



PLANNING PROPOSAL

COFFS HARBOUR CITY COUNCIL

**Planning Proposal
Reclassification of Public Land
(Community to Operational)**

Lot 2 DP 579023, 50 Minorie Drive Toormina

**July 2018
VERSION 1 – Pre-Gateway Determination**

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INTRODUCTION

Purpose

The purpose of this Planning Proposal is to amend *Coffs Harbour Local Environmental Plan (LEP) 2013* to reclassify a parcel of public land in Toormina from Community Land to Operational Land.

Reclassification of public land from operational to community, or from community to operational (in the case of this Planning Proposal) can take place when circumstances dictate. This Planning Proposal has been initiated to correct an historical land classification error which applies to the subject land.

Property details, site context and setting and current zoning

The land subject to this Planning Proposal is described as Lot 2 DP 579023, 50 Minorie Drive, Toormina. The land has an area of 1,343 m², and has a frontage width of approximately 40 metres to Minorie Drive.

The nearest major street is Toormina Road. The subject land is located between an ALDI supermarket to the west and the Toormina Library to the east. Toormina Gardens Shopping Centre is located to the north. The current land use zone under *Coffs Harbour LEP 2013* is B2 Local Centre. The subject land is shown in Figure 1.



Figure 1: Subject land – Lot 2 DP 579023, 50 Minorie Drive, Toormina

Classification history of the subject land

Classification of public land occurs when land is first acquired by a council and classified as either community or operational. Community land is typically available for use by the general public. Examples include parks, reserves or sports grounds.

Operational land may not necessarily be open to the general public, and is used to enable the functions of Council such as a works depot, water tower, and some community facilities which can include preschools. There are no special restrictions on council powers to manage, develop, dispose, or change the nature and use of operational land.

The subject land is currently classified as community land, as shown in on the Land Classification Map (Figure 2):

