



IRF23/1161

## Gateway determination report – PP-2021-5514

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Large Lot Residential Rezoning, Gaudrons Road,  
Sapphire Beach

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# Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

## Contents

<b>1</b>	<b>Planning proposal.....</b>	<b>1</b>
1.1	Overview.....	1
1.2	Objectives of planning proposal .....	1
1.3	Explanation of provisions .....	1
1.4	Site description and surrounding area.....	2
1.5	Mapping.....	4
<b>2</b>	<b>Need for the planning proposal .....</b>	<b>6</b>
<b>3</b>	<b>Strategic assessment .....</b>	<b>6</b>
3.1	Regional Plan .....	6
3.2	Local.....	7
3.3	Section 9.1 Ministerial Directions .....	8
3.4	State environmental planning policies (SEPPs) .....	9
<b>4</b>	<b>Site-specific assessment .....</b>	<b>10</b>
4.1	Environmental.....	10
4.2	Social and economic.....	11
4.3	Infrastructure .....	12
<b>5</b>	<b>Consultation.....</b>	<b>12</b>
5.1	Community .....	12
5.2	Agencies.....	12
<b>6</b>	<b>Timeframe .....</b>	<b>12</b>
<b>7</b>	<b>Local plan-making authority .....</b>	<b>13</b>
<b>8</b>	<b>Assessment summary .....</b>	<b>13</b>
<b>9</b>	<b>Recommendation.....</b>	<b>13</b>

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

### Relevant reports and plans

Planning Proposal PP-2021-5514 – V1 – Pre-exhibition – April 2023

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Coffs Harbour</b>
<b>PPA</b>	<b>City Of Coffs Harbour</b>
<b>NAME</b>	<b>Large Lot Residential Rezoning, Gaudrons Road, Sapphire Beach</b>
<b>NUMBER</b>	<b>PP-2021-5514</b>
<b>LEP TO BE AMENDED</b>	<b>Coffs Harbour LEP 2013</b>
<b>ADDRESS</b>	<b>9-9A and 148-158 Gaudrons Road, Sapphire Beach</b>
<b>DESCRIPTION</b>	<b>Lot 11 DP 1141269 and Lot 7 DP 555490</b>
<b>RECEIVED</b>	<b>28/04/2023</b>
<b>FILE NO.</b>	<b>IRF23/1161</b>
<b>POLITICAL DONATIONS</b>	<b>There are no donations or gifts to disclose and a political donation disclosure is not required</b>
<b>LOBBYIST CODE OF CONDUCT</b>	<b>There have been no meetings or communications with registered lobbyists with respect to this proposal</b>

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal to facilitate large lot residential development on the subject sites.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Coffs Harbour LEP 2013 per the changes below:

- Amend the Land Zoning Map (Sheet LZN\_005C) to rezone the subject sites from RU2 Rural Landscape to R5 Large Lot Residential;
- Amend the Lot Size Map (Sheet LSZ\_005C) to change the minimum lot size provision for Lot 11 DP 1141269, 9-9A Gaudrons Road, from AB – 40 ha to 6,000 m<sup>2</sup>;
- Amend the Lot Size Map (Sheet LSZ\_005C) to change the minimum lot size provision for Lot 7 DP 555490, 148-158 Gaudrons Road, from AB – 40 ha to 1 hectare.

The amendments would permit an additional six dwellings in total.

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

## 1.4 Site description and surrounding area

The planning proposal applies to two sites on Gaudrons Road, Sapphire Beach (Figure 1), located approximately 6.3 kilometres north of the Coffs Harbour Central Business District, on the NSW Mid-North Coast. The sites are located west of the Pacific Highway and are accessed via Gaudrons Road. The sites are currently used for residential and agricultural purposes and are surrounded by similarly used properties of various sizes.

Lot 11 DP 1141269 at 9-9A Gaudrons Road (Figure 2) has a land area of approximately 5.3 ha (52,939m<sup>2</sup>), while Lot 7 DP 555490 at 148-158 Gaudrons Road (Figure 3) has a land area of approximately 2.05 ha (20,496m<sup>2</sup>).

Both sites are currently zoned RU2 Rural Landscape (Figure 4) and each contains two approved dwellings.



