



PLANNING PROPOSAL

COFFS HARBOUR CITY COUNCIL

**Planning Proposal to Permit a Child Care Centre
Lot 3 DP 735083, Craft Close Toormina**

**November 2016
VERSION 1 Pre Gateway Determination**

CONTENTS

Introduction	1
Purpose.....	1
Property details	1
Site context and setting and current zoning	1
Part 1 – Objectives or intended outcomes.....	2
Part 2 – Explanation of provisions.....	3
Part 3 – Justification.....	3
Section A – Need for the planning proposal.....	3
Section B – Relationship to strategic planning framework	4
Section C – Environmental, social and economic impact.....	24
Section D – State and Commonwealth interests.....	25
Part 4 – Mapping.....	26
Part 5 – Community consultation	27
Part 6 – Indicative timetable	28
Summary and conclusions	29

INTRODUCTION

Purpose

The purpose of this planning proposal is to amend Coffs Harbour LEP 2013 so that a development application can be lodged for the use of Lot 3 DP 735083 for a child care centre.

Coffs Harbour City Council adopted a new Standard Instrument LEP in 2013. This LEP prohibits Child Care Centres in the IN1 General Industrial zone. A Child Care Centre has been operating without development consent on the subject land since 2010. The site is used as an out-of-school hours care facility, known locally as the “Fun Factory”, which services six local schools and is licensed to care for up to 150 children per day. The operator of that centre has agreed to lodge a development application should the planning proposal be supported, to permit the use.

Property details

The planning proposal affects a single piece of private property in the Coffs Harbour LGA described as Lot 3 DP 735083 located at number 5 Craft Close, Toormina (Figure 1). This locality is known locally as the Hi Tech Industrial Estate. The estate is located approximately 6 kilometres south of the Coffs Harbour city centre and 1.4 kilometres north of the Toormina shopping centre.



Figure 1: Subject land – Lot 3 DP 735083, Craft Close, Toormina

Site context and setting and current zoning

The subject land has an area of approximately 2110m² with 28 metres frontage to Craft Close. It backs onto a vegetated buffer strip used to prohibit access to Hogbin Drive on the eastern side of

the land. It contains a large industrial shed with a footprint of approximately 720m² that is sufficiently tall to accommodate a mezzanine level. The balance of the site is used for open-air play equipment, and on-site parking for cars and buses. The site is fully fenced and has a single driveway to access Craft Close.

The neighbour immediately to the south is Coffs Mini Mix, which is a small-scale concrete batching plant. Beyond that is a candle manufacturer. Immediately to the north is a Life Line depot, with a service station beyond that. Directly across Craft Close is Hi Tech Frames and Trusses, a self-storage facility and a Boral depot.

The subject land is zoned IN1 General Industrial under Coffs Harbour LEP 2013 (Figure 2).

