

<b>SC17/59</b>	<b>PLANNING PROPOSAL: BRAFORD DRIVE AND IRVINES ROAD, BONVILLE: PRE-GATEWAY</b>
----------------	---

**Author:** Planner / Urban Designer

**Authoriser:** Director Sustainable Communities

**MyCoffs:** C.1 Liveable neighbourhoods with a defined identity

**Attachments:** ATT1 SC17/59 Braford Drive and Irvines Road, Bonville Planning Proposal Version 1 Pre-Gateway - November 2017 [↓](#)

ATT2 SC17/59 CONFIDENTIAL Submissions to Bonville LEP Identifying Mapping Errors

*Confidential in accordance with Section 10A(2)(e) of the Local Government Act as it contains information that would, if disclosed, prejudice the maintenance of law.*

ATT3 SC17/59 Proposed Draft Amendments to Coffs Harbour Development Control Plan 2015 [↓](#)

## EXECUTIVE SUMMARY

This report presents a Planning Proposal (PP) to Council (Attachment 1), which seeks to correct mapping errors on two properties following the recent zoning amendment of the Bonville Large Lot Residential Release Area. The landowners of the two properties have identified the anomalies to Council in their submissions (Attachment 2). This report recommends that Council endorse the PP (which allows for map amendments to *Coffs Harbour Local Environmental Plan (LEP) 2013* and seek a 'Gateway Determination' from the NSW Department of Planning and Environment (DPE) to allow Council to place the PP on public exhibition.

In the event that a Gateway Determination is issued by DPE, amendments will also need to be made to *Coffs Harbour Development Control Plan (DCP) 2015*, in the form of minor mapping changes corresponding to the associated draft LEP map amendments. It is proposed that these changes be exhibited at the same time as the PP.

---

## RECOMMENDATION:

### That Council:

1. Endorse and forward Braford Drive and Irvines Road, Bonville Planning Proposal - Version 1 Pre-Gateway – November 2017 (Attachment 1) to the NSW Department of Planning and Environment seeking a 'Gateway Determination', to address *Coffs Harbour Local Environmental Plan 2013* mapping anomalies.
2. Request that the Secretary of the NSW Department of Planning and Environment issue a written authorisation to Council to exercise delegation of the plan making functions under section 59 of the *Environmental Planning and Assessment Act 1979* in respect of the Planning Proposal.
3. Subject to the 'Gateway Determination' from the NSW Department of Planning and Environment, place the Planning Proposal on public exhibition.
4. Subject to the 'Gateway Determination' from the NSW Department of Planning and Environment, place proposed map amendments to *Coffs Harbour Development Control Plan 2015* on public exhibition (Attachment 3).
5. Waive the current one-off Legal Drafting fee of \$1,600 for Step 5 of a rezoning proposal as per Council's 2017/18 Fees and Charges under Section 610E of the *Local Government Act 1993*.
6. Consider a further report, outlining the outcomes of the public exhibition of the Braford Drive and Irvines Road, Bonville Planning Proposal and associated Development Control Plan.
7. Inform the landowners of the subject lands of Council's decision.

## REPORT

### Description of Item:

In 2014, Council prepared Environmental Studies and a PP (PP\_2015\_COFFS\_005\_00) for the wider Bonville Large Lot Residential Investigation Area. On 8 December 2016, Council resolved to:

1. *Adopt Planning Proposal PP\_2015\_COFFS\_005\_00 for the Bonville Large Lot Residential Investigation Area: Version 3 – Post Exhibition.*
2. *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 this Planning Proposal.*
3. *Acknowledge that the final response of the Coffs Harbour Local Aboriginal Land Council (once received) will be forwarded to NSW Planning and Environment for inclusion in the finalisation of this Planning Proposal.*
4. *Adopt Bonville Large Lot Residential Developer Contributions Plan, which will come into force upon the amendment of Coffs Harbour Local Environmental Plan 2013 consistent with Planning Proposal PP\_2015\_COFFS\_005\_00.*
5. *Inform landowners in the Bonville Large Lot Residential Investigation Area who made submissions to PP\_2015\_COFFS\_005\_00 of Council's resolutions.*