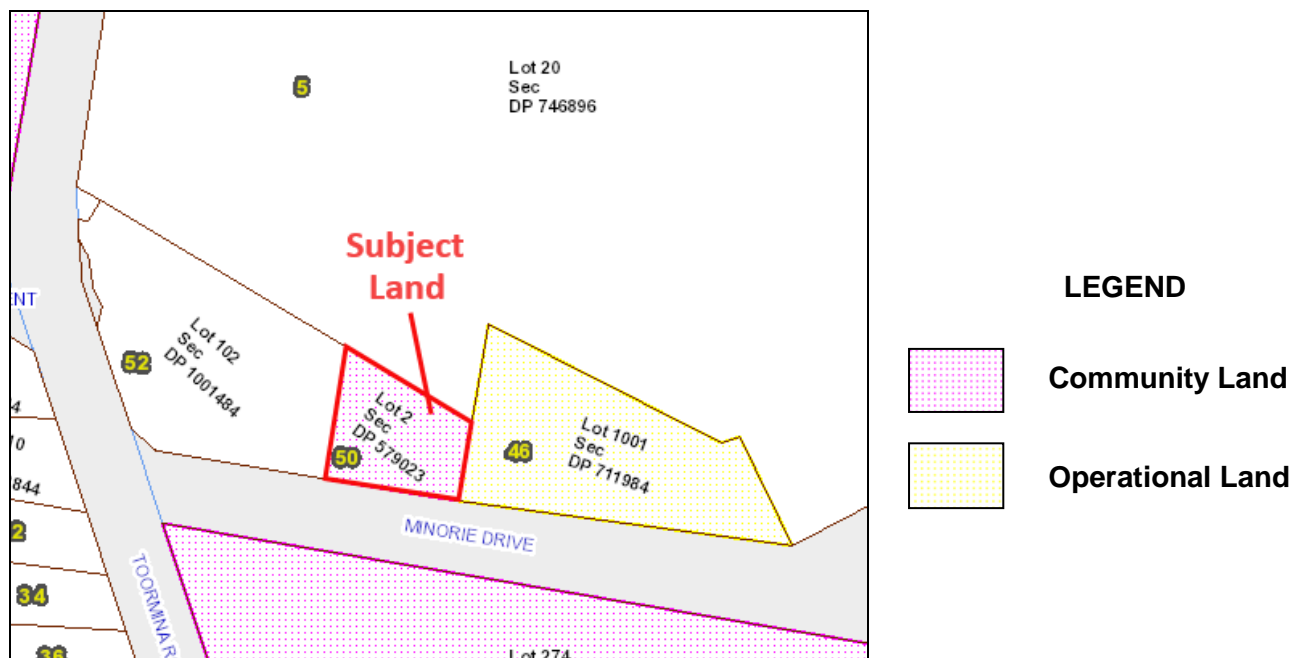


Figure 2: Land Classification Map

At its Ordinary Meeting of 21 July 1975 Council resolved to accept the transfer of Lot 2 DP 579023 from Toormina Holdings Pty Ltd, so that Council could act as the trustee for the Toormina Preschool Association.

At its Ordinary Meeting of 18 August 1975 Council further resolved that the transfer of Lot 2 DP 579023 from Toormina Holdings Pty Ltd to Council be accepted and the Memorandum of Transfer be completed under Seal of Council. The Memorandum of Transfer notes that Council would be taking a transfer of the land which they would hold in trustee for the Toormina Preschool Association. The land was formally transferred to Council on 1 September 1975.

At its Ordinary Meeting of 20 October 1975 Council resolved that the declaration of trust regarding the transfer of Lot 2 DP 579023 from Toormina Holdings Pty Ltd to Council, be completed under Seal. The declaration of trust was executed by Council on 23 October 1975. Despite the declaration of trust stating that the Toormina Preschool Kindergarten Limited was a company at that time, the preschool did not become a company until 9 December 1975. The preschool later became an incorporated association (Toormina Community Preschool Incorporated) in December 1991.

The intention of the Declaration of Trust was for Toormina Community Preschool Incorporated to direct Council to formally transfer the land to the ownership of Toormina Community Preschool Incorporated, which would have enabled the land to be subsequently reclassified as operational land. However, Council's records indicate that Toormina Community Preschool Incorporated did not take that course of action at that time.

The land was therefore incorrectly classified as community land upon the introduction of the *Local Government Act 1993*. This classification is inconsistent with the intention of the Declaration of Trust. This situation has become problematic in that due to its classification as community land, Toormina Community Preschool Incorporated is unable to secure bank loans and undertake other

actions which allow it to manage its operations autonomously from Council. To correct this situation, it is necessary to reclassify the land from community land to operational land under the *Local Government Act 1993* with the ultimate aim being for Council to formally transfer the land to the ownership of Toormina Community Preschool Incorporated.

The most appropriate means to reclassify public land is by an amendment to Schedule 4 of Council's LEP under the *Environmental Planning and Assessment (EP&A) Act 1979*, which must be done by resolution of Council.

The intended outcome of this Planning Proposal is to amend *Coffs Harbour Local Environmental Plan (LEP) 2013* so that Lot 2 DP 579023 is reclassified from community land to operational land.

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The intention of this Planning Proposal is to amend *Coffs Harbour Local Environmental Plan (LEP) 2013*, so that:

- Lot 2 DP 579023 is reclassified from community land to operational land

On 21 July 1975, Council resolved to accept the transfer of Lot 2 DP 579023 from Toormina Holdings Pty Ltd, so that Council could act as trustee for the Toormina Preschool Association. On 18 August 1975, Council resolved that the transfer of the land from Toormina Holdings Pty Ltd to Council be accepted, the Memorandum of Transfer be completed, and that Council would hold the land in trusteeship for the Toormina Preschool Association. The land was formally transferred to Council on 1 September 1975.

On 20 October 1975, Council resolved that the declaration of trust be completed, and was executed by Council on 23 October 1975. Despite the declaration of trust stating that the Toormina Preschool Kindergarten Limited was a company at that time, the preschool did not actually become a company until 9 December 1975. The preschool later became an incorporated association (Toormina Community Preschool Incorporated) in December 1991.

The intention of the Declaration of Trust was for Toormina Community Preschool Incorporated to direct Council to formally transfer the land to their ownership, and enabled the land to be reclassified as operational land. However, Council's records indicate that Toormina Community Preschool Incorporated did not take that course of action at the time.

