



PLANNING PROPOSAL

COFFS HARBOUR CITY COUNCIL

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Planning Proposal to Permit Dual Occupancy (detached) with Consent
in the RU2 Rural Landscape Zone

VERSION 3 Revised Public Exhibition
February 2018

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INTRODUCTION

Purpose

The purpose of this planning proposal is to amend Coffs Harbour Local Environmental Plan (LEP) 2013 to permit (with Council consent) dual occupancy (detached) as a land use in the RU2 Rural Landscape zone.

Property details

It is intended that the Planning Proposal will apply to all land zoned RU2 Rural Landscape under Coffs Harbour LEP 2013.

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The planning proposal will:

- Permit dual occupancy (detached) dwellings in the RU2 zone with Council consent; and
- Set out consent considerations for development of detached dual occupancies in the RU2 zone to address matters such as access, siting, land suitability and potential impacts.

This will provide for an additional form of rural housing for rural land owners that when correctly implemented should have limited negative impacts on horticulture, agriculture and other rural land uses.

PART 2 – EXPLANATION OF PROVISIONS

The intended outcomes of the planning proposal will be achieved by amendments to Coffs Harbour LEP 2013 as follows:

- Amend the land use table to the RU2 Rural Landscape zone to delete the word “(attached)” following “dual occupancies”. This has the effect of permitting both attached and detached dual occupancy development with consent in the RU2 zone.
- Including a new local provision (clause 4.2E) that provides objectives for the land use as well as siting and design criteria that Council will consider in determining an application for a detached dual occupancy. A recommended draft local provision is set out below:

Clause 4.2E Erection of dual occupancies (detached) in Zone RU2 Rural Landscape

(1) *The objectives of this clause are as follows:*

- (a) *to ensure that dual occupancy (detached) development is of a scale and nature that is compatible with the primary production potential, rural character and environmental capabilities of the land,*
- (b) *to ensure that consent is only granted to development for the purposes of a dual occupancy (detached) if issues such as access, siting, land suitability and potential impacts are addressed.*

(2) *Development consent must not be granted to development for the purpose of a dual occupancy (detached) on land in Zone RU2 Rural Landscape unless the consent authority is satisfied that:*

- (a) *the development will not impair the use of the land (or adjacent land) for agriculture or rural industries, and*
- (b) *each dwelling will use the same vehicular access to and from a public road, and*
- (c) *any dwellings will be situated within 50 metres of each other, and*
- (d) *the land is physically suitable for the development, and*
- (e) *the land is capable of accommodating the on-site disposal and management of sewage for the development, and*

(f) the development will not have an adverse impact on the scenic amenity or character of the rural environment.

(3) Development consent must not be granted to development for the purposes of a dual occupancy (detached) on land in Zone RU2 Rural Landscape unless development consent for the erection of a dwelling house on that land may be granted in accordance with clause 4.2B.

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 two recent Council resolutions. At a meeting on 23 March 2017, Coffs Harbour City Council resolved to review both Coffs Harbour LEP 2013 and Coffs Harbour DCP 2015 to possibly include detached rural dual occupancy. This was supported on 27 April 2017, with a resolution that Council wanted to review the experience of other councils that have permitted detached rural dual occupancy, as well as past experiences in the Coffs Harbour LGA.

During 2016 and 2017, Council has been working on a draft Rural Lands Strategy as part of reviewing the Local Growth Management Strategy, which guides the direction of development in the LGA. In April 2017, this process resulted in Council releasing a Rural Lands Issues and Options Summary Paper. This Summary Paper lists (among a range of other issues) the need to review the current provision that only attached dual occupancy dwellings are permitted in the RU2 Rural Landscape zone. Although this is not adopted as Council policy, it does indicate some community support to revisit this issue.

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 to be the only way to change the land use table and local provisions for the RU2 zone.

