

Coffs Harbour LEP 2013 – North Boambee Valley (West) Rezoning.

Proposal Title :	Coffs Harbour LEP 2013 – North Boambee Valley (West) Rezoning.		
Proposal Summary :	The planning proposal seeks to amend Coffs Harbour LEP 2013 by rezoning land in the North Boambee Valley from RU2 Rural Landscape to a mix of residential, industrial, public recreation and environmental protection zones. The rezoning will enable the development of the land for low and medium density residential and employment generating purposes, while an expansion of the E2 zone will protect land containing significant native vegetation.		
PP Number :	PP 2015 COFFS 002 00	Dop File No :	15/03372

Proposal Details

Date Planning Proposal Received :	16-Feb-2015	LGA covered :	Coffs Harbour
Region :	Northern	RPA :	Coffs Harbour City Council
State Electorate :	COFFS HARBOUR	Section of the Act :	55 - Planning Proposal
LEP Type :	Precinct		

Location Details

Street : _____

Suburb : _____ City : _____ Postcode : _____

Land Parcel : **The planning proposal applies to numerous land parcels within the North Boambee Valley**

DoP Planning Officer Contact Details

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RPA Contact Details

Contact Name : **Grahame Fry**
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DoP Project Manager Contact Details

Contact Name : **Jim Clark**
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Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	Mid North Coast Regional Strategy	Consistent with Strategy :	Yes

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MDP Number :

Date of Release :

Area of Release (Ha) : **125.00**

Type of Release (eg Residential / Employment land) : **Both**

No. of Lots : **0**

No. of Dwellings (where relevant) : **890**

Gross Floor Area : **0**

No of Jobs Created : **0**

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

If No, comment :

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

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **Residential and/or industrial development of parts of this land were foreshadowed by Coffs Harbour Council's growth management strategies and by the Mid North Coast Regional Strategy.**

Adequacy Assessment

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

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

Comment : **The Statement of objectives describes the intention of the planning proposal. The proposal intends to amend Coffs Harbour LEP 2013 to permit residential and industrial development on some parts of the land. The amendment will also identify land for future public open space and confirm and extend environmental protection zones over land with appropriate conservation value.**

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

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

Comment : **The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal. The proposal intends to amend the Land Zoning Map, Lot Size Map, Terrestrial Biodiversity Map, and Height of Buildings Map, to apply appropriate zones and other planning controls to the land.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

1.5 Rural Lands

2.1 Environment Protection Zones

2.2 Coastal Protection

2.3 Heritage Conservation

- 2.4 Recreation Vehicle Areas
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 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
- 5.3 Farmland of State and Regional Significance on the NSW Far North Coast
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

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 55—Remediation of Land
SEPP No 71—Coastal Protection
SEPP (Rural Lands) 2008**

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

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

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

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The planning proposal contains maps which adequately show the subject land, the current zones and the proposed zones, minimum lot sizes and other planning controls. These maps are adequate for exhibition purposes. Maps which comply with the Standard Technical Requirements for SI LEP Maps will need to be prepared before the LEP is made.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The planning proposal does not nominate a community consultation period. The planning proposal refers to the community consultation undertaken for the North Boambee Valley West Structure Plan.**

In accordance with "A Guide to Preparing Local Environmental Plans" (the 'Guide'), it is considered that the planning proposal is not a low impact planning proposal as it is not consistent with the pattern of surrounding land use zones since it is a new release area and presents minor inconsistencies with the strategic planning framework. The proposal does not reclassify land or present infrastructure servicing issues. The Guide also suggests written notification to the affected and adjoining land owners. It is therefore recommended that a community consultation period of 28 days is 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 :

Time Line

The planning proposal includes a project timeline which estimates the completion of the planning proposal in September 2015. To ensure the RPA has adequate time to complete the additional investigations, exhibition, reporting, and legal drafting, it is recommended that a time frame of 12 months is appropriate.

Delegation.

The RPA has not requested an Authorisation to exercise delegation for this proposal. An Evaluation Criteria For the Delegation of Plan Making Functions has been provided. The proposal is considered to be of local planning significance since it applies to an area of land identified for future urban and employment generating land uses in the Mid North Coast Regional Strategy. The inconsistencies of the proposal with the strategic planning framework are considered to be of minor significance. It is recommended that an Authorisation for the execution of delegation be issued to the RPA in this instance.

