



# **PLANNING PROPOSAL**

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## **COFFS HARBOUR CITY COUNCIL**

**Additional Permitted Use**  
**Lot 13 DP 1109077, Hulberts Road Toormina**

**August 2021**  
**VERSION 2 - Exhibition**

## PLANNING PROPOSAL STATUS

Stage	Version / Date <i>(blank until achieved)</i>
Reported to Council – Initiate s3.33 Version 1 – Pre-Exhibition	Version 1 – Pre-Exhibition May 2021
Referred to DPIE s3.34(1) Version 1 – Pre-Exhibition	Version 1 – Pre-Exhibition May 2021
Gateway Determination s3.34(2) Version 1 – Pre-Exhibition	Gateway Determination issued on 05/08/2021
Amendments Required:	<i>Yes - include discussion on the Coffs Harbour Regional City Action Plan 2036</i>
Public Exhibition – Schedule 1 Clause 4 Version 2 - Exhibition	<i>Public Exhibition 18/08/2021 – 15/09/2021</i>
Reported to Council – Endorsement (or Making of LEP if delegated) s3.36 Version x - Post Exhibition	<i>(insert date on PP)</i>
Endorsed by Council for Submission to Minister for Notification (or Making where not delegated) s3.36(2) Version x – Post Exhibition	<i>(insert date on PP)</i>

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## EXECUTIVE SUMMARY & EXHIBITION INFORMATION

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### ***What is a Planning Proposal?***

A planning proposal is a document that explains the intended effect of a proposed local environmental plan (LEP) and sets out the justification for making that plan. Essentially, the preparation of a planning proposal is the first step in making an amendment to *Coffs Harbour Local Environmental Plan 2013* ('Coffs Harbour LEP 2013').

A planning proposal assists those who are responsible for deciding whether an LEP amendment should proceed and is required to be prepared by a relevant planning authority. Council, as a relevant planning authority, is responsible for ensuring that the information contained within a planning proposal is accurate and accords with the *Environmental Planning and Assessment Act 1979* and the NSW Department of Planning, Industry and Environment's *A guide to preparing planning proposals 2018* and *A guide to preparing local environmental plans 2018*.

### ***What is the Intent of this Planning Proposal?***

The intent of this planning proposal is to amend Schedule 1 Additional permitted uses of Coffs Harbour LEP 2013 and the corresponding Additional Permitted Uses Map Sheet APU\_006B. The planning proposal relates to Hulberts Road, Toormina (the site) and the additional permitted use will allow the storage and hire of shipping containers to be permitted with development consent on the site.

### ***Background***

Proposal	Additional Permitted Use
Property Details	Lot 13 DP 1109077, Hulberts Road, Toormina
Current Land Use Zone(s)	IN1 General Industrial
Proponent	Geoff Smyth and Associates
Landowner	Jaron Holdings Pty Ltd
Location	A location map is included below

This planning proposal has been prepared in accordance with the *Environmental Planning and Assessment Act 1979* and *A guide to preparing planning proposals* (NSW Department of Planning and Environment 2018) and *A guide to preparing local environmental plans* (NSW Department of Planning and Environment 2018).

This planning proposal explains the intended effects of an amendment to Schedule 1 Additional permitted uses of Coffs Harbour LEP 2013 and the corresponding Additional Permitted Uses Map Sheet APU\_006B. The planning proposal relates to Hulberts Road, Toormina (the site) and the additional permitted use will allow the storage and hire of shipping containers to be permitted with development consent on the site.

## The Site

The site is located at Hulberts Road, Toormina, as shown in Figure 1. Toormina is a suburb located approximately 7 km to the south of the Coffs Harbour central business district and approximately 2 km north-west of Sawtell. The site is cleared, has an area of 1.6 hectares and is contained within Zone IN1 General Industrial under Coffs Harbour LEP 2013 – see Figure 2.

The site has been the subject of a number of industrial development approvals over the past 17 years, including:

- DA 1707/04 – Construction of industrial units at western end of site.
- DA 851/06 – Construction of industrial units at the eastern end of site.
- DA 543/10 – Subdivision of industrial buildings into separate lots.
- DA 263/11 – Subdivision
- DA 0827/17 – Depot for storage of plant and machinery
- DA 633/17 – Vehicle storage premises

Some of these development approvals have lapsed, however the land has been filled in accordance with a condition of consent associated with DA 851/06.



Figure 1: Locality Map: Lot 13 DP 1109077

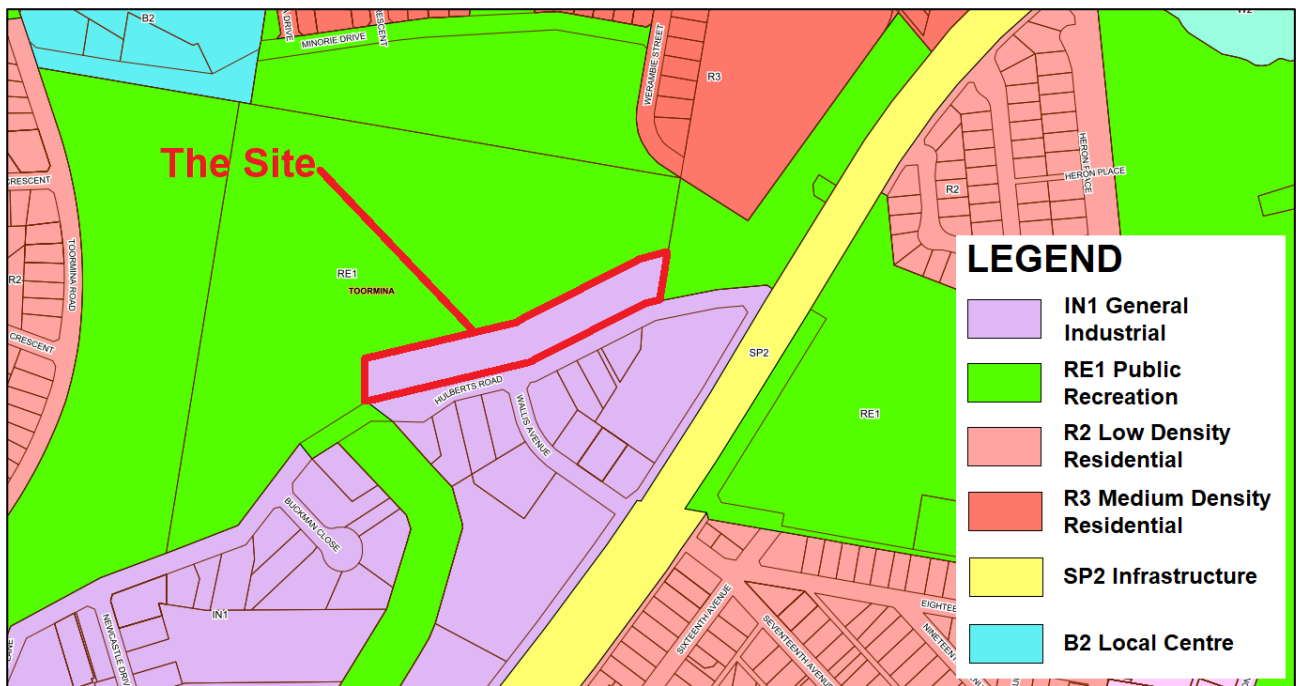


Figure 2: Current Land Use Zones – Coffs Harbour LEP 2013

## PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The intended outcomes of this planning proposal are to:

- Amend Schedule 1 Additional permitted uses of Coffs Harbour LEP 2013 to allow a land use which specifically involves the storage and hire of shipping containers to occur on the site;
- Amend Coffs Harbour LEP 2013 additional permitted uses mapping that applies to the site, to reflect the amendment to Schedule 1 as described above; and
- Ensure that the land is able to be developed in accordance with sound planning and design principles.

## PART 2 – EXPLANATION OF PROVISIONS

The intended outcomes of the proposed LEP amendment will be achieved by amending Schedule 1 Additional permitted uses of Coffs Harbour LEP 2013 and amending Additional Permitted Uses Map Sheet APU\_006B, as it relates to Hulberts Road, Toormina. The amendments to Schedule 1 Additional permitted uses of Coffs Harbour LEP 2013 will include the following:

### 17B Use of certain land at Hulberts Road, Toormina

- (1) This clause applies to land at Hulberts Road, Toormina, being Lot 13, DP 1109077, shown as “17B” on the Additional Permitted Uses Map.
- (2) Development for the purpose of shipping container storage and hire is permitted with development consent.



## PART 3 – JUSTIFICATION

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This part provides a response to the following matters in accordance with A guide to preparing planning proposals (NSW Department of Planning and Environment 2018):

- Section A: Need for the planning proposal
- Section B: Relationship to strategic planning framework
- Section C: Environmental, social and economic impact

### **Section A – Need for the planning proposal**

#### **1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?**

No. The planning proposal has been prepared in response to a landowner's request to amend Coffs Harbour LEP 2013 to enable the storage and hire of shipping containers on the subject land. The use of the land for this purpose has not been identified in any local planning priority or action in an endorsed local strategic planning statement. The planning proposal is accompanied by detailed environmental studies, which are included as appendices to this planning proposal.

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

Yes. The storage and hire of shipping containers does not meet any of the definitions for industrial land uses within the Standard Instrument – Principle LEP 2006. It is captured within the broad definition of a 'Specialised Retail Premises' (bulky goods), which is a prohibited land use in Zone IN1 General Industrial.

The definition, as taken from Coffs Harbour LEP 2013 is as follows:

***specialised retail premises*** means a building or place the principal purpose of which is the sale, hire or display of goods that are of a size, weight or quantity, that requires

- a) a large area for handling, display or storage, or
- b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire, but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale, hire or display of other goods referred to in this definition.

Note-

*Examples of goods that may be sold at specialised retail premises include automotive parts and accessories, household appliances and fittings, furniture, homewares, office equipment, outdoor and recreation equipment, pet supplies and party supplies.*

*Specialised retail premises are a type of retail premises-see the definition of that term in this Dictionary.*

The Specialised retail premises land use was explored in developing the Coffs Harbour Local Growth Management Strategy 2020 – Chapter 8 Employment Lands. In this Chapter it is recommended that specialised retail premises are limited within industrial areas, so as not to detract from commercial centres.