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 some rural zoned land and will not change any land use zones under Coffs Harbour LEP 2013. 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 North Coast Regional Plan (NCRP) applies to the Coffs Harbour LGA. The NCRP was finalised in 2017, and replaces the Mid North Coast Regional Strategy (2006). The NCRP includes actions on residential and rural residential housing, but does not specifically address rural dual occupancy (detached or attached).

In relation to agricultural land and housing, the NCRP includes the following actions:

- 11.1 *Enable the growth of the agricultural sector by directing urban and rural residential development away from important farmland and identifying locations to support existing and small-lot primary production, such as horticulture in Coffs Harbour.*
- 11.3 *Identify and protect intensive agriculture clusters in local plans to avoid land use conflicts, particularly with residential and rural residential expansion.*

In relation to other resource land in rural areas and housing, the NCRP states:

- 13.1 *Enable the development of the region's natural, mineral and forestry resources by directing to suitable locations land uses such as residential development that are sensitive to impacts from noise, dust and light interference.*

In relation to planning for rural residential development, it states:

- 24.1 *Facilitate the delivery of well-planned rural residential housing areas by:*
 - *identifying new rural residential areas in a local growth management strategy or rural residential land release strategy endorsed by the Department of Planning and Environment; and*
 - *ensure that such proposals are consistent with the Settlement Planning Guidelines: Mid and Far North Coast Regional Strategies (2007) or land release criteria (once finalised).*
- 24.2 *Enable sustainable use of the region's sensitive coastal strip by ensuring new rural residential areas are located outside the coastal strip, unless already identified in a local growth management strategy or rural residential land release strategy endorsed by the Department of Planning and Environment.*

The current NCRP does not explicitly oppose detached rural dual occupancy. Rather, it follows the SEPP (Rural Lands) 2008 approach that in planning for rural lands, local controls should be consistent with any applicable regional strategy or any applicable local strategy endorsed by the Department of Planning and Environment.

The special provisions included in this planning proposal require the second dwelling to be located close to the principal dwelling, and have a shared driveway. These controls are further explained in the DCP provisions. If properly applied, these controls should allow detached dual occupancy on some rural land while not impairing the use of the subject land for a range of permitted rural uses.

Detached rural dual occupancy has been permitted in seven LGAs subject to the NCRP, and early evidence suggests that this has not resulted in significant land use conflicts.

On this basis, the planning proposal is consistent with the NCRP.

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

Coffs Harbour Rural Residential Strategy 2009 remains the adopted rural residential strategy for the LGA (even though a revision process is underway). This strategy was focussed on rural residential development or what is now termed Large Lot Residential development. It does not make specific reference to rural dual occupancy (detached or otherwise). In the absence of any reference to this issue, the planning proposal is not inconsistent with this strategy.

During 2016 and 2017, Council has been working on a draft Rural Lands Strategy as part of reviewing its overall Local Growth Management Strategy, which guides the direction of development in the LGA. In April 2017, this process resulted in Council releasing a Rural Lands Issues and Options Summary Paper. This Summary Paper lists (among a range of other issues) the need to review the current provision that only attached dual occupancy dwellings are permitted in the RU2 Rural Landscape zone. Although this is not adopted as Council policy, it does indicate some community support to revisit this issue.

In 2017, Council updated its Community Strategic Plan (MyCoffs). The plan is based on four key themes, being: Community Wellbeing, Community Prosperity, a Place for Community, and Sustainable Community Leadership.

The planning proposal is generally consistent with the following relevant Objectives from the MyCoffs Plan:

A thriving and sustainable local economy	B1.2 We attract people to work, live and visit in the Coffs Harbour local government area
Liveable neighbourhoods with a defined identity	C1.2 We undertake development that is environmentally, socially and economically responsible
A natural environment sustained for the future	C2.2 We use resources responsibly to support a safe and stable climate
Our leaders give us confidence in the future	D1.2 We undertake effective engagement and are informed
We have effective use of public resources	D2.2 We collaborate to achieve the best possible future for all the Coffs Harbour area