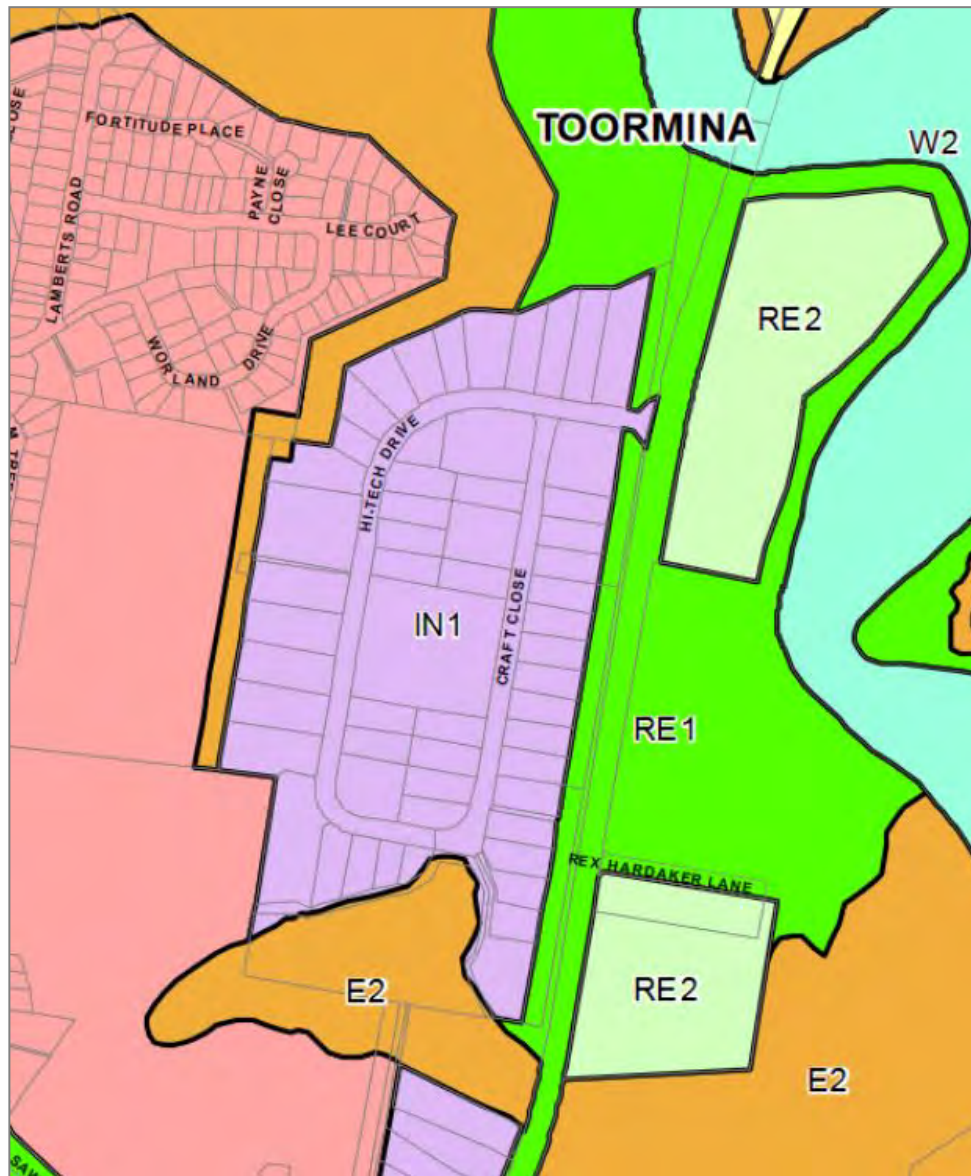


Figure 2: Land use zone under Coffs Harbour LEP 2013

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The objective of this planning proposal is to amend Coffs Harbour LEP 2013 so that an application can be lodged for the use of Lot 3 DP 735083 for a child care centre.

PART 2 – EXPLANATION OF PROVISIONS

The intended outcomes of the planning proposal will be achieved by:

- Amending Coffs Harbour LEP 2013 by adding a new item to the Additional Permitted Uses Map (sheet APU_006B) that will identify Lot 3 DP 735083 as item “17A” in Schedule 1 of the LEP. The map is included in Appendix A.
- Amending Coffs Harbour LEP 2013 instrument by adding a new item in Schedule 1 of the LEP as follows:

“17A Use of Certain Land at Craft Close, Toormina

- (1) This clause applies to land at Craft Close, Toormina, being Lot 3 DP 735083, shown as “17A” on the Additional Permitted Uses Map.
- (2) Development for the purpose of a child care centre is permitted with development consent.”

PART 3 – JUSTIFICATION

Section A – Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

No. The need for the planning proposal has come about as a result of parking issues that led Council to check whether consent had been obtained for the existing use of the site. The current site users have indicated they will lodge a development application for the use of the site if it becomes permitted.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. A planning proposal is considered an appropriate response in this situation. The child care centre looks after school-age children before and after school during the school term and throughout the day during school vacations. Up to 150 children can be cared for at the centre. The use was established in 2010, and at that time it was a permitted use, although consent was not obtained. It is understood that it is a facility that is licensed by the NSW Department of Education and Communities, and meets appropriate standards to cater for up to 150 children in accordance with National standards.

An alternative approach to this planning proposal would be to either allow the development throughout the IN1 General Industrial zone or change the subject land to a zone that permits the development. Council does not have sufficient information to permit child care centres throughout the entire IN1 zone. It would need closer consideration of where this zone occurs. Council could rezone the site to a Business zone that permits child care centres, but this would bring a suite of other permitted uses which may not have been anticipated. The option that will have the least impact on the locality and the IN1 zone generally is to include the additional use through Schedule 1 for the subject land only. It will also be the quickest way to solve the problem for this site.

