



## Section 3.22 EP&A Act submission

### What the amendment does:

This submission under s3.22 of The Act seeks the finalisation of LEP Amendment No. 8 in its entirety by addressing the deferred matter within LEP Amendment No. 8 relating to part of Lot 22 DP 1070182.

### Why the amending plan is suitable to be made in accordance with section 3.22:

PP\_2015\_COFFS\_004\_00 has undergone extensive public and agency / stakeholder consultation in accordance with the Gateway Determination. Council has considered the outcomes of the consultation process at its meeting on 9 March 2017, where it was resolved to adopt Planning Proposal PP\_2015\_COFFS\_004\_00 and request that NSW Planning and Environment exercise the functions of the Minister under Section 59 of the Environmental Planning and Assessment Act 1979 for the purposes of finalising the Planning Proposal. The Department subsequently made part of LEP 2013 Amendment No. 8 with the exception of part of Lot 22 DP 1070182 due to the existence of outstanding Development Applications and Land and Environment Court proceedings. Given the resolution of these matters as outlined above, Council feels that it is appropriate for the Department to now finalise LEP Amendment No. 8 in its entirety under the existing Planning Proposal PP\_2015\_COFFS\_004\_00 by addressing the deferred matter within LEP Amendment No. 8 relating to part of Lot 22 DP 1070182.

The council requests that the Minister agree to make draft LEP Amendment No. 8 in its entirety.

Signed: Stephen Charles McGrath

Date: 22 JANUARY, 2020

Name: Stephen Charles McGrath

Position: GENERAL MANAGER

On behalf of: COFFS HARBOUR CITY COUNCIL (Name of council)

### Part B. Department of Planning use only

Date of referral to Gateway: ..... (Insert date)

### Department position:

The draft LEP amendment has been considered by the Department and it is satisfied that the amendment can be considered as a minor amendment under section 3.22 (see advice tagged 'A').

### Parliamentary Counsel opinion:

The Parliamentary Counsel has provided an opinion indicating that the plan may legally be made (tagged 'B').

### Recommendation:



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### Part A. Council to complete

#### Subject:

Planning Proposal PP\_2015\_COFFS\_004\_00: Remaining Deferred Areas from Coffs Harbour Local Environmental Plan 2013 - Sandy Beach: Coffs Harbour Local Environmental Plan Amendment No. 8

Report requesting the making of amending local environmental plan under sections 3.22 and 3.36(2).

#### Background:

Coffs Harbour City Council resolved on 9 March 2017, to adopt Planning Proposal PP\_2015\_COFFS\_004\_00 for the Deferred Areas of Hearnes Lake/Sandy Beach, Emerald Beach, Moonee Beach and Sapphire Beach Areas: Version 3 – Post Exhibition and to request that NSW Planning and Environment exercise the functions of the Minister under Section 59 of the *Environmental Planning and Assessment Act 1979* for the purposes of finalising the Planning Proposal. As Council did not have delegated authority to make the subsequent amendment, Council wrote to the Department on Friday 10 March 2017 requesting that the Minister for Planning make the LEP Amendment.

On 27 July 2018, Coffs Harbour Local Environmental Plan (LEP) 2013 (Amendment No 8) Deferred Areas was published on the NSW Government Legislation website (2018, No 398) and was brought into effect from that date.

When making this amendment, the former NSW Planning and Environment made changes to the intended LEP amendments adopted by Council at its Ordinary Meeting of 9 March 2017. The changes included deferral of part of Lot 22 DP 1070182 (Sandy Shores) from LEP Amendment No 8, resulting in that land remaining subject to the provisions of Coffs Harbour City Local Environmental Plan 2000 (and associated Development Control Plan).

It is understood that the decision to defer part of Lot 22 DP 1070182 from LEP Amendment No 8 related to concerns with development applications and subsequent Land and Environment Court appeals being afoot for the site. The applicant has discontinued the Land and Environment Court Proceedings No. 2018/122374 and also subsequently withdrawn Development Application No. 450/18. Further, the applicant has also discontinued Land and Environment Court Proceedings No. 2018/122350 and also subsequently withdrawn Sandy Beach Concept Plan Approval MP05\_0083 MOD 7 which was with the state government.

Council considers that the resolution of these matters should enable the finalisation of LEP Amendment No. 8 in its entirety under the existing Planning Proposal PP\_2015\_COFFS\_004\_00. Council, under sections 3.22 and 3.36(2) of the Act therefore requests that the Department now finalise the deferred matter within LEP Amendment No. 8 relating to part of Lot 22 DP 1070182.

