



IRF21/4229

Gateway determination report – PP-2021-5577

Rezone land at Bark Hut Road, Woolgoolga from RU2 Rural Landscape to part R2 Low Density Residential, E2 Environmental Conservation and E3 Environmental Management and amend associated development controls

October 21



Published by NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
PP-2021-5577 – Bark Hut Road – V1 Pre-Exhibition.pdf
Appendix 1 – Consideration of State Environmental Planning Policies
Appendix 2 – Consideration of Ministerial Planning Directions
Appendix 3 – Conceptual Subdivision Layout
Appendix 4 - Residential Land Demand Analysis
Appendix 5 – Bushfire Risk Assessment
Appendix 6 – Land Use Conflict Risk Assessment

Appendix 7 – Aboriginal Cultural Heritage Assessment Report

Appendix 8 – Ecological Assessment

Appendix 9 – Lesser Swamp-Orchid Assessment

Appendix 10 – Preliminary Vegetation Management Plan

Appendix 11 – Preliminary Land Contamination Assessment

Appendix 12 – Traffic Impact Assessment

PP_BarkHutRdWoolg_LZN_Map2_New.pdf

PP_BarkHutRdWoolg_LSZ_Map2_New.pdf

PP_BarkHutRdWoolg_KYS_Map2_New.pdf

PP_BarkHutRdWoolg_CL2_Map2_New.pdf

Council Report 14 10 21.pdf

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Coffs Harbour City Council
PPA	Coffs Harbour City Council
NAME	Rezone land at Bark Hut Road, Woolgoolga from RU2 Rural Landscape to part R2 Low Density Residential, E2 Environmental Conservation and E3 Environmental Management and amend associated development controls
NUMBER	PP-2021-5577
LEP TO BE AMENDED	Coffs Harbour Local Environmental Plan 2013
ADDRESS	Bark Hut Road, Woolgoolga
DESCRIPTION	Lot 2 DP 1277984 (formerly known as part of Lot 202 DP 874273)
RECEIVED	19/10/2021
FILE NO.	IRF21/4229
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	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 Coffs Harbour LEP 2013 to permit low density residential development on the subject land, having regard to the environmental attributes affecting the land and subject to the preparation of a development control plan for the Woolgoolga North West growth area;
- Ensure that Woolgoolga North West is developed in accordance with sound planning and design principles; and
- Ensure that the rezoning is consistent with the broad strategic direction for the locality as described by North Coast Regional Plan 2036 and Council's LGMS 2020.

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 per the changes below:

- Amend the Coffs Harbour Land Zoning Map (Sheet LZN005F) over Lot 2 DP 1277984, Bark Hut Road, Woolgoolga to change land currently zoned RU2 Rural Landscape to part R2 Low Density Residential, part Zone E2 Environmental Conservation and part Zone E3 Environmental Management;
- Amend the Coffs Harbour Minimum Lot Size Map (Sheet LSZ_005F) over Lot 2 DP 1277984, Bark Hut Road, Woolgoolga to change land currently subject to minimum lot size provision AB - 40ha to part AB – 40 ha and part F – 400m²;
- Amend the Coffs Harbour Terrestrial Biodiversity Map (Sheet CL2_005F) over part of Lot 2 DP 1277984, Bark Hut Road, Woolgoolga to include areas proposed to be zoned E2 Environmental Conservation and E3 Environmental Management as terrestrial biodiversity on the map;
- Amend the Coffs Harbour Key Sites Map (KYS_005F) to include Lot 2 DP 1277984, Bark Hut Road, Woolgoolga; and
- Amend clause 7.19 of Coffs Harbour LEP 2013 to include the site within the existing clause requiring a masterplan for the area, preparation of a site-specific Development Control Plan and Development Contributions Plan.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. There is a minor typo on page 5 within the explanation of provisions, that states in dot point three “E3 Environmental Conservation”. A condition has been included on the Gateway Determination to rectify the reference.

1.4 Site description and surrounding area

The planning proposal applies to Lot 2 DP 1277984. The land was formerly part of a larger lot comprising two portions (a northern and southern portion), separated by public open space land. Both the northern and southern portions of the site were lodged for rezoning consideration under concurrent planning proposals. PP_2019_COFFS_002_00 comprised the southern portion, known as Newmans Road, and PP_2019_COFFS_003_00 comprised the northern portion, known as Bark Hut Road.

The background relating to both proposals is discussed in greater detail under section 1.6, however, it is noted that the southern portion of land was rezoned by Amendment No. 23 to the Coffs Harbour LEP 2013, facilitating R2 Low Density and E3 Environmental Management zones on the site.

Following lodgement of PP-2021-5577, Council advised the Department that the legal description of the land subject of this application had changed, following the registration of a new deposited plan that regularised the subdivision of the former Lot 202 DP 874273. According to the deposited plan, registered on 19 October 2021, the subject lot is now legally known as Lot 2 DP1277984.

