

<b>SC20/78</b>	<b>FIVE YEAR COMPREHENSIVE REVIEW OF COFFS HARBOUR LOCAL ENVIRONMENTAL PLAN 2013 AND PLANNING PROPOSAL - FIVE YEAR COMPREHENSIVE REVIEW OF COFFS HARBOUR LEP 2013 - PART 1 - PRE-EXHIBITION</b>
----------------	---

**Author:** Team Leader Planning & Urban Design

**Authoriser:** Director Sustainable Communities

**MyCoffs:** D.1 Our leaders give us confidence in the future

**Attachments:** ATT1 SC20/78 Five Year Comprehensive Review of Coffs Harbour LEP 2013 - December 2020  
ATT2 SC20/78 Planning Proposal - Five Year Comprehensive Review of Coffs Harbour LEP 2013 - Part 1 - Pre-Exhibition

## EXECUTIVE SUMMARY

Coffs Harbour Local Environmental Plan (LEP) 2013 came into force on 27 September 2013. Section 3.21 (1) of the Environmental Planning & Assessment Act (the Act) 1979 requires that councils undertake regular and periodic reviews of their local environmental plans to ensure they are up to date and consistent with changing requirements of the Act to the maximum extent possible. Section 3.21 (2) of the Act requires that a comprehensive review occurs every 5 years. Regular housekeeping amendments of the LEP have been undertaken at various times over the last seven years, but this is its first comprehensive review.

The NSW Department of Planning, Industry & Environment (DPIE) requires Council's first comprehensive review to be completed by 30 December 2020. The purpose of this report is to present the completed comprehensive review to Council (Attachment 1) and to forward it to NSW DPIE to satisfy requirements of Section 3.21 (2) of the Act. A planning proposal has been prepared to allow for some amendments identified in the comprehensive review to be progressed immediately (Attachment 2), with other identified matters requiring further work to be undertaken, which will therefore be dealt with in future reports to Council.

---

## RECOMMENDATION:

### That Council:

1. Endorse the recommendations of the Five Year Comprehensive Review of Coffs Harbour Local Environmental Plan 2013 – December 2020 (Attachment 1) and forward it to NSW Department of Planning, Industry and Environment, to satisfy Section 3.21 (2) of the *Environmental Planning and Assessment Act 1979*.
2. Endorse and forward a planning proposal (Attachment 2) for the Five Year Comprehensive Review of Coffs Harbour Local Environmental Plan 2013 – Part 1 to NSW Department of Planning, Industry and Environment for determination pursuant to Section 3.34 of the *Environmental Planning and Assessment Act 1979*.
3. Request that the Secretary of NSW Department of Planning, Industry and Environment issue written authorisation to Council to exercise delegation of the plan making functions pursuant to Section 3.36 of the *Environmental Planning and Assessment Act 1979* for the Five Year Comprehensive Review of Coffs Harbour Local Environmental Plan 2013 – Part 1.
4. Resolve to publicly exhibit a planning proposal for the Five Year Comprehensive Review of Coffs Harbour Local Environmental Plan 2013 – Part 1 following determination by NSW Department of Planning, Industry and Environment pursuant to Section 3.34 of the *Environmental Planning and Assessment Act 1979*.
5. Note that a further report will be brought back to Council for consideration following

---

**public exhibition of the planning proposal for the Five Year Comprehensive Review of Coffs Harbour Local Environmental Plan 2013 – Part 1.**

6. **Note that subsequent reports will be brought back to Council to progress remaining amendments identified in the Five Year Comprehensive Review of Coffs Harbour Local Environmental Plan 2013 – December 2020 (Attachment 1).**

## **REPORT**

### **Description of Item:**

Coffs Harbour LEP 2013 came into force on 27 September 2013. This comprehensive review is essentially a performance review process which aims to identify any anomalies, inconsistencies and issues with the instrument and associated mapping that have arisen since 2013, so as to meet the requirements of Section 3.21 (2) of the Act. Undertaking this comprehensive LEP review also ensures that Coffs Harbour LEP 2013 aligns with recent amendments to the Act, the North Coast Regional Plan 2036 and other recently adopted strategic plans of Council including the Coffs Harbour Local Growth Management Strategy 2020, the Local Strategic Planning Statement 2020 and the Place and Movement Strategy Vision 2020.