According, specialised retail premises are only permitted with development consent in Zone B2 Local Centre, B3 Commercial Core, B4 Mixed Use and B5 Business Development under Coffs Harbour LEP 2013. These zones are generally located in more visually prominent areas of the Coffs Harbour LGA and businesses within such commercial zones rely on visually presentable retail shop fronts to attract customers.

It is considered that an industrial zone is more appropriate for the storage and hire of shipping containers as this use is considered to be industrial in nature, particularly due to its visual representation, associated loading/unloading requirements and truck movements. Hence, the proposed use is not deemed to be suitable for the commercial zones within the Coffs Harbour LGA in which specialised retail premises are permitted with consent.

An additional permitted use is recommended as the preferred solution and not the inclusion of specialised retail premises broadly within Zone IN1 General Industrial, as this would be inconsistent with the Coffs Harbour Local Growth Management Strategy 2020 – Chapter 8 Employment Lands. A site-specific planning proposal is the preferred option.

### **3. Is there a net community benefit?**

The Net Community Benefit Criteria is identified in the NSW Government's publication *The Right Place for Business and Services*. This policy document has a focus on ensuring growth within existing centres and minimising dispersed trip generating development. It applies most appropriately to planning proposals that promote significant increased residential areas or densities, or significant increased employment areas or the like. This planning proposal will not change the existing zones in Coffs Harbour LEP 2013 or significant increase employment areas within the Coffs Harbour LGA. The criteria in the Net Community Benefit test can't be properly applied to this planning proposal.

## **Section B – Relationship to strategic planning framework**

### **4. Will the planning proposal give effect to the objectives and actions contained within the North Coast Regional Plan 2036?**

The proposed LEP amendment is considered to be consistent with the relevant goals, directions and actions within the North Coast Regional Plan 2036 as follows:

#### **GOAL 1 – THE MOST STUNNING ENVIRONMENT IN NSW**

- **Direction 2 – Enhance biodiversity, coastal and aquatic habitats and water catchments**

Action 2.1 - Focus development to areas of least biodiversity sensitivity in the region and implement the 'avoid, minimise, offset' hierarchy to biodiversity, including areas of high environmental value.

Comment - The request to amend Coffs Harbour LEP 2013 is accompanied by sufficient information to demonstrate that the proposed land use will not adversely affect biodiversity in the region. The land has been cleared of vegetation in accordance with a previous development consent.

#### **GOAL 2 – A THRIVING, INTERCONNECTED ECONOMY**

- **Direction 6 - Develop successful centres of employment**

Action 6.1 - Facilitate economic activity around industry anchors such as health, education and airport facilities by considering new infrastructure needs and introducing planning controls that encourage clusters of related activity.

Action 6.5 - Promote and enable an appropriate mix of land uses and prevent the encroachment of sensitive uses on employment land through local planning controls.



Comment - Specialised retail premises, as defined in *Coffs Harbour LEP 2013* are permitted with development consent in Zone B2 Local Centre, B3 Commercial Core, B4 Mixed Use and the B5 Business Development. The subject land is within Zone IN1 General Industrial under *Coffs Harbour LEP 2013*. The proposed use of the land is for the storage and hire of shipping containers. Whilst the land use meets the definition of a specialised retail premises, it is industrial in nature and not suitable for a commercial zone.

### GOAL 3 – VIBRANT AND ENGAGED COMMUNITIES

- **Direction 20 – Maintain the region’s distinctive built character**

Action 15.2 - Deliver new high-quality development that protects the distinct character of the North Coast, consistent with the *North Coast Urban Design Guidelines (2009)*.

Comment - The planning proposal will ensure that inappropriate land uses occur in visually prominent commercial zones.

## 5. Will the planning proposal give effect to a Council’s endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

### Coffs Harbour Local Strategic Planning Statement

Coffs Harbour City Council adopted its Local Strategic Planning Statement (LSPS) on 25 June 2020. The LSPS was prepared in accordance with the *Environmental Planning and Assessment Act 1979* and Regulations and provides a 20-year land use planning vision for the Coffs Harbour LGA. It identifies 16 Planning Priorities to be delivered in four themes to 2040: connected, sustainable, thriving and leadership. This planning proposal is consistent with the following relevant planning priority and associated action within the adopted LSPS:

Planning Priority	Action	
9. Deliver a Local Centres placemaking approach to revitalise local centres.	A9.5	Deliver on strategic directions for local employment and business centres outlined in the Local Growth Management Strategy, as funding allows

### Coffs Harbour Regional City Action Plan 2036

The NSW Government developed the Coffs Harbour Regional City Action Plan (the Plan) to provide a framework to manage and shape the city’s future growth so it conforms with the requirements of the North Coast Regional Plan 2036. The Plan was finalised in March 2021 and it identifies 5 overarching goals which incorporate objectives and related actions. This planning proposal is consistent with the following relevant goals, objectives and associated actions within the Plan:

Goal	Objective	Actions	
Work	14. Optimise employment land delivery across the city	14.1	Characterise employment areas in local plans to reflect their strategic employment role.
		14.2	Enhance employment land stock by restricting encroachment of non-compatible uses and identifying infrastructure needs including suitable freight and transport access.
		14.4	Maximise the competitive and natural advantages of employment precincts.

**6. Is the planning proposal consistent with council's Community Strategic Plan and Local Growth Management Strategy?**

***MyCoffs Community Strategic Plan 2030***

Council's Community Strategic Plan is based on four key themes: Community Wellbeing; Community Prosperity; A Place for Community; and Sustainable Community Leadership. Within each theme there are a number of objectives and for each objective there are a number of strategies to assist in achieving the objectives. The planning proposal is generally consistent with the following relevant objectives and strategies within the Plan:

Objective	Strategy
<i>A thriving and sustainable local economy</i>	B1.1 We champion business, events, innovation and technology to stimulate economic growth, investment and local jobs
	B1.2 We attract people to work, live and visit in the Coffs Harbour local government area

***Coffs Harbour Local Growth Management Strategy***

The Hulberts Road industrial area is identified within the Coffs Harbour Local Growth Management Strategy (LGMS) 2020 - Chapter 8 Employment Lands as an employment precinct. Within this precinct, light industrial uses make up 53% of the overall floorspace summary. These uses include storage facilities, small manufacturing operations, transport depots, semi commercial/retail, automotive and marine uses.

The Strategy states that the Hulberts Road precinct has the potential to transition to Zone IN2 Light Industrial due to its proximity to residential land and the dominance of lower-impact uses that would align with a light industrial zone. The Strategy notes that land uses within Zone IN2 Light Industrial should not have adverse amenity impacts on surrounding land uses.

The proposed use of the subject land for the storage and hire of shipping containers is a low-impact land use that is compatible with the intentions of the LGMS for this employment precinct. The subject land is situated such that visual impacts from the proposed use on surrounding residential land would be minimal due to the lands topography and surrounding open space/vegetation. Amenity impacts associated with other 'dirtier' industries, such as dust, noise and odour would not be likely to be associated with the proposed land use.

Specialised retail premises, as defined in *Coffs Harbour LEP 2013* are permitted with development consent in Zone B2 Local Centre, B3 Commercial Core, B4 Mixed Use and B5 Business Development. These zones are generally located in more visually prominent areas of the Coffs Harbour LGA and businesses within such commercial zones rely on visually presentable retail shop fronts to attract customers. The Hulberts Road site is within Zone IN1 General Industrial under Coffs Harbour LEP 2013. The proposed use of the land is considered to be more appropriately located within an industrial zone, rather than a business zone.

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

The table provided in Appendix 1 provides an assessment of consistency against each State Environmental Planning Policy relevant to the planning proposal.

**8. Is the planning proposal consistent with applicable Ministerial Directions (s117 directions)?**

The table provided in Appendix 2 provides an assessment of consistency against Ministerial Planning Directions relevant to the planning proposal.

***Section C – Environmental, social and economic impact***

**9. 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 LEP amendment does not seek to alter any land use zones or development controls in a manner that would result in any adverse impacts on threatened species, populations, or ecological communities.

An Ecological Assessment has been prepared in support of the proposal (see Appendix 3). The assessment notes that the subject land contains land mapped as being of Biodiversity Value (as per the Biodiversity Values Map and Threshold Tool). The Biodiversity Values Map is based on out of date vegetation mapping, as the site has been cleared in accordance with a development consent issued by Council in 2007.

Koala habitat mapping was undertaken as part of the Coffs Harbour Koala Plan of Management (KPoM) in 1999. This mapping was based on vegetation mapping prepared in 1996 by Fisher Body & Gill using aerial imagery taken in 1994. Primary Koala habitat is mapped as occurring on the eastern half of the site (see Figure 3). However, clearing and filling of the site has occurred in accordance with a development consent issued by Council in 2007. Aerial imagery from 2007 shows that the vegetation in the area mapped as Koala habitat was cleared at that time under this approval. It is also noted that substantial areas of Primary Koala habitat mapping on Council managed lands adjoining the subject land have also been cleared since 1999 following reassessment of Koala habitat values. Consequently, the proposed LEP Amendment and future development of the site is unlikely to result in any impacts on biodiversity.



Figure 3: Mapped primary Koala habitat affecting the site

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

- **Flooding**

Council has no flooding related concerns with this planning proposal, particularly as the site has been filled in accordance with a previous development consent permit (DA 0851/06).

Prior to filling, the site would have most likely been flood prone in a 100 year ARI flood. Previous aerial imagery shows what appears to be a drainage path, which matches preliminary flood modelling - see Figure 4. The land is also impacted by 'indicative' flooding, which indicates that the land is most likely impacted by 1 in 100 year flooding. Areas affected by indicative flooding have been determined through 'first pass' flood modelling. The 'first pass' flood modelling is a preliminary assessment of flooding. It is not a detailed flood study and does not truly represent the 1% AEP (100 year ARI) flood level, however, Council is confident that this overall area is flood affected. The indicative flooding extent is primarily designed to identity flood prone land in areas that do not have detailed flood studies.

Council is currently completing a new Flood Study for Middle Creek, which is due for completion in 2021. The preliminary results from the Middle Creek flood study show this land would be impacted by 1 in 100 year flooding, with the 100-year level being around 5 mAHD - see Figure 5.