Overall Adequacy

The planning proposal satisfies the adequacy criteria by;

1. Providing appropriate objectives and intended outcomes.
2. Providing a suitable explanation of the provisions proposed for the LEP to achieve the outcomes.
3. Providing an adequate justification for the proposal.
4. Outlining a proposed community consultation program.
5. Providing a project time line
6. Completing the evaluation criteria for the delegation of plan making functions.

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

The Coffs Harbour LEP 2013 is in force. This planning proposal seeks an amendment to the Coffs Harbour LEP 2013.

Assessment Criteria

Need for planning
proposal :

The proposal implements the planning undertaken in the Coffs Harbour Our Living City Settlement Strategy, the North Boambee Valley (West) Structure Plan and the Mid North Coast Regional Strategy. Land in the North Boambee Valley has been identified for both residential and employment generating land uses in these strategic planning documents. The proposal has investigated the land and its constraints and now seeks to apply suitable zones to the land.

Council engaged Geoff Smyth Consulting and deGroot and Benson Pty Ltd to prepare a report which supports the planning proposal. This report further investigates the constraints of land within the broader North Boambee Valley (West). In response to these investigations the proposal seeks to rezone:

- 37ha of land from RU2 Rural Landscape to IN1 General Industrial;
- 88ha of land from RU2 Rural Landscape to residential (80.4 ha R2 Low Density Residential and 7.2 ha R3 Medium Density Residential);
- 2.26ha of land from RE2 Private Recreation to RE1 Public Recreation; and
- 35ha of land with high ecological value significance from RU2 to E2 Environmental Conservation.

Land in the western portion of the investigation area has not been considered for rezoning at this time because of the proximity to an existing hard rock quarry. The proposed residential zoned land has been located to achieve a 1km buffer to this quarry.

The proposal to rezone the land is the most appropriate means of achieving the intent of the planning proposal.

Consistency with strategic planning framework :

Mid North Coast Regional Strategy (MNCRS).

The proposal is generally consistent with the actions and outcomes in the MNCRS. The majority of the land to be rezoned to either residential or industrial is located within the growth area boundary identified in the MNCRS, and identified as either a proposed urban area or proposed employment land.

The exception is Lot 1 DP 129036, 116 Englands Road part of which is proposed to be zoned IN1 however is located outside of the growth area boundary. Lot 1 is used as a depot for an earthmoving business, a use which is appropriate in an industrial zone. The land is located on the northern side of Englands Road, and will be contiguous with the larger area of proposed IN1 zoned land. The area of the IN1 zone proposed for Lot 1 is approximately 3ha which is less than 10% of the 37ha of IN1 zoned land proposed by the planning proposal. The proposed IN1 zoned land on Lot 1 is not flood prone, and is not classified as regionally significant farmland. The MNCRS permits reasonable adjustment to the growth area boundaries and in this instance it is considered that the rezoning of Lot 1 constitutes a reasonable adjustment.

Consistency with Council's Local Strategies.

Coffs Harbour Our Living City Settlement Strategy (the 'Settlement Strategy')

The proposal is generally consistent with the Settlement Strategy. The Settlement Strategy identifies greater areas of land for residential and industrial purposes. The area of proposed residential and industrial zoned land in the planning proposal is less than that identified in the Settlement Strategy as it reflects the higher level of investigation of land constraints undertaken to inform the planning proposal.

North Boambee Valley (West) Structure Plan

The proposal is generally consistent with the North Boambee Valley (West) Structure Plan. The Structure Plan identifies a greater area of potential industrial zoned land which is not being zoned industrial by the planning proposal. The planning proposal instead applies an IN1 zone to the land identified for industrial investigation in the longer term. It is considered that the inconsistencies with the Structure plan are of minor significance given the proposal is largely consistent with high order strategic planning documents such as the MNCRS.

SEPPs

The proposal lists the State environmental planning policies (SEPPs) applicable to the land. Many SEPPs apply to the subject land and in most cases the proposal is not inconsistent with these SEPPS.