Therefore, a condition has been included on the Gateway, requiring that the proposal be updated to reflect the new legal description of the subject site. Further, the site will be known as Lot 2 DP 1277984 (formerly known as part Lot 202 DP 874273) throughout the remainder of this report, in accordance with the legal description.

Lot 2 DP 1277984 is located approximately 23km north of Coffs Harbour and 2.4km north of Woolgoolga. The site has an area of 16.4ha and is accessed from Bark Hut Road. The site is located immediately west of Solitary Islands Way (former Pacific Highway) and north of the proposed Woolgoolga Sports Complex.

Surrounding zones in immediate proximity of the site include:

- RE1 Public Recreation to the west and south;
- RU2 Rural Landscape to the north; and
- SP2 Infrastructure to the east.

The site is also located in proximity to the following residential zones:

- R5 Large Lot Residential to the west; and
- R2 Low Density Residential areas of Woolgoolga and Safety Beach.

The site is mapped as bushfire prone (**Figure 4**) and part of the site is identified as flood planning level (**Figure 5**). Additionally, the land is mapped as Class 4 and Class 5 acid sulfate soils (**Figure 6**) and Coastal Environmental Area under State Environmental Planning Policy (Coastal Management) 2018 (**Figure 7**). Documentation submitted to support the proposal indicates that a first and second order stream have been identified on site, however these have no defined bed or bank. Notwithstanding, it is appropriate that the Natural Resources Access Regulator be consulted to confirm suitability of the proposal.

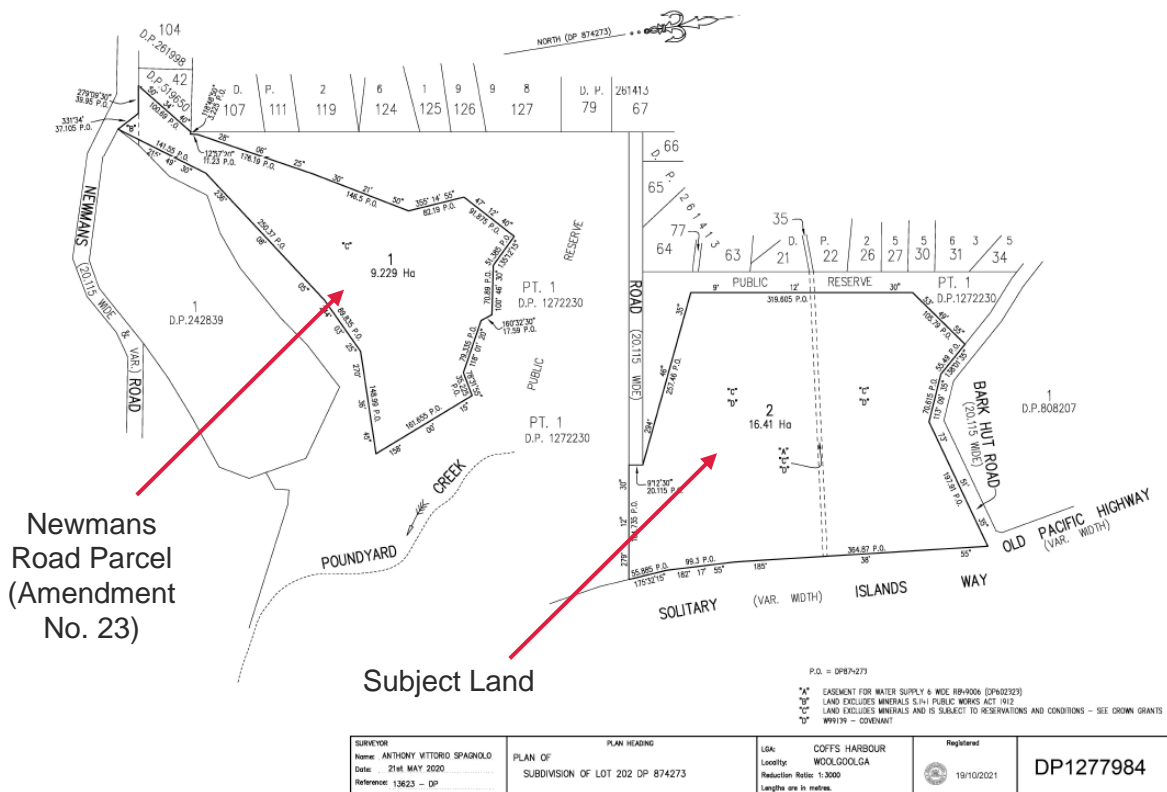




Figure 2 Subject site (source: Council's Planning Proposal Report)

