



Planning,  
Industry &  
Environment

IRF21/570

## Gateway determination report – PP-2021-2032

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*Rezone part of the Nambucca State Forest and amend associated development standards to facilitate expansion of the adjoining waste management facility.*

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**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
Attachment A - Planning Proposal
Attachment B – Gateway Determination
Attachment C - Letter to Council
Council Letter – Request Gateway
Council Meeting Minutes

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Nambucca</b>
<b>PPA</b>	<b>Nambucca Valley Council</b>
<b>NAME</b>	<b>Rezone part of the Nambucca State Forest and amend associated development standards to facilitate expansion of the adjoining waste management facility</b>
<b>NUMBER</b>	<b>PP-2021-2032</b>
<b>LEP TO BE AMENDED</b>	<b>Nambucca Local Environmental Plan 2010</b>
<b>ADDRESS</b>	<b>State Forest No 543 (Nambucca State Forest)</b>
<b>DESCRIPTION</b>	<b>State Forest No 543</b>
<b>RECEIVED</b>	<b>3/02/2021</b>
<b>FILE NO.</b>	<b>IRF21/570</b>
<b>POLITICAL DONATIONS</b>	<b>There are no donations or gifts to disclose and a political donation disclosure is not required</b>
<b>LOBBYIST CODE OF CONDUCT</b>	<b>There have been no meetings or communications with registered lobbyists with respect to this proposal</b>

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal. The objective of the planning proposal is to:

- Facilitate the future expansion of Nambucca Heads Waste Management Facility.

The objective of this planning proposal is clear and adequate.

It is noted that Council has received advice from the Forestry Corporation of NSW providing in-principle concurrence to Council's proposed compulsory acquisition of approximately 23 hectares of land for the future extension of the Nambucca Heads Waste Management Facility.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Nambucca LEP 2010 as follows:

**Table 3 Current and proposed controls**

Control	Current	Proposed
Land Zoning	RU3 Forestry	SP2 Infrastructure
Minimum Lot Size	40 hectares	No minimum lot size

As shown in Table 3 above, it is proposed to change the zone from RU3 Forestry to SP2 Infrastructure to facilitate expansion of the Nambucca Heads Waste Management Facility which is located on the adjoining land, being Lot 2 DP 1018234 and Lot 141 and 142 DP 700891, 711 Old Coast Road, Nambucca Heads.

The planning proposal does not seek to amend the minimum lot size. However, discussions with Council have confirmed that the minimum lot size should be removed from that part of the land proposed to be zoned SP2 Infrastructure to align with the minimum lot size applicable to the adjoining land containing the existing waste management facility. The planning proposal will need to be updated to reflect this amendment, and it is recommended that a condition is imposed on the Gateway determination to require this be undertaken prior to agency and community consultation.

## 1.4 Site description and surrounding area

The planning proposal relates to part of the Nambucca State Forest (State Forest 543) which is located west of Pacific Highway at Nambucca Heads (Figures 1). The area of State Forest affected by the planning proposal is approximately 23 hectares (Figure 2).

The State Forest surrounds the existing waste management facility to the north, east and west, and extends to the north of Nambucca Heads. There is a parcel of land zoned RU2 Rural Landscape to the south and an established large lot residential area at Newee Creek located to the west that extends to the south and south west. The North Coast Railway Line adjoins the western boundary of the planning proposal area.

It should be noted that the planning proposal refers to the land as State Forest No 470. However, Forestry Corporation of NSW in their correspondence to Council refer to it as State Forest No 543. The planning proposal will need to be updated to refer to the correct property description prior to agency and community consultation.