The land to which this amendment applies is Part of Lot 22 DP 1070182 (see Figure 1 on page 4)

#### Why there is a need for the amendment:

The finalisation of the remaining deferred matter within LEP Amendment No. 8 will lessen the complications created by the existence of the remaining deferred area within the Coffs Harbour LGA and its reference to former planning controls (LEP 2000). These complications include the issuing of Planning Certificates, differing development assessment processes and the misinterpretation of differing planning controls by the general public and the associated supplying of complicated planning advice, which is contrary to the intentions of the Standard Instrument Local Environmental Plan process.



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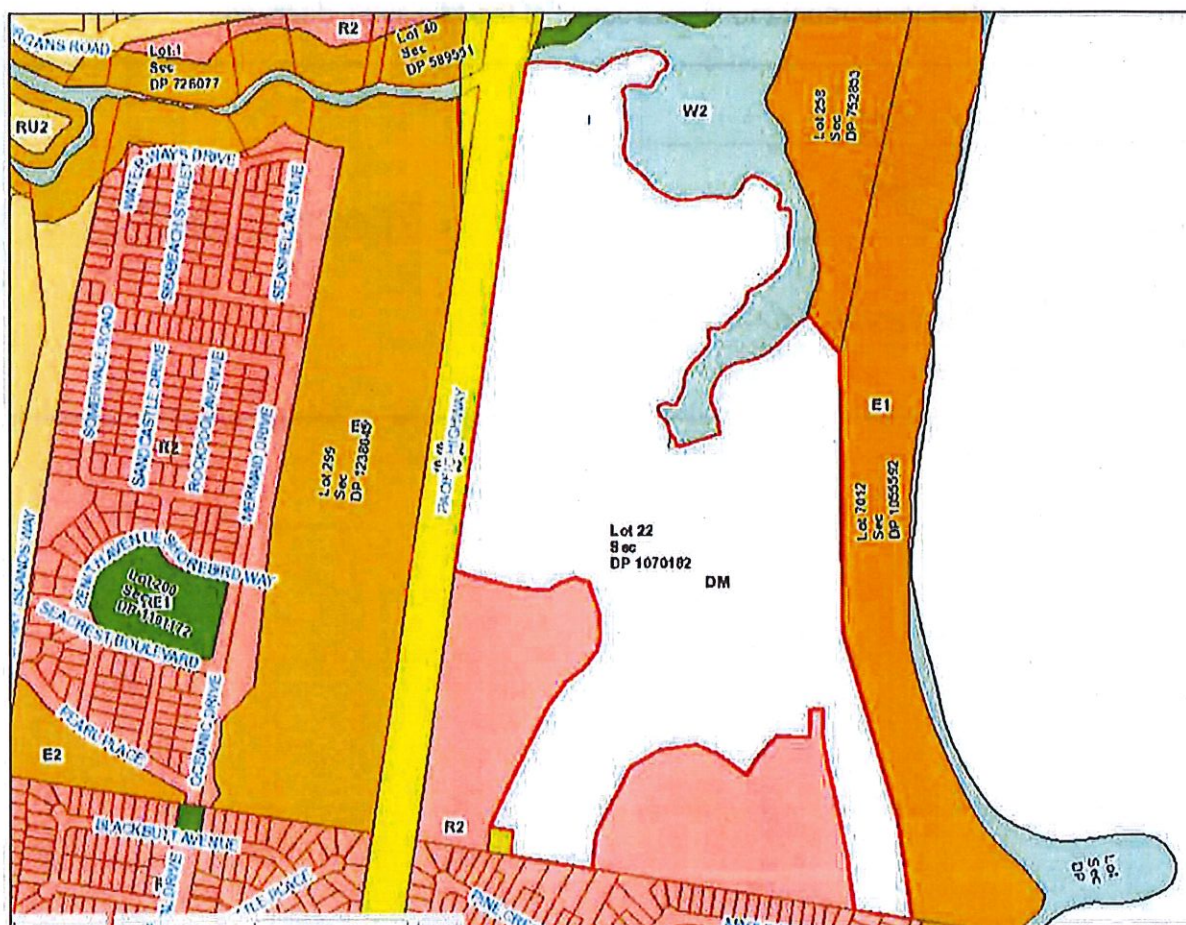


Figure 1 – Land subject to remaining deferred matter within LEP Amendment No. 8 (part) Lot 22 DP 1070182



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### Recommendation:

It is recommended that the Minister:

- (a) under sections 3.22 and 3.36(2) of the *Environmental Planning and Assessment Act 1979* make .....tagged 'B')  
(Name of LEP)
- (b) authorise the Department to advise council of the Minister's decision.

Date: .....

Signed: ..... Name: .....

Position: .....  
for Secretary