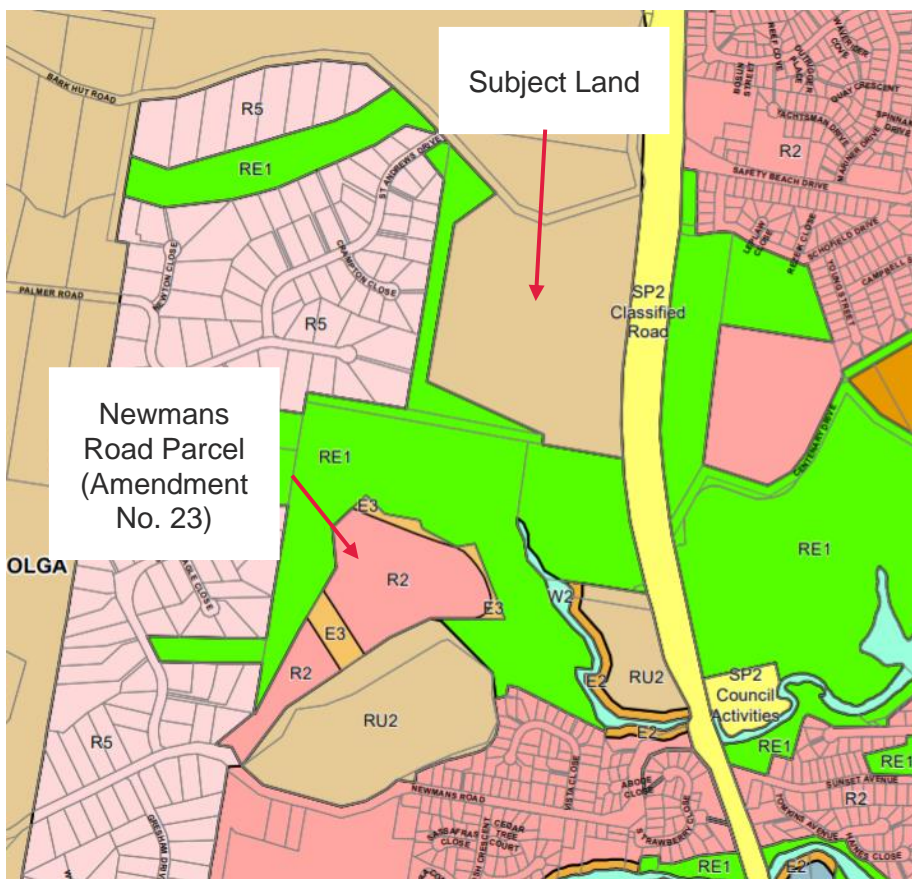


Figure 3 Surrounding zones (source: Coffs Harbour LEP 2013)

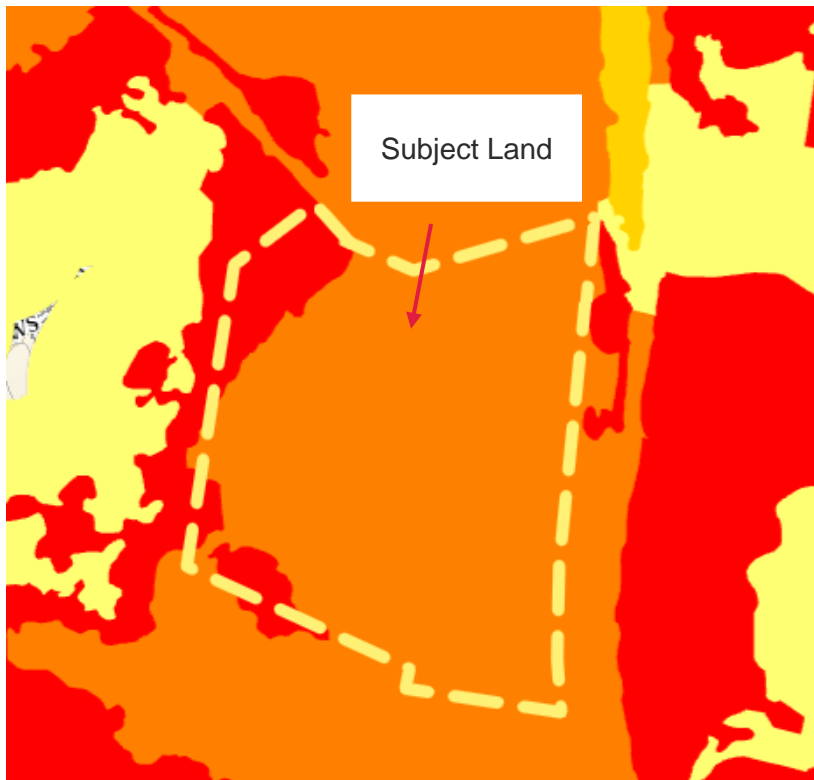


Figure 4 Bushfire Prone Land Map (source: NSW Government ePlanning Spatial Viewer)