In terms of flooding, the filling of the land would not be likely to have any significant negative impacts. There may be some potentially higher levels found near the adjacent velodrome to the north, but the filling may also provide better flood protection to Hulberts Road, by not allowing the 'flood runner' across the site to form. The fill on the site is mentioned to be above 5.4mAHD which is above the 100-year flood level.





Figure 4: 2018 aerial photo showing drainage path

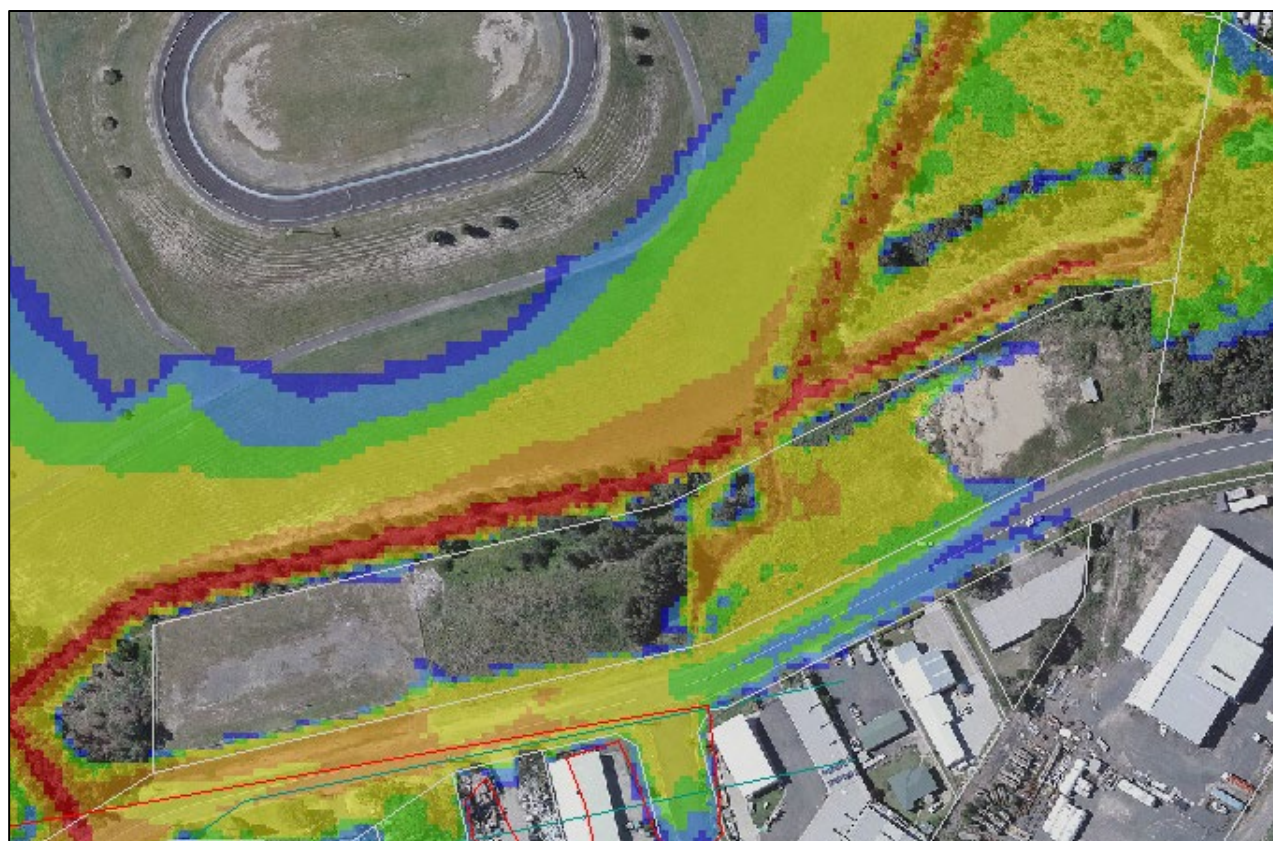


Figure 5: Preliminary Middle Creek Flood Study 100-year flood depths



- **Coastal Wetland**

The subject land is mapped as containing coastal wetland pursuant to State Environmental Planning Policy (Coastal Management) 2018 (see Figure 6).

The application to amend Coffs Harbour LEP 2013 to enable the storage and hire of shipping containers on the land notes that the landowner intends to seek an amendment to the State policy by NSW Department of Planning, Industry and Environment, as the coastal wetland mapping on the land is erroneous. Council has reviewed this matter and has determined that the coastal wetland mapping on the land is erroneous and has confirmed that the land does not contain coastal wetland.

Development applications lodged for the subject land prior to the correction of the mapping error are required to be accompanied by an Environmental Impact Statement in accordance with the provisions of State Environmental Planning Policy (Coastal Management) 2018. The coastal wetlands proximity area will also continue to be a relevant consideration for development applications.

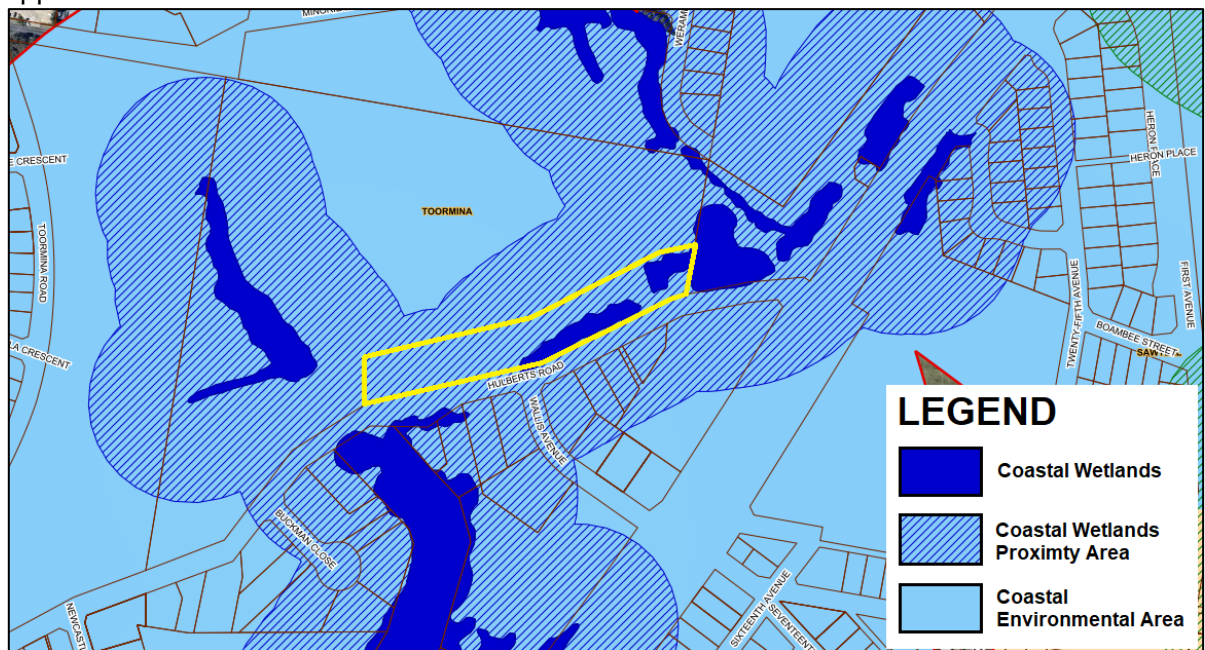


Figure 6: SEPP Coastal Management 2018 Mapping

- **Land Contamination**

Council's review of the Potential Contaminated Land register for this property has not identified any past activities likely to have caused land contamination. The subject land has been filled in accordance with development consent DA 851/06. Council considers that there are no land contamination issues requiring further investigation for the subject land.

## 11. Has the planning proposal adequately addressed any social and economic effects?

It is unlikely that the planning proposal would result in any adverse social or economic effects. Social benefits include an avoidance of locating an inappropriate land use in visually prominent commercial centres. Economic benefits include the establishment of an industry specific business in an appropriate location and associated economic benefits of that business.

## Section D – State and Commonwealth interests

### 12. Is there adequate public infrastructure for the planning proposal?

Yes. The planning proposal is unlikely to create significant additional demand on existing public infrastructure. The subsequent amendment to Coffs Harbour LEP 2013 will enable the creation of a specialised land use, which can be serviced by existing electrical and telecommunications services, as well as existing reticulated water and sewer services that are available to the subject land. Vehicular access to the site can be safely achieved from Hulberts Road, which fronts the site.

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

At this stage in the process there does not appear to be any matters of interest to Commonwealth authorities in relation to the planning proposal.

A Gateway determination was issued by NSW Planning, Industry and Environment on 5 August 2021, requiring consultation with the following public authorities and government agencies:

- NSW Rural Fire Service; and
- NSW Environment, Energy and Science - Biodiversity and Conservation.

## PART 4 – MAPPING

Proposed mapping amendments to Coffs Harbour LEP 2013, as described in Part 2 of this planning proposal are shown in Figure 7 below.

