



Planning,  
Industry &  
Environment

IRF21/4449

## Gateway determination report – PP-2021-4602

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Amend the minimum lot size for 14-22 Smiths Road,  
Emerald Beach

October 21



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Table 1

Relevant reports and plans supporting the proposal	
Bush Fire Assessment Report, Midcoast Building and Environmental (July 2021);	
Concept Subdivision Plan, Newnham Karl Weir & Partners Pty Ltd (June 2021);	
Ecological Assessment, Ecosure (May 2021); and	
Land Capability Assessment, Earth Water Consulting (June 2021)	

Table 2

Attachment	
A	Planning Proposal
B	Gateway determination
C	Letter to Council

# 1 Planning proposal

## 1.1 Overview

Table 3 Planning proposal details

<b>LGA</b>	<b>COFFS HARBOUR</b>
<b>PPA</b>	Coffs Harbour City Council
<b>NAME</b>	Amend the minimum lot size for 14-22 Smiths Road, Emerald Beach
<b>NUMBER</b>	PP-2021-4602
<b>LEP TO BE AMENDED</b>	Coffs Harbour Local Environmental Plan 2013
<b>ADDRESS</b>	14-22 Smiths Road, Emerald Beach
<b>DESCRIPTION</b>	Lot 1 DP726095
<b>RECEIVED</b>	18 October 2021
<b>FILE NO.</b>	EF21/15489
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to amend the minimum lot size of Lot 1 DP726095 from 1ha to 5,000m<sup>2</sup>. The site contains an existing approved detached dual occupancy. An adjustment to the minimum lot size will facilitate a Torrens Title subdivision of the land into two lots with an existing dwelling on each lot.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Coffs Harbour LEP 2013 by amending the minimum lot size map (LZS\_005E) as follows:

- Amend Lot 1 DP726095 from Y – 1 hectare to X – 5,000m<sup>2</sup> (Figure 1).

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

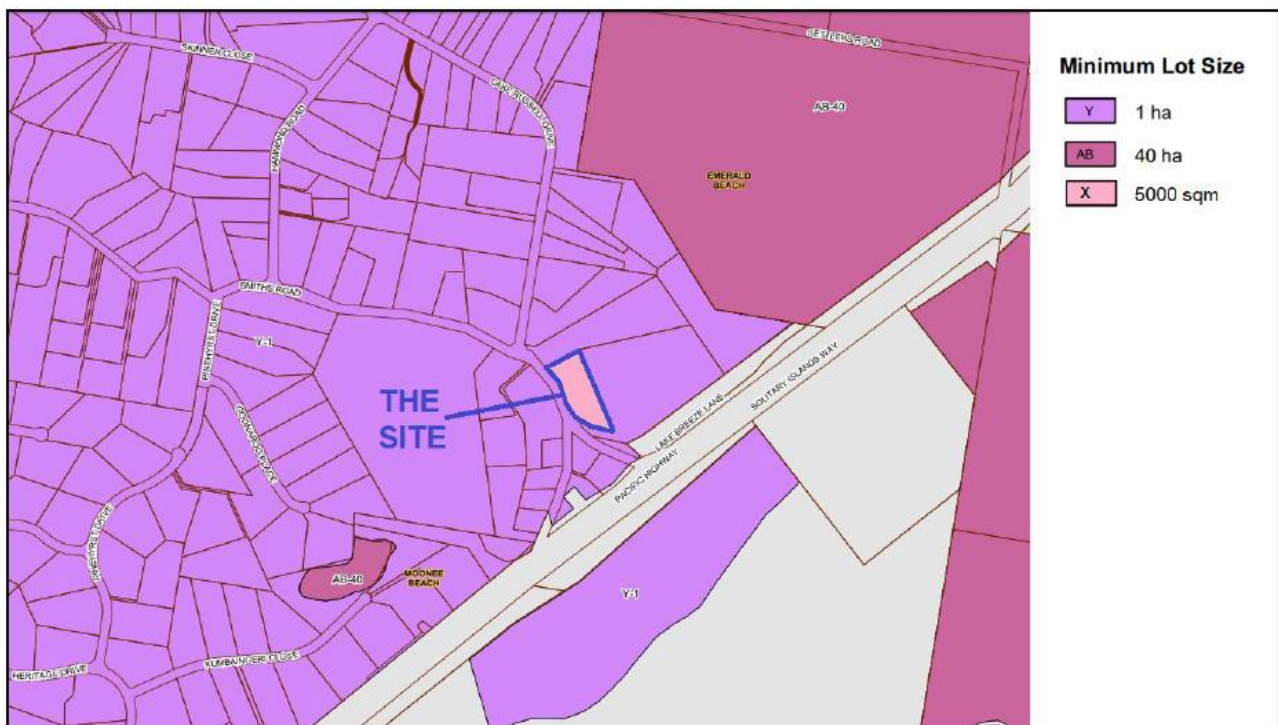
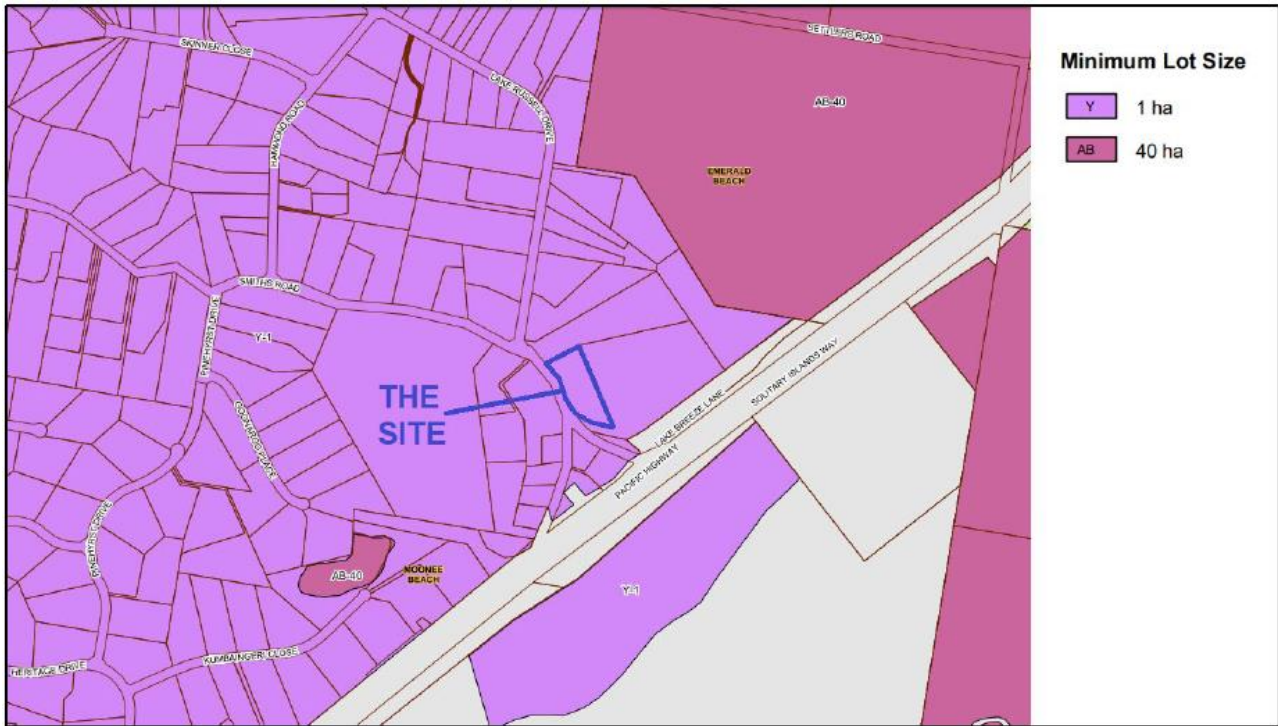