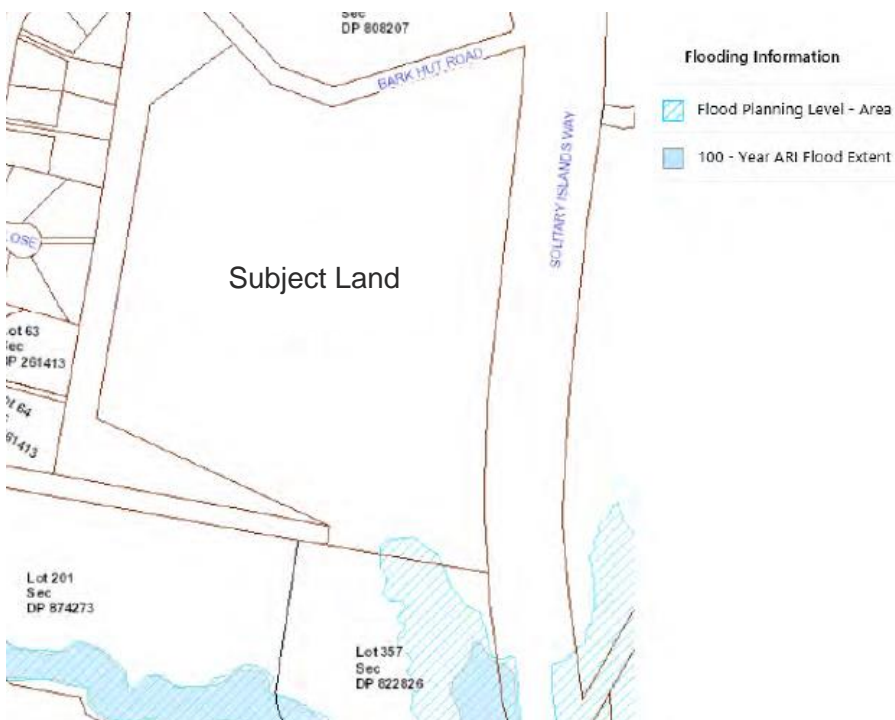


Figure 5 Flood Prone Land (source: Councils Planning Proposal Report)

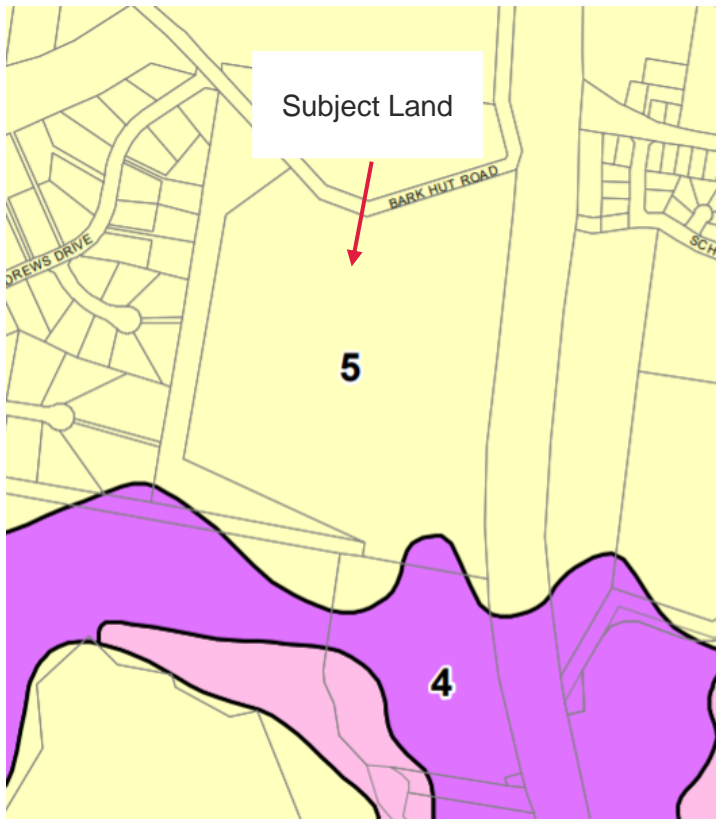


Figure 6 Acid Sulfate Soils Map (source: Clarence Valley LEP 2013)



Figure 7 SEPP (Coastal Management) 2018 (source: Council's Planning Proposal Report)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the land zoning, lot size, key sites and terrestrial biodiversity maps, which are suitable for community consultation.

It is noted that the planning proposal does not contain the current Coffs Harbour LEP 2013 mapping outlining current controls on the site for the key sites map and the terrestrial biodiversity map. A condition has been recommended on the consent requiring the inclusion of these maps, prior to public exhibition.