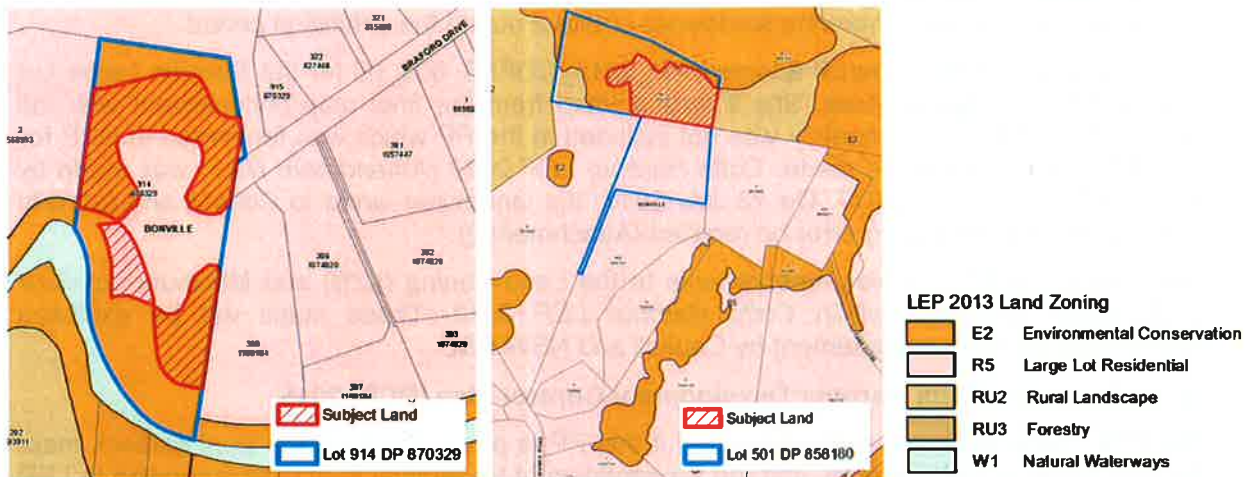
On 19 May 2017, *Coffs Harbour LEP 2013 (Amendment No.7)* was 'made'. This changed parts of the Bonville Large Lot Residential Investigation Area from RU2 Rural Landscape to R5 Large Lot Residential zone (and associated LEP maps), in accordance with PP\_2015\_COFFS\_005\_00.

The landowners of two parcels of land have notified Council of mapping errors in relation to the zoning of their properties following the making of the LEP amendment (that is, their lands were omitted from the final zoned area, even though they had been advised by Council their land would

be included in the amendment zoned area). As such, each have requested that their lands be rectified (Attachment 2) at no cost to them. The subject lands are part of Lot 914, DP 870329 in Braford Drive (Site 1); and the northern portion of Lot 501, DP 858180 in Irvines Road (Site 2).

The landowners have been advised that a resolution of Council is required to proceed with a PP and for Council fees to be formally waived, as well as endorsement of the PP from DPE via a Gateway Determination. It is recognised that in both cases an error was made when finalising the LEP Maps which were adopted by Council. Should Council resolve to rectify these mapping errors, the work will be undertaken as a separate PP. It is anticipated that the Environmental Studies which accompanied the overall Bonville Large Lot Residential Investigation Area can be used as supporting documents to the PP. Council has consulted with DPE, who have confirmed that this approach is the correct and appropriate action in such circumstances.

The location and existing land use zonings under *Coffs Harbour LEP 2013* of Sites 1 and 2 are shown in the following. The red hatched area constitutes the land on each site subject to the proposed PP.



## Issues:

### • Candidate Area Maps in *Coffs Harbour LGMS – Rural Residential Component 2009*

The two sites are located immediately adjacent to endorsed Candidate Areas identified in Council's *Coffs Harbour Local Growth Management Strategy (LGMS) – Rural Residential Component 2009*. It is considered that the PP is consistent with the overall objectives of the LGMS Rural Residential Component and are logical and viable additions to the Bonville Large Lot Residential locality.

The Gateway Determination for PP\_2015\_COFFS\_005\_00 which was endorsed by DPE on 11 October 2015 included these two sites. No issues were identified by DPE in regard to the inclusion of the subject lands in the PP at that time, despite being located outside of the endorsed Candidate Areas. Justification for this inconsistency is included in the PP (Attachment 1).

### • Site 1 - Lot 914, DP 870329 in Braford Drive

When PP\_2015\_COFFS\_005\_00 was exhibited in 2016, a submission was received from an environmental consultant on behalf of the landowner of Site 1. The submission included a site-specific vegetation study of the land which identified vegetation communities which were present. It requested that the land zone be amended to reflect the location of vegetation on the land.

The submission was assessed, and included in a report to Council on 8 December 2016. It was recommended that the submission be supported and the zone map amended to better reflect the vegetation communities which were present. Unfortunately the final maps presented to Council for endorsement at that meeting were not consistent with the submission. Consequently the subject site was not included in PP\_2015\_COFFS\_005\_00 when it was forwarded to DPE for the LEP Amendment to be made. *Coffs Harbour LEP 2013 (Amendment No.7)* was made by the Minister on 19 May 2017. On 8 August 2017, the landowner wrote to Council and formally requested that the mapping error be rectified (Attachment 2).

This part of the PP involves amendments to the Land Zoning (LZN), Minimum Lot Size (LSZ) and the Terrestrial Biodiversity (CL2) maps contained within *Coffs Harbour LEP 2013*. These maps will be exhibited concurrently pending endorsement by Council and DPE.