Figure 1 – Current (top) and Proposed (bottom) Lot Size  
Source – Planning Proposal





Figure 2 – Site Location  
Source – NearMap



## 1.4 Site description and surrounding area

Lot 1 DP726095 (subject site) is located approximately 9km south of Woolgoolga, 3.7km west of Emerald Beach (Figure 2) and approximately 18km north of Coffs Harbour. The lot has an area of 1.06 hectares.

The majority of the site is cleared with vegetation restricted to the eastern and southern boundaries. A small area of koala habitat, both secondary and tertiary, is located on the eastern boundary of the subject site, connecting to a larger 20ha area of koala habitat.

The surrounding area is a large lot residential area known as the Avocado Heights Estate and is bounded to the west by the Orara East State Forest. The M1 Pacific Highway is approximately 200m to the south east, and Russell Lake is approximately 50m north east of the site.

It is noted on page 2 of the planning proposal Figure 1 has the incorrect lot/dp description. It is recommended that as a condition of the Gateway determination this be amended prior to public exhibition.

## 1.5 Existing Planning Controls

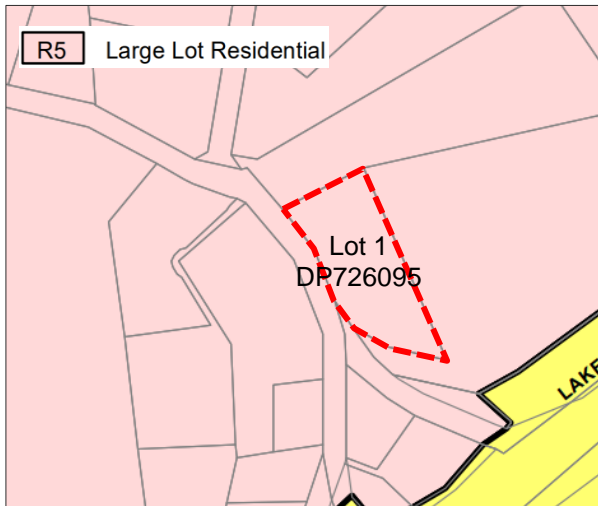
The existing planning controls (Figure 3) on the site are:

- Land Zone R5 Large Lot Residential;
- Lot Size Y - 1ha
- Height of Building – 8.5m
- Acid Sulfate Soils Class 5
- Bushfire Prone Land – Categories 1 & 3
- Part Potential High Environmental Value

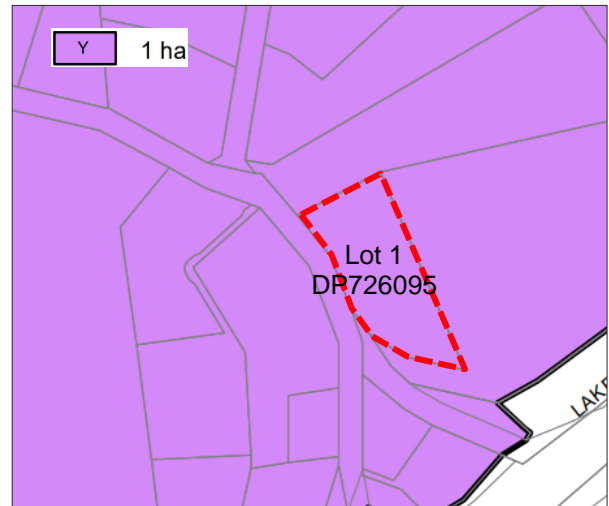
## 1.6 Mapping

The planning proposal includes mapping (Figure 1) showing the proposed changes to the Lot Size maps, which are suitable for community consultation.