The land was therefore incorrectly classified as community land, inconsistent with the Declaration of Trust. Toormina Community Preschool Incorporated is therefore currently unable to secure bank loans and undertake management actions autonomously from Council. Reclassification of the land is required to address that situation, which has facilitated this Planning Proposal.

PART 2 – EXPLANATION OF PROVISIONS

The intended outcome of the Planning Proposal will be achieved by:

- *Amending Part 2 by adding the property description of the land subject to this land reclassification proposal:*

Part 2 Land classified, or reclassified, as operational land – interests changed

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
Minorie Drive, Toormina	Lot 2, DP 579023	Nil

PART 3 – JUSTIFICATION

Section A – Need for the planning proposal

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

No. This Planning Proposal has been initiated to correct an historical land classification error which applies to the subject land. Reclassification of public land from operational to community, or from

community to operational (such as this Planning Proposal) can take place when circumstances dictate.

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

Yes. The most appropriate means to reclassify public land is by an amendment to Council's LEP under the *Environmental Planning and Assessment (EP&A) Act 1979*, which must be done by resolution of Council.

Amending Schedule 4 of Coffs Harbour LEP 2013 to reclassify the subject land will assist with better planning and future management outcomes for Council and Toormina Community Preschool Incorporated

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 generally applies to Planning Proposals that promote significant increased residential areas or densities, or significant increased employment areas or the like. As this Planning Proposal concerns reclassification of public land and does not alter the development potential or planning controls which apply to the subject land, the criteria in the Net Community Benefit test cannot be properly applied to this Planning Proposal.

Under its present classification as community land, Toormina Community Preschool Incorporated is unable to secure bank loans, or undertake other actions which allow it to manage its operations autonomously from Council. A reclassification to operational land, and the subsequent transfer of ownership from Council to Toormina Community Preschool Incorporated, will allow for the preschool to secure loans independently, which will provide for social benefits for the community through improvements and upgrades to the facility.

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 regional strategy relevant to this Planning Proposal is the *North Coast Regional Plan (NCRP) 2036*, which was adopted in March 2017. Coffs Harbour is identified as a 'Regional City' by the NCRP.

Toormina Community Preschool Incorporated is an established community facility which has recently been upgraded to improve their level of service to the wider community. It is considered that this Planning Proposal will allow the facility to conduct its activities in an economically sustainable manner, autonomously from Council.

Toormina Community Preschool Incorporated also contributes to the wider community by providing employment for its staff, and providing a service which provides a safe environment and is socially beneficial, for children to interact and develop relationships and skills. The service also provides parents with a safe environment for their children while at work, which promotes economic benefits.

In this context, it is considered that this Planning Proposal is consistent with the vision of the NCRP to 'deliver high quality essential services to Regional Cities' (page 8).

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

In 2017, Council endorsed the MyCoffs Community Strategic Plan. The plan sets out the long term aspirations of the Coffs Harbour community for the next ten years and is structured by four themes:

- MyCoffs is Community Wellbeing
- MyCoffs is Community Prosperity
- MyCoffs is a Place for Community
- MyCoffs has sustainable Community Leadership

The Planning Proposal is generally consistent with the following relevant Objectives and Outcomes from Sustainable Community Leadership:

Objective D.2	We have effective use of public resources.
Outcome D2.1	We effectively manage the planning and provision of regional public services and infrastructure.

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

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

Table 1: Consistency with SEPPs

State Environmental Planning Policy	Consistency
SEPP No 1 – Development Standards	N/A (repealed for CH)
SEPP No 4 – Development Without Consent and Miscellaneous Exempt and Complying Development	N/A (substantially repealed for CH)
SEPP No 6 – Number of Storeys in a Building	N/A
SEPP No 10 – Retention of Low Cost Rental Accommodation	N/A
SEPP No 14 – Coastal Wetlands	Repealed
SEPP No 15 – Rural Landsharing Communities	N/A
SEPP No 19 – Bushland in Urban Areas	N/A
SEPP No 21 – Caravan Parks	N/A
SEPP No 22 – Shops and Commercial Premises	N/A
SEPP No 26 – Littoral Rainforests	Repealed
SEPP No 29 – Western Sydney Recreation Area	N/A
SEPP No 30 – Intensive Agriculture	N/A
SEPP No 32 – Urban Consolidation (Redevelopment of Urban Land)	N/A
SEPP No 33 – Hazardous and Offensive Development	N/A