SEPP 55 Remediation of Land

Clause 6 of SEPP 55 requires that contamination and remediation be considered in a rezoning proposal. The potential for contamination from previous agricultural activities was considered. A preliminary investigation was conducted which included soil testing of 32 properties where contamination from previous agricultural activities was expected. Some of the sites revealed levels of arsenic above the accepted soil investigation levels.

The report concludes that while contamination is likely to exist on some of the land proposed for residential development such contamination can usually be remediated, and the matter should be further addressed at development application stage. This approach is considered to be acceptable and consistent with the requirements of the SEPP.

SEPP (Rural Lands) 2008

SEPP Rural Lands (the RLSEPP) establishes Rural Planning Principles to guide development on rural land. It is considered the proposal is consistent with the Rural Planning Principles as it zones land to residential or industrial in a manner largely consistent with the MNCRS. The proposal maintains a 1km buffer to an existing extractive industry and it protects land with high conservation value vegetation by applying an E2 zone to this land.

S117 Directions.

The following S117 directions are applicable to the proposal, 1.1 Business and Industrial

Zones, 1.2 Rural Zones, 1.3 Mining, Petroleum Production and Extractive Industries, 1.4 Oyster Aquaculture, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.2 Coastal Protection, 2.3 Heritage Conservation, 2.4 Recreational Vehicle Areas, 3.1 Residential Zones, 3.2 Caravan Parks and Manufactured Home Estates, 3.3 Home Occupations, 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, 6.1 Approval and Referral Requirements, 6.2 Reserving Land for Public Purposes, and 6.3 Site Specific Provisions.

Of the above s117 Directions the proposal is considered to be inconsistent with Directions 1.2, 3.1, 4.1, 4.3 and 4.4.

Direction 1.2 Rural Zones is relevant to the proposal. The direction provides that a planning proposal must not rezone land from a rural to a residential or industrial zone. The planning proposal seeks to rezone areas of the subject land from RU2 Rural Landscape to R2 Low Density Residential, R3 Medium Density Residential and IN1 General Industrial. The direction provides that the planning proposal may be inconsistent with the terms of the direction if the inconsistency is justified by a strategy or study or is of minor significance.

The majority of the land to be zoned R2, R3 or IN1 is identified for future urban or employment lands in the MNCRS. The exception is 116 Englands Road which is discussed previously in this report. It is considered that the inconsistency of the proposal with the direction is justified by a regional strategy or is of minor significance and therefore has been justified in accordance with the terms of the direction.

Direction 3.1 Residential Zones is relevant to the proposal. The Direction provides that a planning proposal must reduce the consumption of land on the urban fringe. The proposal seeks to rezone approximately 88ha of land to low and medium density residential on land currently zoned rural.

The direction provides that a proposal may be inconsistent with this direction if it is justified by a strategy. The land to be zoned residential is identified as a future urban area in the MNCRS. It is therefore considered that the inconsistency of the proposal with the direction has been justified in accordance with the terms of the direction.

Direction 4.1 Acid Sulfate Soils is relevant to the proposal. The Direction provides that a planning proposal must not propose intensification of land uses on land identified as having a probability of containing acid sulfate soils unless an acid sulfate soil study has been prepared.

Investigations have indicated that the subject land contains class 4 and 5 acid sulfate soils. The direction provides that a planning proposal may be inconsistent with the direction if the inconsistency is of minor significance. The rezoning is expected to enable an intensification of land uses however the class 4 and 5 acid sulfate soils are lower risk classes and only pose a risk of exposure to acid soils during significant excavations over 2 metre deep. It is unlikely that the proposed residential and industrial development will require such works. Provisions exist within the Coffs Harbour LEP 2013 to address acid sulfate soils at development application stage should a proposal include extensive works in the area containing potential acid sulfate soils. Therefore the inconsistency is considered to be of minor significance and justified in accordance with the terms of the direction.

Direction 4.3 Flood Prone Land is relevant to the proposal. The direction provides that a draft plan must not rezone land in a flood planning area from rural to residential or industrial. The proposal seeks to rezone land that is subject to the 1in 100 year flood level from RU2 Rural Landscape to R2 Low Density Residential and IN1 General Industrial.

The direction states that the proposal may be inconsistent with the direction if the proposal is consistent with a floodplain management plan or the inconsistencies are of minor significance.