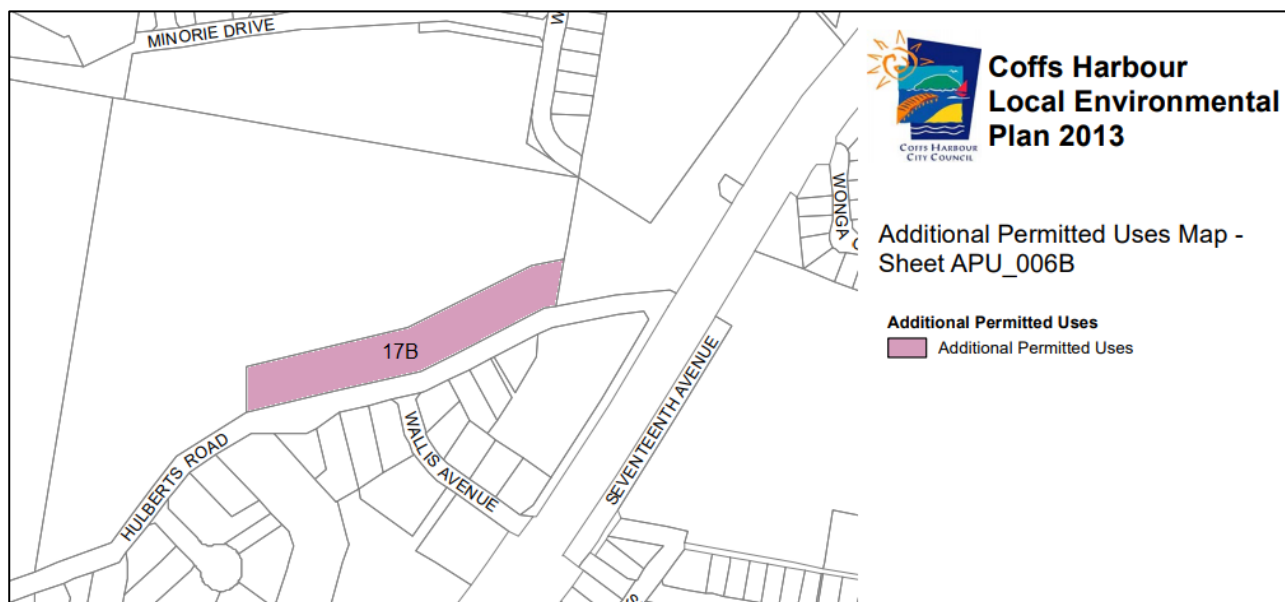


Figure 7: Proposed LEP 2013 Additional Permitted Uses Mapping Addition

#### Technical Notes:

- An amended version of this map sheet will be created and supplied to NSW Department of Planning, Industry and Environment if Council resolves to initiate the planning proposal.



## PART 5 – COMMUNITY CONSULTATION

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The Gateway determination issued by the Department of Planning, Industry and Environment on 5 August 2021 has specified the community consultation requirements that must be undertaken for the planning proposal. In accordance with the Gateway determination, the planning proposal will be exhibited for 28 days.

Public Exhibition of the planning proposal will include the following:

### **Advertisement**

Placement of an online advertisement in the Public Notices section of the Coffs Harbour City Council website.

### **Consultation with affected owners and adjoining landowners**

Written notification of the public exhibition to the proponent, the landowner and adjoining landowners.

### **Website**

The planning proposal will be made publicly available on Council's Have Your Say Website at: <https://haveyoursay.coffsharbour.nsw.gov.au/>

*Note: Following public exhibition, this section of the planning proposal will be updated to include details of the community consultation.*

## PART 6 – PROJECT TIMELINE

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A project timeline is yet to be determined, however the anticipated timeframes are provided below in Table 1, noting that the Gateway Determination issued by NSW Planning, Industry and Environment will specify the date that the planning proposal is to be completed.

Table 1: Anticipated Timeline

Milestone	Anticipated Timeframe
Decision by Council to initiate the planning proposal	June 2021
Commencement (date of Gateway Determination)	August 2021
Public exhibition & agency consultation	August - September 2021
Consideration of submissions	September 2021
Reporting to Council for consideration	October 2021
Submission to Minister to make the plan (if not delegated)	November 2021
Submission to Minister for notification of the plan (if delegated)	

## APPENDIX 1 – CONSIDERATION OF STATE ENVIRONMENTAL PLANNING POLICIES

State Environmental Planning Policy	Applicable	Consistent	Comment
SEPP (Aboriginal Land) 2019	No	N/A	This SEPP does not apply to this proposed LEP amendment. This SEPP presently only applies to the Central Coast Local Government Area.
SEPP (Affordable Rental Housing) 2009	No	N/A	This SEPP does not apply to the proposed LEP amendment, as it does not seek to enable residential land uses on the subject land.
SEPP (Building Sustainability Index: BASIX) 2004	No	N/A	This SEPP does not apply to the proposed LEP amendment, as it does not seek to enable residential land uses on the subject land.
SEPP (Coastal Management) 2018	Yes	Yes	<p>The subject land is mapped as containing coastal wetland pursuant to State Environmental Planning Policy (Coastal Management) 2018 (see Figure 6).</p> <p>The application to amend Coffs Harbour LEP 2013 to enable the storage and hire of shipping containers on the land notes that the landowner intends to seek an amendment to the SEPP by NSW Planning, Industry and Environment, as the coastal wetland mapping on the land is erroneous. Council has reviewed this matter and has determined that the coastal wetland mapping on the land is erroneous and has confirmed that the land does not contain coastal wetland.</p> <p>Development applications lodged for the subject land prior to the correction of the mapping error are required to be accompanied by an Environmental Impact Statement in accordance with the provisions of the SEPP. The coastal wetlands proximity area will also continue to be a relevant consideration for development applications.</p>
SEPP (Concurrences and Consents) 2018	Yes	Yes	The proposed LEP amendment is consistent with the aims and provisions of this SEPP. Future development requiring concurrence will be subject to the provisions of this SEPP.
SEPP (Educational Establishments and Child Care Facilities) 2017	No	N/A	This SEPP does not apply to this proposed LEP amendment, as it does not seek to enable Educational Establishments and/or Child Care Facilities on the subject land.
SEPP (Exempt and Complying Development Codes) 2008	Yes	Yes	The proposed LEP amendment is consistent with the aims and provisions of this SEPP. This SEPP is not specifically relevant in the context of the LEP amendment.
SEPP (Housing for Seniors or People with a Disability) 2004	No	N/A	This SEPP does not apply to the proposed LEP amendment as seniors housing is prohibited in Zone IN1 General Industrial under Coffs Harbour LEP 2013 and the proposed LEP amendment does not seek to enable seniors living on the subject land.

## APPENDIX 1 – CONSIDERATION OF STATE ENVIRONMENTAL PLANNING POLICIES

State Environmental Planning Policy	Applicable	Consistent	Comment
SEPP (Infrastructure) 2007	Yes	Yes	The proposed LEP amendment is consistent with the aims and provisions of this SEPP. The LEP amendment does not contain provisions that contradict or hinder the application of this SEPP.
SEPP (Koala Habitat Protection) 2020	No	N/A	Koala habitat mapping was undertaken as part of the Coffs Harbour KPoM in 1999. This mapping was based on vegetation mapping prepared in 1996 by Fisher Body & Gill using aerial imagery taken in 1994. Primary Koala habitat is mapped as occurring on the eastern half of the site (see Figure 3). However, clearing and filling of the site has occurred in accordance with a development consent issued by Council in 2007. Aerial imagery from 2007 shows that the vegetation in the area mapped as Koala habitat was cleared at that time under this approval. It is also noted that substantial areas of Primary Koala habitat mapping on Council managed lands adjoining the subject land have also been cleared since 1999 following reassessment of Koala habitat values. Consequently, the proposed LEP Amendment is not inconsistent with this SEPP.
SEPP (Koala Habitat Protection) 2021	Yes	Yes	Refer to discussion above.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Yes	Yes	The proposed LEP amendment is consistent with the aims and provisions of this SEPP. The planning proposal does not contain provisions that contradict or hinder the application of this SEPP.
SEPP No 19 – Bushland in Urban Areas	No	N/A	Coffs Harbour City Council is not listed in Schedule 1 of this policy and thus the policy does not apply to the LEP amendment.
SEPP No 21 – Caravan Parks	Yes	Yes	This SEPP is not directly relevant to the LEP amendment and nothing in this planning proposal will compromise the efficient application of this SEPP to any future development.
SEPP No 33 – Hazardous and Offensive Development	No	N/A	This SEPP does not apply to the proposed LEP amendment, as it does not contain specific provisions that reference hazardous and/or offensive development.
SEPP No 36 – Manufactured Home Estates	Yes	Yes	This SEPP is not directly relevant to the LEP amendment and nothing in this planning proposal will compromise the efficient application of this SEPP to any future development.
SEPP No 50 – Canal Estate Development	No	N/A	This SEPP does not apply to the proposed LEP amendment, as it does not contain specific provisions that reference or propose canal estate development.

## APPENDIX 1 – CONSIDERATION OF STATE ENVIRONMENTAL PLANNING POLICIES

State Environmental Planning Policy	Applicable	Consistent	Comment
SEPP No 55 – Remediation of Land	Yes	Yes	A review of Council records has not identified any past activities on the land that would suggest potential land contamination is a relevant consideration.
SEPP No 64 – Advertising and Signage	Yes	Yes	This SEPP is not directly relevant to the LEP amendment and nothing in this planning proposal will compromise the efficient application of this SEPP to any future development.
SEPP No 65 – Design Quality of Residential Apartment Development	No	N/A	This SEPP does not apply to the LEP amendment, as it does not seek to enable development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component.
SEPP No 70 – Affordable Housing (Revised Schemes)	No	N/A	This SEPP does not apply to the LEP amendment as it does not seek to enable residential development on the land.
SEPP (Primary Production and Rural Development) 2019	No	N/A	This SEPP does not apply to the LEP amendment, as the land is within Zone IN1 General Industrial and is not used for primary production purposes.
SEPP (State and Regional Development) 2019	Yes	Yes	The LEP amendment does not contain provisions that contradict or hinder the application of this SEPP.
SEPP (State Significant Precincts) 2005	No	N/A	The LEP amendment does not relate to a state significant precinct.
SEPP (Urban Renewal) 2010	No	N/A	The LEP amendment does not relate to an urban renewal precinct.
SEPP (Vegetation in Non-Rural Areas) 2017	Yes	Yes	The LEP amendment does not contain provisions that contradict or hinder the application of this SEPP.

## APPENDIX 2 – CONSIDERATION OF MINISTERIAL PLANNING DIRECTIONS

S9.1 Direction	Applicable	Consistent	Comment
<b>1. Employment and Resources</b>			
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).	Yes	<p>The LEP amendment affects land within an existing industrial zone. This planning proposal:</p> <ul style="list-style-type: none"> <li>a) gives effect to the objectives of the direction,</li> <li>b) retains the areas and locations of existing business and industrial zones,</li> <li>c) does not reduce the total potential floor space area for employment uses and related public services in business zones,</li> <li>d) does not reduce the total potential floor space area for industrial uses in industrial zones, and</li> <li>e) does not propose any new employment areas.</li> </ul> <p>The LEP amendment is therefore consistent with this Ministerial Direction.</p>
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).	N/A	The LEP amendment does not affect land within an existing or proposed rural zone.
1.3 Mining, Petroleum Production and Extractive Industries	<p>Applies when a relevant planning authority prepares a planning proposal that would have the effect of:</p> <ul style="list-style-type: none"> <li>(a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or</li> <li>(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.</li> </ul>	Yes	<p>The LEP amendment does not:</p> <ul style="list-style-type: none"> <li>(a) prohibit the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or</li> <li>(b) restrict the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance.</li> </ul>
1.4 Oyster Aquaculture	Applies when a relevant planning authority prepares any planning	N/A	The LEP amendment does not affect land within an existing or proposed oyster aquaculture area.