Other alternatives are to allow it to continue as a use without development consent or to take compliance action to close the facility. It would be inappropriate for Council to take no action, and closing the facility would be highly disruptive for many families that rely on the facility. It is unlikely the community would support closure.

Amending Schedule 1 of Coffs Harbour LEP 2013 will assist with better planning and development outcomes for both the applicant and Council.

3. Is there a net community benefit?

The Net Community Benefit Criteria is identified in the NSW Government's publication *The Right Place for Business and Services*. This policy document has a focus on ensuring growth within existing centres and minimising dispersed trip generating development. It applies most appropriately to planning proposals that promote significant increased residential areas or densities, or significant increased employment areas or the like. This planning proposal will permit one additional use on one piece of land and will not change the land use zone under Coffs Harbour LEP 2013. The use already exists and other sites are not under consideration. The criteria in the Net Community Benefit test cannot be properly applied to this planning proposal.

Section B – Relationship to strategic planning framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Mid North Coast Regional Strategy (MNCRS) applies to the Coffs Harbour LGA. The MNCRS identifies (page 27) that the State will work with councils to “ensure that appropriate opportunities for employment lands as identified in the MNCRS growth area maps are brought on stream via local growth management strategies and LEPS”. The subject land is within an existing growth area and is identified as employment lands. However, the MNCRS is not focussed at the level of a single land use on a single lot in an industrial area. The planning proposal will permit a DA to be lodged that relates to a business that has five permanent employees and up to 35 casual staff. Retaining local jobs in existing employment lands is consistent with the objectives of the MNCRS.

5. Is the planning proposal consistent with the local council’s Community Strategic Plan, or other local strategic plan?

In 2012, Council updated its 20-year Community Strategic Plan (2030). The plan is based on five key themes, being: Learning and Prospering, Places for Living, Moving Around, Looking After our Community, and Looking After our Environment.

The planning proposal is generally consistent with the following relevant Objectives from Learning and Prospering:

LP 2 We have a strong and diverse economy	LP 2.1 Maximise opportunities for workforce participation
	LP 2.2 Encourage the provision of facilities and services which attract, create and support career opportunities for young people

6. Is the planning proposal consistent with applicable state environmental planning policies (SEPP)?

The State Environmental Planning Policies relevant to the planning proposal are identified in Table 1 and discussed in the following section.

Table 1: Consistency with SEPPs

State Environmental Planning Policy	Consistency
SEPP No 1 – Development Standards	N/A (repealed for CH)
SEPP No 4 – Development Without Consent and Miscellaneous Exempt and Complying Development	N/A (substantially repealed for CH)
SEPP No 6 – Number of Storeys in a Building	N/A
SEPP No 10 – Retention of Low Cost Rental Accommodation	N/A
SEPP No 14 – Coastal Wetlands	N/A
SEPP No 15 – Rural Landsharing Communities	N/A
SEPP No 19 – Bushland in Urban Areas	N/A
SEPP No 21 – Caravan Parks	N/A
SEPP No 22 – Shops and Commercial Premises	N/A
SEPP No 26 – Littoral Rainforests	N/A
SEPP No 29 – Western Sydney Recreation Area	N/A
SEPP No 30 – Intensive Agriculture	N/A
SEPP No 32 – Urban Consolidation (Redevelopment of Urban Land)	N/A
SEPP No 33 – Hazardous and Offensive Development	N/A
SEPP No 36 – Manufactured Home Estates	N/A
SEPP No 39 – Spit Island Bird Habitat	N/A
SEPP No 41 – Casino Entertainment Complex	N/A
SEPP No 44 – Koala Habitat Protection	N/A
SEPP No 47 – Moore Park Showground	N/A
SEPP No 50 – Canal Estate Development	N/A
SEPP No 52 – Farm Dams and Other Works in Land and Water Management Plan Areas	N/A
SEPP No 53 – Metropolitan Residential Development	N/A
SEPP No 55 – Remediation of Land	Inconsistent. See additional comments below
SEPP No 59 – Central Western Sydney Regional Open Space and Residential	N/A
SEPP No 60 – Exempt and Complying Development	N/A (repealed for CH)
SEPP No 62 – Sustainable Aquaculture	N/A
SEPP No 64 – Advertising and Signage	N/A