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 14 – Coastal Wetlands	N/A

State Environmental Planning Policy	Consistency
SEPP No 19 – Bushland in Urban Areas	N/A
SEPP No 21 – Caravan Parks	N/A
SEPP No 26 – Littoral Rainforests	N/A
SEPP No 30 – Intensive Agriculture	N/A
SEPP No 33 – Hazardous and Offensive Development	N/A
SEPP No 36 – Manufactured Home Estates	N/A
SEPP No 44 – Koala Habitat Protection	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 55 – Remediation of Land	Consistent. See additional comments below
SEPP No 62 – Sustainable Aquaculture	N/A
SEPP No 64 – Advertising and Signage	N/A
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 (Integration and Repeals) 2016	N/A
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Consistent. See additional comments below
SEPP (Rural Lands) 2008	Consistent. See additional comments below
SEPP (North Coast REP) 1988	N/A (repealed for CH)
SEPP (Urban Renewal) 2010	N/A
SEPP (Vegetation in Non-Rural Areas) 2017	N/A
SEPP (Educational Establishments and Child Care Facilities) 2017	N/A

SEPP 55 – Remediation of Land

In accordance with clause 6(4) of SEPP 55, Council requires 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).

In this case the planning proposal will create an opportunity for an additional dwelling, but only on land on which a single dwelling could already be erected (or has been erected). No land will change zones as a result of this planning proposal.

When a development application is lodged for a detached rural dual occupancy, it will need to include sufficient site-specific information to allow Council to assess the possibility of land contamination from past land use before it issues an approval (pursuant to clause 7 of SEPP 55).

The planning proposal is consistent with SEPP 55 based on available information.

SEPP 71 – Coastal Protection

Coffs Harbour LGA does not have a lot of land (if any) zoned RU2 that is within 1 kilometre of the coastline. It does, however, have land in this zone in close proximity to tidal estuaries that are classified as being within the 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 is unlikely to generate developments that 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 as these matters are required to be considered in the assessment process,
- Prospective development will be assessed in context and will need to be compatible with the land use in the surrounding area,
- Prospective development on land affected by hazards such as bushfire or flooding will need to demonstrate that the development is compatible with this hazard, and risk to life and property is acceptable,

- Prospective development will need to show that it is unlikely to have an impact on water quality and will not impact on Aboriginal heritage.

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 in the RU2 Rural Landscape zone. No land use zones are proposed to be changed by this planning proposal. Dwellings are already permitted on land to which this planning proposal applies.

The planning proposal is consistent with the SEPP.

SEPP (Rural Lands) 2008

The planning proposal is consistent with the rural planning principles as follows:

- (a) Applications that comply with the proposed local provisions will ensure the protection of opportunities for current and potential productive and sustainable economic activities in rural areas,
- (b) The planning proposal arises from the changing nature of agriculture and of trends, demands and issues in agriculture in the Coffs Harbour area,
- (c) The planning proposal recognises the social and economic benefits of rural land use and development,
- (d) The planning proposal is an attempt to balance the social, economic and environmental interests of the community,
- (e) Proper application of the proposed local provisions should ensure the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,
- (f) The planning proposal will provide opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,
- (g) Proper application of the proposed local provisions will involve the consideration of impacts on services and infrastructure and appropriate location when providing for detached rural dual occupancy,
- (h) The planning proposal is consistent with the NCRP and the Coffs Harbour Rural Residential Strategy 2009.