## APPENDIX 2 – CONSIDERATION OF MINISTERIAL PLANNING DIRECTIONS

S9.1 Direction	Applicable	Consistent	Comment
	<p>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>		
1.5 Rural Lands	<p>Applies when a relevant planning authority prepares a planning proposal that:</p> <p>(a) 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) changes the existing minimum lot size on land within a rural or environment protection zone.</p>	N/A	The LEP amendment does not affect land within an existing or proposed rural zone, or environmental protection zone.
<b>2 Environment and Heritage</b>			
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</p>	Yes	<p>The LEP amendment does not seek to alter any land use zones or development controls in a manner that would result in any adverse impacts on threatened species, populations, or ecological communities.</p> <p>An Ecological Assessment has been prepared in support of the proposal (see Appendix 3). The assessment notes that the subject land contains land mapped as being of Biodiversity Value (as per the Biodiversity Values Map and Threshold Tool). The Biodiversity Values Map is based on out of date vegetation mapping, as the site has been cleared in accordance with a development consent issued by Council in 2007.</p> <p>Koala habitat mapping was undertaken as part of the Coffs Harbour Koala Plan of Management (KPoM) in 1999. This mapping was based on vegetation</p>

## APPENDIX 2 – CONSIDERATION OF MINISTERIAL PLANNING DIRECTIONS

S9.1 Direction	Applicable	Consistent	Comment
	in accordance with clause (5) of Direction 1.5 “Rural Lands”.		mapping prepared in 1996 by Fisher Body & Gill using aerial imagery taken in 1994. Primary Koala habitat is mapped as occurring on the eastern half of the site (see Figure 3). However, clearing and filling of the site has occurred in accordance with a development consent issued by Council in 2007. Aerial imagery from 2007 shows that the vegetation in the area mapped as Koala habitat was cleared at that time under this approval. It is also noted that substantial areas of Primary Koala habitat mapping on Council managed lands adjoining the subject land have also been cleared since 1999 following reassessment of Koala habitat values. Consequently, the proposed LEP Amendment and future development of the site is unlikely to result in any impacts on biodiversity.
2.2 Coastal Protection	<p>Applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016 – comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area – as identified in <i>State Environmental Planning Policy (Coastal Management) 2018</i>.</p> <p>(4) A planning proposal must include provisions that give effect to and are consistent with:</p> <ul style="list-style-type: none"> <li>(a) the objects of the <i>Coastal Management Act 2016</i> and objectives of the relevant coastal management areas,</li> <li>(b) the NSW Coastal Management Manual and associated Toolkit; and</li> <li>(c) the NSW Coastal Design Guidelines 2003, and</li> <li>(c) 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></li> </ul>	Yes	<p>The subject land is mapped as containing coastal wetland pursuant to State Environmental Planning Policy (Coastal Management) 2018 (see Figure 6).</p> <p>The application to amend Coffs Harbour LEP 2013 to enable the storage and hire of shipping containers on the land notes that the landowner intends to seek an amendment to the SEPP by NSW Planning, Industry and Environment, as the coastal wetland mapping on the land is erroneous. Council has reviewed this matter and has determined that the coastal wetland mapping on the land is erroneous and has confirmed that the land does not contain coastal wetland.</p> <p>Development applications lodged for the subject land prior to the correction of the mapping error are required to be accompanied by an Environmental Impact Statement in accordance with the provisions of the SEPP. The coastal wetlands proximity area will also continue to be a relevant consideration for development applications.</p>



## APPENDIX 2 – CONSIDERATION OF MINISTERIAL PLANNING DIRECTIONS

S9.1 Direction	Applicable	Consistent	Comment
	that continues to have effect under the <i>Coastal Management Act 2016</i> .		
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, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.</p>	Yes	<p><i>European Heritage</i></p> <p>The subject land does not contain any items listed as Heritage Items in Schedule 5 of Coffs Harbour LEP 2013. In this regard, there are no European Heritage issues that would prevent the progression of the LEP amendment</p> <p><i>Aboriginal Cultural Heritage</i></p> <p>The subject land does not contain any known or predictive Aboriginal Cultural Heritage (ACH) and an AHIMS search has not revealed any ACH sites on or near the subject land.</p>
2.4 Recreation Vehicle Areas	<p>A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>):</p> <p>(a) where the land is within an environment protection zone,</p> <p>(b) where the land comprises a beach or a dune adjacent to or adjoining a beach,</p> <p>(c) where the land is not within an area or zone referred to in</p>	Yes	The LEP amendment does not seek to enable the land to be developed for the purpose of a recreation vehicle area.

## APPENDIX 2 – CONSIDERATION OF MINISTERIAL PLANNING DIRECTIONS

S9.1 Direction	Applicable	Consistent	Comment
	<p>paragraphs (a) or (b) unless the relevant planning authority has taken into consideration:</p> <ul style="list-style-type: none"> <li>(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</li> <li>(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>.</li> </ul>		
2.6 Remediation of Contaminated Land	<p>This direction applies when a relevant planning authority prepares a planning proposal for land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997; or on land which development for the purposes referred to in the contaminated land planning guidelines is being carried out, or where development for the purposes of residential, educational, recreational or childcare purposes; or a hospital is proposed.</p> <p>(4) A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any land specified in paragraph (2) if the inclusion of the land in that zone would permit a change of use of the land, unless:</p> <ul style="list-style-type: none"> <li>(a) the planning proposal authority has considered whether the land is contaminated, and</li> <li>(b) if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its</li> </ul>	Yes	A review of Council records has not identified any past activities at the site that would suggest potential land contamination is a relevant consideration.

## APPENDIX 2 – CONSIDERATION OF MINISTERIAL PLANNING DIRECTIONS

S9.1 Direction	Applicable	Consistent	Comment
	<p>contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and</p> <p>(c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning proposal authority is satisfied that the land will be so remediated before the land is used for that purpose. In order to satisfy itself as to paragraph (4)(c), the planning proposal authority may need to include certain provisions in the local environmental plan.</p> <p>(5) Before including any land specified in paragraph (2) in a particular zone, the planning proposal authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.</p>		
<b>3. Housing, Infrastructure and Urban Development</b>			
3.1 Residential Zones	<p>This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</p> <p>(a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),</p> <p>(b) any other zone in which significant residential development is permitted or proposed to be permitted.</p>	N/A	The LEP amendment does not affect land within an existing or proposed residential zone.
3.2 Caravan Parks and	Applies when a relevant planning authority prepares a planning proposal.	N/A	Caravan parks are prohibited in Zone IN1 General Industrial under <i>Coffs Harbour LEP</i>

## APPENDIX 2 – CONSIDERATION OF MINISTERIAL PLANNING DIRECTIONS

S9.1 Direction	Applicable	Consistent	Comment
Manufactured Home Estates			2013. There are no existing caravan parks located on the subject lands.
3.3 Home Occupations	Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.	Yes	The LEP amendment does not affect home occupation provisions under Coffs Harbour LEP 2013.
3.4 Integrating Land Use and Transport	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.  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:  (a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and  (b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).	Yes	The LEP amendment does not seek to alter any land use zones in Coffs Harbour LEP 2013 and will not affect transport infrastructure.
3.5 Development Near Regulated Airports and Defence Airfields	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.	Yes	The LEP amendment does not affect land in proximity to any regulated airports or defence airfields
3.6 Shooting Ranges	Applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range.	Yes	The LEP amendment does not affect, create, alter or remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range.
<b>4. Hazard and Risk</b>			
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.	Yes	The subject land is not affected by acid sulphate soils.

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S9.1 Direction	Applicable	Consistent	Comment
4.2 Mine Subsidence and Unstable Land	<p>Applies when a relevant planning authority prepares a planning proposal that permits development on land that:</p> <ul style="list-style-type: none"> <li>(a) is within a mine subsidence district, or</li> <li>(b) has been identified as unstable in a study, strategy or other assessment undertaken: <ul style="list-style-type: none"> <li>(i) by or on behalf of the relevant planning authority, or</li> <li>(ii) by or on behalf of a public authority and provided to the relevant planning authority.</li> </ul> </li> </ul>	Yes	<p>The LEP amendment does not apply to land that:</p> <ul style="list-style-type: none"> <li>(a) is within a mine subsidence district, or</li> <li>(b) has been identified as unstable in a study, strategy or other assessment undertaken: <ul style="list-style-type: none"> <li>(i) by or on behalf of the relevant planning authority, or</li> <li>(ii) by or on behalf of a public authority and provided to the relevant planning authority.</li> </ul> </li> </ul>
4.3 Flood Prone Land	<p>Applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.</p> <p>A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>).</p> <p>A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environment Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.</p> <p>A planning proposal must not contain provisions that apply to the flood planning areas which:</p> <ul style="list-style-type: none"> <li>(a) permit development in floodway areas,</li> <li>(b) permit development that will result in significant flood impacts to other properties,</li> <li>(c) permit a significant increase in the development of that land,</li> </ul>	Yes	<p>Council has no flooding related objection to the LEP amendment, particularly as the subject land has been filled in accordance with development consent (DA 0851/06).</p> <p>Prior to filling, the land would have most likely been flood prone in a 100 year ARI flood. Previous aerial imagery shows what appears to be a drainage path, which matches preliminary flood modelling - see Figure 4 in section C (10) of this planning proposal. The land is also impacted by 'indicative' flooding, which indicates that the land is most likely impacted by 1 in 100 year flooding. Areas affected by indicative flooding have been determined through 'first pass' flood modelling. The 'first pass' flood modelling is a preliminary assessment of flooding. It is not a detailed flood study and does not truly represent the 1% AEP (100 year ARI) flood level, however, Council is confident that this overall area is flood affected. The indicative flooding extent is primarily designed to identify flood prone land in areas that do not have detailed flood studies.</p> <p>Council is currently completing a new Flood Study for Middle Creek, which is due for completion in 2021. The preliminary results from the Middle Creek flood study show this land would be</p>