State Environmental Planning Policy	Consistency
SEPP No 65 – Design Quality of Residential Flat Development	N/A
SEPP No 70 – Affordable Housing (Revised Schemes)	N/A
SEPP No 71 – Coastal Protection	Consistent. See additional comments below
SEPP (Affordable Rental Housing) 2009	N/A
SEPP (Building Sustainability Index: BASIX) 2004	N/A
SEPP (Exempt and Complying Development Codes) 2008	N/A
SEPP (Housing for Seniors or People with a Disability) 2004	N/A
SEPP (Infrastructure) 2007	N/A
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	N/A
SEPP (Major Development) 2005	N/A
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Consistent. See additional comments below
SEPP (Rural Lands) 2008	N/A
SEPP (Sydney Region Growth Centres) 2006	N/A
SEPP (Temporary Structures) 2007	N/A
SEPP (Western Sydney Employment Area) 2009	N/A
SEPP (Western Sydney Parklands) 2009	N/A
SEPP (North Coast REP) 1988	N/A (repealed for CH)

SEPP 55 – Remediation of Land

In accordance with clause 6(4) of SEPP 55, Council will require a preliminary investigation to be submitted with planning proposals where the land concerned is:

- (a) land that is within an investigation area,
- (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,
- (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or **child care purposes**, or for the purposes of a hospital,
- (d) land:
 - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and
 - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

Council will also require a preliminary investigation to be submitted if Council has reasonable grounds to believe the land may be contaminated.

The applicant in this case has provided a cursory overview of the past land use on this site with minimal supporting information. There is no detailed timeline of past land uses. There is no assessment of adjacent land uses that could affect the site now or in the past. There are no soil tests provided. Given that the site has been zoned (and used) for industrial purposes for many years and the specific purpose proposed is a child care centre then Council expects a detailed assessment of this issue. This should include:

- Do Council records identify any previous investigation about the land?
- Do Council records identify an activity listed in Schedule 1(referred to in Table 1 to the contaminated land planning guidelines) as having occurred or having been approved on the subject land?
- Do Council records show that the land was or is subject to regulation, through licensing or other mechanism, of an activity listed in Schedule 1?
- Are there any land use restrictions on the subject land relating to possible contamination such as notices issued by the NSW EPA or other regulatory authorities?
- Do Council records identify contamination issues on the land adjacent to the subject land which could affect the subject land?
- Does a site inspection suggest that the site may have been associated with activities listed in Schedule 1?
- Has the soil been tested (in locations that children could have contact with) to show the land is free from contamination?

The planning proposal is not consistent with SEPP 55 based on available information. A detailed preliminary assessment undertaken by a suitably qualified professional should be undertaken prior to the public exhibition of the planning proposal should it receive the support of Council and a Gateway determination from the Department of Planning and Environment.

SEPP 71 – Coastal Protection

The land affected by this planning proposal is located approximately 200 metres west of the Boambee Creek tidal estuary and is therefore within the NSW coastal zone identified in SEPP 71.

SEPP 71 requires that Council must consider a range of matters when preparing an amendment to its local environmental plan. A brief response to these matters is as follows:

- The planning proposal will not affect public access to the coastal foreshore or generate the need to provide new access;
- It will not result in impacts upon the scenic qualities or amenity of the coast, or impact on any animals or fish that occur along the coast;
- The development exists already and has an established relationship with the surrounding area;

- It will not be affected by coastal processes. It is within a bushfire hazard buffer. It is not flood affected in the 1% event but when 0.5 metres of freeboard is added it is partly affected by the flood planning level;
- It is unlikely to have an impact on water quality or Aboriginal heritage;
- It will encourage compact cities by being located in an existing urban area.

The planning proposal is consistent with SEPP 71.

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

Nothing in this planning proposal will alter the permissibility of mining or extractive industries on the subject land. No underlying land use zones are proposed to be changed by this planning proposal.

The planning proposal is consistent with the SEPP.

7. Is the planning proposal consistent with applicable Ministerial Directions (s117 directions)?

Consistency with the s117 Directions is assessed in Table 2 below.