Figure 1 Site context (source: NearMap)





Figure 2 Subject site: Lot 11 DP 1141269, 9-9A Gaudrons Road (source: NearMap)



Figure 3 Subject site: Lot 7 DP 555490, 148-158 Gaudrons Road (source: NearMap)



## 1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Land Zoning (Figure 4) and Lot Size (Figure 5) maps, which are suitable for community consultation. It is noted that Figure 3 in the proposal in correctly identifies 148-158 Gaudrons Road and that this subject be rectified prior to consultation.

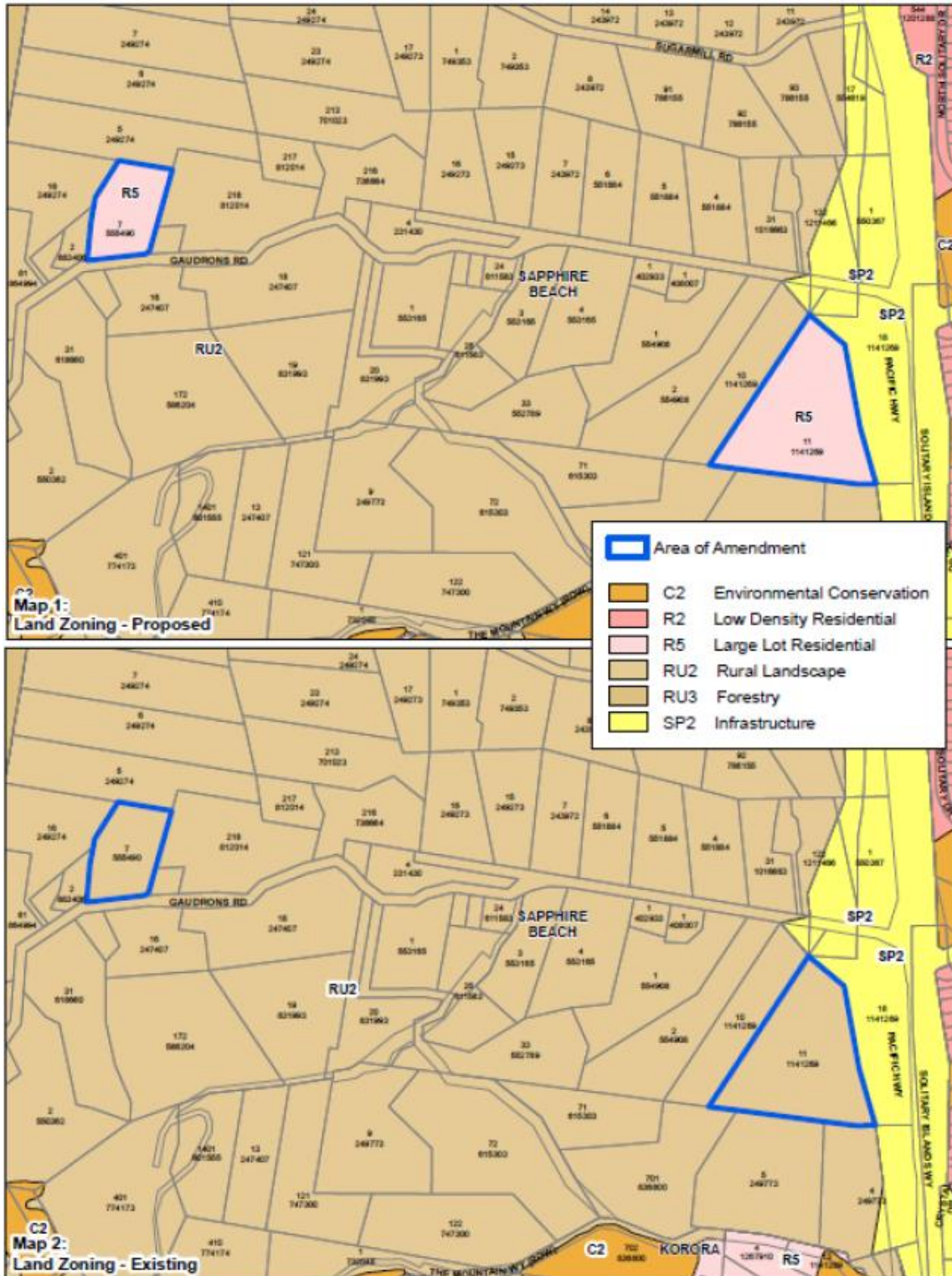