## APPENDIX 2 – CONSIDERATION OF MINISTERIAL PLANNING DIRECTIONS

S9.1 Direction	Applicable	Consistent	Comment
	<p>(d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or</p> <p>(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> <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 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>		<p>impacted by 1 in 100 year flooding, with the 100-year level being around 5 mAHd - see Figure 5 in section C (10) of this planning proposal.</p> <p>In terms of flooding, the filling of the land would not be likely to have any significant negative impacts. There may be some potentially higher levels found near the adjacent velodrome to the north, but the filling may also provide better flood protection to Hulberts Road, by not allowing the 'flood runner' across the site to form. The fill on the site is mentioned to be above 5.4mAHd which is above the 100-year flood level.</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.</p> <p>In the preparation of a planning proposal, the relevant planning authority must consult with the Commissioner of the NSW Rural Fire</p>	To be confirmed	<p>The land is mapped as bushfire prone. As such, future development applications for all development involving bush fire prone lands will be required to comply with either s4.14 of the EP&amp;A Act 1979 or s100B of the Rural Fires Act 1997, depending on the nature of the proposed development and the relevant provisions of Planning for Bush Fire Protection 2019.</p>

## APPENDIX 2 – CONSIDERATION OF MINISTERIAL PLANNING DIRECTIONS

S9.1 Direction	Applicable	Consistent	Comment
	<p>Service following receipt of a Gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made.</p> <p>A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) have regard to <i>Planning for Bushfire Protection 2006</i>,</li> <li>(b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</li> <li>(c) ensure that bushfire hazard reduction is not prohibited within the APZ.</li> </ul> <p>A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</p> <ul style="list-style-type: none"> <li>(a) provide an Asset Protection Zone (APZ) incorporating at a minimum: <ul style="list-style-type: none"> <li>(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</li> <li>(ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,</li> </ul> </li> <li>(b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined</li> </ul>		<p>The terms of the Gateway Determination from NSW Planning Industry and Environment issued on 5 August 2021 require Council to consult with the NSW Rural Fire Service.</p> <p>The NSW RFS will therefore need to supply comments relevant to S9.1 Direction 4.4 Planning for Bushfire Protection, in order to demonstrate compliance with the requirements of that direction.</p>



## APPENDIX 2 – CONSIDERATION OF MINISTERIAL PLANNING DIRECTIONS

S9.1 Direction	Applicable	Consistent	Comment
	<p>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>		
<b>5. Regional Planning</b>			
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.	N/A	The LEP amendment will not affect commercial and retail land along the Pacific Highway, North Coast.
5.10 Implementation of Regional Plans	Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.	Yes	<p>The North Coast Regional Plan 2036 includes actions in relation to environmental, economic and social (community) opportunities, as well as maintaining character and housing.</p> <p>Specific responses to relevant strategic directions and the accompanying actions contained within the Plan are provided in Part 3, Section B (4) above.</p> <p>It is considered that the LEP amendment complies with the relevant provisions of the Plan.</p>
5.11 Development of Aboriginal Land Council Land	This direction applies when a planning authority prepares a planning proposal for land shown on the Land Application Map of State Environmental Planning Policy (Aboriginal Land) 2019; or an interim development delivery plan published on the Department's website on the making of this direction.	N/A	This direction is not applicable to the Coffs Harbour LGA.

## APPENDIX 2 – CONSIDERATION OF MINISTERIAL PLANNING DIRECTIONS

S9.1 Direction	Applicable	Consistent	Comment
<b>6. Local Plan Making</b>			
6.1 Approval of Referral Requirements	<p>A planning proposal must:</p> <p>(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and</p> <p>(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:</p> <p>(i) the appropriate Minister or public authority, and</p> <p>(ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General),</p> <p>prior to undertaking community consultation in satisfaction of section 57 of the Act, and</p> <p>(c) not identify development as designated development unless the relevant planning authority:</p> <p>(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</p> <p>(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 57 of the Act.</p>	Yes	It is considered that the LEP amendment is consistent with the terms of this direction.

## APPENDIX 2 – CONSIDERATION OF MINISTERIAL PLANNING DIRECTIONS

S9.1 Direction	Applicable	Consistent	Comment
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).	Yes	The LEP amendment does not create, alter or reduce land reserved for a public purpose.
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"> <li>(a) allow that land use to be carried out in the zone the land is situated on, or</li> <li>(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</li> <li>(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.</li> </ul> <p>(5) A planning proposal must not contain or refer to drawings that show details of the development proposal.</p>	Yes	<p>The LEP amendment seeks to amend Coffs Harbour LEP 2013 in order to allow a particular development to be carried out on the subject land. The addition to Schedule 1 of Coffs Harbour LEP 2013, as described in this planning proposal will allow that land use without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.</p> <p>The LEP amendment does not contain or refer to drawings that show details of the development proposal.</p>

**Review of Ecological Values as SEPP Coastal Wetland & Koala Habitat -  
Lot 13 DP 1109077, Hulberts Road Toormina**

Prepared for

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### Introduction

#### Background

The property described as Lot 13 DP 1109077, Hulberts Road Toormina has an area of 1.651ha and has been approved by Council for a variety of development proposals including the following:

- DA 1707/04 – Construction of industrial units at western end of site.
- DA 851/06 – Construction of industrial units at the eastern end of site.
- DA 543/10 – Subdivision of industrial buildings into separate lots.
- DA 263/11 – Subdivision
- DA 0827/17 – Depot for storage of plant and machinery
- DA 633/17 – Vehicle storage premises

Under *State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP)* a wetland and a proximity area to a wetland have been identified on the site. This mapping is incorrect as the property has been filled in accordance with Construction Certificate Number 11/11 issued 26 July 2011, there is no wetland on the property and the mapping needs to be corrected.

The identification of a wetland on the site requires that any future development proposals other than development for which there is a current consent is classified as 'designated development' for which an Environmental Impact Statement (EIS) must be prepared.

It has been decided to lodge a Development Application for a use of the property as a depot for parking of equipment and machinery associated with the construction of the Coffs Harbour motorway bypass.

The Planning Secretary's requirements for an EIS have been obtained from the Department of Planning, Industry and Environment ( Planning Secretary's Environmental Assessment Requirements 1496, dated 27 October 2020).

#### The proposal

The proposal would utilise the existing platform filled in accordance with Construction Certificate Number 11/11 issued 26 July 2011 for the approved developments for industrial units.

#### The Brief:

1. Undertake an assessment of the ecological values of the site as a wetland, and
2. Part of the property is also mapped as primary koala habitat, please review for future reference by Council.

### Definitions

Site - Lot 13 DP 1109077, Hulberts Road Toormina, together with 3-metre wide fire trails along the eastern and western boundaries.

Study area – all areas within 10 metres of the site.

Locality – Areas within approximately 100 metres of the Site and of significance as mapped SEPP Wetland or Koala habitat.

### Methods

Vegetation on and adjoining the site was surveyed on 14 December 2020 to obtain a comprehensive list of flora species on the site and to describe the structure of vegetation on the site and in the locality.

Soil mapping (Milford 1999), geomorphological mapping (Troedson & Hashimoto 2004), Councils Koala mapping (CHCC 1999), vegetation mapping (CHCC 2012), flood mapping (CHCC 2013), CHCC and Google Earth aerial imagery since 2004, site disturbance history and any other information relevant to describing the condition of the site was reviewed.

The environment likely to be affected by the proposed development, including a detailed description of those aspects of the environment that are likely to be significantly affected, was described.

For the purposes of the *Coastal Management Act 2016* (CM Act), the site land and vegetation was assessed for the presence of hydrological and floristic characteristics of Coastal Wetlands.

Whether or not the vegetation comprises Koala habitat was assessed as outlined in the *Coffs Harbour Koala Plan of Management 1999* (KPOM) and the *State Environmental Planning Policy (Koala Habitat Protection) 2020* (Koala SEPP).



## Results

### Soil and geomorphology

The central part of site is located in the low-lying Toormina soil landscape, with the eastern and western ends on the more elevated land of the Ulong soil landscape. Part of the site is also mapped as disturbed terrain.

The Toormina soil landscape is an estuarine landscape formed on estuarine sediments and is characterised by saline, poorly drained humic gley soils and marine sands. The vegetation typically includes swamp forests dominated by Swamp Oak, Swamp mahogany and Paperbark.

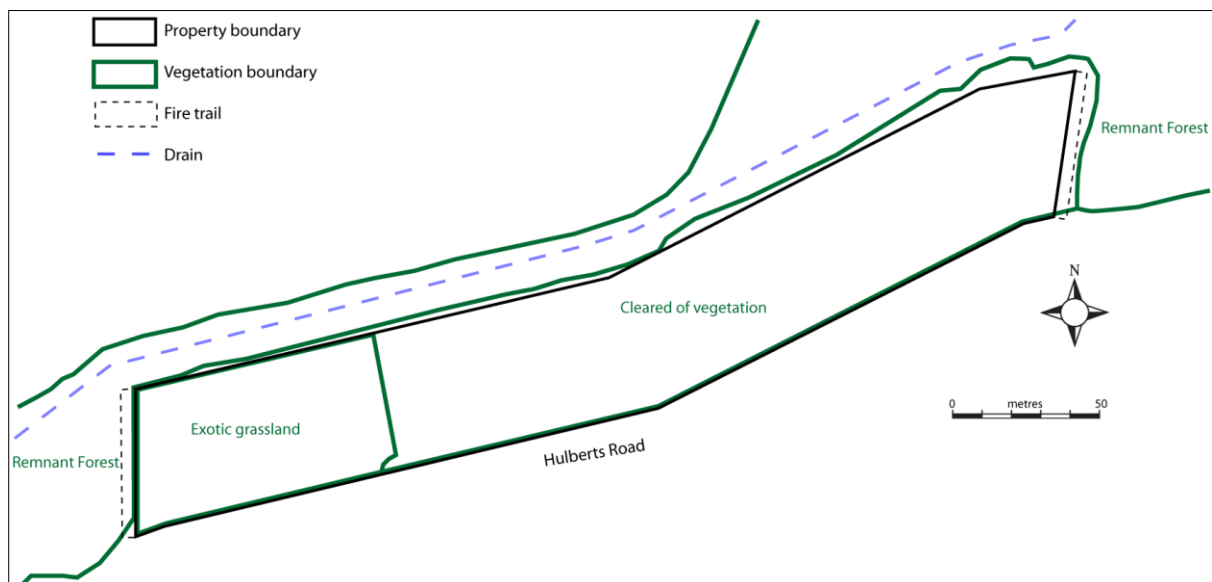
The Ulong soil landscape is an erosional landscape formed on bedrock and is characterised by imperfectly to well-drained Red and Yellow Earths and Podzol soils. The vegetation commonly includes Tall Open Forests dominated by Blackbutt.