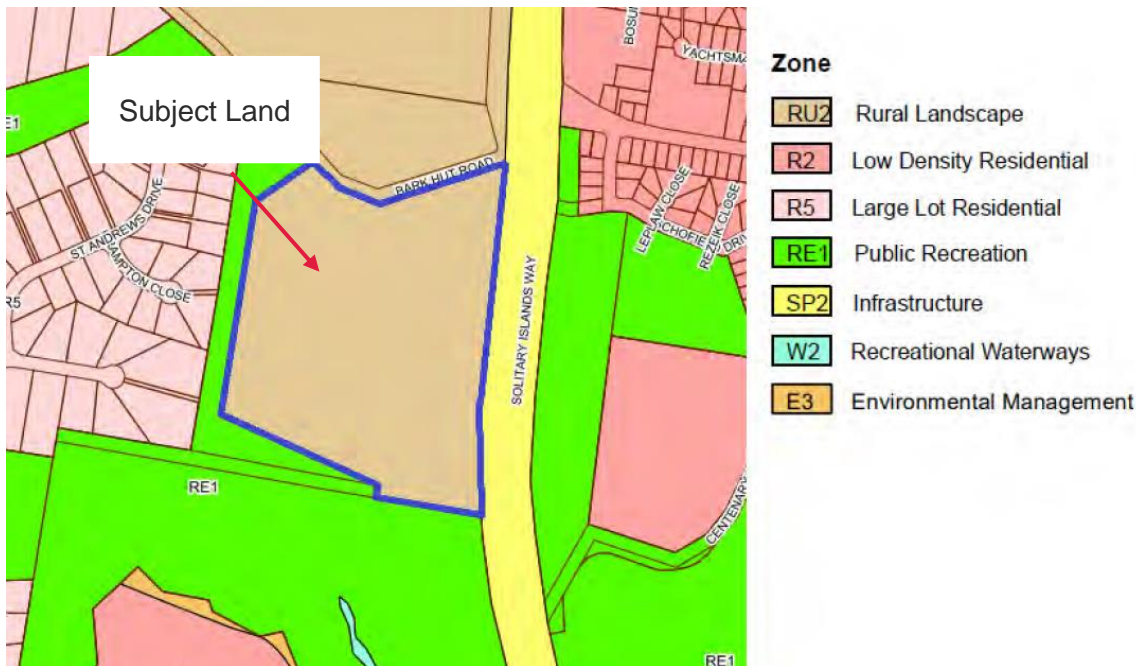


Figure 7 Current zoning map

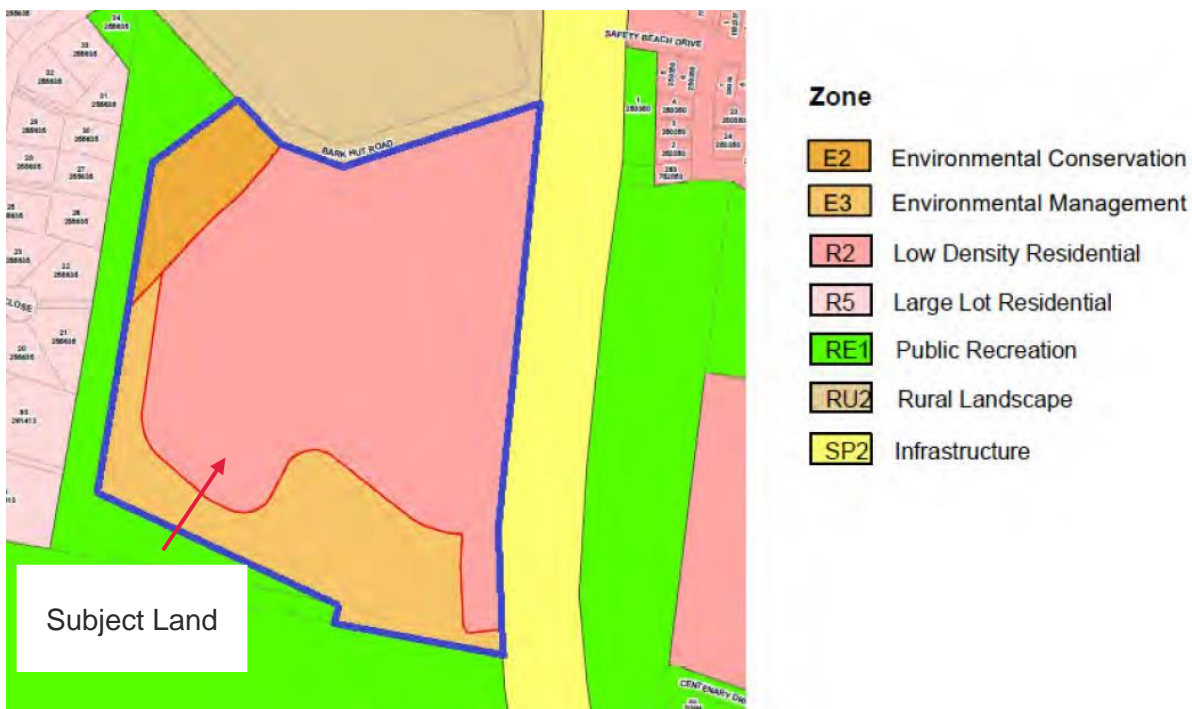


Figure 8 Proposed zoning map

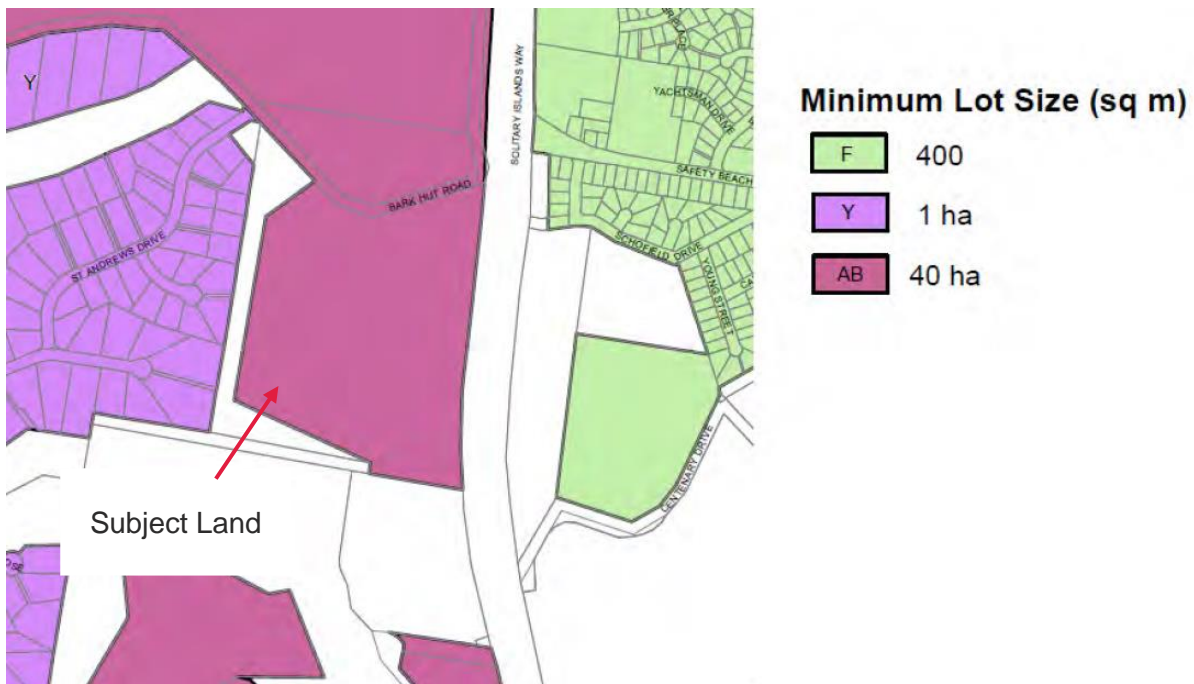


Figure 9 Current lot size map

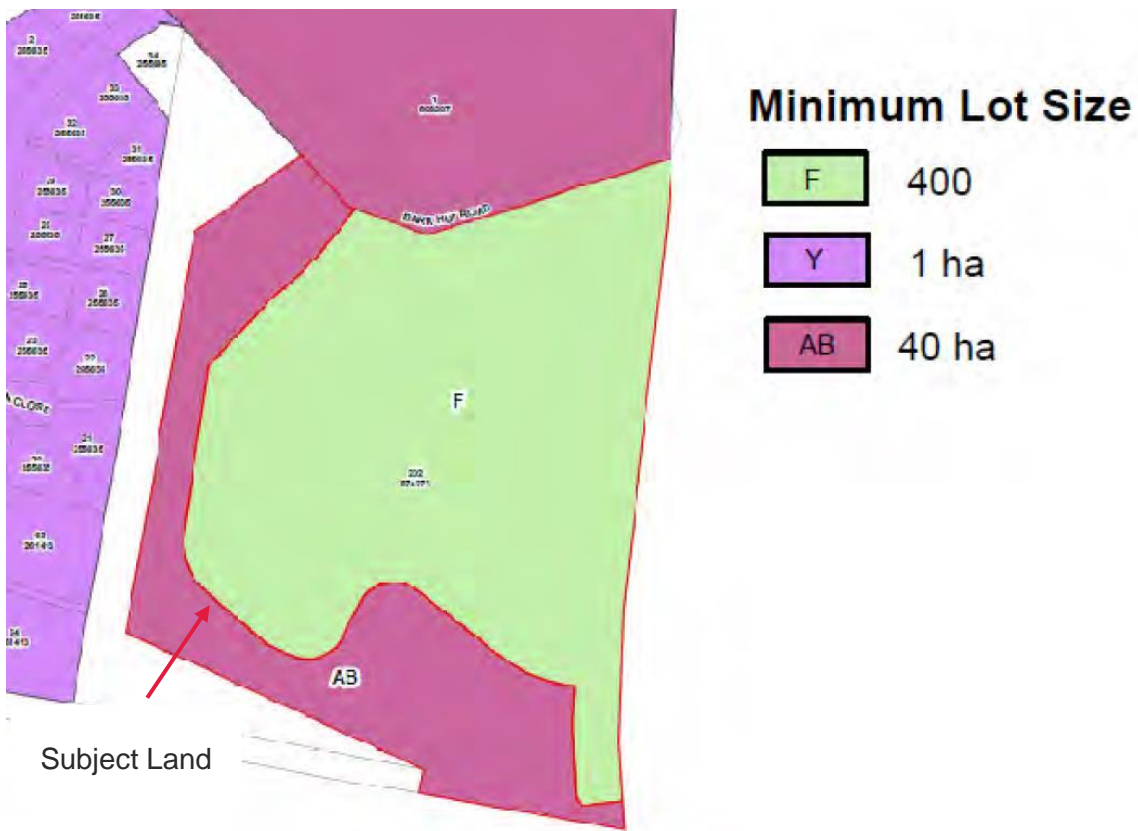


Figure 10 Proposed lot size map



Figure 11 Current key sites map



Figure 12 Proposed key sites map

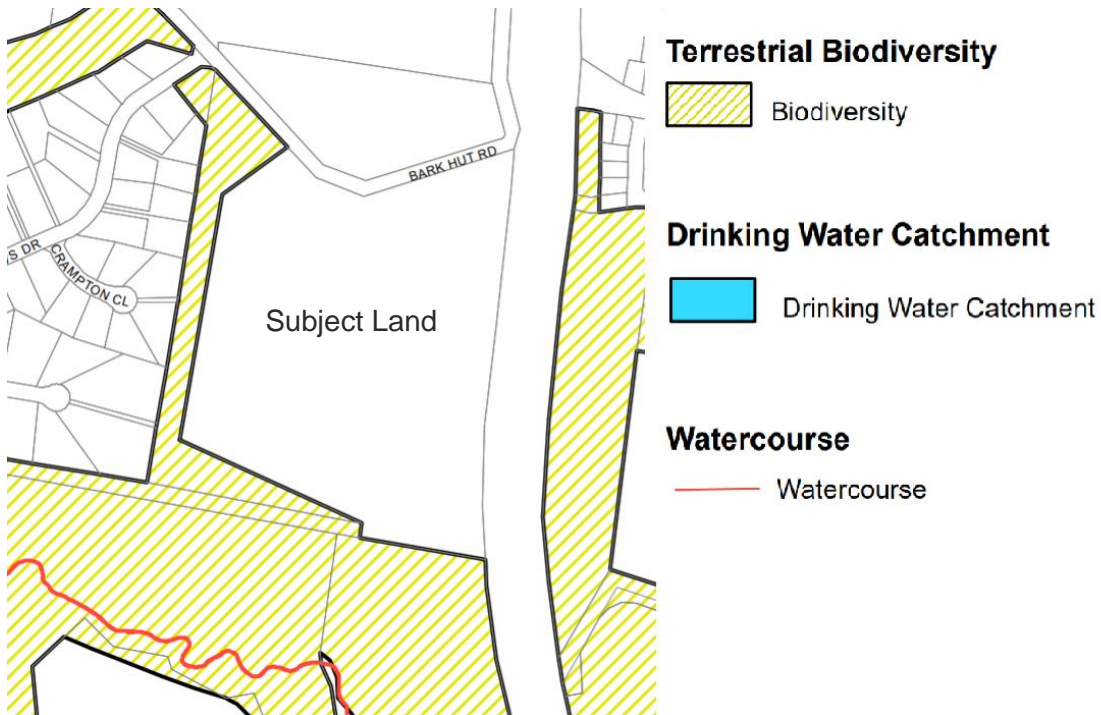


Figure 13 Current terrestrial biodiversity map

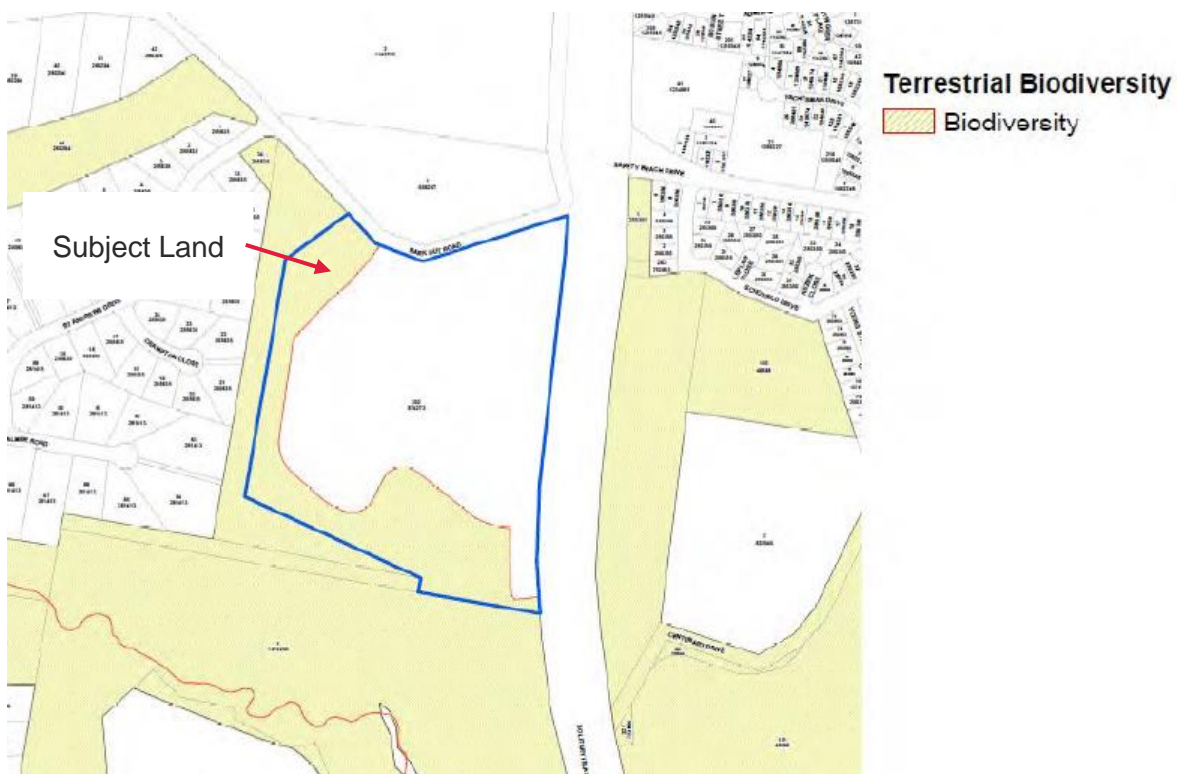


Figure 14 Proposed terrestrial biodiversity map

1.6 Background

As previously noted, the site has been subject of a past planning proposal, prepared by Coffs Harbour City Council. Both the northern and southern portions of former Lot 202 DP 874273 were subject to rezoning consideration under concurrent planning proposals. PP_2019_COFFS_002_00

comprised the southern portion, known as Newmans Road, and PP_2019_COFFS_003_00 comprised the northern portion, known as Bark Hut Road.