Table 2: Consistency with s117(2) Directions

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
1. Employment and Resources			
1.1 Business and Industrial Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	The subject land is zoned IN1 General Industrial under LEP 2013. The planning proposal will not alter the zone boundaries but it will add an additional use to the subject land (only). It will not alter the floor space controls or height limits. The proposed child care centre uses an existing industrial shed that was previously used for a warehouse. Should the child care centre use be abandoned, the site could easily revert to other employment purposes without impact on the potential floor space for industrial uses.	Consistent
1.2 Rural Zones	Applies when a relevant planning authority prepares a planning proposal that will affect	This planning proposal will not affect any rural zoned	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). Under this direction a planning proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).	land.	
1.3 Mining, Petroleum Production and Extractive Industries	Applies when a relevant planning authority prepares a planning proposal that would have the effect of: (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.	Nothing in this planning proposal will prohibit or restrict exploration or mining.	Consistent
1.4 Oyster Aquaculture	Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in: (a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”; or (b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate” and other land uses.	This planning proposal does not impact on a Priority Oyster Aquaculture Area.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
1.5 Rural Lands	Applies when: (a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary), or (b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone. A planning proposal to which clauses (a) and (b) apply must be consistent with the Rural Planning Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>. A planning proposal to which clause (b) applies must be consistent with the Rural Subdivision Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>.	This planning proposal does apply to land zoned rural or environment protection.	N/A
2 Environment and Heritage			
2.1 Environment Protection Zones	(4) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. (5) A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply	This planning proposal does not alter or remove any environment protection zones.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 <i>"Rural Lands"</i> .		
2.2 Coastal Protection	Applies when a relevant planning authority prepares a planning proposal that applies to land in the coastal zone. (4) A planning proposal must include provisions that give effect to and are consistent with: (a) the NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997, and (b) the Coastal Design Guidelines 2003, and (c) the manual relating to the management of the coastline for the purposes of section 733 of the <i>Local Government Act 1993</i> (the NSW Coastline Management Manual 1990).	This planning proposal is entirely located within the coastal zone. The planning proposal will give effect to the NSW Coastal Policy. It will not affect public access to the coastal foreshore or generate the need to provide new access; it will not result in impacts upon the scenic qualities of the coast or any animals or fish that occur along the coast; the development exists already and has an established relationship with the surrounding area; it will not be affected by coastal processes; it is affected by a bushfire hazard buffer; it is not flood affected in the 1% event (although when freeboard is added, it is partly within the flood planning level); it is unlikely to have an impact on water quality or Aboriginal heritage; it will encourage compact cities by being located in an existing urban area. The planning proposal will not alter the relevance or effect of the Coastal Design Guidelines. The planning proposal is not on land affected by coastal processes or hazards.	Consistent
2.3 Heritage Conservation	A planning proposal must contain provisions that facilitate the conservation of: (a) items, places, buildings, works, relics, moveable objects or precincts of	Nothing in this planning proposal will stop or inhibit the conservation of heritage items, places or relics or Aboriginal objects or places.	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.		
2.4 Recreation Vehicle Areas	A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>): (a) where the land is within an environment protection zone, (b) where the land comprises a beach or a dune adjacent to or adjoining a beach, (c) where the land is not within an area or zone referred to in paragraphs (a) or (b) unless the relevant planning authority has taken into consideration: (i) the provisions of the guidelines entitled <i>Guidelines for Selection</i>,	The proposal does not enable land to be developed for the purpose of a recreation vehicle area.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<i>Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985, and</i> (ii) the provisions of the guidelines entitled <i>Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985.</i>		
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	(3) This direction applies when a relevant planning authority prepares a planning proposal that will affect land within: (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted. (4) A planning proposal must include provisions that encourage the provision of housing that will: (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and	The planning proposal does not affect residential zoned land.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	(d) be of good design. (5) A planning proposal must, in relation to land to which this direction applies: (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land.		
3.2 Caravan Parks and Manufactured Home Estates	Applies when a relevant planning authority prepares a planning proposal. In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must: (a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and (b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park. In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must: (a) take into account the categories of land set out in	This proposal does not seek to permit or prohibit development for the purpose of a caravan park or manufactured homes estate.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	Schedule 2 of SEPP 36 as to where MHEs should not be located, (b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and (c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the <i>Community Land Development Act 1989</i> be permissible with consent.		
3.3 Home Occupations	Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.	This proposal does not affect home occupation provisions under LEP 2013.	N/A
3.4 Integrating Land Use and Transport	Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of: (a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and (b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).	The planning proposal will enable a child care centre on the subject land. The site has easy bus access to Hogbin Drive and the urban areas of Sawtell, Toormina and Coffs Harbour. Conditions could be imposed on a future development application to address any local transport or parking issues that relate to the site. It will not have a negative impact on transport infrastructure. It is an established urban area and is consistent with relevant transport guidelines.	Consistent
