

To permit a child care centre at Lot 3 DP 735083, 5 Craft Close, Toormina

Proposal Title : **To permit a child care centre at Lot 3 DP 735083, 5 Craft Close, Toormina**

Proposal Summary : **To permit a child care centre at Lot 3 DP 735083, 5 Craft Close, Toormina, as an additional permitted use**

PP Number : **PP_2016_COFFS_005_00** Dop File No : **16/16165**

Proposal Details

Date Planning Proposal Received : **19-Dec-2016** 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 : **5**

Suburb : **Craft Close** City : **Toormina** Postcode : **2452**

Land Parcel : **Lot 3 DP 735083**

DoP Planning Officer Contact Details

Contact Name : **Josh Townsend**

Contact Number : **0266416604**

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RPA Contact Details

Contact Name : **Marcy Mills**

Contact Number : **0266484000**

Contact Email : **marcy.mills@chcc.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Tamara Prentice**

Contact Number : **0266416610**

Contact Email : **tamara.prentice@planning.nsw.gov.au**

Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**

Regional / Sub Regional Strategy : **Mid North Coast Regional Strategy** Consistent with Strategy : **Yes**

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MDP Number :

Date of Release :

Area of Release (Ha) **0.00**Type of Release (eg **N/A**

:

Residential /
Employment land) :No. of Lots : **0**No. of Dwellings **0**

(where relevant) :

Gross Floor Area : **0**No of Jobs Created : **0**The NSW Government **Yes**Lobbyists Code of
Conduct has been
complied with :If No, comment : **The Department's Code of Conduct in relation to communication and meetings with
Lobbyists has been complied with to the best of the Region's knowledge.**Have there been **Yes**meetings or
communications with
registered lobbyists? :If Yes, comment : **Northern Region has not met any lobbyists in relation to this proposal, nor has Northern
Region been advised of any meeting between other agencies and lobbyists concerning the
proposal.****Supporting notes**Internal Supporting
Notes :External Supporting
Notes :**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 a child care centre with development
consent on Lot 3 DP 735083.****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 Schedule 1 Additional
Permitted Uses and supporting map set.****Justification - s55 (2)(c)**a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones**1.3 Mining, Petroleum Production and Extractive Industries****2.2 Coastal Protection****2.3 Heritage Conservation****3.4 Integrating Land Use and Transport****3.5 Development Near Licensed Aerodromes****4.1 Acid Sulfate Soils****4.3 Flood Prone Land**

4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies
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 (Mining, Petroleum Production and Extractive Industries) 2007

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

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The planning proposal contains maps which adequately show the subject land and display the current land use zone. An Additional Permitted Use map and extract map have also been included as attachments showing the proposed change. These maps are considered as adequate for exhibition purposes.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal nominates a community consultation period of 28 days.

In accordance with "A Guide to Preparing Local Environmental Plans" a 28 day exhibition period is considered appropriate and is supported.

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 :

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.**

Time Line

The planning proposal includes a project timeline which estimates the completion of the planning proposal in seven months post Gateway Determination, concluding in July 2017. 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 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. It is recommended that an Authorisation for the exercise of delegation be issued to the RPA in this instance.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

The Coffs Harbour LEP 2013 and Coffs Harbour City LEP 2000 are in force. This planning proposal seeks an amendment to the Coffs Harbour LEP 2013.

Assessment Criteria

Need for planning
proposal :

The proposal results from a compliance investigation into an existing child care centre.

Whilst permitted with consent under the previous LEP, the Coffs Harbour LEP 2013 specifically prohibited 'child care centres' within the IN1 General Industrial zone. Despite commencing operations under the previous LEP in 2010, consent was not sought and the child care centre does not enjoy any continuing or existing use rights.

As a result, a planning proposal is now needed to provide Council an opportunity to consider the possible approval of the existing child care centre on the site.

The subject land has an area of approximately 2110m² and accommodates a large industrial shed, open-air play equipment and car parking. The site is bordered by a Life Line depot to the north, Hi Tech Frames and Trusses, self-storage facilities and a Boral depot to the west, vegetated buffer to the east and a concrete batching plant to the south. Council has confirmed the land uses have co-existed with minimal complaints.

The site is within 1.4km of the existing Toormina Shopping Centre and 6km of the Coffs Harbour City Centre. Boambee Public School, Toormina Public School, Mary Help of Christians Primary School, Sawtell Public School and William Bayldon Public School are all located within a 4km radius of the subject site. The wider area includes a variety of urban and recreation land. The centre provides 150 child care places that serve an important and vital role in supporting the local community, including after school care.

It is noted that Coffs Harbour LEP 2013 currently has only a single general industrial zone (IN1). This has resulted in the industrial areas across Coffs Harbour having a significant range of different characteristics depending on the local businesses. The Toormina Hi Tech Industrial estate is considered to generally have the characteristics of an IN2 Light Industrial Zone. Therefore while it considered appropriate that child care centres not be made permissible across the entire IN1 zone at the present time due to potential for land use conflict within certain localities, allowing the additional permitted use in the Toormina estate is considered appropriate due to its history of successful co-existence with other uses in the estate, and consistent with the Government's recent announcement regarding its intentions to permit child care centres in IN2 zones across the State.