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).	This planning proposal will not affect any business or industrial zoned land.	N/A
1.2 Rural Zones	Applies when a relevant planning authority prepares a planning proposal that will affect 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).	This planning proposal will not change the zone of any rural zoned land. It will allow an additional detached dwelling on land where an additional attached dwelling is already permitted. It will therefore not alter the density of rural dwellings but the way in which they can be located on the land. Proper application of the proposed local provisions should ensure that it can only occur on appropriate rural sites.	Consistent
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	Nothing in this planning proposal will prohibit or restrict exploration or mining.	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	likely to be incompatible with such development.		
1.4 Oyster Aquaculture	<p>Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in:</p> <p>(a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”, or</p> <p>(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.</p>	<p>This planning proposal does not impact on a Priority Oyster Aquaculture Area.</p>	N/A
1.5 Rural Lands	<p>Applies when:</p> <p>(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</p> <p>(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.</p> <p>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>.</p> <p>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>.</p>	<p>This planning proposal does affect land zoned rural.</p> <p>It will not affect the minimum lot size that applies to rural land.</p> <p>It is consistent with the Rural Planning Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i> as follows:</p> <p>(a) Applications that comply with the proposed local provisions will ensure the protection of opportunities for current and potential productive and sustainable economic activities in rural areas,</p> <p>(b) The planning proposal arises from the changing nature of agriculture and of trends, demands and issues in agriculture in the Coffs Harbour area,</p> <p>(c) The planning proposal recognises the social</p>	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		<p>and economic benefits of rural land use and development,</p> <p>(d) The planning proposal is an attempt to balance the social, economic and environmental interests of the community,</p> <p>(e) Proper application of the proposed local provisions should ensure the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,</p> <p>(f) The planning proposal will provide opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,</p> <p>(g) Proper application of the proposed local provisions will involve the consideration of impacts on services and infrastructure and appropriate location when providing for detached rural dual occupancy,</p> <p>(h) The planning proposal is consistent with the NCRP and the Coffs Harbour Rural Residential Strategy 2009.</p>	
2 Environment and Heritage			
2.1 Environment Protection Zones	(4) A planning proposal must include provisions that facilitate the protection and conservation of	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
	<p>environmentally sensitive areas.</p> <p>(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 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>.</p>		
2.2 Coastal Protection	<p>Applies when a relevant planning authority prepares a planning proposal that applies to land in the coastal zone.</p> <p>(4) A planning proposal must include provisions that give effect to and are consistent with:</p> <ul style="list-style-type: none"> (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). 	<p>Coffs Harbour LGA does not have a lot of land (if any) zoned RU2 that is within 1 km of the coastline. It does, however, have land in this zone in close proximity to tidal estuaries that are classified as being within the 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:</p> <ul style="list-style-type: none"> • The planning proposal is unlikely to generate developments that 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 as these matters are required to be 	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		<p>considered in the assessment process.</p> <ul style="list-style-type: none"> • Prospective development will be assessed in context and will need to be compatible with the land use in the surrounding area. • Prospective development on land affected by hazards such as bushfire or flooding will need to demonstrate that the development is compatible with this hazard, and risk to life and property is acceptable. • Prospective development will need to show that it is unlikely to have an impact on water quality and will not impact on Aboriginal heritage. <p>The planning proposal will not alter the relevance or effect of the Coastal Design Guidelines.</p> <p>The planning proposal is not on land affected by coastal processes or hazards.</p>	
2.3 Heritage Conservation	<p>A planning proposal must contain provisions that facilitate the conservation of:</p> <p>(a) items, places, buildings, works, relics, moveable objects or precincts of 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,</p> <p>(b) Aboriginal objects or Aboriginal places that are</p>	<p>Nothing in this planning proposal will stop or inhibit the conservation of heritage items, places or relics or Aboriginal objects or places.</p>	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>protected under the <i>National Parks and Wildlife Act 1974</i>, and</p> <p>(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.</p>		
2.4 Recreation Vehicle Areas	<p>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>):</p> <p>(a) where the land is within an environment protection zone,</p> <p>(b) where the land comprises a beach or a dune adjacent to or adjoining a beach,</p> <p>(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:</p> <p>(i) the provisions of the guidelines entitled <i>Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985</i>, and</p> <p>(ii) the provisions of the guidelines entitled <i>Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation</i></p>	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>Vehicle Areas, State Pollution Control Commission, September 1985.</i>		
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	<p>(3) This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</p> <ul style="list-style-type: none"> (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. <p>(4) A planning proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> (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 (d) be of good design. <p>(5) A planning proposal must, in relation to land to which this direction applies:</p> <ul style="list-style-type: none"> (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, 	The planning proposal does not affect residential zoned land.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>have been made to service it), and</p> <p>(b) not contain provisions which will reduce the permissible residential density of land.</p>		
<p>3.2 Caravan Parks and Manufactured Home Estates</p>	<p>Applies when a relevant planning authority prepares a planning proposal.</p> <p>In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</p> <p>(a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and</p> <p>(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 <i>Standard Instrument (Local Environmental Plans) Order 2006</i> that would facilitate the retention of the existing caravan park.</p> <p>In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:</p> <p>(a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located,</p> <p>(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</p> <p>(c) include provisions that the subdivision of MHEs by long</p>	<p>This proposal does not seek to permit or prohibit development for the purpose of a caravan park or a manufactured home estate.</p>	<p>N/A</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	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 Coffs Harbour LEP 2013.	N/A
3.4 Integrating Land Use and Transport	<p>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.</p> <p>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:</p> <p>(a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and</p> <p>(b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).</p>	The planning proposal will not affect any land zoned for residential, business, industrial, village or tourist purposes.	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 the vicinity of a licensed aerodrome.	Coffs Harbour airport is located approximately 2 km away from the nearest RU2 zoned land. RU2 zoned land is not within the obstacle height limitation mapping of the airport, and is not affected by the ANEF noise contours.	N/A
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.	Coffs Harbour has shooting ranges at Moonee, Karangi, Dairyville and Howard Street (Coffs Harbour). The land near these ranges zoned RU2 will be affected by this planning proposal. The local provisions when	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		properly applied should ensure that additional dwellings do not impact on the function of any of the shooting ranges in Coffs Harbour LGA.	
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.	<p>Some RU2 zoned land may be identified in the Coffs Harbour LEP 2013 Acid Sulfate Soils map as containing acid sulfate soils.</p> <p>There is a suite of standard provisions in the LEP that apply to this land and must be considered in any future DA.</p> <p>The acid sulfate soil provisions of the LEP will apply unchanged to any future development application.</p>	Consistent
4.2 Mine Subsidence and Unstable Land	<p>Applies when a relevant planning authority prepares a planning proposal that permits development on land that:</p> <p>(a) is within a mine subsidence district, or</p> <p>(b) has been identified as unstable in a study, strategy or other assessment undertaken:</p> <p>(i) by or on behalf of the relevant planning authority, or</p> <p>(ii) by or on behalf of a public authority and provided to the relevant planning authority.</p>	<p>This proposal does not impact on any known mine subsidence area.</p> <p>Any future DA for detached dual occupancy would need to address any land instability issues that may be relevant to that site.</p>	Consistent
4.3 Flood Prone Land	<p>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.</p> <p>A planning proposal must include provisions that give</p>	<p>This planning proposal will not remove or alter any zone or any provision that relates to flooding.</p> <p>Any future DA for detached rural dual occupancy will need to address hazards such as flooding.</p>	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>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>).</p> <p>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.</p> <p>A planning proposal must not contain provisions that apply to the flood planning areas which:</p> <ul style="list-style-type: none"> (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the development of that land, (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or (e) 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. <p>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</p>	<p>The planning proposal will not:</p> <ul style="list-style-type: none"> • 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 (dwellings are already permitted) • Require significant government spending on flood mitigation or services • Permit development without consent • Impose flood related controls. 	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p> <p>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).</p>		
4.4 Planning for Bushfire Protection	<p>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.</p> <p>A planning proposal must:</p> <ul style="list-style-type: none"> (a) have regard to <i>Planning for Bushfire Protection 2006</i>, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. <p>A planning proposal must, where development is proposed,</p>	<p>The planning proposal affects RU2 zoned land that may be mapped as bushfire prone land. This will be a consideration in any future application for detached dual occupancy.</p> <p>Consultation with the Commissioner of the NSW Rural Fire Service has taken place and the RFS advised on 8 February 2018 that it does not object to the planning proposal.</p> <p>It advised that all future applications for detached dual occupancy that are located on mapped bushfire prone lands will need to comply with Planning for Bushfire Protection, 2006 (as amended).</p> <p>This amended planning proposal will not impact on the existing planning controls that address the issue of bushfire hazard on rural land.</p> <p>Further consultation with RFS is anticipated once an amended gateway has</p>	Consistent.