The geomorphological mapping also indicates that the eastern and western ends of the site are mapped as occurring on bedrock and the central part of the site as on Quaternary Pleistocene sediments deposited at least 10,000 years ago under estuarine conditions.

### Vegetation

Remnant forest vegetation in the study area adjoins the site on the eastern, northern and western boundaries; the southern boundary adjoins Hulberts Road (**Figure 1**).

Onsite vegetation is confined to the western quarter of the site and consists of Exotic grassland and a small area of remnant forest vegetation adjoining the western boundary to be cleared for a 3 metre wide fire trail access (**Photo 1**). The remainder of the site is clear of vegetation (**Photo 2**).



**Figure 1. Site vegetation December 2020**

### Remnant forest vegetation

On the site, remnant forest vegetation occurs only along part of a narrow (3m wide) strip along the western boundary. Swamp oak *Casuarina glauca* is the dominant species and consists of root suckers that are less than 10 metres tall and 10 cm stem diameter. Smaller seedling trees of several other species, particularly Broadleaved paperbark *Melaleuca quinquenervia*, occur occasionally.

The ground layer vegetation is predominantly exotic and dominated by Singapore daisy *Spagneticola trilobata*, Broadleaved paspalum *P. mandiocanum* and Billygoat weed *Ageratum houstonianum* (species list in **Appendix 1**). This part of the site has been heavily disturbed by previous clearing and deposition of a mound of spoil.

In similarly disturbed areas adjoining the site, such as along the drain constructed along the northern boundary, Swamp Oak is also the dominant species, Broadleaved paperbarks are reasonably common and ground layer vegetation is sparse but contains a higher diversity of native flora. These areas are appropriately mapped as *FrW01-Coastal Paperbark - Swamp Oak Floodplain Forest*

In areas that have not been so disturbed Swamp oak and Paperbark more typically form an understorey to Swamp mahogany *Eucalyptus robusta* and occasional Forest red gum *E. tereticornis* and ground layer is predominantly native. These areas are appropriately mapped as *Fr04- Coastal Paperbark - Sedgeland Dominated Forest*.

### Exotic grassland vegetation

Approximately the western quarter of the site is occupied by exotic grassland growing on imported fill. The vegetation has been mown to around 10cm tall and consists of a diverse range of exotic grasses and broadleaf weeds with occasional hardy disturbance adapted natives such as Ladies tresses *Spiranthes australis* and Star cudweed *Euchiton involucratus*

Similar vegetation extends along the road reserve on the southern boundary of the site adjoining Hulberts Road.

### Vegetation mapping

Vegetation mapping was prepared in 2012 by CHCC using existing aerial imagery taken in or prior to 2011. A tiny piece of forested wetland (that is no longer extant) is mapped in the north-eastern corner of the site (**Figure 2**).

Vegetation on and adjoining the site is mapped as Forested Wetlands of the types *FrW01-Coastal Paperbark - Swamp Oak Floodplain Forest* and *Fr04- Coastal Paperbark - Sedgeland Dominated Forest*.



**Figure 2. CHCC vegetation map**

### Koala habitat mapping

Koala habitat mapping was undertaken as part of the Coffs Harbour Koala Plan of Management (KPoM) in 1999. It was based on vegetation mapping prepared in 1996 by Fisher Body & Gill using aerial imagery taken in 1994.

Koala habitat is mapped as occurring in part of the eastern half of the site (**Figure 3**). However, the KPoM and associated Koala habitat mapping was prepared well before the development applications were approved for the site and subsequent clearing and filling of the site

Aerial imagery from 2007 shows that the vegetation in the area mapped as Koala habitat was cleared at that time (**Figure 4.**)

I note that substantial areas of mapped primary Koala habitat on Council managed lands adjoining the site have also been cleared since 1999, presumably following reassessment of Koala habitat values. Existing Koala mapping is therefore well out of date. I understand that updated Koala habitat mapping is in preparation.

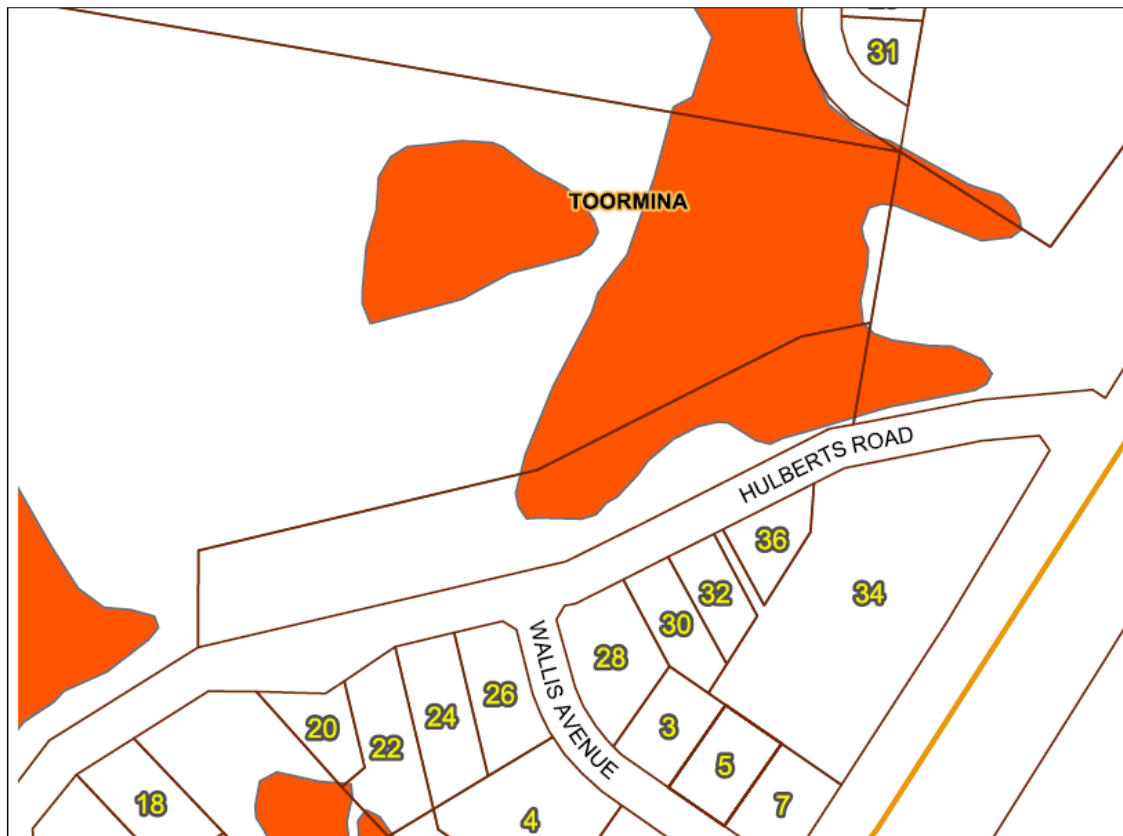


Figure 3. Koala habitat mapping (Primary Koala habitat in red)



Figure 4. Koala habitat mapping on CHCC 2007 imagery

### Flood Mapping

The site is not mapped as being within the 100 year ARI. A small part of the central area of the site is mapped as within the Flood Planning Area (**Figure 5**). As the site is filled to a minimum of RL 5.4 at the road boundary and RL 6.0 at the rear boundary it is expected to be free from flooding (inspection of contour data indicates that the 100 year ARI is at approximately RL 4.5).





Figure 5. CHCC flood mapping (100 year ARI blue shading, Flood Planning Area blue stipple)