State Environmental Planning Policy	Consistency
SEPP No 36 – Manufactured Home Estates	N/A
SEPP No 39 – Spit Island Bird Habitat	N/A
SEPP No 41 – Casino Entertainment Complex	N/A
SEPP No 44 – Koala Habitat Protection	N/A
SEPP No 47 – Moore Park Showground	N/A
SEPP No 50 – Canal Estate Development	N/A
SEPP No 52 – Farm Dams and Other Works in Land and Water Management Plan Areas	N/A
SEPP No 53 – Metropolitan Residential Development	N/A
SEPP No 55 – Remediation of Land	Consistent. See additional comments below
SEPP No 59 – Central Western Sydney Regional Open Space and Residential	N/A
SEPP No 60 – Exempt and Complying Development	N/A (repealed for CH)
SEPP No 62 – Sustainable Aquaculture	N/A
SEPP No 64 – Advertising and Signage	N/A
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	Repealed
SEPP (Coastal Management) 2018	Consistent
SEPP (Affordable Rental Housing) 2009	N/A
SEPP (Building Sustainability Index: BASIX) 2004	N/A
SEPP (Exempt and Complying Development Codes) 2008	N/A
SEPP (Housing for Seniors or People with a Disability) 2004	N/A
SEPP (Infrastructure) 2007	N/A
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	N/A
SEPP (Major Development) 2005	N/A
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Consistent. See additional comments below
SEPP (Rural Lands) 2008	N/A
SEPP (Sydney Region Growth Centres) 2006	N/A
SEPP (Temporary Structures) 2007	N/A
SEPP (Western Sydney Employment Area) 2009	N/A

State Environmental Planning Policy	Consistency
SEPP (Western Sydney Parklands) 2009	N/A
SEPP (North Coast REP) 1988	N/A (repealed for CH)

SEPP 55 – Remediation of Land

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

This Planning Proposal concerns the reclassification of public land from community to operational. An Environmental Site Assessment (preliminary investigation) under SEPP 55 is not required in the case of this Planning Proposal as the provisions of the current land use zoning (B2 Local Centre) or any other planning controls which apply will not be altered.

Toormina Community Preschool Incorporated has recently upgraded the facility with approval from Council (Development Application 982/16). In the course of determining that application, no issues were raised in terms of the provisions and requirements of SEPP 55.

This Planning Proposal for reclassification is therefore considered to be consistent with SEPP 55.

SEPP (Coastal Management) 2018

The objective of this SEPP is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the *Coastal Management Act 2016*.

While the subject land is identified by the SEPP (Coastal Management) *Coastal Use Area* and *Coastal Management SEPP Footprint* maps, this Planning Proposal to reclassify the subject land from community to operational does not have any implications to the objectives and application of SEPP (Coastal Management) 2018 regarding the existing and future use of the subject land as a community preschool. It is considered that that the Planning Proposal is consistent with the provisions of this SEPP.

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

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

The Planning Proposal is consistent with the SEPP.

7. Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?

Consistency with the s9.1 Directions is assessed in Table 2 below.

Table 2: Consistency with s9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
1. Employment and Resources			
1.1 Business and Industrial Zones	Applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	The subject land is zoned B2 Local Centre under LEP 2013. This Planning Proposal concerns the reclassification of the subject land. The Planning Proposal will not alter the zone boundaries or land use table for the B2 Local Centre zone, or the floor space ratio and maximum building height provisions of LEP 2013. .	Consistent.
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 affect any rural zoned land.	N/A
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,	Nothing in this Planning Proposal will prohibit or restrict exploration or mining.	Consistent