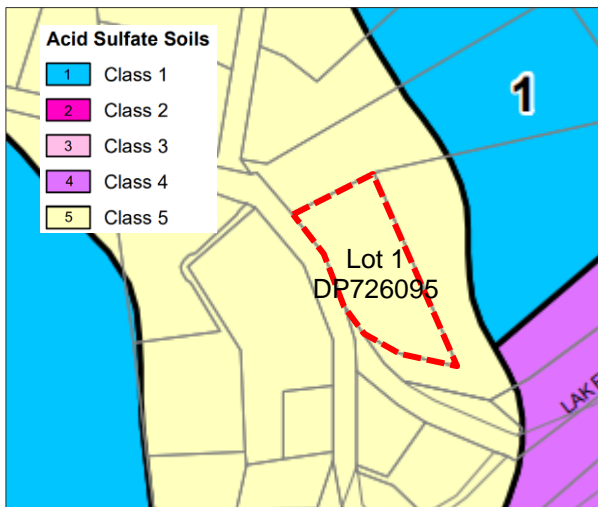
Maps consistent with the Standard Technical Requirements will also need to be prepared before the making of the LEP amendment.



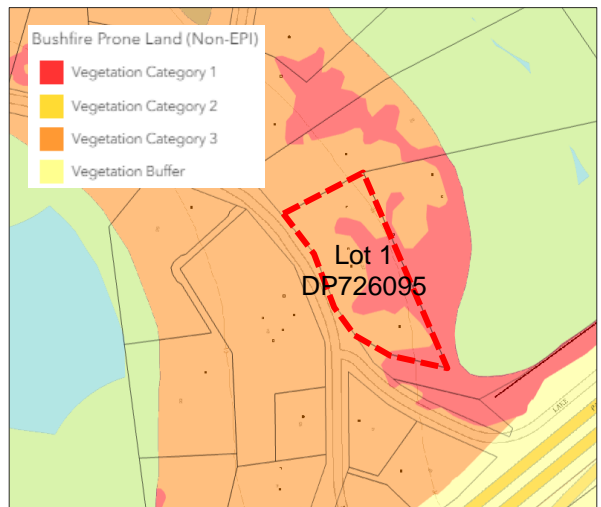
Land Zone



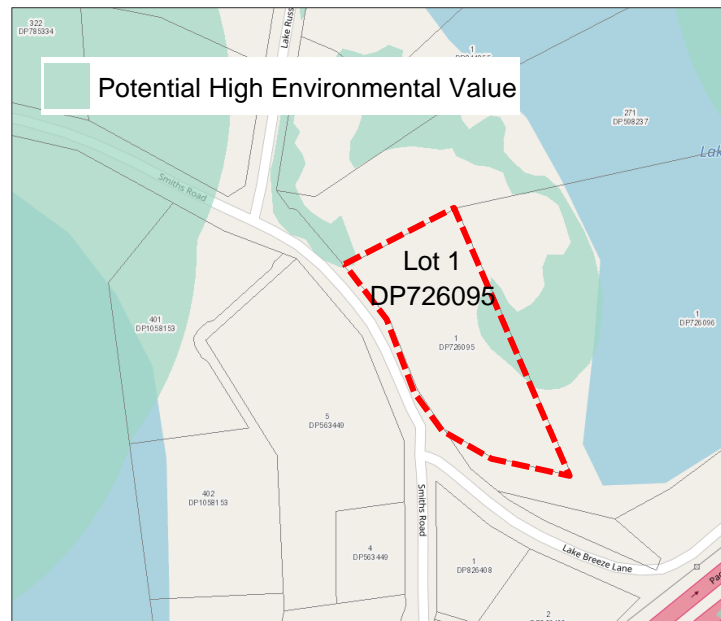
Lot Size



Acid Sulfate Soils



Bushfire Prone Land



Potential High Environmental Value

Figure 3 – Existing Planning Controls  
Source – Coffs Harbour LEP 2013 & ePlanning Spatial Viewer



## 2 Need for the planning proposal

The Coffs Harbour Local Growth Management Strategy – Coffs Harbour to 2040 and beyond: (LGMS), Chapter 6 Large Lot Residential Lands, was conditionally endorsed by the Department on 13 January 2020.