Figure 1: Map of Surrounds

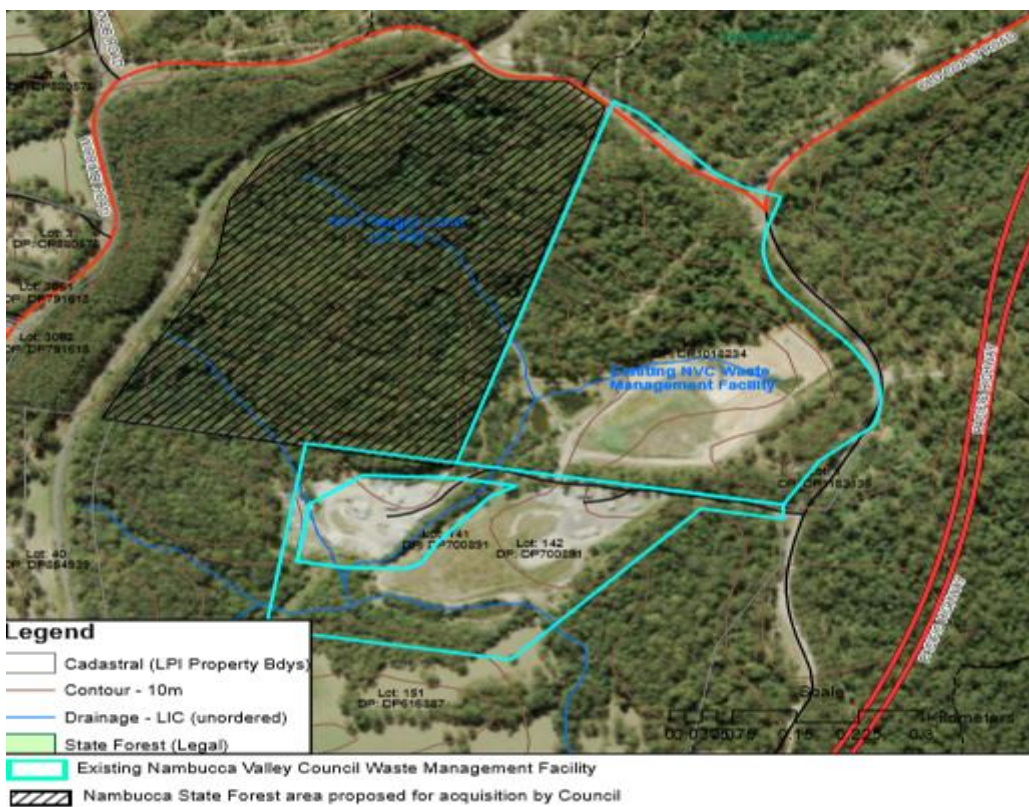


Figure 2: Site Map (source: Planning Proposal)