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>production of petroleum, or winning or obtaining of extractive materials, or</p> <p>(b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.</p>		
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>	This Planning Proposal does not impact on a Priority Oyster Aquaculture Area.	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</p>	This Planning Proposal does not apply to land zoned rural or environmental protection.	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>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>		
2 Environment and Heritage			
2.1 Environment Protection Zones	<p>(4) A Planning Proposal must include provisions that facilitate the protection and conservation of 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 "Rural Lands".</p>	This Planning Proposal does not alter or remove any environmental protection zones.	N/A
2.2 Coastal Management	<p>This direction applies to land that is within the coastal zone, as defined under the <i>Coastal Management Act 2016</i> - comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area - and as identified by the <i>State Environmental Planning Policy (Coastal Management) 2018</i>.</p> <p>A Planning Proposal must</p>	The subject land is identified by the SEPP (Coastal Management) 2018 <i>Coastal Use Area</i> and <i>Coastal Management SEPP Footprint</i> maps. This Planning Proposal to reclassify the subject land from community to operational does not have any implications to the objectives and application of the <i>Coastal Management Act 2016</i> regarding the	Consistent

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>include provisions that give effect to and are consistent with:</p> <p>(a) the objectives of the <i>Coastal Management Act 2016</i> and the objectives of the relevant coastal management areas;</p> <p>(b) the NSW Coastal Management Manual and associated Toolkit;</p> <p>(c) the Coastal Design Guidelines 2003, and</p> <p>(d) any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan under the <i>Coastal Protection Act 1979</i> that continues to have effect under clause 4 of Schedule 3 to the <i>Coastal Management Act 2016</i>, that applies to the land.</p>	<p>existing and future use of the subject land as a preschool.</p> <p>This Planning Proposal will not alter the relevance or effect of the Coastal Design Guidelines.</p> <p>The Planning Proposal is not relevant to land affected by coastal processes or hazards.</p> <p>It is considered that this Planning Proposal is consistent with the provisions of this Direction.</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 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,</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

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.		
2.4 Recreation Vehicle Areas	<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 Vehicle Areas, State Pollution Control Commission, September 1985</i>.</p>	The Planning Proposal does not enable land to be developed for the purpose of a recreation vehicle area.	N/A
3. Housing, Infrastructure and Urban Development			
3.1 Residential	(3) This direction applies when a relevant planning authority	The Planning Proposal does not affect residential	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
Zones	<p>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, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land. 	zoned land.	
3.2 Caravan Parks	Applies when a relevant	This Planning Proposal	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
and Manufactured Home Estates	<p>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> <ul style="list-style-type: none"> (a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and (b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park. <p>In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a Planning Proposal, the relevant planning authority must:</p> <ul style="list-style-type: none"> (a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located, (b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and (c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the <i>Community Land Development Act 1989</i> be permissible with consent. 	does not seek to permit or prohibit development for the purpose of a caravan park or manufactured homes estate.	
3.3 Home Occupations	Planning Proposals must permit home occupations to be carried	This Planning Proposal does not affect home	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	out in dwelling houses without the need for development consent.	occupation provisions under LEP 2013.	
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>	<p>The Planning Proposal will enable a centre-based child care facility on the subject land. The site is in close proximity to bus stops at Toormina Shopping Centre.</p> <p>As this Planning Proposal is for a land reclassification, it will not have a negative impact on transport infrastructure. It is an established urban area and is consistent with relevant transport guidelines.</p>	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.	<p>Coffs Harbour airport (runway) is located approximately 2.3 km to the north-east of the subject land, adjacent to the coastline between Coffs Harbour and Sawtell.</p> <p>The subject land is located within the 30-40m obstacle height limitation mapping of the airport, however is not affected by the ANEF noise contours.</p> <p>As the objective of this Planning Proposal is to reclassify the subject land and not amend any other provisions of LEP 2013, the inconsistency with this Direction is considered to be justified.</p>	Consistent
3.6 Shooting Ranges	Applies when a relevant planning authority prepares a Planning Proposal that will	The Planning Proposal will not affect any shooting ranges in Coffs Harbour	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	affect, create, alter or remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range.	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.	Land subject to this Planning Proposal is identified in the Coffs Harbour LEP 2013 Acid Sulfate Soils map as containing acid sulfate soils (class 5). There is a suite of standard provisions in the LEP that apply to this land. The acid sulfate soil provisions of the LEP will apply unchanged to any future development application.	Consistent
4.2 Mine Subsidence and Unstable Land	Applies when a relevant planning authority prepares a Planning Proposal that permits development on land that: (a) is within a mine subsidence district, or (b) has been identified as unstable in a study, strategy or other assessment undertaken: (i) by or on behalf of the relevant planning authority, or (ii) by or on behalf of a public authority and provided to the relevant planning authority.	This Planning Proposal does not impact on any mine subsidence area.	N/A
4.3 Flood Prone Land	Applies when a relevant planning authority prepares a Planning Proposal that creates, removes or alters a zone or a provision that affects flood prone land. A Planning Proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land	The subject land is not within the mapped 1% ARI floodplain, or identified as being affected by Council's Flood Planning Area.	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>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 the satisfaction of the Director-General (or an officer of the</p> 		

