

**Coffs Harbour LEP 2013 - Additional permitted use on 6, 6A, 6B & 10 North Boambee Rd,
North Boambee Valley**

Proposal Title :	Coffs Harbour LEP 2013 - Additional permitted use on 6, 6A, 6B & 10 North Boambee Rd, North Boambee Valley		
Proposal Summary :	The Planning Proposal aims to amend Coffs Harbour LEP 2013 by inserting an additional use into Schedule 1 for the purpose of a vehicle sales or hire premises on Lot 3 DP 1022408 & Lots 120, 121 and 122 DP 1184992, 6, 6A, 6B & 10 North Boambee Road, North Boambee Valley.		
PP Number :	PP_2017_COFFS_001_00	Dop File No :	17/05163

Proposal Details

Date Planning Proposal Received :	07-Apr-2017	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 :	6, 6A, 6B & 10 North Boambee Road		
Suburb :	North Boambee Valley	City :	Postcode : 2450
Land Parcel :	Lot 3 DP 1022408 & Lots 120, 121 and 122 DP 1184992		

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

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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 **No**
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 adequately describes the intention of the planning proposal to
seek a site specific amendment to Schedule of 1 of Coffs Harbour LEP 2013 to permit with
consent 'vehicle sales or hire premises' on the subject land. Council has advised it also
wishes to apply a 5 year sunset clause to commence for the additional permitted use on 6B
and 10 North Boambee Rd to provide impetus to the proposal. Prior to community
consultation it is recommended that the objectives be updated to clarify this matter.**

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

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

Comment : **The explanation of provisions adequately addresses the intended changes to Coffs
Harbour City LEP 2013 subject to amendment to include references to 6 and 6A North
Boambee Rd and that the sunset clause will only apply to 6B and 10 North Boambee Rd.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

* May need the Director General's agreement

2.1 Environment Protection Zones

2.2 Coastal Protection

2.3 Heritage Conservation

3.1 Residential Zones
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
5.4 Commercial and Retail Development along the Pacific Highway,
North Coast
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 44—Koala Habitat Protection
SEPP No 64—Advertising and Signage
SEPP No 71—Coastal Protection**

e) List any other matters that need to be considered : **The North Coast Regional Plan 2036 which has been released since Council prepared the original proposal.**

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

If No, explain : **Refer below to the assessment of the applicable S117 directions / SEPPs and the North Coast Regional Plan 2036.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The Planning Proposal includes mapping that identifies the location of the subject land which is considered satisfactory for community consultation purposes. No map changes to the LEP are required for the proposal.**

It is noted that a 'Permitted Additional Uses Map' is not proposed as only 'whole' lots are involved and due to the proposed sunset clause (which could result in the need to do a further LEP amendment in the future should the proposal not proceed and the additional permitted use on 6B and 10 North Boambee Road lapse). This is considered satisfactory.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has identified a 28 day exhibition period for the proposal.**

As the expansion of the existing motor vehicle showroom is outside the scope of Council's existing Local Growth Management Strategy, and involves land zoned R1 and R2 in which such a use is not usually permitted, it is considered that a 28 exhibition period 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 : **The Planning Proposal and accompanying documentation are considered to satisfy the adequacy criteria by:**

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1. Providing appropriate objectives and intended outcomes;
2. Providing a suitable explanation of the provisions proposed by the LEP to achieve the outcomes;
3. Providing an adequate justification for the proposal;
4. Outlining a proposed community consultation program; and
5. Providing a project time line.

Council is seeking an authorisation to exercise its plan making delegations. As the proposal deals with only matters of local significance, it is recommended that an authorisation to exercise plan making delegations be issued to Council in regard to this matter.

The RPA has provided a project timeline which estimates that the LEP will be ready for notification in November 2017. To ensure an adequate period to finalise the proposal, a 12 month timeframe is considered appropriate.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Coffs Harbour LEP was published in September 2013.

Assessment Criteria

Need for planning proposal :

The Planning Proposal aims to amend Coffs Harbour LEP 2013 by inserting an additional use into Schedule 1 for the purpose of a 'Vehicle sales or hire premises' on Lot 3 DP 1022408 & Lots 120, 121 and 122 DP 1184992, 6, 6A, 6B & 10 North Boambee Road, North Boambee Valley. Council also wish to restrict this additional permitted use on Lot 3 and Lot 120 with a sunset provision of 5 years to commence.