Figure 4 Proposed and current Land Zoning map

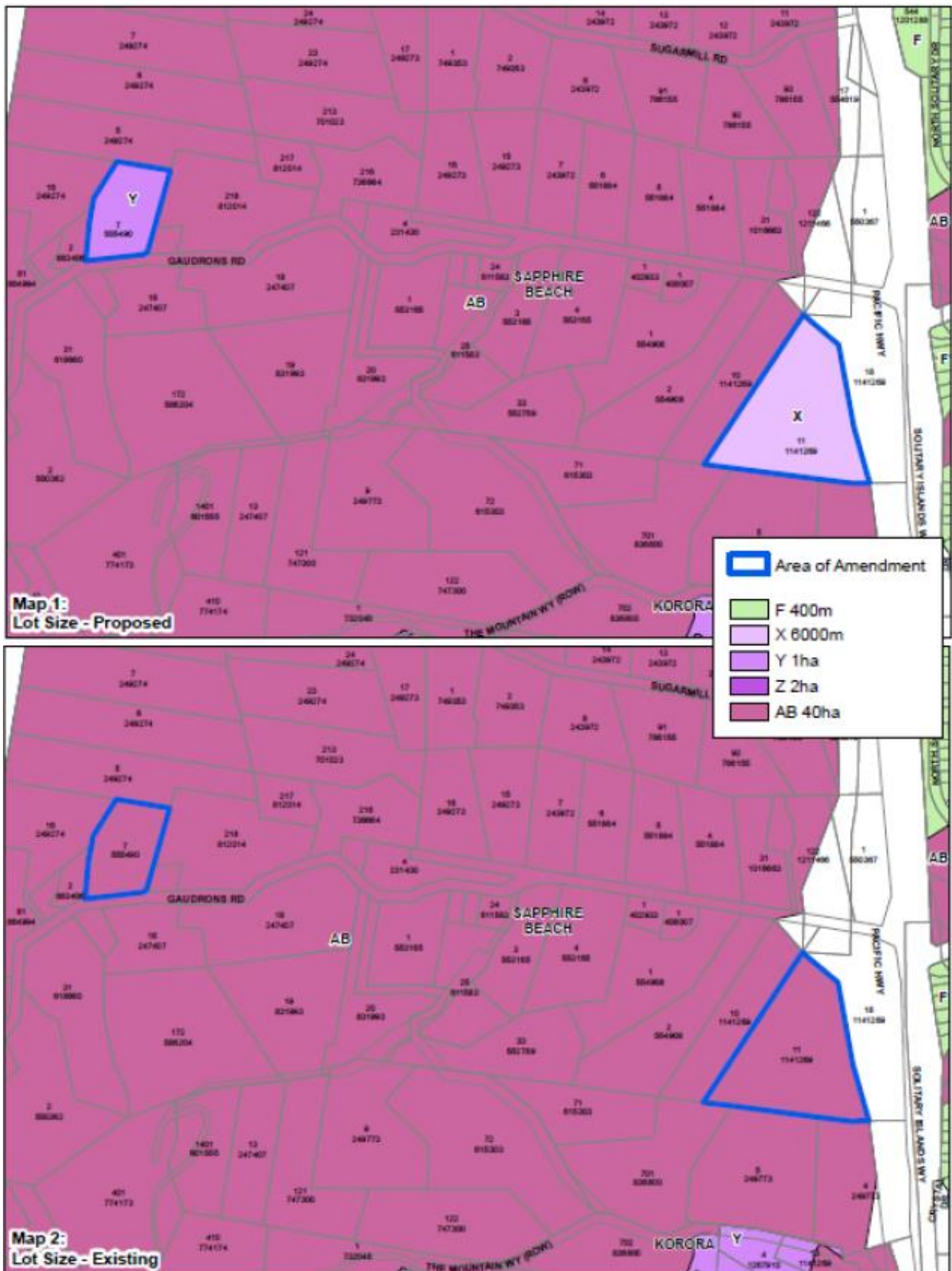


Figure 5 Proposed and current Lot Size map



## 2 Need for the planning proposal

The planning proposal is a result of the Department approved Coffs Harbour Local Growth Management Strategy. The sites are located within an approved candidate area identified within the LGMS for short-term release of large lot residential development through proponent-initiated planning proposals on an individual, precinct or clustered basis and at a time of their choosing.