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Consistency with strategic planning framework :

Mid North Coast Regional Strategy (MNCRS).

The proposal is generally consistent with the actions and outcomes in the MNCRS as the proposal provides and supports employment opportunities in employment lands, subject to Council undertaking further land use conflict assessment work to confirm that the child care centre will not unreasonably impinge on the ability of other uses in the estate to operate, particularly noting the presence of a concrete batching plant adjoining the site to the south.

Draft North Coast Regional Plan

The proposal is considered to be generally consistent with the draft North Coast Regional Plan for the same reasons as discussed above in regard to the MNCRS.

Whilst there is no specific impact or identified non-compliance with the proposal, it is recommended that Council consider, within their wider strategic program, the opportunity to introduce an IN2 Light Industrial area to help better reflect the characteristics of their industrial areas and potentially suitable locations for these types of uses.

Consistency with Council's Local Strategies.

The proposal is not considered to be consistent with Council's local strategies.

SEPPs

The proposal is considered to be consistent with all relevant SEPPs except in relation to the following:

SEPP 55 Remediation of Land

The proposal states that compliance with SEPP 55 has not yet been demonstrated on the basis of the information prepared and submitted to-date. Council has resolved that a land contamination assessment be undertaken prior to public exhibition. This is considered to be appropriate.

S117 Directions

The proposal is considered to be consistent with all relevant S117 Directions except in relation to the following:

4.3 Flood Prone Land

The proposal is inconsistent with this direction as it permits a potential intensification of flood prone land. This is considered to be of minor significance as only approximately 10% of the site is flood affected, which does not include the building or the western area of the site which provides access to Craft Close, if evacuation of the site was ever required.

Direction 4.4 Planning for Bushfire Protection

The proposal is identified as affecting bushfire prone land. While preliminary consultation with the RFS has been undertaken confirming that they do not object to the proposal, as the S117 Direction requires consultation with the RFS after a Gateway determination, the consistency of the proposal cannot be resolved until after that stage.

Environmental social economic impacts :

The proposal is not expected to have any adverse environmental impacts, however land use conflicts may still be identified through the public consultation and Development Application process. Whilst Council has acknowledged that the child care centre has operated on the subject site without significant complaint, this in itself does not ensure impacts are mitigated now, or into the future. Further, the lack of formal complaints does not ensure other permitted land uses can occur without onerous restrictions. To support the integrity of the zone and existing/permitted land uses, it is considered appropriate that prior to public exhibition a land use conflict risk assessment be undertaken.

Assessment Process

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

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **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. :

Other - provide details below

If Other, provide reasons :

The satisfy the provisions of SEPP 55 a contaminated lands assessment is required. To ensure the integrity of the IN1 General Industrial zone objectives are maintained a land use conflict risk assessment is required.

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
ATT3 CHCC Planning Proposal Toormina Child Care Centre.pdf	Proposal	Yes
ATT2 Council Minute.pdf	Proposal	Yes
ATT2 Council Report.pdf	Proposal	Yes
ATT8 Proposed LEP Map 1.pdf	Proposal	Yes
Proposed LEP Map 2.pdf	Map	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**
 - 1.3 Mining, Petroleum Production and Extractive Industries**
 - 2.2 Coastal Protection**
 - 2.3 Heritage Conservation**
 - 3.4 Integrating Land Use and Transport**
 - 3.5 Development Near Licensed Aerodromes**
 - 4.1 Acid Sulfate Soils**
 - 4.3 Flood Prone Land**

4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies
6.3 Site Specific Provisions

Additional Information : It is recommended that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation the planning proposal be updated to clearly identify the subject site on all diagrams, and be supported by the following additional site investigations:
 - a) contaminated lands assessment; and
 - b) land use conflict risk assessment.
2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Environment 2016).
3. Consultation is required with the NSW Rural Fire Service under section 56(2)(d) of the Act. The NSW Rural Fire Service is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land)
5. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.
6. The Secretary's delegate agree to the proposal's inconsistency with S117 Direction 4.3 Flood Prone Land.
7. The Secretary's delegate note to the proposal's unresolved consistency with S117 Direction 4.4 Planning for Bushfire Protection.
8. That an authorisation is issued to Council to exercise delegation to make this plan.

Supporting Reasons : The reasons for the recommendation are as follows;

1. The proposal is consistent with the strategic planning framework and the inconsistencies are considered to be of minor significance.
2. The land is relatively unconstrained and is considered generally suitable to permit the ability to have a child care centre in addition to the other permitted industrial-based uses and zone objectives.
3. The separate Development Application process will debate the particular merits of the use and its relationship with surrounding land uses.

Signature:



Printed Name:

Craig Diss

Date:

23/12/16

