentially forming part of a wildlife corridor extending from Newports Creek to other vegetated lands to the North and East.

4.1 Acid Sulfate Soils

This Direction is relevant as the Planning Proposal will affect land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps (Class 3). The inconsistency with this Direction is considered to be of minor significance due to the size of the land parcel involved, the minor nature of any potential excavation of the site and as this issue can be adequately addressed at the development application stage. Coffs Harbour LEP 2013 has standard acid sulfate soils provisions and currently requires

this to occur.

4.3 Flood Prone Land

This Direction is relevant as the Planning Proposal will affect land that is flood prone. The proposal rezones land currently zoned E2 Environmental Conservation that is affected by the 100 year ARI flood event to B5 Business Development. The inconsistency with this Direction is considered to be of minor significance due to the minimal impact the development would have on flood waters and that surrounding land developed for similar purposes is also flood prone. The Coffs Harbour LEP 2013 has standard flood planning control provisions.

4.4 Planning for Bushfire Protection

This Direction is relevant as the Planning Proposal will affect land that is identified as bushfire prone land. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued. A bushfire assessment report is included in supporting information with the Planning Proposal and has been referred to the RFS for initial comment. The NSW RFS responded with no initial objection to the proposal. The NSW RFS response is not included in the supporting information. Until this issue is adequately addressed the consistency of the proposal with the Direction remains unresolved. The bushfire hazard of the subject land is significant but an assessment of the hazard indicates that development of the site for bulky goods style buildings is possible.

The proposal is consistent with the Mid North Coast Regional Strategy. It provides a minor, logical extension of an existing business centre and is in keeping with the objectives of providing additional employment opportunities in close proximity to new release areas. The proposal also provides an environmental benefit with the rehabilitation of vegetated areas on the site.

Environmental social
economic impacts :

The cleared section of land subject to this proposed rezoning is located within an established urban setting and has been utilised for non formalised car parking for adjacent businesses and occasionally the illegal dumping of rubbish. It is considered that the proposed rehabilitation and other vegetation management strategies proposed through this planning proposal will be environmentally beneficial to the area.

Lot 13, DP 591220 is identified as having likelihood for threatened species. Elements of vegetation within the subject site fall within the categories of "Swamp Sclerophyll Forest on Coastal Floodplain" and "Subtropical Floodplain Forest" which are both Endangered Ecological Communities within the NSW North Coast Bioregion (listed on the Threatened Species Conservation Act 1995 (TSC Act). A search of the NSW NPWS Wildlife Atlas revealed 50 threatened flora species with the potential to occur within the site, being recorded within a 5 kilometre radius of the site.

The land is mapped to support koala habitat but these areas generally relate to the forested parts of the land. The proposal intends to protect and rehabilitate the existing vegetated portion of the site through the implementation of the requirements contained within a Vegetation Management Plan (VMP) submitted with the Planning Proposal. A Voluntary Planning Agreement (VPA) has been drafted to ensure that the requirements of the VMP are undertaken as proposed. The proposed B5 area of the site is cleared of significant vegetation.

The site is adjacent to land that is heavily timbered and is bushfire prone. Council's online mapping tool shows the cleared land within a buffer area. The bushfire hazard assessment that supports this proposal includes recommendations for the development of the site to the effect that the cleared section of the site remain cleared of bushfire hazard material, any future building be appropriately constructed to relevant fire resistance levels and that that type of development on the site not be a Special Fire Protection Purpose such as a preschool, nursing home or the like or have bulk stores of flammable products.

The site is flood prone and supporting information provided with the Planning Proposal addresses this issue. A flood impact assessment from March 2013 concluded that development on the cleared area of Lot 13 by filling to a level higher than the 100year ARI

Coffs Harbour LEP 2013 Amendment - Cooks Drive, Coffs Harbour

flood level would have nil impact on the 5 and 10 year ARI flood event in terms of flood level, velocity and depth but a local impact in the event of a 100 year ARI event. Assessments were made in relation to the proposed development of a Bunnings store on nearby land. The flood assessment concluded that the development of Lot 13 would reduce the freeboard of the Bunnings site from 1.25m to 1.14m which is still in excess of Council's required 0.5m freeboard.

It is estimated that the development of the site could inject \$2.8m into the economy through construction cost and then on-going employment opportunities.

Other impacts such as traffic management, operating hours and pedestrian movements can be managed through conditions of consent at the Development Application stage.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **Office of Environment and Heritage
NSW Rural Fire Service**

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

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

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
2014-10-24 Cover Letter.pdf	Proposal Covering Letter	Yes
2014-10-24 Planning Proposal Document.pdf	Proposal	Yes
2014-10-14 Planning proposal report.pdf	Proposal	Yes
2014-10-14 Council meeting 25 September 2014.pdf	Proposal	Yes

Planning Team Recommendation

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

Coffs Harbour LEP 2013 Amendment - Cooks Drive, Coffs Harbour

S.117 directions:

- 1.1 Business and Industrial Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 5.4 Commercial and Retail Development along the Pacific Highway, North Coast

Additional Information : It is recommended that:

1. The planning proposal be supported.

2. Prior to public exhibition, Council:

- amend Parts 1 and 2 of the Planning Proposal to clearly show that this Proposal includes the rezoning, amendment of the minimum lot size, floor space ratio and height of building controls for the subject land and provide appropriate maps to that effect; and
- provide a timeline indicating intended progress in relation to exhibition of the planning proposal with finalisation within 9 months;

3. The Planning Proposal be exhibited for 28 days.

4. The Director-General's delegate agree that the inconsistencies with S117 Directions 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land are justified as of minor significance and note the outstanding inconsistency with Direction 4.4 Planning for Bushfire Protection.

5. Consultation with the Office of Environment and Heritage be undertaken in relation to the potential impact of flooding;

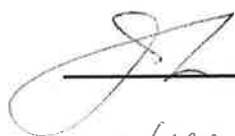
6. Consultation with the NSW Rural Fire Service be undertaken in accordance with S117 Direction 4.4 Planning for Bushfire Protection;

7. Draft LEP Maps prepared in accordance with the Department's standard technical requirements for LEP maps in relation to zoning, minimum lot size, floor space ratio and height of buildings are to be prepared prior to the legal drafting of the amendment.

8. Delegation to finalise the Planning Proposal be issued to the Council.

Supporting Reasons : This Planning Proposal is supported because it is consistent with Council's approved local settlement strategy and the Mid North Coast Regional Strategy, inconsistencies of the proposal with the S117 directions are of minor significance and it will provide important additional employment land.

Signature:



Printed Name:

JIM CLARK

Date:

5 November 2014