This report outlines the findings of the comprehensive review, which has identified a total of sixteen amendments to Coffs Harbour LEP 2013 (Attachment 1). A planning proposal has been prepared to allow for seven of the sixteen recommended amendments identified in the comprehensive review to be progressed immediately as the first round of amendments (Attachment 2). The planning proposal includes amendments relating to the aims and land use zone objectives of Coffs Harbour LEP 2013, changes to the permissibility of forestry and artisan food and drink industries, an amendment to the split lot clause and the erection of dwelling houses on land in certain rural and environmental land use zones clause, amendments to the earthworks and central business district clauses and the introduction of rural function centres as a new land use in appropriate rural zones.

The remaining nine identified amendments will require further work to be undertaken. These have not been included in the attached planning proposal. Subsequent planning proposals will be prepared to capture these remaining nine amendments, when resourcing becomes available to undertake the required analysis to support such amendments.

### **Issues:**

In 2018, the Act was updated. It was the biggest overhaul of the Act since the legislations inception 41 years ago. The NSW Government took a staged approach to its implementation, with most of the changes commencing on 1 March 2018. One of the key mandates for the comprehensive review of Coffs Harbour LEP 2013 is to ensure that the objects of the updated Act are, having regard to such changing requirements as may be relevant, achieved to the maximum extent possible. To further align the Coffs Harbour LEP 2013 with relevant new objects of the Act, an amendment of existing and addition of new aims are proposed to be undertaken through a housekeeping amendment process (Item 1, Attachment 1).

In 2016, the NSW Government released the North Coast Regional Plan 2036, a 20 year blueprint for the future of the North Coast. Responsibility for implementing actions and monitoring the intended outcomes in the North Coast Regional Plan 2036 is shared with regional stakeholders, including councils, other State agencies, service providers and the development industry. Part of Council's role in the implementation of the North Coast Regional Plan 2036 involves a realignment of Council's strategic plans and Coffs Harbour LEP 2013 to ensure effective delivery of the relevant directions of the regional plan. Matters identified in the five year comprehensive LEP review to better align Coffs Harbour LEP 2013 with the North Coast Regional Plan 2036 are as follows (references are as itemised in Attachment 1):

- Clause 1.2 Aims of the Plan (Item 1),

- Land Use Zone objectives (Item 3),
- Permissible uses in Zone RU2 Rural Landscape (Items 4,5,6 and 28),
- Clause 2.4 Unzoned land (Item 7),
- Clause 4.1A Minimum subdivision lot sizes for certain split zones (Item 10),
- Clause 4.2B Erection of dwelling houses in certain rural and environmental protection zones (Item 11),
- Clause 4.2D Boundary Adjustments of land in certain zones (Item 12),
- Part 7 Additional Local Provisions relating to environmentally sensitive land (Item 16),
- Clause 7.2 Earthworks (Item 17),
- Clause 7.13 Central business district (Item 18),
- Clause 7.19 Development on key sites (Item 19)
- Schedule 2 Exempt Development (Item 22), and
- Schedule 3 Complying Development (Item 23).

At its Ordinary Meeting of 25 June 2020, Council endorsed the Coffs Harbour Local Strategic Planning Statement 2020. It identifies 16 Planning Priorities in four themes to achieve Council's 20-year land use planning vision for the Local Government Area (LGA) to 2040 and was prepared in accordance with the Act and associated Regulations. This comprehensive LEP review and associated LEP amendments intend to capture and deliver on the vision and planning priorities of the Coffs Harbour Local Strategic Planning Statement 2020 through an update of the aims, land use zone objectives and provisions of the Coffs Harbour LEP 2013. In particular, the review seeks to assist the delivery and implementation of the compact city program, the place and movement strategy vision, the placemaking model and existing town and city centre masterplans (Items 2 and 4, Attachment 1).

At its Ordinary Meeting of 28 May 2020, Council endorsed the Coffs Harbour Place and Movement Strategy Vision. The vision aims to encourage all forms of transport, from walking and cycling to public transport to assist with reducing our car dependence and providing greater equity of mobility across our diverse community. It also recognises the importance of our growth patterns and street environments in creating walkable, twenty-minute neighbourhoods where we can 'live locally'; provide better opportunity for more sustainable modes of transport and promote a more sustainable development footprint that complements our natural assets. This comprehensive LEP review and associated LEP amendments intend to capture and deliver on the vision through an update of the aims and land use zone objectives of the Coffs Harbour LEP 2013. In particular, the review seeks to ensure that the updated Coffs Harbour LEP 2013 promotes active living and the creation of walkable neighbourhoods through the provision of healthy built environments, safer streets, greener connections and walking and cycling infrastructure (Items 2 and 4, Attachment 1).