- **Site 2 - Lot 501, DP 858180 in Irvines Road**

When PP\_2015\_COFFS\_005\_00 was exhibited in 2016, the accompanying Environmental Studies included Site 2 in the area to be amended to a R5 Large Lot Residential zone. No submission was received from the landowner of Site 2 during the exhibition period.

On 8 December 2016, Council adopted PP\_2015\_COFFS\_005\_00 for the Bonville Large Lot Residential Investigation Area. Site 2 was omitted from the final map (inconsistent with the exhibited map) and consequently was not included in the PP which was forwarded to DPE for the LEP Amendment to be made. *Coffs Harbour LEP 2013 (Amendment No.7)* was made by the Minister on 19 May 2017. On 13 July 2017, the landowner wrote to Council and formally requested that the mapping error be rectified (Attachment 2).

This part of the PP involves amendments to the Land Zoning (LZN) and Minimum Lot Size (LSZ) maps contained within *Coffs Harbour LEP 2013*. These maps will be exhibited concurrently pending endorsement by Council and NSW P&E.

- **Amendments to Coffs Harbour Development Control Plan (DCP) 2015**

The DCP maps proposed to be amended if this PP is progressed are the front setback map, the side and rear setback map, and the Preservation of Vegetation map (corresponding to LEP amendments). It is intended that the draft DCP maps (Attachment 3) will be exhibited concurrently with this Planning Proposal.

On 14 September 2017, Council resolved to endorse the use of Council's on-line mapping system for Coffs Harbour DCP 2015 maps. If Council adopts the PP following the public exhibition and finalises the LEP amendment, the DCP amendments will be updated as on-line maps and will become effective when the LEP amendment is 'made'.

- **Additional Lot Yield**

In the event that Council endorse the PP and that a Gateway Determination is issued by DPE, these proposed amendments could result in the development of approximately three additional new lots within the R5 Large Lot Residential Investigation Area. This is an insignificant increase to lot yields within the locality. Consequently it is not necessary to revise *Bonville Large Lot Residential Release Area Developer Contributions Plan 2017*.

### **Options:**

Council has three options available relating to this PP:

1. Adopt the recommendation of this report.  
**Comment:** Option 1 will correct the mapping errors which have been identified.
2. Reject the recommendation, and resolve to investigate amendments or alternatives to the PP (Attachment 1).  
**Comment:** No alternative proposal and/or implications have been considered by this report.
3. Reject the recommendation, and resolve not to proceed with the PP.  
**Comment:** This option would mean that the subject lands will retain their current zones, and that the mapping errors which have been identified will not be corrected or otherwise resolved.

This report recommends that Council pursue Option 1.

### **Sustainability Assessment:**

- **Environment**

Environmental sustainability issues have been considered and are addressed in Part 3 of the PP (Attachment 1).

- **Social**

Social sustainability issues have been considered and are addressed in Part 3 of the PP (Attachment 1).

- **Civic Leadership**

The following themes and indicators described in Council's *'My Coffs' Community Strategic Plan* are relevant to this report:

- "We undertake development that is environmentally, socially and economically responsible";
- "We protect the diversity of our natural environment"; and
- "We undertake effective engagement and are informed."

- **Economic – Broader Economic Implications**

In the event that Council endorse the PP and that a Gateway Determination is issued by DPE, these proposed amendments will result in an insignificant increase to lot yields within the locality. Consequently there are no broader economic implications associated with this PP.

- **Economic - Delivery Program/Operational Plan Implications**

Should Council proceed with this PP to rectify the two mapping errors, the work will be undertaken in-house as an addition to the 2017/18 Operational Plan.

### **Risk Analysis:**

This PP is considered to be of low risk to Council and will correct identified errors.

### **Consultation:**

Should Council resolve to progress this PP, and DPE endorses its exhibition, all documents will be exhibited in accordance with the Gateway Determination and relevant provisions of the *Environmental Planning and Assessment (EP&A) Act 1979*.

### **Related Policy, Precedents and / or Statutory Requirements:**

This PP addresses all relevant statutory requirements and Council policies.

### **Implementation Date / Priority:**

The timeframe to progress a PP is governed by the EP&A Act 1979 and commences on the date that the PP is forwarded to DPE.

The projected timeline is as follows:

- |                          |  |
|--------------------------|--|
| November 2017:           | Forward the PP to DPE, requesting a Gateway Determination. |
| January - February 2018: | Public Exhibition / Consultation period.                   |

April 2018:	Report to Council for determination of the PP.
April – May 2018:	Submission to DPE, requesting the making of the LEP Amendment.

**Conclusion:**

Submission of a PP is the most appropriate means to correct the two errors which have been identified within the Bonville Large Lot Residential Investigation Area. The proposed amendments to *Coffs Harbour LEP 2013* and *Coffs Harbour DCP 2015*, along with the fee waiver, are justified in the circumstances.