The LGMS 2020, Chapter 6, Section 6.7 addresses the potential reduction of a minimum lot size in the R5 zone, where sufficiently justified, and states the following:

*It is also reasonable that if undeveloped land within zone R5 can justify a reduced lot size, then it should be considered through an applicant-initiated planning proposal. This would allow a merit case for a revised minimum lot size LEP amendment request to be submitted to Council, bearing in mind the underlying reasons for the standard in the first place and the objectives of zone R5.*

Past planning subdivision practice in the Coffs LGA reflects a range of existing large lot residential lot sizes. In many cases, lot sizes reflected various constraints including slope, flooding, soil types and water table issues. A typical factor affecting lot size in large lot residential zoned areas is onsite sewage management and the potential for lots to be efficiently serviced by an effective onsite sewage management system.

The planning proposal identifies various lots in the surrounding area that are between 2,561m<sup>2</sup> and 6,003m<sup>2</sup> with similar characteristics to the subject site (Figure 4).



Figure 4 – Surrounding lots with similar minimum lot sizes (identified by red boundary)

Source – Keiley Hunter Planning Proposal July 2021

The planning proposal has been prepared to support a landowner's request to facilitate a proposed amendment to the Coffs Harbour LEP 2013 to reduce the minimum lot size of the subject site to facilitate a subdivision into two lots. The subject site currently has two legal dwellings, and the proposed new lots would have a dwelling located on each.

The planning proposal is accompanied by several detailed studies as follows:

- Bush Fire Assessment Report, Midcoast Building and Environmental (July 2021);
- Concept Subdivision Plan, Newnham Karl Weir & Partners Pty Ltd (June 2021);
- Ecological Assessment, Ecosure (May 2021); and
- Land Capability Assessment, Earth Water Consulting (June 2021)

The Land Capability Assessment (Earth Water Consulting, June 2021) undertaken for the subject site concluded that given the low slopes and limited site and soil constraints, a minimum 5,000m<sup>2</sup> lot sizing at 14-22 Smiths Road would be considered acceptable.

It is considered the planning proposal is the best means to achieve the intended outcomes.

It is noted that the planning proposal refers to Chapter 5 of the LGMS instead of Chapter 6. It is therefore recommended the Gateway determination is conditioned to amend any references to Chapter 5 Large Lot Residential to Chapter 6 Large Lot Residential Lands.



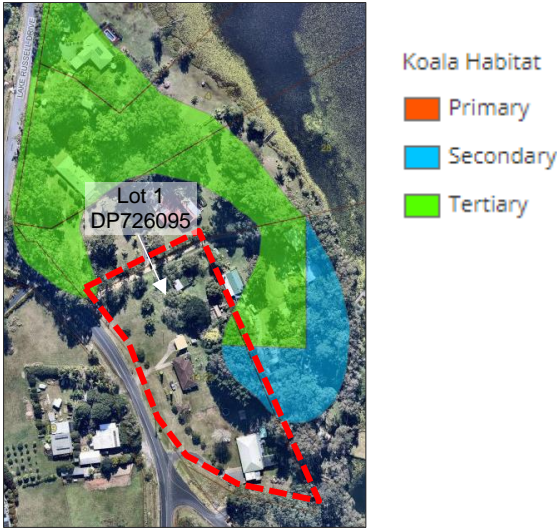
## 3 Strategic assessment

### 3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the North Coast Regional Plan 2036 (NCRP).

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
Direction 2: Enhance biodiversity, coastal and aquatic habitats, and water catchments	<p>The planning proposal is not inconsistent with this Direction. The Direction advocates for development to be appropriately located to limit any adverse impact on the region's biodiversity and water catchments, and implement the 'avoid, minimise, offset' hierarchy to biodiversity, including areas of high environmental value. The NCRP identifies areas of potential High Environmental Value (HEV) which help protect important natural assets, maintain diversity and habitat for flora and fauna, including the region's koala population.</p> <p>The subject site has an area of potential HEV (Figure 5) and mapped secondary koala habitat (SKH) and tertiary koala habitat (TKH) (Figure 6). An ecological assessment has been undertaken for the subject site and this is discussed further under section 4.1 Environmental Assessment of this report.</p> <p>The subject lot is part of an already approved large lot rural residential subdivision and the planning proposal is proposing to amend the minimum lot size to allow for a subdivision of the subject lot into two lots. The ecological report does make note specifically that a subdivision is unlikely to result in any impact to koala habitat, however, a large grey ironbark represents the most important habitat component on the site and due to the proximity of the proposed dividing boundary, potential future clearing for fencing should avoid any disturbance to this tree.</p> <p>Council notes in the planning proposal that the proposed dividing boundary has been adjusted to minimise impact to the small area of SKH and TKH. Fencing of the proposed boundary does not necessitate the removal of the single mature iron bark tree.</p>