Over the past two years, Council has progressively been rolling out its revised and updated Local Growth Management Strategy for the Coffs Harbour Local Government Area (LGA), to align with the North Coast Regional Plan 2036. The Coffs Harbour Local Growth Management Strategy 2020 consists of nine chapters, all of which have been adopted by Council in 2020. Eight chapters have already been partially or completely adopted by DPIE, with Chapter 7 Residential Lands awaiting approval (having been adopted by Council on 12 November 2020). This comprehensive LEP review and associated LEP amendments seek to better align the aims of Coffs Harbour LEP 2013 and all of the Land Use Zone Objectives with the endorsed Chapters of the Coffs Harbour Local Growth Management Strategy 2020 (Items 2 and 4, Attachment 1).

This comprehensive LEP review and associated LEP amendments also seek to implement relevant "quick wins" and "short-term" high priority actions of the endorsed chapters of the Coffs Harbour Local Growth Management Strategy 2020 that necessitate minor amendments to the Coffs Harbour LEP 2013. A justification for the comprehensive LEP review and associated LEP amendments is provided in Attachment 1. All the included recommended actions have already been approved by both Council and DPIE in the adoption of the various chapters of the Coffs Harbour Local Growth Management Strategy 2020.

#### High Priority Actions:

- Amend Coffs Harbour LEP 2013 to include exempt provisions for "water storage facilities" (dams) within Zone RU2 Rural Landscape.

- Amend Coffs Harbour LEP 2013 to remove the need for consent for forestry within Zone RU2 Rural Landscape.
- Amend Coffs Harbour LEP 2013 to make 'artisan food and drink industries' permissible with consent in appropriate rural zones.
- Explore amendments to either State and local planning instruments to provide a new definition of 'rural function centres' or similar, so as to allow for appropriately scaled rural functions in appropriate rural zones.
- Review and amend Council's local planning controls that relate to environmental matters for development on land within rural zones and environmental zones (i.e. vegetation clearing, acid sulfate soils, steep land, water quality and groundwater).
- Investigate a new local clause for inclusion in Coffs Harbour LEP 2013 to address boundary adjustment issues in rural zones.
- Review permissible land uses within Zone R5 Large Lot Residential of Coffs Harbour LEP 2013 against the objectives of the zone. Amend Coffs Harbour LEP 2013 to prohibit land uses (other than Horticulture) that do not accord with the objectives of Zone R5 Large Lot Residential.

**Medium Priority Actions:**

- Liaise with relevant stakeholders and review and amend Council's planning controls to ensure that adequate controls are in place to minimise impacts on marine environments, water catchment areas and groundwater sources from development.
- Review and amend (if required) Council's planning controls to ensure that they reinforce centres as primary mixed use locations for commerce, housing, tourism, social activity and regional services.
- Review and update (if necessary) Council's planning controls to ensure they offer opportunities for appropriate tourism developments in urban centres.

**Options:**

Council has a number of options available in relation to this matter. They include:

1. Resolve to adopt the recommendations of this report.
2. Resolve to undertake an alternative approach.
3. Resolve not to adopt the recommendations of this report.

Option 1 is recommended as the suitable course of action.

**Sustainability Assessment:**

• **Environment**

The comprehensive review of Coffs Harbour LEP 2013 assessed the adequacy of current clauses in protecting environmentally sensitive areas from inappropriate development. It also involves consideration of the effectiveness of the LEP in the delivery of Objective 2.2 of the North Coast Regional Plan, which is to avoid impacts on marine environments, water catchment areas and groundwater sources. Undertaking corresponding LEP amendments will ensure that Council's environmental protection measures continue to be fit for purpose.

• **Social**

A key objective of the comprehensive review of Coffs Harbour LEP 2013 is to ensure that the updated Coffs Harbour LEP 2013 better aligns with the revised objects of the Act, including promotion of the social and economic welfare of the community, delivery and maintenance of housing diversity, healthy built environments, active living and socially inclusive communities through the aims of the Coffs Harbour LEP 2013 and objects of relevant land use zones is required. Proposed updates accord with Council's MyCoffs Community Strategic Plan.