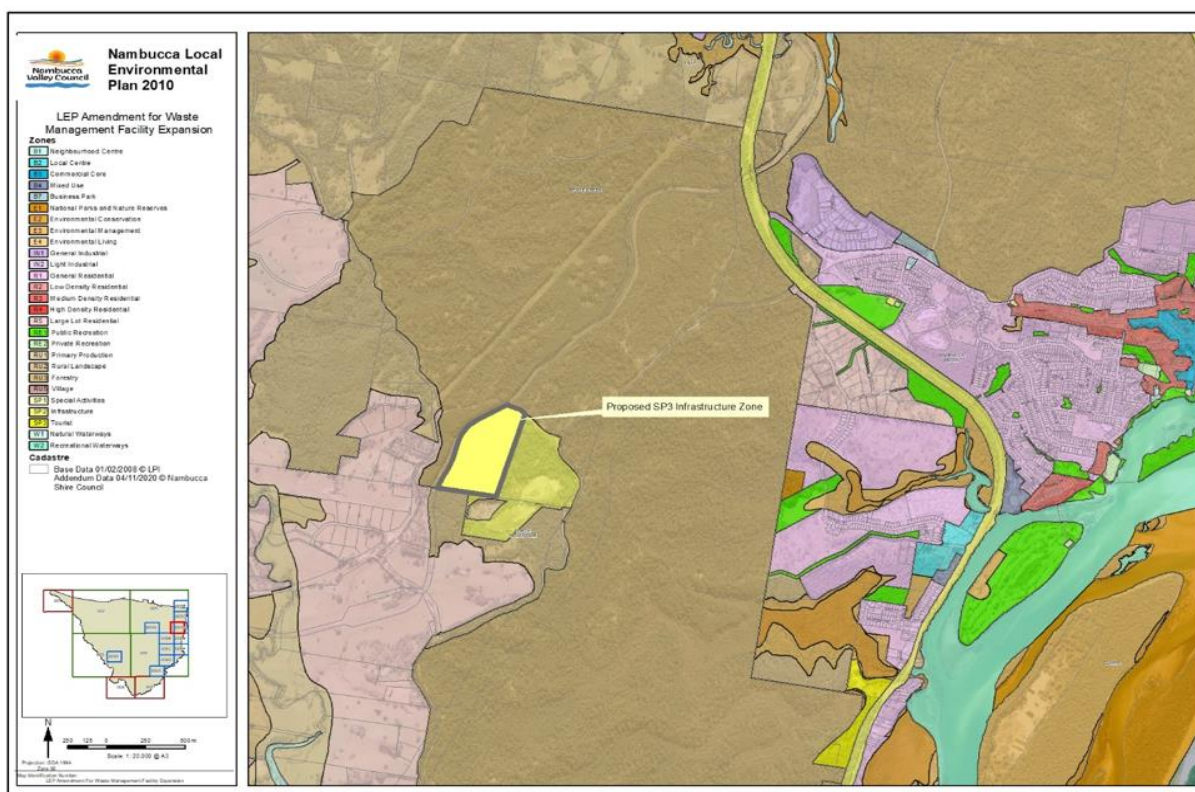


Figure 4: Proposed zoning map (source: Planning Proposal)

## 2 Need for the planning proposal

The proposal is neither the result of a strategy nor a study. However, the Coffs Coast Region Resource Recovery and Waste Management Strategy 2015-2027 is relevant to the proposal.

This strategy has been endorsed by Nambucca Valley Council, together with Coffs Harbour City Council and Bellingen Shire Council to deliver sustainable waste management at a regional scale. The strategy supports the expansion of existing landfill sites and identifies the importance of securing landfill capacity at a local and regional level to accommodate both the present generation and forecasted population growth.

The planning proposal aims to secure additional capacity at the Nambucca Heads Waste Management Facility for the LGA but may also be able to assist in meeting regional waste forecasting. Council has indicated that they have recently been approached by both Coffs Harbour and Bellingen Shire Councils to support their future waste management requirements.

In addition, the Nambucca Valley Local Strategic Planning Statement identifies waste management as a priority within the LGA and the need to continue to implement the Coffs Coast Region Resource Recovery and Waste Management Strategy 2015-2027 and progress investigations to extend the life of the current landfill and waste management options in the longer term to meet future needs.

## 3 Strategic assessment

### 3.1 Regional Plan

The relevant Directions of the North Coast Regional Plan are discussed below.

**Table 4 North Coast Regional Plan 2036**

Direction	Justification
Direction 13: Sustainably manage natural resources	<p>The proposal is inconsistent with this Direction as it will help facilitate a land use that does not provide tourism, recreation activities or wood products and does not have the same contribution to the environment in terms of habitat, water quality and connectivity as a State Forest.</p> <p>The inconsistency is considered to be of minor significance as the proposal relates to only part of a State Forest and Forestry Corporation of NSW has requested first rights of access to commercially marketable timber on site. In addition, the proposed land use is not sensitive to the impacts of noise, dust and light which may be generated by ongoing forestry operations on surrounding land. Therefore, the proposal is unlikely to have a significant impact on long term timber supplies.</p>
Direction 16: Collaborate and partner with Aboriginal communities	<p>The proposal is consistent with this Direction as consultation will be undertaken with the Local Aboriginal Land Council (LALC) in relation to the planning proposal.</p> <p>Council has undertaken a search of the Aboriginal Heritage Information Management System (AHIMS) which identified items of significance located on the eastern side of Old Coast Road. It is recommended that an Aboriginal cultural assessment is prepared for the planning proposal area prior to agency and community consultation to ensure any items of cultural significance have been identified.</p>
Local Government Narratives	<p>The proposal aligns with the Local Government Narratives for Nambucca, particularly the Regional Priority to foster stronger connections and alignments with Coffs Harbour and Bellingen LGAs, should the proposal facilitate waste management at a regional scale. It also aligns with the Economy and Employment priority to support Nambucca's diverse industrial base.</p>