The planning proposal is considered the best means of achieving the objectives and intended outcomes.

## 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.

**Table 3 Regional Plan assessment**

Regional Plan Objectives	Justification
<p>Objective 1: Provide well located homes to meet demand</p>	<p>The Regional Plan acknowledges that rural residential housing remains a popular housing choice for certain areas on the North Coast and guides how and where this form of housing should be provided.</p> <p>The planning proposal will enhance housing opportunities in an area that adjoins existing residential development, that is located close to existing retail and commercial services. This area is identified for future rural residential development within Council's approved Local Growth Management Strategy. The proposal therefore supports the following outcomes:</p> <p>Strategy 1.2: Local Council plans are to encourage and facilitate a range of housing options in well located areas.</p> <p>Strategy 1.5: New rural residential housing is to be located on land which has been approved in a strategy endorsed by the Department of and is to be directed away from the coastal strip (while the land is located within the coastal strip it is consistent with this strategy as it is identified in an existing Department approved local strategy).</p>
<p>Objective 3: Protect regional biodiversity and areas of high environmental value</p>	<p>The planning proposal identifies small areas of high environmental value within the subject sites. It is expected that a subdivision layout will be able to avoid and protect these areas. The proposal therefore supports the following outcomes:</p> <p>Strategy 3.1: Identifying HEV assets within the planning area at planning proposal stage through site investigations; and focusing land-use intensification away from HEV assets and implementing the 'avoid, minimise and offset' hierarchy in strategic plans, LEPs and planning proposals.</p>

Objective 8: Support the productivity of agricultural land	<p>The sites are currently used for residential and agricultural purposes and are surrounded by similarly used properties of many sizes. While agriculture occurs widely in this area, the area is not identified as important farmland under the Plan.</p> <p>The Regional Plan states that councils should consider the potential for land use conflict when new development is proposed in rural areas, including the need for buffers around productive agricultural lands, and sensitive land uses should be excluded from rural areas where a significant impact on agriculture would result. The planning proposal includes a Land Use Conflict Risk Assessment (LUCRA) for the proposed rezoning of both properties which concludes that the risk of conflict is acceptable subject to appropriate mitigation measures.</p>
Coffs Harbour Local Government Narrative	The planning proposal supports the regional priorities for the LGA to deliver suitable housing opportunities across the LGA, support environmentally sustainable development that is responsive to natural hazards and retain and protect local biodiversity through effective management of environmental assets and ecological communities.

## 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 4 Local strategic planning assessment**

Local Strategies	Justification
Coffs Harbour Local Strategic Planning Statement 2020	<p>The proposed LEP amendment accords with the vision and planning priorities within the LSPS, in particular:</p> <p>Planning Priority 5: Deliver greater housing supply, choice and diversity.</p> <p>Action A5.5: Implement remaining actions from the Local Growth Management Strategy as funding allows.</p> <p>Planning Priority 7: Protect and conserve the natural, rural, built and cultural heritage of Coffs Harbour.</p> <p>Action A7.3: Implement actions from the Local Growth Management Strategy as funding allows.</p>
Coffs Harbour Local Growth Management Strategy 2020	Chapter 6 Large Lot Residential Lands, of the LGMS identifies the subject sites as being in Precinct 5 (Gaudrons Road/ The Mountain Way) of the Korora, Sapphire and Moonee Candidate Area. Land in this area is identified for short-term release of large lot residential development.
MyCoffs Community Strategic Plan 2032	The planning proposal supports the 'connected, sustainable, thriving' vision of the Community Strategic Plan and will assist in achieving the objectives of the plan by attracting people to work, live and visit; and by undertaking development that is environmentally, socially and economically responsible.
Coffs Harbour Regional City Action Plan 2036	While the subject sites lie outside of the City Action Plan footprint, the planning proposal will assist in offering greater housing choice and supply across the LGA.