The subject land is currently zoned R1 General Residential (Lots 120, 121 and 122) and R2 Low Density Residential (Lot 3) under Coffs Harbour LEP 2013. Lot 120 is a former school site which is now being used for a childcare centre in the northern portion of the site, whilst Lot 3 is currently vacant with some hard stand areas. Lots 121 and 122 (6 & 6A) are also zoned R1 General Residential and are currently used for the existing Watsons caravan business that has been approved by Council. This business is operating under continuing use rights as a result of changes between Coffs Harbour City LEP 2000 and 2013. The purpose of the planning proposal is to re-introduce the former additional permitted use under Coffs Harbour LEP 2000 for a motor showroom on Lots 121, 122 and Lot 3, and expand the additional permitted use to Lot 10, allowing the existing caravan business to continue its operations and expand over the subject land. The current zoning of the land (R1 General Residential and R2 Low Density Residential) currently prohibits 'vehicle sales or hire premises'.

Both Council and the proponent believe that an amendment to Schedule 1 is the best means of achieving the desired outcome as the alternative of rezoning the subject land to a zone which permits the intended use with consent, such as B5 Business Development or IN1 General Industrial, would open up the site to a host of other landuse activities that are more likely to be incompatible with the surrounding residential zoned land.

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Consistency with
strategic planning
framework :

This Planning Proposal is not the result of a strategic study or report. The owners of the land have requested Council amend the LEP to facilitate the ongoing operation and future development of the site.

North Coast Regional Plan 2036

The proposal is considered to be consistent with the North Coast Regional Plan 2036. The proposal was however prepared by Council prior to the release of the Regional Plan, and needs to be amended prior to community consultation to remove references to the Mid North Coast Regional Strategy and replace them with a discussion on the North Coast Regional Plan 2036.

Consistency with Council's Local Strategies.

The proposal is not considered to be inconsistent with Council's local strategies, including Council's Business Lands Strategy approved by the Director General in August 2010. The Business Lands Strategy identifies the need to reinforce the primacy of the Coffs Harbour CBD and other commercial centres, and recognizes the need to locate certain uses of a size and scale outside the CBD. Due to the nature of the existing 'motor vehicle salesroom', and its size and scale, it is not considered the proposal would detract from the CBD or any other existing commercial area. Council has also identified an extremely limited quantity of employment land in the Cooks Drive / Boambee area.

SEPPs

The planning proposal is considered to be consistent with all relevant State Environmental Planning Policies (SEPPs) that are applicable to the land. Further discussion regarding SEPP 44 Koala Habitat Protection is warranted however.

SEPP 44

An ecological impact assessment of the site has been undertaken by Sandpiper Ecological Surveys who found that the proposed development would remove approximately 5500m² of modified grassland habitat which would include the removal of up to 12 native trees, 9 of which are listed as Schedule 2 Koala Feed trees under the SEPP 44 (Tallowwood).

A comprehensive Koala Plan of Management (cKPOM) for the Coffs Harbour City LGA is applicable to this planning proposal. The cKPOM applies to all land mapped as Primary Koala Habitat and land adjoining land mapped as Primary Koala Habitat. A patch of vegetation near the northern boundary and along the eastern boundary of the subject land is mapped as Primary Koala Habitat, however the proposed development footprint is to be located on land mapped as land adjoining Primary Koala Habitat. Council's Senior Biodiversity Officer has however expressed concerns that the age of Koala habitat mapping used may mean that more Primary Koala Habitat areas could be located on the subject land. Council's officer has therefore recommended that a site based assessment of Koala Habitat and assessment of Koala usage is submitted as part of a full flora and fauna report post Gateway to determine if the proposed development of the site can meet the requirements of the Coffs Harbour DCP 2015 and the cKPOM. This approach is supported.

It is also recommended that the planning proposal be referred to OEH for further assessment.

Section 117 Directions

The proposal is considered to be consistent with all relevant section 117 Directions except in relation to the following:

2.3 Heritage Conservation

This Direction applies as an archeological assessment of the subject land has identified an isolated artefact (Aboriginal object) on the site. Whilst the rezoning itself will not harm the artefact, future works on the site have the potential to result in harm to Aboriginal objects. While the proposal indicates that this issue can be appropriately managed, it is considered that the potential inconsistency can not be resolved until after Council has consulted with the Office of Environment and Heritage and they have confirmed that this approach is acceptable. It is also noted that Council has advised that consultation with the Aboriginal

community has taken place during the preparation of the proposal. It is recommended however that the Local Aboriginal Land Council again be formally consulted as part of the planning proposal process.