Regional Plan Objectives	Justification
	<div data-bbox="464 235 938 607">  <p>Potential High Environmental Value</p> <p>Lot 1 DP726095</p> </div> <div data-bbox="948 235 1422 786">  <p>Lot 1 DP726095</p> </div> <div data-bbox="464 629 890 752"> <p>Figure 5 – Potential HEV and aerial showing current vegetation (5 Oct 2021) Source – NCRP &amp; NearMap</p> </div> <div data-bbox="464 815 1023 1341">  <p>Koala Habitat</p> <ul style="list-style-type: none"> <li>Primary</li> <li>Secondary</li> <li>Tertiary</li> </ul> <p>Lot 1 DP726095</p> </div> <div data-bbox="464 1350 1142 1449"> <p>Figure 6 – Koala Habitat Source – Coffs Harbour City Council GIS database <a href="https://enterprise.mapimage.net/intramaps99/default.htm?configId=002f3dcb-246d-4ce9-9a12-ce55e9df910f&amp;project=CoffsHarbour%20Public&amp;module=General%20Enquiry">https://enterprise.mapimage.net/intramaps99/default.htm?configId=002f3dcb-246d-4ce9-9a12-ce55e9df910f&amp;project=CoffsHarbour%20Public&amp;module=General%20Enquiry</a></p> </div>
Direction 15: Develop healthy, safe, socially engaged and well-connected communities	The planning proposal is consistent with this Direction. The subject lot is within an established large lot rural residential subdivision. Community services such as schools and shopping are located close by in Sandy Beach and Woolgoolga.
Direction 18: Respect and protect the North Coast's Aboriginal heritage	The planning proposal is consistent with this Direction. An Aboriginal Heritage Information Management System (AHIMS) search has been conducted for the subject site, including a 50m buffer, and no sites or places have been found. The subject site is not subject to any listings of environmental heritage items or archaeological sites pursuant to Schedule 5 of the Coffs Harbour LEP 2013.

Regional Plan Objectives	Justification
Direction 24: Deliver well-planned rural residential housing areas	The planning proposal is consistent with this Direction. As discussed above in section 2, the subject lot is part of an already approved large lot rural residential subdivision and the LGMS 2020, Chapter 6, Section 6.7, addresses the potential reduction of a minimum lot size in the R5 zone, where sufficiently justified. The proposed new lots are also located outside the sensitive coastal strip.

## 3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 5 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	<p>The planning proposal is consistent with Council's LSPS and aligns with Planning Priority 5: Deliver greater housing supply choice and diversity. Action 5.1 recommends reviewing and amending Council's local planning controls relating to housing supply, choice and diversity as outlined in the LGMS.</p> <p>As noted above the LGMS in Chapter 6 addresses the potential reduction of a minimum lot size in the R5 zone, where sufficiently justified, through an applicant-initiated planning proposal, allowing a merit case for a revised minimum lot size LEP amendment.</p>
Coffs Harbour Local Growth Management Strategy	The Planning Proposal is consistent with the Coffs Harbour LGMS and aligns with Chapter 6 Large Lot Residential Lands and Section 6.7 Lot Size.
Coffs Harbour Regional City Action Plan 2036	The Planning Proposal is not inconsistent with the Regional City Action Plan (RCAP) and aligns with the identified objectives and actions, in particular Objective 17: Deliver a city that responds to Coffs Harbour's unique green cradle setting and offer housing choice.
MyCoffs Community Strategic Plan 2030	The planning proposal is not inconsistent with the Community Strategic Plan (CSP) and aligns with the identified priorities.

## 3.3 Section 9.1 Ministerial Directions



The planning proposal is consistent with relevant section 9.1 Directions except for the following as discussed below:

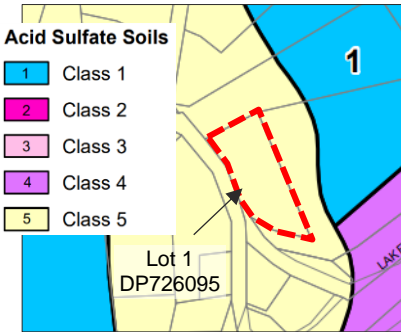
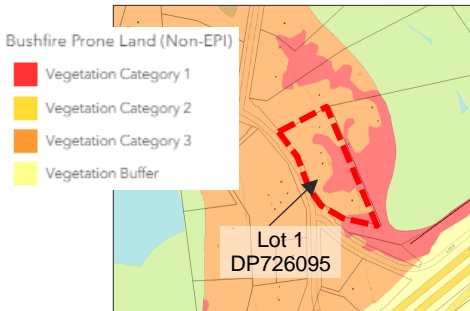
Table 6 9.1 Ministerial Direction Assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
2.1 Environmental Protection Zones	Justifiably Inconsistent	The proposal is inconsistent with this Direction as it affects land that has been identified as having potential HEV areas (Figure 5) and mapped secondary koala habitat (SKH) and tertiary koala



Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<p>habitat (TKH) and doesn't facilitate the extra protection and conservation of those areas.</p> <p>The inconsistency is considered of minor significance as the planning proposal has taken into consideration the recommendations of a site specific ecological assessment supporting the planning proposal which considers the objectives of this direction and no direct impact has been identified on the environmentally sensitive areas resulting from the proposal.</p>
2.3 Heritage Conservation	Justifiably Inconsistent	<p>The planning proposal is inconsistent with this Direction as it provides that a planning proposal must contain provisions which facilitate the conservation of heritage and Aboriginal cultural significance.</p> <p>The planning proposal does not allow any intensification of development, rather amending the minimum lot size to allow the subdivision where each of the existing dwellings will have their own individual lot. The proposal does not reduce the protection afforded by the current framework.</p> <p>An AHIMS search has not revealed any aboriginal cultural heritage sites on or near the site. The subject site does not contain any items listed as Heritage Items in Schedule 5 of the Coffs Harbour LEP 2013 or the State Heritage Register. The inconsistency is therefore considered to be of minor significance.</p>
2.6 Remediation of Contaminated Land	Consistent	<p>This Direction applies to the planning proposal as the land is known to have been used for banana cultivation between 1943-1994, as noted on the Coffs Harbour City Council GIS database. The Council database identifies the subject site as Banana Contaminated Land (BCL1) (Figure 8).</p> <p>Council advises that the area where the subject site is located has been approved for residential purposes since the late 1970s. The subject site is within an already approved and developed rural residential subdivision and currently has two legally approved dwelling houses on the lot.</p> <p>Council also advises the land is highly unlikely to be contaminated above accepted thresholds, and they are satisfied the land is suitable for purposes for which the land is permitted to be used. It</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<p>is therefore considered that the planning proposal is consistent with this Direction.</p>  <p>Figure 7 – Former banana cultivation areas Source – Coffs Harbour City Council GIS database</p>  <p>Figure 8 – Banana Contaminated Land Source – Coffs Harbour City Council GIS database <a href="https://enterprise.mapimage.net/intramaps99/default.htm?configId=002f3dcb-246d-4ce9-9a12-ce55e9df910f&amp;project=CoffsHarbour%20Public&amp;module=General%20Enquiry">https://enterprise.mapimage.net/intramaps99/default.htm?configId=002f3dcb-246d-4ce9-9a12-ce55e9df910f&amp;project=CoffsHarbour%20Public&amp;module=General%20Enquiry</a></p>
4.1 Acid Sulfate Soils	Justifiably Inconsistent	<p>The planning proposal is inconsistent with this Direction as it may allow an intensification of land use on acid sulfate soils (Figure 9) and the proposal is not supported by an acid sulfate soils study.</p> <p>The inconsistency is considered to be of minor significance as the planning proposal is only proposing to amend the minimum lot size and the subject site already contains two existing dwellings.</p> <p>It is also noted that Class 5 acid sulfate soils are considered a low risk class and Coffs Harbour LEP 2013 contains suitable provisions (Clause 7.1) to ensure that this matter can be</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<p>appropriately considered and addressed at any future development application stage if required.</p>  <p>Figure 9 – Acid Sulfate Soils Source – ePlanning Spatial Viewer</p>
4.4 Planning for Bushfire Protection	Unresolved	<p>The planning proposal is potentially inconsistent with this Direction as the land is mapped as having bushfire prone land (Figure 10).</p> <p>The planning proposal has provided a Bushfire Assessment Report (July 2021) prepared by Midcoast Building and Environmental which found that any risk is manageable subject to the recommendations of the report, which are consistent with the acceptable bushfire protection measure solutions, provided for in NSW Rural Fire Services, PBP, 2019.</p> <p>The Direction, however, provides that the Council must consult with the Commissioner of the NSW Rural Fire Service (RFS) following the issue of a Gateway determination and prior to community consultation. Until this consultation has occurred with the RFS, the inconsistency with the Direction remains unresolved.</p>  <p>Figure 10 – Bushfire Prone Land</p>

### 3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 7 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Koala SEPP 2021	City of Coffs Harbour is listed in Schedule 1 of the SEPP.	Consistent	<p>The planning proposal includes an Ecological Assessment that has been undertaken by Ecosure dated July 2021. The subject site has mapped part secondary (SKH) and tertiary (TKH) habitat. The planning proposal does not propose to remove any trees or approve new development, rather amend the minimum lot size to allow for a future subdivision of the existing land into two lots.</p> <p>The ecological report notes specifically that a subdivision is unlikely to result in any impact to koala habitat, however, a large grey ironbark represents the most important habitat component on the site and due to the proximity of the proposed dividing boundary, potential future clearing for fencing should avoid any disturbance to this tree.</p> <p>Council notes in the planning proposal that the proposed dividing boundary has been adjusted to minimise impact to the small area of SKH and TKH. Fencing of the proposed boundary does not necessitate the removal of the single mature iron bark tree.</p> <p>It is considered the planning proposal is therefore consistent with the SEPP.</p>
SEPP (Vegetation in Non-Rural Areas) 2017	This SEPP applies as the planning proposal affects R5 Large Lot Residential zoned land which is identified in Clause 5.	Consistent	<p>The planning proposal is not advocating for removal of vegetation due to any increase in development potential, rather proposing to amend the minimum lot size to allow for a future subdivision of the subject lot into two lots (and where the two existing dwellings will each be located on a separate lot).</p> <p>There is some potential for the removal of vegetation along the proposed dividing boundary, however, Council have advised in the planning proposal that the proposed dividing boundary has been adjusted to minimise impact to the small area of SKH and TKH, and will not necessitate the removal of the single mature iron bark tree.</p> <p>The Ecological Report also makes note of the highly modified and cleared native vegetation on site.</p> <p>It is considered the planning proposal is therefore consistent with the SEPP.</p>



SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP 55 Remediation of Land	(Repealed) Clause 6: Contamination and remediation to be considered in zoning or rezoning proposal.	NA	It is noted that the planning proposal addresses land contamination under clause 6 of the SEPP 55. It is recommended as a condition of the Gateway determination the discussion of land contamination is addressed under section 9.1 Ministerial Direction 2.6 Remediation of Contaminated Land due to clause 6 of the SEPP being repealed.

## 4 Site-specific assessment

### 4.1 Environmental

A site specific ecological report has been conducted by Ecosure (July 2021).

#### **Native Vegetation**

The ecological report acknowledges that native vegetation has been largely cleared from the site and remaining vegetation has been highly modified, however a small area on the eastern boundary is still present showing in aerial imagery dated 5 October 2021 (Figure 11). Canopy trees were assessed during the site visit and included flooded gum, grey ironbark, blackbutt, pink bloodwood and lemon-scented gum (Figure 11). The report also notes that no vegetation consistent with nationally threatened ecological communities were detected on the subject site.