## 3.2 Local

The following local strategies are applicable to the proposal:

**Table 5 Local strategic planning assessment**

Local Strategies	Justification
Local Strategic Planning Statement	<p>The planning proposal aligns with Action 2.13 of the Nambucca Valley Local Strategic Planning Statement (LSPS) which states that Council should continue to implement the Coffs Coast Region Resource Recovery and Waste Management Strategy 2015-2027 and progress investigations to extend the life of the current landfill and waste management options in the longer term to meet the future needs of the LGA.</p> <p>It should be noted that Council has incorrectly referred to LSPS Action 2.12 in the planning proposal. It is recommended that this is corrected by a condition imposed on the Gateway determination.</p>
2027 Community Strategic Plan	<p>The planning proposal is consistent with Council Community Strategic Plan (CSP) 2027 as the future expansion of the waste management facility responds to the Aspirations contained in the CSP related to the management of solid waste.</p>

Coffs Coast Region  
Resource Recovery  
and Waste  
Management  
Strategy 2015-2027

This Strategy covers a broader framework for waste management and supports Council's aim to secure land to provide for projected future waste management. As discussed in section 2 of this report, the strategy has been endorsed by Nambucca Valley Council, Coffs Harbour City Council and Bellingen Shire Council to deliver sustainable waste management at a regional scale.

The Strategy identifies that the Coffs Coast region including Bellingen, Nambucca and Coffs Harbour LGA's have limitations in respect to existing landfill capacity and highlights Infrastructure Management as a Key Result Area. Objective 7.2 of this Key Result Area is to secure regional landfill capacity sufficient for the next 50 years. Subsequent performance indicators include:

- 7.2.1: Confirm best value option for residual waste disposal across the region by 2017 and implement by 2020, including:
  - expansion at existing landfills
  - securing a new regional landfill
  - transfer of waste out of the Coffs Coast region

Nambucca Valley Council has recently been approached by both Coffs Harbour Council and Bellingen Shire Council to support their future waste management requirements. However, Council has advised that at this time it has not been determined whether the waste management facility will operate at a regional scale.

### 3.3 Section 9.1 Ministerial Directions

The planning proposal is consistent with relevant section 9.1 Directions, except for those discussed below:

**Table 5 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.2 Mining, Petroleum Production and Extractive Industries	No	The proposal is inconsistent with this Direction as it will prohibit the mining of coal, other minerals and winning or obtaining of extractive material by a change to the zone. The inconsistency is considered to be of minor significance as the proposal is unlikely to impact any resources of coal, other minerals, petroleum or extractive material that are of either State or regional significance. Further, it will not impact any existing mines, petroleum production operations or extractive industries occurring in the area. However, it is recommended that consultation is undertaken with NSW Resources and Geoscience to confirm the suitability of the proposal.