### 3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

**Table 5 9.1 Ministerial Direction assessment**

Directions	Consistent	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Yes	The proposal does not contain provisions that contradict or hinder the objectives of this Direction. The proposal is considered consistent with the relevant goals, directions and actions within the North Coast Regional Plan 2041 and achieves the overall intent of the Plan.
3.1 Conservation Zones	No - Justified	An ecological assessment of the two sites identified small areas of environmental significance, included a threatened plant species. A subdivision layout can be designed to protect these areas from development and the land is identified for the intended purpose within a Department approved local strategy. The inconsistency with the Direction is therefore considered to be justified.
3.2 Heritage Conservation	Yes	<p>An Aboriginal Cultural Heritage Assessment was prepared for the subject sites in 2021.</p> <p>One Aboriginal object was identified on the western boundary of Lot 11 DP1141269 (9-9A Gaudrons Road), within the forested area.</p> <p>The assessment concluded that future development at 9-9A Gaudrons Road, particularly in relation to the ridge crest, has the potential to impact on Aboriginal objects. As such additional consultation and archaeological investigation would be required during the subdivision stage.</p> <p>The assessment also concluded that future subdivision works within 148-158 Gaudrons Road are unlikely to impact on Aboriginal objects and will not impact on any known places or sites of cultural significance to the Aboriginal community.</p> <p>While the planning proposal does not contain provisions that inhibit the conservation of heritage items within the areas, the proposed LEP amendment is unlikely to inhibit the conservation of Aboriginal objects or places. Any future development on the land will be subject to the current provisions of the LEP, which are adequate. The planning proposal is therefore considered to be consistent with the Direction</p>
4.3 Planning for Bushfire Protection	No – Unresolved	<p>Part of the land is bush fire prone. The planning proposal is currently inconsistent with this Direction because it 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. Consultation with the RFS is required following receipt of a Gateway determination and prior to undertaking community consultation.</p> <p>Until this consultation has occurred the inconsistency with the Direction is unresolved.</p>

4.4 Remediation of Contaminated Land	No – Unresolved	Part of the land is known known to be potentially contaminated from previous agricultural land uses, in particular banana cropping. The land is proposed to be rezoned to facilitate a change of use for residential purposes. Council has considered the results of a preliminary investigation of the land for potential contamination; however the preliminary investigation report was based upon very limited testing of the site and is considered inadequate to determine potential contamination and/or remediation requirements. The proposal is therefore considered to be inconsistent with this Direction, pending further site assessment.
6.1 Residential Zones	No – Justified	<p>The proposed amendment will facilitate the creation of additional R5 Large Lot Residential zoned lots. Council argues that this will contribute to the supply of vacant land and increase lifestyle choices in the LGA. The planning proposal is however inconsistent with the Direction in that it will not make more efficient use of existing infrastructure and services, nor reduce the consumption of land for housing and associated urban development on the urban fringe.</p> <p>The inconsistency with the Direction is considered to be justified due to the land's identification for the intended purpose within a Department approved local strategy.</p>
8.1 Mining, Petroleum Production and Extractive Industries	No – Unresolved	The planning proposal is inconsistent with this Direction as the change in zoning from RU2 Rural Landscape to R5 Large Lot Residential will have the effect of prohibiting extractive industries on the land. While the inconsistency is considered to be likely of minor significance due to the characteristics of the area and the existing and likely future uses making extractive industries unlikely to be viable, the consistency of the proposal with this Direction remains unresolved until consultation can be undertaken with NSW Mining, Exploration and Geoscience.
9.1 Rural Zones	No – Justified	The planning proposal is inconsistent with this Direction because it rezones land from a rural zone to a residential zone. The inconsistency is, however, justified by the land's inclusion within an approved strategy for the intended purpose.
9.2 Rural Lands	No – Justified	The planning proposal is inconsistent with this Direction because it does not promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities; support farmers in exercising their right to farm; or prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land use. The proposal is however considered likely to be consistent with the Rural Subdivision Principles set out in Council's LEP. The land is also located within an already highly fragmented area which is also included within a Department approved local Strategy for the intended purpose. The inconsistency with the Direction is therefore considered to be justified.

### 3.4 State environmental planning policies (SEPPs)

The planning proposal is considered to be consistent with all relevant SEPPs.