3.5 Development Near Licensed Aerodrome	Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in	Coffs Harbour airport is located approximately 1.4 km to the north-east of the subject land, adjacent to the coastline between Coffs	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	the vicinity of a licensed aerodrome.	Harbour and Sawtell. However, the subject land is not within the obstacle height limitation mapping of the airport, and is not affected by the ANEF noise contours.	
3.6 Shooting Ranges	Applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range.	The planning proposal will not affect any shooting ranges in Coffs Harbour LGA.	N/A
4. Hazard and Risk			
4.1 Acid Sulfate Soils	Applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.	Land subject to this planning proposal is identified in the Coffs Harbour LEP 2013 Acid Sulfate Soils map as containing acid sulfate soils (class 3). There is a suite of standard provisions in the LEP that apply to this land. The acid sulfate soil provisions of the LEP will apply unchanged to any future development application.	Consistent
4.2 Mine Subsidence and Unstable Land	Applies when a relevant planning authority prepares a planning proposal that permits development on land that: (a) is within a mine subsidence district, or (b) has been identified as unstable in a study, strategy or other assessment undertaken: (i) by or on behalf of the relevant planning authority, or (ii) by or on behalf of a public authority and provided to the relevant planning authority.	This proposal does not impact on any mine subsidence area.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
4.3 Flood Prone Land	Applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land. A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>). A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environment Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone. A planning proposal must not contain provisions that apply to the flood planning areas which: - permit development in floodway areas, - permit development that will result in significant flood impacts to other properties, - permit a significant increase in the development of that land, - are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or - permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.	The subject land is not within the mapped 1% ARI floodplain but is designated as being affected by Council's Flood Planning Area. This is a result of applying a 0.5 metre flood freeboard to the 1% flood levels. The flood planning level affects about 10% of the site at its eastern end and does not appear to affect the existing building. It is not a floodway. Although the planning proposal will alter the permitted land uses in the IN1 zone, it will not: • Permit development in a floodway • Result in significant effects on other property • Permit a significantly different use of the land from that which already occurs there • Require significant government spending on flood mitigation or services • Permit development without consent • Impose flood related controls.	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General). For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).		
4.4 Planning for Bushfire Protection	Applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land. In the preparation of a planning proposal, the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made. A planning proposal must: (a) have regard to <i>Planning for Bushfire Protection 2006</i>, (b) introduce controls that avoid placing inappropriate	The subject land is within the 100 metre bushfire buffer to the category 1 bushfire vegetation across Hogbin Drive. Including an additional land use as permitted with consent on the subject site will not impact on the existing planning controls that address the issue of bushfire hazard on this land. Initial consultation with the NSW Rural Fire Service took place in August 2016, with a response from RFS received on 27 October 2016. The proponent's bushfire report was included with the referral. RFS has no objection to the planning proposal	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. A planning proposal must, where development is proposed, comply with the following provisions, as appropriate: (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the <i>Rural Fires Act 1997</i>), the APZ provisions must be complied with, (c) contain provisions for two-way access roads which link to perimeter roads and/or to fire trail networks, (d) contain provisions for adequate water supply for firefighting purposes,	proceeding, noting that a future development application will be a Special Fire Protection Purpose under section 100B of the <i>Rural Fires Act 1997</i>, and will be integrated development. On this basis, the planning proposal can be regarded as consistent with this direction. A further consultation with RFS will be undertaken as part of the public exhibition of the planning proposal.	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	(e) minimise the perimeter of the area of land interfacing the hazard which may be developed, (f) introduce controls on the placement of combustible materials in the Inner Protection Area.		
5. Regional Planning			
5.1 Implementation of Regional Strategies	Planning proposals must be consistent with a regional strategy released by the Minister for Planning.	The Mid North Coast Regional Strategy (MNCRS) applies to the Coffs Harbour LGA. The MNCRS identifies (page 27) that the State will work with councils to “ensure that appropriate opportunities for employment lands as identified in the MNCRS growth area maps are brought on stream via local growth management strategies and LEPs”. The subject land is within an existing growth area and is identified as employment lands. However, the MNCRS is not focussed at the level of a single land use on a single lot in an industrial area. The planning proposal will permit a DA to be lodged that relates to a business that has five permanent employees and up to 35 casual staff. Retaining local jobs in existing employment lands is consistent with the objectives of the MNCRS.	Consistent
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.	The proposal is not within this catchment.	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Applies when a relevant planning authority prepares a planning proposal for land in the vicinity of the existing and/or proposed alignment of the	This proposal will not affect commercial and retail land along the Pacific Highway, North Coast.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	Pacific Highway. (5) A planning proposal that applies to land located on “out-of-town” segments of the Pacific Highway must provide that: (a) new commercial or retail development must not be established near the Pacific Highway if this proximity would be inconsistent with the objectives of this Direction. (b) development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway. (c) For the purposes of this paragraph, “out-of-town” means areas which, prior to the draft local environmental plan, do not have an urban zone (eg: “village”, “residential”, “tourist”, “commercial”, “industrial”, etc) or are in areas where the Pacific Highway speed limit is 80 km/hour or greater. (6) Notwithstanding the requirements of paragraphs (4) and (5), the establishment of highway service centres may be permitted at the localities listed in Table 1, provided that the Roads and Traffic Authority is satisfied that the highway service centre(s) can be safely and efficiently integrated into the highway interchange(s) at those localities.		