#### **Native Fauna**

The ecological report includes Tests of Significance prepared under Section 7.3 of the *Biodiversity Conservation Act 2016*. Habitat of threatened species or an ecological community were identified as the koala, the Grey-headed flying-fox, and the little bent-winged bat and large bent-winged bat.

#### Koalas

The area of vegetation on the eastern boundary contains mapped secondary koala habitat (SKH) and tertiary koala habitat (TKH) (Figure 11 & Figure 12). The mapped area extends further north and east of the site with the entire patch comprising approximately 20ha (Figure 12) which also connects to the Orara East State Forest in the broader area. The patch contributes to a network of mapped koala habitat within the broader area also comprised of SKH and TKH. Only one koala feed tree (KFT), blackbutt, was recorded within the extent of mapped habitat on the subject site, however additional KFTs also occur outside the mapped area of koala habitat on the subject site. The ecological report also acknowledges that primary KFTs are present on the subject site (swamp mahogany and flooded gum), however, the habitat has been cleared of understorey resulting in a highly modified environment.

As noted above in this report, a large grey ironbark represents the most important habitat component on the site due to the proximity of the proposed dividing boundary and Council notes in the planning proposal that the proposed dividing boundary has been adjusted to minimise impact to the small area of SKH and TKH and fencing of the proposed boundary does not necessitate the removal of the single mature iron bark tree.

A Spot Assessment Technique (SAT) was conducted on the site and no faecal pellets were detected during the searches at each of the KFTs resulting in a low use determination. The report notes the fragmentation and modified nature of the vegetation, however, there is still connectivity to the broader area and the NSW BioNet Atlas returned koala records within 1.5km of the site. The site therefore does provide potential for foraging and refuge habitat for koalas. No adverse impact from the proposal was however identified as likely resulting from the proposal.



Figure 11 – Tree and koala habitat assessment  
 Source – Ecological Assessment, Ecosure (July 2021)

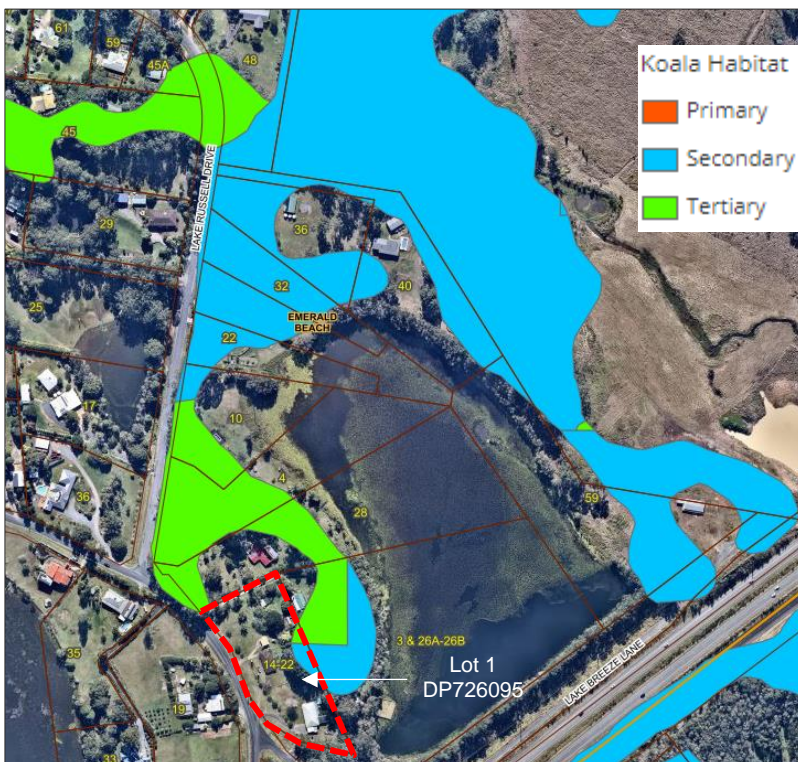


Figure 12 – Koala habitat surrounding subject site  
 Source – Coffs Harbour City Council GIS database

<https://enterprise.mapimage.net/intramaps99/default.htm?configId=002f3dcb-246d-4ce9-9a12-ce55e9df910f&project=CoffsHarbour%20Public&module=General%20Enquiry>

### Grey-headed flying-fox

The ecological report notes grey-headed flying-foxes (GHFFs) utilise a range of habitats including wet sclerophyll forest which occurs on the site. Three permanent GHFF camps are present in the Coffs Harbour LGA. The closest camp is Woolgoolga Lake camp which is considered nationally important as it has contained greater than 10,000 individuals' multiple times in the last 10 years (Ecosure 2021). The camp provides roosting habitat critical to the survival of the species as specified in the GHFF Draft National Recovery Plan (Ecosure 2021). The proposed subdivision site contains suitable foraging habitat for GHFFs and it is highly likely that the species would utilise these resources when available. No adverse impact from the proposal was however identified as likely resulting from the proposal.

### Little bent-winged bat & large bent-winged bat

The ecological report notes the site contains vegetation that provides suitable habitat for the little and large bent-winged bats, which forage for insects within and above the vegetation canopy. Little and large bent-winged bats are known to roost during the day in caves, tunnels, tree hollows, abandoned mines, stormwater drains, culverts, bridges, and buildings (NSW Government 2020). Given that the vegetation occurs in association with a range of other suitable roosting habitats nearby, there is potential that the site may be utilised by both species.