## 4 Site-specific assessment

### 4.1 Environmental

The planning proposal is subject to a range of environmental impacts, as discussed below:

**Table 6 Environmental impact assessment**

Environmental Impact	Assessment
Biodiversity	A Biodiversity Assessment was prepared for the subject sites. The subject sites have previously been cleared and used for agricultural pursuits. Currently the sites consist of predominantly cleared lands comprising mostly exotic grasses, landscape, and horticultural plantings with some peripheral and isolated stands of dry and wet sclerophyll forest. As some small areas of potential high environmental value under the North the North Coast Regional Plan 2041 have been identified on the lands, it is recommended that consultation be undertaken with NSW Biodiversity and Conservation Division.
Koala habitat	Tertiary koala habitat is identified on parts of the subject sites, however, this is not considered to be core koala habitat under Council's Comprehensive Koala Plan of Management or Chapter 4 of the Biodiversity and Conservation SEPP 2021.
Threatened species, habitat or ecological communities	<p>One threatened flora species, Scrub Turpentine (<i>Rhodamnia rubescens</i>) was detected at 9-9A Gaudrons Road with two small saplings identified along the western boundary within forested vegetation. This species is listed as Critically Endangered under the NSW <i>Biodiversity Conservation Act 2016</i> and Federal <i>Environment Protection and Biodiversity Conservation Act 1999</i>. The future subdivision will need to be designed to consider connectivity, threatened species, habitat trees, retain intact vegetation, and generally take on the recommendations in the Biodiversity Report.</p> <p>No threatened flora species were detected at 148-158 Gaudrons Road.</p> <p>No threatened fauna species were detected at either site and no significant habitat for threatened fauna occurs at the sites, although the sites provide potential habitat for several locally occurring threatened fauna species, including the koala.</p> <p>No threatened ecological communities (TECs) occur at either site.</p>
Flooding	A review of the potential flooding issues that affect both properties has been undertaken. While the land is not within the flood planning area or below the probable maximum flood level, the review confirmed that overland flow paths occur at both sites. The affected areas would not be suitable for residential building envelopes and this issue can be adequately addressed through appropriate subdivision design.
Stormwater	A Stormwater Assessment undertaken for both properties found no significant issues with the proposed rezoning and subsequent subdivision for either site. The assessment includes recommendations to reduce the risk of stormwater impacts from the proposal, to be considered further at the subdivision stage.

Wastewater	A Minimum Lot Size (MLS) and Land Capability Assessment (LCA) for the proposed rezoning of both properties found that wastewater from an On-site Sewage Management System (OSMS) can be sustainably dealt with on the lots that would be created by an eventual subdivision. Further assessment in relation to wastewater issues will also be undertaken at the subdivision stage.
Potentially contaminated land	An Environmental Site Assessment was undertaken for the proposed rezoning of both properties. While the report indicates the sites would be (or could be made) suitable from a contamination perspective for the proposed residential land use, soil testing on the sites was very limited and the findings relied largely on the author's experience from the testing of similar sites. The assessment is considered inadequate to determine potential contamination and/or remediation requirements at this stage. Further testing and analysis should be undertaken prior to community consultation.

## 4.2 Social and economic

Social and economic impacts associated with the planning proposal are discussed below:

**Table 7 Social and economic impact assessment**

Social and Economic Impact	Assessment
Housing	Social and economic effects arising from the planning proposal are expected to be positive in terms of the provision of new housing close to urban facilities in the coastal village of Moonee Beach, thereby offering housing choice and diversity for existing and future residents. Consistent with the City's LSPS, Moonee Beach has been identified as a priority area for place making with local character statements and place manuals.
Land Use Conflict	The proposed rezoning would permit large lot residential development in an already highly fragmented area predominantly used for hobby farming or lifestyle housing. A Land Use Conflict Risk Assessment (LUCRA) for the proposed rezoning of both properties has been undertaken for the planning proposal. The LUCRA concludes that the risk of conflict is acceptable subject to appropriate mitigation measures to reduce the risk of conflict, such as the use of separation buffers and landscaping. The LUCRA should be referred to the Department of Primary Industries (Agriculture) for comment.
Traffic	A Traffic Impact Assessment for the proposed rezoning of both properties is included with this planning proposal. The report concludes that satisfactory access can be provided to the properties and that traffic issues would not prevent the proposed rezoning. It is noted that the existing lot at 148-158 Gaudrons Road already contains two dwellings and its proposed subdivision into 2 lots will not result in any increase in daily vehicle trips. Therefore, there is no nexus on which to require upgrading of Gaudrons Road.