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>comply with the following provisions, as appropriate:</p> <ul style="list-style-type: none"> (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: <ul style="list-style-type: none"> (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, (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 	<p>been issued. No additional concerns are expected.</p>	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	Protection Area.		
5. Regional Planning			
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	<p>Applies when a relevant planning authority prepares a planning proposal for land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.</p> <p>(5) A planning proposal that applies to land located on “out-of-town” segments of the Pacific Highway must provide that:</p> <p>(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.</p> <p>(b) development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway.</p> <p>(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.</p> <p>(6) Notwithstanding the requirements of</p>	This proposal will not affect commercial or retail land along the Pacific Highway, North Coast.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>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.</p>		
5.10 Implementation of Regional Plans	<p>Planning proposals must be consistent with a regional plan released by the Minister for Planning.</p>	<p>The North Coast Regional Plan (NCRP) applies to the Coffs Harbour LGA.</p> <p>The NCRP includes actions on residential and rural residential housing, but does not specifically address rural dual occupancy (detached or attached).</p> <p>The special provisions included in this planning proposal require the second dwelling to be located close to the principal dwelling, and have a shared driveway. These controls are further explained in the DCP provisions. If properly applied, these controls should allow detached dual occupancy on some rural land while not impairing the use of the subject land for a range of permitted rural uses.</p> <p>Also see section B4 of this report for additional comment.</p>	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
6. Local Plan Making			
6.1 Approval and Referral Requirements	<p>A planning proposal must:</p> <ul style="list-style-type: none"> (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: <ul style="list-style-type: none"> (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: <ul style="list-style-type: none"> (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 	<p>The planning proposal will not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.</p> <p>It does not identify development as designated development.</p>	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	section 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	<p>Applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.</p> <p>(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:</p> <p>(a) allow that land use to be carried out in the zone the land is situated on, or</p> <p>(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</p> <p>(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.</p>	<p>The planning proposal does not allow a particular development. It will not contain drawings that show details of a particular development.</p> <p>It permits the development in the RU2 zone by amending the land use table.</p> <p>The local provisions that are also proposed are necessary to ensure that detached rural dual occupancy only takes place on suitable land.</p>	Consistent