Both species are known to disperse during non-breeding times and a search of NSW BioNet Atlas returned little and large bent-winged bat records within 1.5 km of the site. While breeding is unlikely to occur in the immediate area, the site potentially provides foraging and roosting habitat in tree hollows. No adverse impact from the proposal was however identified as likely resulting from the proposal.

### Native Fauna Summary

The ecological report notes that any potential future clearing is expected to be limited to understorey vegetation and will not substantially affect foraging habitat utilised by the above species, therefore it is unlikely to substantially and adversely modify the composition of the habitat to the degree that it will place koalas, grey-headed flying-foxes, or little and large bent-winged bats at risk or local extinction.

### **Sewage management**

Onsite sewage management and the potential for the lot/s to be efficiently serviced by an effective onsite sewage management system has been identified as a typical factor affecting the lot size in R5 Large Lot Residential zones of the Coffs Harbour LGA. When considering the suitability for a lot to sustainably manage wastewater on-site, an assessment typically refers to 'available effluent management area'. This broadly refers to available areas (i.e. not built out or used for a conflicting purpose) where onsite sewage management systems will not be unduly constrained by site and soil characteristics. The planning proposal identifies several surrounding lots that have a similar or smaller lot size, characteristics and constraints to the subject site.

The planning proposal has included a Wastewater Capacity Assessment by Earth Water Consulting to determine the maximum lot density suitable for subdivision on the subject land. The report determined due to the low slopes and limited site and soil constraints, a minimum 5,000m<sup>2</sup> lot size for the subject site is considered acceptable.

### **Other Environmental Factors**

Noted and discussed above in Table 6 9.1 Ministerial Direction Assessment, other environmental factors of the subject site are:

- mapped bushfire prone land – a Bushfire Assessment Report has been conducted and consultation is required with the NSW Rural Fire Service; and
- contaminated land – the site is known to have been used for banana cultivation between 1943-1994 and is identified by Council as Banana Contaminated Land. The site has



been part of an approved large lot residential area since the late 1970's and is considered highly unlikely to be contaminated above accepted thresholds.

## 4.2 Social and economic

The social and economic impacts from the proposal are considered to be negligible. The planning proposal will allow subdivision of the existing lot into two separate lots with an existing dwelling contained on each lot.

## 4.3 Infrastructure

The subject land is currently serviced by local infrastructure and is adequately accessed by a public road and the residences on the site are connected to power and telecommunications. The land is not serviced by reticulated water and sewer infrastructure. The proposal will not place an unreasonable demand on public infrastructure. Vehicular access to the new lot is easily and safely achieved from Smiths Road. The land use zone is unchanged by this planning proposal. The National Broadband Network (NBN) is available in the area.

# 5 Consultation

## 5.1 Community

Council proposes a community consultation period of 14 days.

The exhibition period proposed is considered appropriate and forms part of the conditions of the Gateway determination.

## 5.2 Agencies

It is recommended that Council consult with the NSW Rural Fire Service on the planning proposal and given 21 days to comment:

# 6 Timeframe

The planning proposal includes a project timeline which estimates completion of the LEP amendment by May 2021. A time frame of **six** months is recommended to ensure the LEP amendment is completed in line with the Department's commitment to reduce processing times.

# 7 Local plan-making authority

The Council report recommends Council request to exercise their delegations as the plan making authority. As the planning proposal deals only with matters of local significance the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

# 8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- the planning proposal is not inconsistent with the North Coast Regional Plan 2036;
- the planning proposal is consistent with the LGMS 2020, Chapter 6 Large Lot Residential Lands, Section 6.7 Lot Size, whereby relevant justification for the reduction of the minimum lot size for subject site has been provided including relevant studies;
- the planning proposal is consistent with the Coffs Harbour LSPS; Coffs Harbour RCAP 2036; and the MyCoffs CSP 2030; and



## 9 Recommendation

It is recommended the Director, as delegate of the Secretary:

- **agree** that any inconsistencies with section 9.1 Directions 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 2.6 Remediation of Contaminated Land, and 4.1 Acid Sulfate Soils are justified; and
- **note** that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended the Director, as delegate of the Minister:

- **note** the planning proposal (**Attachment A**);
- **determine** that the planning proposal should proceed subject to the following conditions:
  1. Prior to community consultation, the planning proposal is to be updated to:
    - amend Figure 1 description to read Lot 1 DP726095;
    - amend references to Chapter 5 Large Lot Residential to read Chapter 6 Large Lot Residential Lands; and
    - address discussion of land contamination under section 9.1 Ministerial Direction 2.6 Remediation of Contaminated Land due to clause 6 of the SEPP being repealed.
  2. Consultation is required with the NSW Rural Fire Service.
  3. The planning proposal should be made available for community consultation for a minimum of 14 days.
  4. The timeframe for completing the LEP is to be **six** months from the date of the Gateway determination.
  5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.
- **sign** the Gateway determination (**Attachment B**) and the attached letter to Council (**Attachment C**).



3 November 2021

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

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

**Craig Diss**  
Manager, Northern Region  
Local and Regional Planning



4 November 2021

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

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

**Jeremy Gray**  
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