Noise	A Noise Impact Assessment for the proposed rezoning of both properties is included with the planning proposal. The assessment found that the entire lot at 9-9A Gaudrons Road is affected by road noise, and that care must be taken in the design and construction of residences to ensure residential amenity is maintained, including through the identification of dwelling envelope locations and implementation of dwelling design factors to reduce noise impacts.
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## 4.3 Infrastructure

Existing public infrastructure is considered to be adequate for the planning proposal.

Whilst the sites are not connected to reticulated sewer, mains water or stormwater infrastructure, they have access to a public road, underground reticulated telecommunications and electricity. The Coffs Harbour Development Control Plan 2015 specifies infrastructure that is to be provided as part of subdivision proposals for land zoned R5 Large Lot Residential, in accordance with the City's Planning and Design Development Specifications.

## 5 Consultation

### 5.1 Community

Council has not proposed a specific community consultation period, instead relying on the outcome of the Gateway determination.

In accordance with the Local Environmental Plan Making Guidelines 2022, an exhibition period of 20 working days is recommended.

### 5.2 Agencies

Council has nominated two public agencies to be consulted about the planning proposal: NSW Rural Fire Service and Department of Primary Industries (Agriculture).

In addition, it is considered appropriate to consult Transport for NSW due to the proximity of one of the sites to the existing Pacific Motorway and interchange, the relevant Local Aboriginal Land Council due to the potential location of Aboriginal objects on that site, NSW Mining, Exploration and Geoscience due to the proposed prohibition of extractive industries, and the Department's Biodiversity Conservation Division due to the identification of the critically endangered plant species on the site. It is therefore recommended the following agencies be consulted on the planning proposal and given 30 days to comment:

- NSW Rural Fire Service
- Department of Primary Industries (Agriculture)
- Transport for NSW
- NSW Mining, Exploration and Geoscience
- Department of Planning and Environment (Biodiversity Conservation Division)
- Coffs Harbour Local Aboriginal Land Council

## 6 Timeframe

Council proposes a six month time frame to complete the LEP.

Given the agency consultation requirements and additional information required for the planning proposal, a timeframe of nine months is considered more appropriate.

## 7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal is consistent with a Department approved Local Growth Management Strategy, it is recommended 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 proposal is consistent with the North Coast Regional Plan 2041 and relevant SEPPs;
- the proposal has only minor inconsistencies with Ministerial Directions;
- the proposal implements the actions of the Coffs Harbour Local Growth Management Strategy 2020, conditionally endorsed by the Department on 13 January 2020; and
- the proposal is not inconsistent with the Coffs Harbour Local Strategic Planning Statement.

Based on the assessment outlined in this report, the proposal must be updated before consultation to include an appropriate level of investigation of both sites in relation to potential land contamination from previous agricultural land uses and associated activities.

## 9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 3.1 Conservation Zones, 6.1 Residential Zones, 9.1 Rural Zones and 9.2 Rural Lands are minor or justified
- Note that the inconsistencies with section 9.1 Directions 4.3 Planning for Bushfire Protection, 4.4 Remediation of Contaminated Land and 8.1 Mining, Petroleum Production and Extractive Industries are unresolved and will require justification.

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

1. The planning proposal is to be updated prior to community consultation to:
  - include an appropriate level of investigation of both sites in relation to potential land contamination from previous agricultural land uses and associated activities to confirm that the lands are suitable for their intended use; and
  - Amend Figure 3 to correctly identify 148-158 Gaudrons Road.
2. Consultation is required with the following public authorities prior to community consultation:
  - NSW Rural Fire Service
  - Department of Primary Industries (Agriculture)
  - Transport for NSW
  - NSW Mining, Exploration and Geoscience
  - Department of Planning and Environment (Biodiversity and Conservation Division)
  - Coffs Harbour Local Aboriginal Land Council
3. The planning proposal should be made available for community consultation for a minimum of 20 days.

4. The timeframe for completing the LEP is to be 9 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.



22/5/2023

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(Signature)

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(Date)

Craig Diss  
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23/5/2023

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