A flood study has been undertaken to support the planning proposal. The study found that some areas of the subject land which are proposed to be zoned R2 and large areas of the land proposed to be zoned IN1 are flood prone. The study considered the extent of inundation for a 1:100 year event and a 1:500 year event. It was found that there was not a significant difference in flood affectation between the two events and though inundation of the land in a flood event is wide spread the depth of inundation is generally less than half a metre. The study investigated the potential for filling the land to above the 1:100 year flood level, constructing detention basins and constructed flood ways to enable the land to be rezoned and developed for residential and industrial purposes. The study suggests it is viable to mitigate the flood impacts on the subject land using fill, detention basins and constructed flood ways, and such works will also negate any adverse impact on flood behaviour downstream.

The use of the 1:500 year event is not contrary to the direction as this level will not be used to apply flood planning controls in the LEP. The LEP does not contain a flood planning area map. The 1:500 year event has been used to factor in a degree of safety to the proposed flood mitigation measures for the purposes of assessing their economic appropriateness.

While a flood plain risk management plan for the North Boambee Valley has not been prepared, the development of a flood mitigation strategy for the future development of the land is consistent with the intent of the Floodplain Development Manual and therefore it is considered that the inconsistency of the proposal with the direction has been justified in accordance with the terms of the direction.

Direction 4.4 Planning for Bushfire Protection is relevant to the proposal. Areas of the subject land are identified as being bush fire prone. The direction provides that the RPA must consult with the Commissioner of the NSW Rural Fire Service, and the draft plan must include provisions relating to bushfire control. Consultation with the RFS is required after a Gateway Determination is issued and before public exhibition and until this consultation has occurred the inconsistency of the proposal with the direction remains unresolved.

Direction 6.2 Reserving Land for Public Purposes is relevant to the planning proposal. The direction provides that a planning proposal shall not create zones or reservations of land for public purposes without the approval of the relevant public authority and the Secretary.

The proposal seeks to rezone 2.26ha of privately owned land from RE2 Private Recreation to RE1 Public Recreation. Council advised the land is identified for future open space in its open space strategy and hence has been zoned RE2 Private Recreation. The land is currently vacant rural land. This land is part of a larger lot which will contain a large area of proposed R2 zoned land. It is Council's intention that when the proposed R2 zoned land is subdivided the land zoned RE1 will be dedicated to Council for open space. The land adjoins the proposed Coffs Harbour Pacific Highway Bypass corridor and is located close to the proposed neighbourhood centre. The Council's agreement to the rezoning is implicit with the planning proposal. It is considered that the Secretary may agree to the zoning of the land RE1.

The planning proposal will need to be amended to include this proposed RE1 zoned land on the Land Reservation Acquisition map in the Coffs Harbour LEP 2013.

The proposal is otherwise consistent with S117 Directions.

Environmental social
economic impacts :

A Flora, Fauna and Biodiversity study was prepared to support the planning proposal. The study found that all native vegetation within the study area contains high ecological value and forested areas contain primary and secondary koala habitat. The planning proposal seeks to apply an E2 Environmental Conservation zone to an additional 35 hectares of land with high ecological value significance. The proposed zonings will improve connectivity between existing E2 zones. The proposal will therefore have no adverse impact on critical habitat or threatened species, populations or ecological communities or their habitats.

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The proposal report identifies that some of the land proposed to be zoned E2 would be more appropriately zoned E3. There is no E3 zone currently in the Coffs Harbour LEP 2013. Council is currently investigating the appropriateness of applying an E3 zone to suitable land throughout the local government area (LGA). Council has advised that it prefers to await the conclusion of these investigations and consider an E3 zone across the whole LGA rather than apply an E3 zone pre-emptively to isolated precincts. This approach is considered to be acceptable.

The proposal will have a positive economic impact through the release of land for residential and industrial development. The structure planning for the land has identified the location of a neighbourhood centre and public open space for the residential release area which will help to develop commercial and community support services in close proximity to the new residential release area.