- **Civic Leadership**

Council has continued to demonstrate civic leadership under Coffs Harbour LEP 2013. Accordingly, the comprehensive LEP review process aligns with the objectives and strategies of Council's MyCoffs Community Strategic Plan.

- **Economic – Broader Economic Implications**

Periodic reviews of the Coffs Harbour LEP 2013, including regular housekeeping reviews and this comprehensive review, ensure that identified issues with the local planning instrument are addressed in a timely manner. Furthermore, ensuring that the LEP is as up to date as possible provides certainty for the development industry, which assists the local economy.

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

This comprehensive review of Coffs Harbour LEP 2013 is being undertaken internally. Minor housekeeping amendments coming out of this review will be also undertaken internally and are unlikely to result in any impacts to Council's Operational Plan or Delivery Program.

**Risk Analysis:**

This comprehensive LEP review process provides a mechanism to reduce risk to Council and the community. By reviewing and amending Coffs Harbour LEP 2013 regularly to address minor anomalies and account for changes in Council policy, as well as accommodating legislative changes, Council lessens the likelihood of risk in planning related decision making.

**Consultation:**

All proposed amendments to Coffs Harbour LEP 2013 recommended in this comprehensive review (Attachment 1) will need to be undertaken by an LEP amendment process involving a planning proposal, for which a community engagement process will be undertaken in each instance, in accordance with consultation requirements of NSW DPIE. These are likely to require public exhibition for a minimum of 28 days. At this stage, it is anticipated that consultation will be undertaken in accordance with Council's Community Participation and Engagement Plan 2019, as follows:

LEP Amendment Process	Inform	Consult	Involve	Collaborate
Public Exhibition of Planning Proposals in accordance with DPIE Gateway determination	x	x		
Agency and Stakeholder Consultation	x	x		
Council Report on Public Consultation	x	x		
Notification	x			

**Placescore:**

In early 2019, Council undertook extensive community consultation using the Placescore place-making tool. The 2019 Placescore report was presented to Council on 11 April 2019. The recommendations of the five year comprehensive review of Coffs Harbour LEP 2013 (Attachment 1) will assist in addressing all of the top three priorities of the Coffs Harbour LGA as identified by Placescore.

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

Relevant Council policies and statutory requirements have been considered in this first comprehensive review of Coffs Harbour LEP 2013, to ensure that the LEP will align with recent amendments to the Act, the North Coast Regional Plan 2036 and other recently adopted strategic

plans of Council including the Coffs Harbour Local Growth Management Strategy 2020, the Local Strategic Planning Statement 2020 and the Place and Movement Strategy Vision 2020.

**Implementation Date / Priority:**

NSW DPIE requires Council's first comprehensive review of Coffs Harbour LEP 2013 to be completed by 30 December 2020, in accordance with Section 3.21 (1) and (2) of the Act. A planning proposal has been prepared to allow for some amendments identified in the comprehensive review to be progressed immediately (Attachment 2), with other identified matters requiring further work to be undertaken, which will therefore be dealt with in a future report to Council. A project timeline for the LEP amendments coming out of this review will be determined by NSW DPIE. The timeline will be triggered once Council has obtained endorsement from NSW Planning, Industry and Environment for each planning proposal to proceed.

**Conclusion:**

Coffs Harbour LEP 2013 came into force on 27 September 2013. Section 3.21 (1) of the Environmental Planning & Assessment Act (the Act) 1979 requires that councils undertake regular and periodic reviews of their local environmental plans to ensure they are up to date and consistent with changing requirements of the Act to the maximum extent possible. Section 3.21 (2) of the Act requires that a comprehensive review occurs every 5 years. Regular housekeeping amendments of the LEP have been undertaken at various times over the last seven years, but this is its first comprehensive review.

DPIE requires Council's first comprehensive review to be completed by 30 December 2020. The purpose of this report is to present the completed review to Council (Attachment 1) and to provide feedback to DPIE on its findings. A planning proposal has been prepared to allow for some amendments identified in the comprehensive review to be progressed immediately (Attachment 2), with other identified matters requiring further work to be undertaken, which will therefore be dealt with in a future report to Council.