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 detached dual occupancy as a permitted use in the RU2 zone. Future DAs will be assessed on merit and with due regard to threatened species, etc. Council will still require a thorough ecological assessment to accompany any application, consistent with the requirements of the *Environmental Planning and Assessment Act 1979*.

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

The planning proposal could result in an impact on rural character or cause conflict with agriculture over time if take up rates are high. The proposed local provisions require consideration to be given to these issues at the time the development application is submitted. Other environmental impacts, such as managing on-site effluent disposal and traffic impacts can also be dealt with at the development assessment stage. Proper assessment of applications should avoid significant environmental effects. Council should review the uptake of detached rural dual occupancy over the first three years to ensure it is not causing cumulative problems eg increased land use conflict.

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

The planning proposal will allow an additional dwelling option for rural land owners, which has the potential to provide increased social, financial and physical support for residents of rural areas. It also allows an ageing farming population to support family members. It may also permit farmers to keep farms productive by using an additional dwelling to attract and retain labour or provide an additional income stream to the farm. However, if poorly located applications are approved it could also lead to increased rural land use conflict. Careful consideration will be needed to avoid important horticultural areas, extractive industries and rural industries.

Section D – State and Commonwealth interests

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

Detached dual occupancy in rural locations is typically going to be self-sufficient in water and on-site sewage management. Power and telephone will usually be linked to the primary dwelling (if not also self-sufficient). Section 94 contributions will be applicable to development applications for detached dual occupancy. These will be applied as provided in Council's Contributions Plan. Requiring a shared driveway to the public road will assist in minimising traffic issues. Emergency services are not expected to be affected by the additional option of detached dual occupancy. On balance, the planning proposal is unlikely to create excessive demands for public infrastructure.