3.1 Residential Zones

This Direction applies as the subject land is zoned R1 General Residential and R2 Low Density Residential. Whilst the planning proposal will not be rezoning the subject land, it does intend to amend the LEP so that the site may be used for an additional use which is currently prohibited in the zone. The proposal is therefore inconsistent with this Direction as this will in effect reduce the potential for the land to be used for residential purposes. The inconsistency with this Direction is considered to be of minor significance for the following reasons;

- whilst being zoned residential, the subject land has a long history of commercial use. Prior to CHC LEP 2013, the subject land was zoned 'Residential 2E Tourist' (Lots 121, 122 & Lot 3) & '2A Low Density' (Lot 120) under Coffs Harbour City LEP 2000. Whilst the current landuses were prohibited under these zonings, the CHCLEP 2000 contained an exceptions clause that permitted their lawful use. Watsons Caravans was approved via DA in 2000 and 2004 for Lots 121 & 122 North whilst Lot 120 was originally approved for the purpose of a school in 1976, then a childcare centre in 2015; and
- the subject land is located on the Pacific Highway and whilst it adjoins residential zoned land to the north and north-east, is surrounded by land zoned IN1 General Industrial and B6 Enterprise Corridor to the East, South and West.

4.1 Acid Sulfate Soils

The proposal is inconsistent with this Direction as part of the subject land is identified on the Coffs Harbour LEP 2013 Acid Sulfate Soils map as being Class 3 & 5 and no acid sulfate soil study has been prepared to support the development. The inconsistency with this Direction is considered to be of minor significance as the proposed development will not involve any considerable excavation and because this issue can be adequately addressed at the development application stage as required by the acid sulfate provisions of Coffs Harbour LEP 2013. It is noted that the proposal incorrectly refers to the land being mapped as part Class 4 and 5. It is recommended that this error be rectified prior to community consultation.

4.3 Flood Prone Land

The proposal is inconsistent with this Direction as it will permit an increase in development potential on Lots 120, 121 and 122 which are mapped as being totally or part flood prone. The proposal will permit the development of a vehicle hire and sales premises on the subject land. A flood assessment has been undertaken and has concluded that the proposed development would have a negligible effect on flooding with the future showroom component of the development being suitably located with respect to flood categories and flood hazard and would satisfy the required clauses of Coffs Harbour City Council Floodplain Development and Management Policy 2013. Council's engineers have reviewed and agree with the flood assessment outcomes. The inconsistency with this Direction is therefore considered to be of minor significance due to the existing developed nature of adjoining land, location of the proposed development within the site and the minimal impact the development would have on flood waters. It is recommended that the proposal be referred to OEH for comment.

4.4 Planning for Bushfire Protection

This Direction is relevant as the Planning Proposal will affect land that is identified as bushfire prone. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service before consistency with the Direction can be granted. A bushfire assessment has been prepared for the subject land and found that the bushfire provisions proposed and those likely to be imposed by Council, generally comply with the "Acceptable Solutions" for each Protection Measure contained in the relevant section of the BBP 2006.

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.

5.4 Commercial and Retail Development along the Pacific Highway, North Coast.
This Direction is relevant as the planning proposal relates to land in the vicinity of the existing and/or proposed realignment of the Pacific Highway. Whilst the proposed development will be located outside of a district centre, the inconsistency with this Direction is considered to be of minor significance due to the long-term commercial nature of the subject land. Referral to the Roads and Maritime Services is however recommended.

6.3 Site Specific Provisions

The proposal is inconsistent with this Direction as it seeks to apply a 5 year sunset clause for the approval of the proposed development on 6B and 10 North Boambee Rd to provide impetus to the development. Whilst Council originally stated that the PP was consistent with this direction, further discussions regarding the use of a sunset clause has led Council to agree that the PP is justifiably inconsistent. This inconsistency is considered to be of minor significance as it only seeks to provide impetus to the development, and should it not proceed, clarify that the land is free and uninhibited to develop in accordance with the intention of its current zoning.

Environmental social
economic impacts :

Environmental

Bushfire

The site has been identified as being bushfire prone. The planning proposal will require referral to the NSW Rural Fire Service due to the land being bushfire prone. It is likely that the requirements of Planning for Bush Fire Protection 2006 can be satisfied with minimal environmental impact.

Flooding

The land is identified as being flood prone. A flood assessment for the site has concluded that the proposed development would have negligible effect on flooding as the future building would be suitably located with respect to flood categories and flood hazard. It is therefore not considered a constraint to the proposal proceeding. Referral to OEH to consider possible impacts is however recommended.