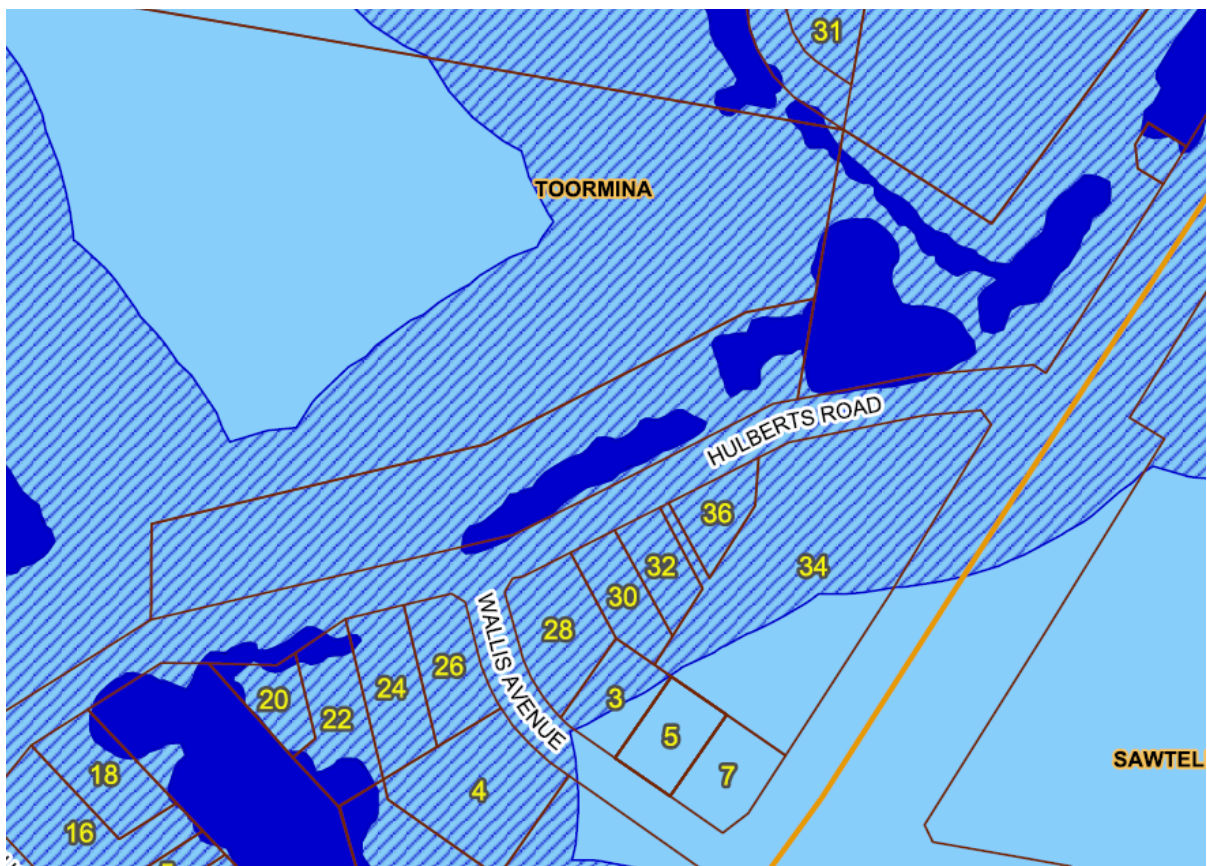


Figure 6. CM SEPP Coastal Wetland mapping (dark blue) and proximity area (blue hatch)



### Coastal Wetland mapping

Coastal Wetland mapping was undertaken prior to the draft Coastal Policy released on 11 November 2016 (NSWLEC 2019 para 13-15). The Coastal Wetlands maps prepared for inclusion in the CM SEPP used the Coastal Wetlands maps in State Environmental Planning Policy No 14—Coastal Wetlands (SEPP 14) as a base. Draft maps were then developed using data and analysis which had been prepared by the Department and consultants. Wetland vegetation communities such as the Casuarina and Melaleuca types adjoining the site were extracted from the OEH map dataset, which included the CHCC (2012) vegetation mapping, and added to the existing SEPP 14 wetland mapping. Current Coastal Wetland mapping is shown in **Figure 6**.

Maps associated with the superseded SEPP 14 have been checked and no wetland was identified on this site under that SEPP.



Figure 7. Aerial imagery showing before and after removal of site vegetation in 2011



At the time of the release of the draft Coastal Policy on 11 November 2016 it appears that virtually all of the vegetation on the site that was mapped as Coastal Wetland in the CM SEPP no longer existed (**Figure 8**), and had not done so for at least 5 years (cf **Figure 7**).

The Coastal Wetland Proximity Area as shown on the CM SEPP mapping covers the entire site. Even if the CM SEPP Wetland map was amended to remove areas shown as Coastal Wetland, most if not all of the site would remain within the Coastal Wetland Proximity Area.

Vegetation on the site within the mapped Coastal Wetland Proximity Area was cleared in 2007 and except for a few isolated trees and patches of lower vegetation remained cleared at the time of the draft Coastal Policy in November 2016. The site has since been filled.

The CM SEPP regulations [10(4)] constrain development in the Coastal Wetland Proximity Area to areas where the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the Coastal Wetland.



### Discussion

#### Wetland values of site vegetation

The NSW Wetlands Policy (DECCW 2010 page 2) defines wetlands as

*'areas of land that are wet by surface water or groundwater, or both, for long enough periods that the plants and animals in them are adapted to, and depend on, moist conditions for at least part of their lifecycle. They include areas that are inundated cyclically, intermittently or permanently with fresh, brackish or saline water, which is generally still or slow moving except in distributary channels such as tidal creeks which may have higher peak flows.'*

CHCC Flood maps indicate that the site as filled would not be inundated by a 100 year ARI flood. It is therefore unlikely that the site would be *inundated cyclically, intermittently or permanently with fresh, brackish or saline water.*

The Policy also states (*ibid.*) that wetlands can be identified by soil characteristics:

*'Soil properties can also be used to delineate wetland boundaries as prolonged saturation produces anoxic conditions (conditions where soils are lacking in oxygen) in the upper layers of wetland soils and substrate, which can persist even when the wetland is dry.'*

The elevation of the site and its drainage conditions, which have been substantially modified by filling, are such that the site is unlikely to suffer prolonged saturation and anoxic conditions.

Clause 3 of the *State Environmental Planning Policy (Coastal Management) 2018* (CM SEPP) states that the aim of the policy is to promote land use planning in the coastal zone in a manner consistent with the objectives of the *Coastal Management Act 2016* (CM Act), and a key object of the Act is

*(a) to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience...'*

The natural character, scenic value, biological diversity and ecosystem integrity and resilience of the site vegetation have been reduced to very low levels or eliminated by vegetation clearing associated with past development approvals and the proposal is unlikely to significantly impact on these values.

Section 6 of the *CM Act*:

*(1) The coastal wetlands and littoral rainforests area means the land identified by a State environmental planning policy to be the coastal wetlands and littoral rainforests area for the purposes of this Act, being land which displays the hydrological and floristic characteristics of coastal wetlands or littoral rainforests and land adjoining those features.*

The hydrological characteristics of the site have been greatly modified by construction of a drain and the placement and compaction of around 1 metre of imported fill and the site no longer shows the hydrological characteristics of a Coastal Wetland.

The floristic characteristics of vegetation in the Coastal Wetland and Proximity Area are generally absent; native wetland vegetation adjoins the site but has been eliminated from the site, except for a 3 metre wide western fire trail, where immature Swamp oak and occasional seedling Paperbark



are growing on a spoil mound. These species favour wetlands but also grow on exposed coastal headlands and in a range of other non-wetland situations. Swamp Oak is common on this part of the site because it has a competitive advantage in that it can reproduce by means of root suckers, which enables it to occupy a site for long periods in the absence of suitable conditions for seed germination and to survive vegetation clearing

The proposal is therefore unlikely to impact on the hydrological or floristic characteristics of a Coastal Wetland.

### Value of site vegetation as koala habitat

The Koala SEPP (2020) maintains all Koala Plans of Management approved under SEPP 44 and 2019 Koala SEPP.

The Primary Koala habitat mapped as occurring on the site was cleared before 2007 and no longer exists.

The Coffs Harbour KPoM (1999) requires that, for land adjoining primary Koala habitat, the development of lands adjoining Primary Koala habitat would not

- Result in barriers to Koala movement;
- Expose Koalas to traffic impacts;
- Remove any feed tree species listed in the KPoM;
- Expose Koalas to impacts from the owner/occupiers dog, or
- Provide an APZ within any area of Primary Koala habitat.

The proposal meets these conditions.

### Conclusions

My conclusions as to Coastal Wetlands mapping are:

- the site does not currently support any Coastal Wetland as defined in the *CM Act*;
- the site has not supported vegetation identifiable as Coastal Wetland since its clearing in 2011, and
- the current mapping of site vegetation as Coastal Wetland is based on out of date vegetation mapping.

My conclusions as to Koala habitat mapping are ;

- The site does not contain any primary (or other) Koala habitat;
- The site has not done so since 2007 or earlier, and
- the current mapping of site vegetation as Koala habitat is based on out of date vegetation mapping.

### References

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- NSW Department of Planning and Environment 2018. Coastal Management SEPP Fact Sheet 4: Mapping of coastal management areas (Technical).

## Appendices

## Appendix 1. Site flora inventory

Scientific name	common name	status	cover/abundance	
			remnant forest	exotic grassland
<i>Acacia implexa</i>	hickory wattle	n	1	
<i>Acacia longifolia subsp sophorae</i>	coastal wattle	n	1	
<i>Ageratum houstonianum</i>	billygoat weed	e	3	2
<i>Allocasuarina littoralis</i>	black oak	n	1	
<i>Ambrosia artemisiifolia</i>	annual ragweed	e		2
<i>Andropogon virginicus</i>	whisky grass	e		2
<i>Bidens pilosa</i>	farmers friend	e		2
<i>Capillipedium spicigerum</i>	scented tops	n		1
<i>Casuarina glauca</i>	swamp oak	n	4	1
<i>Chloris gayana</i>	rhodes grass	e	2	2
<i>Conyza canadensis</i>	canadian fleabane	e		2
<i>Cynodum dactylon</i>	common couch	n	2	3
<i>Ehrharta erecta</i>	panic veldtgrass	e		2
<i>Eragrostis spp</i>	love grass	n		2
<i>Euchiton involucratus</i>	star cudweed	n		2
<i>Hypochoeris radicata</i>	catsear	e		2
<i>Imperata cylindrica</i>	blady grass	n	2	
<i>Ipomoea cairica</i>	mile-a-minute	e	1	
<i>Kummerowia striata</i>	japanese clover	e		3
<i>Lantana camara</i>	lantana	e	1	
<i>Melaleuca quinquenervia</i>	broadleaved paperbark	n	2	
<i>Parsonsia straminea</i>	common silkpod	n	1	
<i>Paspalum mandiocanum</i>	broadleaved paspalum	e	3	
<i>Paspalum urvillei</i>	vasey grass	e	2	2
<i>Polygala paniculata</i>	annual polygala	e		2
<i>Setaria sphacelata</i>	pigeon grass	e	2	
<i>Solanum mauritianum</i>	wild tobacco	e	1	
<i>Sonchus oleraceus</i>	milkweed	e		1
<i>Sorghum halepense</i>	johnson grass	e	2	
<i>Spagneticola trilobata</i>	singapore daisy	e	4	2
<i>Spiranthes australis</i>	ladies tresses	n		1
<i>Sporobolus fertilis</i>	giant parramatta grass	e		2

Status - n: native, e: exotic

Cover abundance – 1: &lt;5% cover, uncommon. 2: &lt;5% cover, common. 3: 5 - &lt;25% cover. 4: 25 - &lt;50% cover





## Photos



Top:

Photo 1 showing Remnant forest vegetation (right of fence) and Exotic grassland (left of fence) along Western boundary of site

Below:

Photo 2 showing remainder of site clear of vegetation