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

The following State public authorities have been consulted previously in relation to this planning proposal in accordance with the Gateway determination. It will be sent to them again in its amended form.

Public authority/stakeholder	Issue requiring comment
NSW Rural Fire Service	Section 117 of the <i>Environmental Planning and Assessment Act 1979</i> , Ministerial Direction 4.4 to consult with the Commissioner of the NSW Rural Fire Service.
NSW Department of Primary Industries (Agriculture)	Impact of additional rural housing on farming and rural industries.

There are no issues of interest to Commonwealth authorities as the planning proposal does not directly affect land owned or managed by the Commonwealth.

PART 4 – MAPPING

The planning proposal does not involve any map amendments. It will apply to all land zoned RU2 Rural Landscape.

PART 5 – COMMUNITY CONSULTATION

This planning proposal was originally publicly exhibited from 22 November 2017 to 22 December 2017. Council received a total of 29 public submissions. NSW DPI (Agriculture) and NSW Rural Fire Service (RFS) also made a submission. In response to these submissions Council has altered some of the numerical standards in the LEP provisions and added a sub clause to clarify that a detached dual occupancy dwelling will only be permitted where a dwelling entitlement already exists on the land. A fresh public exhibition is warranted so the community and government agencies can comment on these changes before the revised planning proposal is finalised.

Council is undertaking community consultation in accordance with the revised Gateway determination.

The revised planning proposal is not considered to be low impact and is being made publicly available for a period of 28 days in accordance with section 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning and Environment 2016).

The revised planning proposal is not a principal LEP and does not reclassify public land.

Notification of the revised planning proposal has included:

- a newspaper advertisement that circulates in the area affected by the planning proposal,
- the website of Coffs Harbour City Council.

The written notice:

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

Exhibition material includes:

- the revised planning proposal, in the form approved for community consultation by the Director-General of the Department of Planning and Environment,
- the amended Gateway determination,
- the discussion paper prepared at Council's request,
- a revised DCP amendment that is consistent with the revised planning proposal

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	March 2018
Amended Gateway determination	April 2018
Public exhibition of revised planning proposal for not less than 28 days	May 2018
Agency consultation	May 2018
Review submissions	June 2018
Report to Council	August 2018
Submission to Planning Minister under delegation	September 2018

SUMMARY AND CONCLUSIONS

This planning proposal has come about as a result of three recent Council resolutions. At a meeting on 23 March 2017, Coffs Harbour City Council resolved to review both Coffs Harbour LEP 2013 and Coffs Harbour DCP 2015 to possibly include detached rural dual occupancy. This was supported on 27 April 2017, with a resolution that Council wanted to review the experience of other councils that have permitted detached rural dual occupancy, as well as past experiences in the Coffs Harbour LGA. A discussion paper addressing the second resolution has been prepared for Council and considered on 12 October 2017. Council agreed to proceed to public exhibition with a planning proposal and draft DCP amendments subject to obtaining a Gateway Determination from NSW P&E.

The planning proposal was publicly exhibited in late 2017 and 29 submissions reviewed. Although well supported in principle, a number of submissions raised concerns about being unable to comply with the numerical standards in the proposed LEP provisions relating to proximity to the original dwelling and buffers to neighbouring lots. These concerns have been taken on board and the planning proposal has been revised. A new sub clause has also been added to clarify that a detached dual occupancy dwelling will only be permitted where a dwelling entitlement already exists on the land.

These changes are significant and a re-exhibition is warranted.

The revised planning proposal is consistent with the North Coast Regional Plan and is consistent with all relevant SEPPs. The revised planning proposal is consistent with applicable section 117 Directions. The revised planning proposal is also consistent with Council's MyCoffs Community Strategic Plan.

It recommended that Council proceed to obtain an amended Gateway determination and then conduct a further public exhibition of this revised planning proposal.