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
6. Local Plan Making			
6.1 Approval and Referral Requirements	A planning proposal must: (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and (c) not identify development as designated development unless the relevant planning authority: (i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and (ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section	The planning proposal will not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	57 of the Act.		
6.2 Reserving Land for Public Purposes	(4) A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).	The planning proposal does not create, alter or reduce land reserved for a public purpose.	N/A
6.3 Site Specific Provisions	Applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out. (4) A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either: (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.	The planning proposal will allow a particular development (a child care centre) that is otherwise prohibited in the IN1 zone. It will not contain drawings that show details of a particular development. This inconsistency is a minor matter and is justifiable on that basis. The child care centre has existed on this site since 2010, and serves a useful purpose for working parents in the Coffs Harbour LGA. There is insufficient information at this stage to allow the use across all land zoned IN1. Retaining the IN 1 zone allows other industrial uses on the site, should the child care centre be abandoned.	Inconsistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	(5) A planning proposal must not contain or refer to drawings that show details of the development proposal.		

Section C – Environmental, social and economic impact

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. The planning proposal will add a single use to the IN1 zone on the subject land, and will not alter any other development controls in a manner such that there could be adverse impacts on threatened species, populations, or ecological communities. The small strip of native vegetation at the eastern end of the site is a planted visual screen for the industrial area, and is not significant habitat. It will not need to be removed to enable the child care centre to be approved.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. The site contains a large shed that has been fitted out to accommodate the child care centre. The balance of the site is used for parking and fenced off open-air play areas. A future application for a child care centre is unlikely to generate any works that could cause other environmental effects.

10. How has the planning proposal adequately addressed any social and economic effects?

The planning proposal is a response to Council establishing that the existing child care centre does not have development consent. The applicant does not want to move the business to a site where it is permitted because it would be disruptive to the families that use it, and they consider the site is otherwise suited to the use. There would also be economic impacts to the business in refitting a new large building to accommodate up to 150 children in out-of-school hours care.

The key impact on neighbouring properties will be in relation to traffic and on-street parking during pick up/drop off times. This can be addressed with conditions on a future development consent.

There is also the potential for nearby businesses to be impacted by the presence of a “sensitive receiver” like a child care centre. The concrete batching plant immediately south of the subject land is not an ideal neighbouring use given it can involve noise, dust and regular heavy machinery movements. However, the two uses have been neighbors now since 2010, with minimal complaints to Council. The concrete batching plant is also required to comply with the POEO Act and the conditions of its approval regardless of what use is being undertaken next door.