Acid Sulfate Soils

This issue can adequately be dealt with by conditioning of any future development consent in accordance with Council's relevant policies.

Koala Habitat

Whilst the development footprint has not been mapped as Core Koala Habitat under Coffs Harbour City KPOM, the subject land as a whole contains some land mapped as Primary and buffers to Primary Koala Habitat. It is anticipated that some SEPP 44 Schedule 2 Feeds Tree Species will require removal to facilitate the development. It is noted that these will be replaced at a 1:5 ratio as part of the development. There are also some concerns that the age of Koala habitat mapping may mean that more Primary Koala Habitat areas could be located on the subject land. Council's Senior Biodiversity Officer has therefore recommended that a site based assessment of Koala Habitat and assessment of Koala usage is submitted as part of a full flora and fauna report post Gateway to determine if the proposed development of the site can meet the requirements of the Coffs Harbour City DCP 2015 and the CHCKPOM. The Gateway can be conditioned accordingly.

Cultural Heritage

It is not expected that the planning proposal will result in any harm to Aboriginal objects. Conditions to appropriately manage the isolated Aboriginal artefact found on the site can be implemented at the development application stage of the proposal. Referral to OEH and the Local Aboriginal Land Council to consider possible impacts is however recommended.

Social and Economic

It is expected that the Planning Proposal will have a positive social and economic impact

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as it will expand upon an existing commercial enterprise whilst not detracting from existing concentrated retail and bulky goods premises located within the Coffs Harbour City commercial area.

Assessment Process

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

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

Public Authority Consultation - 56(2)(d) : **Office of Environment and Heritage
Office of Environment and Heritage - NSW National Parks and Wildlife Service
NSW Rural Fire Service
Transport for NSW - Roads and Maritime Services**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **Referral to the Local Aboriginal Land Council is also recommended.**

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

Flora

Fauna

If Other, provide reasons :

Refer to SEPP 44 discussion in 'Assessment' section of the planning team report.

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
Planning Proposal.pdf	Proposal	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**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**

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5.1 Implementation of Regional Strategies

5.4 Commercial and Retail Development along the Pacific Highway, North Coast

6.3 Site Specific Provisions

Additional Information :

1. The Planning Proposal be supported.
2. The Planning Proposal be exhibited for 28 days.
3. The Planning Proposal be completed within 12 months.
4. The Planning Proposal be amended prior to consultation to:
 - correctly reference the subject land as Lot 3 DP 1022408 and Lots 120, 121 and 122 DP 1184992, 6, 6A, 6B, and 10 North Boambee Rd, throughout the proposal;
 - update the objectives and explanation of provisions to correctly refer to the subject land and clarify that the proposed 5 year sunset clause only applies to Lot 3 DP 1022408 and Lot 120 DP 1184992, 6B and 10 North Boambee Rd;
 - remove references to Mid North Coast Regional Strategy and the draft North Coast Regional Plan and replace with a discussion regarding consistency with the North Coast Regional Plan 2036; and
 - correctly refer to the subject land being affected partly by Class 3 and 5 Acid Sulfate soils.
5. Prior to undertaking consultation, a flora and fauna assessment of the subject land, including a site based assessment of Koala habitat should be undertaken. This material should be placed on public exhibition with the planning proposal;
6. The Secretary (or her delegate) note the current unresolved inconsistencies with Directions 2.3 Heritage Conservation and 4.4 Planning for Bushfire Protection.
7. The Secretary (or her delegate) agree that the inconsistency of the proposal with S117 Directions 3.1 Residential Zones, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land, 5.4 Commercial and Retail Development along the Pacific Highway, North Coast and 6.3 Site Specific Provisions are justified in accordance with the terms of the directions.
8. That consultation be undertaken with the following agencies:
 - NSW Rural Fire Service;
 - Roads and Maritime Services;
 - Office of Environment and Heritage; and
 - Local Aboriginal Land Council.
9. A written authorisation to exercise delegation be issued to Coffs Harbour City Council.

Supporting Reasons :

The proposal seeks only to reintroduce the former additional permitted use under Coffs Harbour LEP 2000 to allow the continued operation and expansion of the existing motor vehicle showroom, and to allow its possible expansion onto the adjoining Lot 120. This is considered appropriate and will help continue to provide important employment opportunities for the local economy.

Signature:



Printed Name:

Craig Diss

Date:

10/4/17