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>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 3.34 of the EP&A Act, and prior to undertaking community consultation in satisfaction of section 3.34 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, comply with the following provisions, as appropriate:</p>	<p>The subject land is not within the 100 metre bushfire buffer to a stand of category 1 bushfire vegetation, which is located approximately 140m to the east of the subject land.</p> <p>Reclassifying the subject site will not impact on the existing planning controls that address the issue of bushfire hazard on this land.</p> <p>On this basis, the Planning Proposal can be regarded as being consistent with this direction.</p>	Consistent

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>(a) provide an Asset Protection Zone (APZ) incorporating at a minimum:</p> <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, <p>(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 PP 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,</p> <p>(c) contain provisions for two-way access roads which link to perimeter roads and/or to fire trail networks,</p> <p>(d) contain provisions for adequate water supply for firefighting purposes,</p> <p>(e) minimise the perimeter of the area of land interfacing the hazard which may be developed,</p> <p>(f) introduce controls on the placement of combustible materials in the Inner Protection Area.</p>		

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
5. Regional Planning			
5.1 Implementation of Regional Strategies	Planning Proposals must be consistent with a regional strategy released by the Minister for Planning.	This Direction does not apply to Coffs Harbour City Council.	N/A
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a Planning Proposal that applies to the Sydney drinking water catchment.	This Direction does not apply to Coffs Harbour City Council.	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Applies when a relevant planning authority prepares a Planning Proposal for land mapped as: (a) State significant farmland, or (b) regionally significant farmland, or (c) significant non-contiguous farmland, on the set of four maps held in the Department of Planning and Environment marked "Northern Rivers Farmland Protection Project, Final Map 2005 (Section 9.1 Direction)".	This Direction does not apply to Coffs Harbour City Council.	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Applies when a relevant planning authority prepares a Planning Proposal for land in the vicinity of the existing and/or proposed alignment of the Pacific Highway. (5) A Planning Proposal that applies to land located on "out-of-town" segments of the Pacific Highway must provide that: (a) new commercial or retail development must not be established near the Pacific Highway if this proximity would be inconsistent with the objectives of this Direction. (b) development with frontage to the Pacific Highway must consider the impact the	This proposal will not affect commercial and retail land located along the Pacific Highway, North Coast.	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>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 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>		
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	Direction revoked 18 June 2010	This Direction does not apply to Coffs Harbour City Council.	N/A
5.6 Sydney to Canberra Corridor	Direction revoked 10 July 2010	This Direction does not apply to Coffs Harbour City Council.	N/A
5.7 Central Coast	Direction revoked 10 July 2010	This Direction does not apply to Coffs Harbour City Council.	N/A
5.8 Second Sydney Airport: Badgerys Creek	The objective of this direction is to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek.	This Direction does not apply to Coffs Harbour City Council.	N/A
5.9 North West Rail Link Corridor Strategy	<p>(1) The objectives of this direction are to:</p> <p>(a) promote transit-oriented</p>	This Direction does not apply to Coffs Harbour City Council.	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>development and manage growth around the eight train stations of the North West Rail Link (NWRL)</p> <p>(b) ensure development within the NWRL corridor is consistent with the proposals set out in the NWRL Corridor Strategy and precinct Structure Plans.</p> <p>(2) This Direction applies to Hornsby Shire Council, The Hills Shire Council and Blacktown City Council.</p>		
5.10 Implementation of Regional Plans	This direction applies to land to which a Regional Plan has been released by the Minister for Planning.	This Planning Proposal is generally consistent with Direction 15 of the <i>North Coast Regional Plan 2036</i> : 'Develop healthy, safe, socially engaged and well-connected communities'.	Consistent