1.5 Rural Lands	No	The proposal is inconsistent with this direction as it affects land within existing rural zone. It is recommended as a condition of the Gateway determination that consultation is undertaken with Forestry Corporation of NSW, Department of Primary Industries – Forestry and Department of Primary Industries - Agriculture to confirm the suitability of the proposal. Until this consultation has occurred, the inconsistency of the proposal with this Direction remains unresolved.
2.1 Environment Protection Zones	No	The proposal is potentially inconsistent with this Direction because it does not include provisions that facilitate the protection and conservation of environmentally sensitive areas. Council has advised that a study was undertaken in 2014 which provides an indication of the environmental and habitat attributes of the land, but it does not adequately address current legislation and associated provisions including offsetting. As such, it is proposed to undertake further investigations. It is recommended that this requirement is confirmed by a condition of the Gateway determination. It is also recommended that consultation is undertaken with the Division of Biodiversity and Conservation (BCD) to confirm the suitability of the proposal. Until the report has been prepared and consultation has occurred, the inconsistency of the proposal with this Direction remains unresolved.
2.3 Heritage Conservation	No	The proposal is potentially inconsistent with this Direction because it does not contain provisions that facilitate the conservation of matters of environmental and Aboriginal cultural heritage significance. It is recommended that a condition be imposed on the Gateway determination to require that a heritage report is prepared which considers Aboriginal and non-Aboriginal cultural heritage. It is also recommended that consultation is undertaken with the LALC and Heritage NSW. Until this report and consultation has occurred, the inconsistency of the proposal with this Direction remains unresolved.
4.4 Planning for Bushfire Protection	No	The proposal is potentially inconsistent with this Direction as it applies to land that is bushfire prone. The Direction provides that the planning proposal authority must consult the NSW Rural Fire Service (RFS). Consultation with RFS is required after a Gateway determination is issued. Until this consultation has occurred, the inconsistency of the proposal with this Direction remains unresolved.

6.2 Reserving Land for Public Purposes	No	The proposal is inconsistent with this Direction as it will alter existing zonings and reservations of land for public purposes. The inconsistency is considered to be of minor significance as it affects only part of the State Forest and the land will be acquired by Council for public purposes. Further, Council has received advice from the Forestry Corporation of NSW providing in-principle concurrence to the proposed compulsory acquisition of the land which is to be used for public purposes.
5.10 Implementation of Regional Plans	No	The proposal is inconsistent with this Direction because as discussed in section 3.1 of this report, the proposal does not align with Direction 13 of the North Coast Regional Plan 2036. However, the inconsistency is considered to be of minor significance.

## 3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

# 4 Site-specific assessment

## 4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

**Table 6 Environmental impact assessment**

Environmental Impact	Assessment
Operations	<p>Waste management facilities may produce pollution streams such as leachate, stormwater runoff, landfill gas, offensive odour, dust, noise and litter which can degrade the quality of surrounding surface water bodies, groundwater, soil and air. Landfilling activities also have the potential to adversely affect local amenity.</p> <p>Therefore, as discussed in various sections of this report, it is recommended that the following investigations are undertaken, and the reports are placed on public exhibition with the planning proposal:</p> <ul style="list-style-type: none"> <li>• air quality/odour;</li> <li>• heritage (Aboriginal and non-Aboriginal cultural heritage);</li> <li>• ecology/flora and fauna;</li> <li>• geotechnical;</li> <li>• bushfire;</li> <li>• ground water;</li> <li>• stormwater/wastewater management;</li> <li>• traffic and transport;</li> <li>• noise and vibration; and</li> <li>• land use conflict.</li> </ul>