There will be socio-economic effects as a result of this planning proposal, both positive and negative. However, they should be acceptable in the circumstances.

Section D – State and Commonwealth interests

11. Is there adequate public infrastructure for the planning proposal?

Yes. The subject land is well serviced by roads, with Craft Close and Hogbin Drive being the major access routes. As part of a fully developed industrial estate, the site has good access to reticulated water and sewerage as well as energy and communication links. This planning proposal will not in itself generate the need for public infrastructure beyond that which already exists.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

This planning proposal has yet to achieve Gateway determination therefore public consultation and government agency referrals have not yet been undertaken.

At this stage there do not appear to be any issues of interest to Commonwealth authorities as the planning proposal does not change the underlying zone or permissibility of any development or directly affect land owned or managed by the Commonwealth.

It is proposed that the authorities listed below are consulted in relation to this planning proposal, and that this consultation is undertaken concurrent with the public exhibition of the planning proposal:

- NSW Rural Fire Service
- NSW Department of Education and Communities

PART 4 – MAPPING

Coffs Harbour LEP 2013 will be amended by adding a new item to the [Additional Permitted Uses Map](#) (sheet APU_006B) that will identify Lot 3 DP 735083 as item “17A” in Schedule 1 of the LEP.

This will be achieved by amending LEP 2013 map sheet APU_006B.

An amended version of this map sheet will be created and supplied to the Department of Planning and Environment if Council supports the request for a Gateway determination.

PART 5 – COMMUNITY CONSULTATION

The Gateway determination will specify the community consultation that must be undertaken on the planning proposal. However, Council considers this planning proposal should be exhibited for 28 days. The planning proposal is not a principal LEP and does not reclassify public land.

Notification of the exhibited planning proposal will include:

- a newspaper advertisement that circulates in the area affected by the planning proposal,
- the web site of Coffs Harbour City Council and the Department of Planning and Environment,
- letter to adjoining land holders.

The written notice will:

- provide a brief description of the objectives or intended outcomes of the planning proposal,
- indicate the land that is the subject of the planning proposal,
- state where and when the planning proposal can be inspected,
- provide detail that will enable members of the community to make a submission.

Exhibition material:

- the planning proposal, in the form approved for community consultation by the Director-General of the Department of Planning and Environment,
- the Gateway determination,
- all studies relevant to the site and the planning proposal.

The Gateway determination will confirm the public consultation requirements. Council will also undertake consultation with relevant Government agencies as a result of instructions contained within the Gateway determination.

PART 6 – INDICATIVE TIMETABLE

Table 3 outlines the indicative timeframe for this planning proposal.

Table 3: Indicative timetable

Task	Estimated timeframe
Decision by CHCC to proceed	December 2016
Gateway determination	January 2017
Finalisation of additional information as requested by Council and Gateway determination	March 2017
Public exhibition of planning proposal for not less than 28 days	March–April 2017
Agency consultation	March–April 2017
Review submissions	May 2017
Report to Council	June 2017
Submission to Planning Minister	July 2017

SUMMARY AND CONCLUSIONS

Coffs Harbour City Council has received a planning proposal to modify LEP 2013 so that a development application can be lodged for the use of Lot 3 DP 735083, Craft Close Toormina for a child care centre.

A child care centre has been operating without development consent on the subject land since 2010. The site is used as an out-of-school hours care facility, which services six local schools and is licensed to care for up to 150 children per day. The operator of that centre has agreed to lodge a development application should the planning proposal be supported to permit the use.

The planning proposal is consistent with the Mid North Coast Regional Strategy and is consistent with all relevant SEPPs, except for SEPP 55 – Remediation of Land. It is recommended that a preliminary contaminated land assessment (consistent with SEPP 55) be undertaken by the applicant and supplied to Council prior to the public exhibition. The planning proposal is consistent with the applicable section 117 Directions other than direction 6.3 Site Specific Provisions. The inconsistency with direction 6.3 is justifiable because it is a minor matter relating to a single use of a single site. The planning proposal is also consistent with Council's Community Strategic Plan 2030.

There is sufficient information to enable Council to support the planning proposal and forward it to the Department of Planning and Environment for its consideration and Gateway determination.