S9.1 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 3.34 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 section 	As this Planning Proposal is for a reclassification of public land, this Planning Proposal does not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	3.34 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 existing zonings or reservations of 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> <ul style="list-style-type: none"> (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. 	The Planning Proposal is for a reclassification of public land, to allow an established, approved preschool to operate autonomously. The Planning Proposal does not seek to change any zoning provisions of Council's LEP, or any contents of Coffs Harbour Development Control Plan 2015.	Consistent

S9.1 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 is to reclassify the subject land, and will not alter any other development controls in a manner such that there could be adverse impacts on threatened species, populations, or ecological communities.

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

No. The environmental attributes and/or constraints which apply to the subject site will not be altered or affected by this Planning Proposal to reclassify the land.

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

Reclassification of the subject land from Community Land to Operational Land will allow Toormina Community Preschool Incorporated autonomy from Council in terms of its operations and economic independence. The Planning Proposal is a response to correct an historical land classification error which applies to the subject land. Reclassification of the land from community to operational will not have any detrimental social or economic effects upon the operation or services provided by Toormina Community Preschool Incorporated.

Section D – State and Commonwealth interests

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

Yes. The subject land is easily accessed, with frontage to Minorie Drive. The closest main access road is Toormina Road to the west, and is located close to existing services at Toormina Shopping Centre. This Planning Proposal is for a reclassification of public land, and will not alter the development potential of the subject land, and does not generate the need for public infrastructure beyond that which already exists.

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

This requirement of the Planning Proposal will be determined following additional consultation with any State and Commonwealth Public Authorities which are identified in the Gateway Determination.

PART 4 – MAPPING

The map sheets of Coffs Harbour LEP 2013 which apply to the subject land do not require amendment by this Planning Proposal.

PART 5 – COMMUNITY CONSULTATION

Should the NSW DPE endorse exhibition of this Planning Proposal, the community, stakeholders and government agencies will have an opportunity to make submissions to this Planning Proposal, upon issue of a Gateway Determination endorsing its public exhibition.

If endorsed to do so, the Planning Proposal will be exhibited in accordance with the Gateway Determination and relevant provisions of the *Environmental Planning and Assessment (EP&A) Act 1979*. Under the EP&A Act, a Planning Proposal to reclassify public land is required to be publicly exhibited for at least 28 days.

The DPE has produced a practice note titled '*Classification and reclassification of public land through a local environmental plan*' (5 October 2016), which will be included with the public exhibition documents, in accordance with the practice note.

In accordance with the EP&A Act and the practice note, Council must also hold a public hearing when reclassifying public land from community to operational. A public hearing gives the community an opportunity to expand on written submissions and discuss issues with an independent person in a public forum.

After the exhibition period has concluded, at least 21 days written notice is to be given before the public hearing takes place, in accordance with the practice note.

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	July 2018
Gateway determination	July - August 2018
Finalisation of additional information as requested by Council and Gateway determination	August 2018
Public exhibition of Planning Proposal for not less than 28 days	August – September 2018
Agency consultation (if required by the Gateway Determination)	August – September 2018
Public Hearing	September 2018
Review submissions	September - October 2018
Report to Council	October 2018
Submission to Planning Minister (under delegation)	November 2018

SUMMARY AND CONCLUSIONS

Submission of a Planning Proposal and the subsequent amendment of *Coffs Harbour LEP 2013* is the most appropriate means to reclassify the subject land, and therefore correct the historical error which has been discussed in this Planning Proposal.

All relevant strategies, SEPPs and Section 9.1 Directions have been addressed in this Planning Proposal and it is considered that the Planning Proposal may be progressed to exhibition.

Pending endorsement by NSW DPE, the Planning Proposal will be exhibited in accordance with the provisions of the EP&A Act 1979, and a public hearing will be held. The outcome of the exhibition will be subsequently reported to Council for determination.