	<p>It is considered important that the potential environmental impacts of an expansion to the waste management facility are undertaken to inform the planning proposal. The need for these investigations was discussed with Council who accepted that the requirement to prepare the above reports would comprise a condition of the Gateway determination.</p> <p>It is also recommended that consultation is undertaken with the agencies listed in section 5.2 of this report to confirm the suitability of the proposal. These agencies may require additional reports to be prepared to inform their assessments.</p>
Flora and Fauna	<p>A preliminary flora assessment was undertaken in August 2014. This report indicated the area comprised three main vegetation community types:</p> <ul style="list-style-type: none"> <li>• Blackbutt grassy open forest;</li> <li>• Grey Gum – Narrow-leaved Mahogany – Grey Ironbark – Red Mahogany moist Shrubby Open Forest; and</li> <li>• Flooded Gum Moist shrubby Open Forest</li> </ul> <p>The preliminary assessment also included a fauna scoping study that concluded that there was a need for a comprehensive fauna survey to be undertaken to provide information to assess the impact of the proposal on threatened fauna.</p> <p>Although the assessments undertaken in 2014 provide an indication of the environmental and habitat attributes of the land, they do not address current legislation and associated provisions including offsetting.</p> <p>As such, Council propose to undertake further biodiversity investigations following the issue of a Gateway determination. This is considered appropriate, and it is recommended that a condition is imposed on the Gateway determination to confirm a report in relation to ecology / fauna and fauna must be prepared. It is also recommended that consultation is undertaken with BCD to confirm the suitability of the proposal.</p>
Natural Hazards	<p>The site is not impacted by acid sulfate soils or flooding. However, the land is bushfire prone. As discussed in section 3.3 of this report, Council is required to consult with NSW Rural Fire Service in accordance with section 9.1 Direction 4.4 Planning for Bushfire Protection. It is also recommended that a bushfire report is prepared.</p>
Coastal Management	<p>The land is not mapped as containing Coastal Wetlands or Littoral Rainforest by State Environmental Planning Policy (Coastal Management) 2018.</p>

## 4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

**Table 7 Social and economic impact assessment**

Social and Economic Impact	Assessment
Social	Council has advised that when the NSW Environment Protection Authority (EPA) withdrew the exemption for the land application of Mixed Waste Organic Output in

	<p>2018, the lack of available landfill capacity meant this material had to be transported to landfill in Tamworth.</p> <p>Coffs Harbour, Bellingen and Nambucca Councils collectively generate about 11,000 tonnes of Mixed Waste Organic Output per annum of which about 2,200 tonnes per annum is generated by the Nambucca Valley.</p> <p>Council recognise that new technologies to manage waste in a circular economy are emerging but are also eager to ensure that there is sufficient capacity in their landfill if these technologies do not proceed or are delayed.</p> <p>As the proposed expansion will secure the Nambucca Valley with additional landfill capacity for mixed waste and is sufficient to accommodate projected population growth, the proposal is considered to be a positive social initiative.</p>
Land Use Conflict	<p>There is a large lot residential area located on the western side of Wirrimbi Road. Council estimate that the nearest dwelling is approximately 220 metres from the expansion area.</p> <p>As odour and air quality are fundamental considerations for site selection, it is recommended that a condition be imposed on the Gateway determination to require that these studies are undertaken prior to agency and community consultation.</p> <p>As there is potential for conflict between the land uses, it is also recommended that a land use conflict risk assessment is undertaken to ensure that potential impacts are identified and assessed. This requirement will be imposed as a condition of the Gateway determination.</p>
Economic	<p>It is considered that the proposal will generally have positive economic benefits for the region as it will achieve economies of scale and allow waste disposal activities to be consolidated on one site rather than across multiple sites which will reduce ongoing operational costs.</p> <p>In this regard, Council estimate that the additional land will secure 1.5 million cubic metres of material for daily cover which will avoid importation from other sites and the costs incurred which are currently \$75.70 per tonne.</p> <p>The regulatory change imposed on the Coffs Coast Waste Councils by the EPA has meant that additional landfill capacity is required in the Coffs Coast sub-region. The alternative of transporting mixed waste from the region would cost Nambucca Valley ratepayers an additional \$600,000 to \$700,000 per annum.</p>

## 5 Consultation

### 5.1 Community

Council has advised that the public exhibition period will be undertaken for 28 days. This is considered appropriate for this proposal.

Council has nominated that community consultation will include an advertisement in the local newspaper and Council's website and notification to adjoining landowners.