The proposal also protects an existing extractive industry in the west of the investigation area by applying a 1km buffer between it and the proposed residential land. The quarry will also be serviced by a new road connection to the Pacific Highway through the proposed industrial area, this will prevent trucks from having to travel through the proposed residential areas.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
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Timeframe to make LEP :	12 months	Delegation :	DDG
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Public Authority Consultation - s56(2)(d) :	Office of Environment and Heritage NSW Department of Primary Industries - Agriculture NSW Department of Primary Industries - Minerals and Petroleum NSW Rural Fire Service Transport for NSW - Roads and Maritime Services Other
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Is Public Hearing by the PAC required?	No
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(2)(a) Should the matter proceed ?	Yes
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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
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Coffs Harbour LEP 2013 – North Boambee Valley (West) Rezoning.

1. Council cover letter LEP 2013 Amendment North Boambee Valley (West) Investigation Area.pdf	Proposal Covering Letter	Yes
2. Planning proposal February 2015 - North Boambee Valley (West).pdf	Proposal	Yes
4. North Boambee Valley Planning proposal study.pdf	Study	Yes
5. North Boambee Valley Flora, Fauna and Biodiversity assessment.pdf	Study	Yes
6. North Boambee Valley Engineering Issues Report.pdf	Study	Yes
7. North Boambee Valley Bushfire Risk Assessment.pdf	Study	Yes
8. North Boambee Valley Noise Assessment.pdf	Study	Yes
9. North Boambee Valley Visual Assessment.pdf	Study	Yes
10. North Boambee Valley Archaeological Assessment.pdf	Study	Yes
11. North Boambee Valley Flood Assessment.pdf	Study	Yes
12. North Boambee Valley Draft LEP Amendment.pdf	Study	Yes

Planning Team Recommendation

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

- S.117 directions:
- 1.1 Business and Industrial Zones
 - 1.2 Rural Zones
 - 1.3 Mining, Petroleum Production and Extractive Industries
 - 1.5 Rural Lands
 - 2.1 Environment Protection Zones
 - 2.2 Coastal Protection
 - 2.3 Heritage Conservation
 - 2.4 Recreation Vehicle Areas
 - 3.1 Residential Zones
 - 3.2 Caravan Parks and Manufactured Home Estates
 - 3.3 Home Occupations
 - 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
 - 5.3 Farmland of State and Regional Significance on the NSW Far North Coast
 - 6.1 Approval and Referral Requirements
 - 6.2 Reserving Land for Public Purposes
 - 6.3 Site Specific Provisions

- Additional Information :
- It is recommended that the planning proposal should proceed subject to the following;
- 1. The planning proposal proceed as a 'routine' planning proposal.
 - 2. The planning proposal is to be amended to include an amended Land Reservation Acquisition Map that identifies the land proposed to be zoned RE1 as being land to be acquired.
 - 3. A community consultation period of 28 days is necessary.
 - 4. The planning proposal is to be completed within 12 months.
 - 5. The RPA is to consult with the following State agencies;
 - a. The NSW Office of Environment and Heritage in relation to flooding, potential land contamination and biodiversity;
 - b. The NSW Department of Primary Industries in relation to extractive industry resources;
 - c. The NSW Roads and Maritime Services;
 - d. The local aboriginal land council in relation to matters of Aboriginal cultural heritage.
 - e. The NSW Rural Fire Service;
 - 6. A written authorisation to exercise delegation be issued to Coffs Harbour City Council.
 - 7. The Secretary's delegate agree that the inconsistencies of the proposal with S117 Directions 1.2, 3.1, 4.1 and 4.3 are justified in accordance with the terms of the direction.

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8. The Secretary's delegate, as required by S117 Direction 6.2 Reserving Land for Public Purposes, agree to rezoning areas of the subject land RE1 Public Recreation.
9. The Secretary's delegate note that the inconsistency of the proposal with S117 Direction 4.4 remains unresolved until consultation with the Commissioner of the NSW Rural Fire Service has been completed.

Supporting Reasons :

The reasons for the recommendation are as follows;

1. The proposal will rezone approximately 88 hectares of land in an identified urban release area to facilitate future low and medium density residential development contributing to the future housing needs for the Coffs Harbour local government area.
2. The proposal seeks to rezone 37 hectares of land to industrial to enable employment generating land uses that will contribute to the economic growth of the region.
3. The proposal is broadly consistent with the strategic planning framework and the inconsistencies are considered to be of minor significance.

Signature:



Printed Name:

Jim Clark

Date:

24 February 2015