## 5.2 Agencies

It is recommended that consultation is undertaken with the following agencies:

- Forestry Corporation of NSW;
- Department of Primary Industries – Forestry;
- Department of Primary Industries – Agriculture;
- Crown Lands;
- Division of Biodiversity and Conservation;
- NSW Rural Fire Service;
- Local Aboriginal Land Council;
- Heritage NSW;
- Transport for NSW;
- Division of Resources and Geoscience;
- Environment Protection Authority;
- Natural Resource Access Regulator;
- Australian Rail Track Authority; and
- Water NSW.

## 6 Timeframe

Council has nominated a timeframe of 9 months to complete the planning proposal. Having regard to the number of studies required to support the proposal and number of agencies with which Council must consult, 18 months is considered to be a realistic timeframe for this planning proposal.

## 7 Local plan-making authority

Council does not request delegation to be the Local Plan-Making authority.

As the planning proposal involves the compulsory acquisition of State Forest to facilitate a Council project which may facilitate waste management at a regional scale, the Department recommends that Council not be authorised to be the local plan-making authority for this proposal.

## 8 Assessment summary

It is considered that the planning proposal has merit to proceed to Gateway for the following reasons:

- the planning proposal does not undermine the vision, land use strategy, goals, directions or actions of the North Coast Regional Plan 2036;
- the planning proposal aligns with Action 2.13 of the Nambucca Valley Local Strategic Planning Statement 2020;
- the planning proposal responds to the Aspirations of the Nambucca Shire 2027 Community Strategic Plan; and
- the planning proposal responds to the Coffs Coast Region Resource Recovery and Waste Management Strategy 2015-2027; and
- the planning proposal will help to secure additional capacity at the Nambucca Heads Waste Management Facility which may assist in meeting regional waste forecasting.

It is recommended that this planning proposal be supported with conditions.

## 9 Recommendation

It is recommended the delegate of the Secretary:

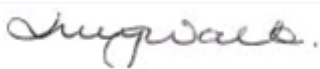
- Agree the inconsistencies with section 9.1 Directions 1.2 Mining, Petroleum Production and Extractive Industries, 5.10 Implementation of Regional Plans and 6.2 Reserving Land for Public Purposes are minor or justified; and
- Note that the inconsistencies with section 9.1 Directions, 1.5 Rural Lands, 2.1 Environment Protection Zones, 2.3 Heritage Conservation and 4.4 Planning for Bushfire Protection are unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to agency and community consultation, the planning proposal is to be updated to:
  - (a) nominate there will be no minimum lot size on that part of the land proposed to be zoned SP2 (Infrastructure);
  - (b) correct the description of the State Forest; and
  - (c) correct the inaccurate reference to Council's LSPS action.
2. The following reports shall be prepared and placed on public exhibition with the planning proposal:
  - (a) air quality/odour;
  - (b) heritage (Aboriginal and non-Aboriginal cultural heritage);
  - (c) ecology/flora and fauna;
  - (d) geotechnical;
  - (e) bushfire;
  - (f) ground water;
  - (g) stormwater/wastewater management;
  - (h) traffic and transport;
  - (i) noise and vibration; and
  - (j) land use conflict.
3. Prior to community consultation, consultation is required with the following public authorities:
  - Forestry Corporation of NSW
  - Department of Primary Industries – Forestry
  - Department of Primary Industries - Agriculture
  - Crown Lands
  - Division of Biodiversity and Conservation
  - NSW Rural Fire Service
  - Local Aboriginal Land Council

- Heritage NSW
- Transport for NSW
- NSW Resources and Geoscience
- NSW Environment Protection Authority
- Natural Resource Access Regulator
- Australian Rail Track Authority
- Water NSW

4. The planning proposal should be made available for community consultation for a minimum of 28 days.
5. The timeframe for completing the LEP is to be 18 months from the date of the Gateway determination.
6. Given the nature of the proposal, Council should not be authorised to be the local plan-making authority.



04/03/2021

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Lucy Walker

Acting Manager, Local and Regional Planning, Northern Region



05/03/2021

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