The Gateway determination issued on 11 October 2019 determined that the proposal should proceed subject to conditions. The Gateway determination for PP_2019_COFFS_003_00 has been altered to extend the timeframe on one occasion. The current deadline for completion was 11 July 2021.

Council advised on 7 June 2021 that an additional extension of timeframe would be needed as a result of an amendment to the zone layout, following submissions received during consultation for PP_2019_COFFS_003_00, including one public submission and one agency submission from the Biodiversity Conservation Division (BCD) raising a number of issues in relation to biodiversity.

The Department advised Council that further extensions of time to complete the LEP would not be supported (due to the substantial time, including extensions, that had been granted since the initial Gateway determination was issued). As such it was agreed that PP_2019_COFFS_003_00 should not progress, and Council has requested that it be terminated. This is considered appropriate.

As the planning proposal has strategic merit and has significantly advanced, Council has requested a new Gateway determination in order to deliver the intended outcomes. It is considered appropriate in the circumstances that a new Gateway determination be issued to allow the remaining processes to be undertaken to complete the LEP. It is recommended that the Gateway determination be conditioned to require that the LEP be completed within six months of Gateway determination.

The southern portion of land was rezoned by Amendment No. 23 to the Coffs Harbour LEP 2013, facilitating R2 Low Density and E3 Environmental Management zones on the site.

The current proposal seeks rezoning of the site to facilitate part R2 Low Density Residential, E2 Environmental Conservation and E3 Environmental Management zones across the site, in accordance with comments received previously by BCD.

2 Need for the planning proposal

The site is identified in Council's *Local Growth Management Strategy 2020* Chapter 4 – Compact City Program as an "Investigation Area – Urban Land". The LGMS, Chapters 1 – 4 and Chapter 6 was endorsed by the Department on 13 January 2020.

Further discussion on the consistency with the LGMS, among other supporting documents, is contained in section 3 of this report.

Ensuring there is sufficient residential zoned land to meet present and future demand is an important consideration in maintaining housing affordability. In this regard, a Residential Land Demand Analysis (RLDA) has been prepared to support the proposal. The RLDA concluded that there is only three years of serviced residential zoned land supply available to the market within the study area, including land that is currently not being developed and subject to owner intents and commercial viabilities.

It is considered that this planning proposal has merit and is the only means for achieving the intended outcomes.

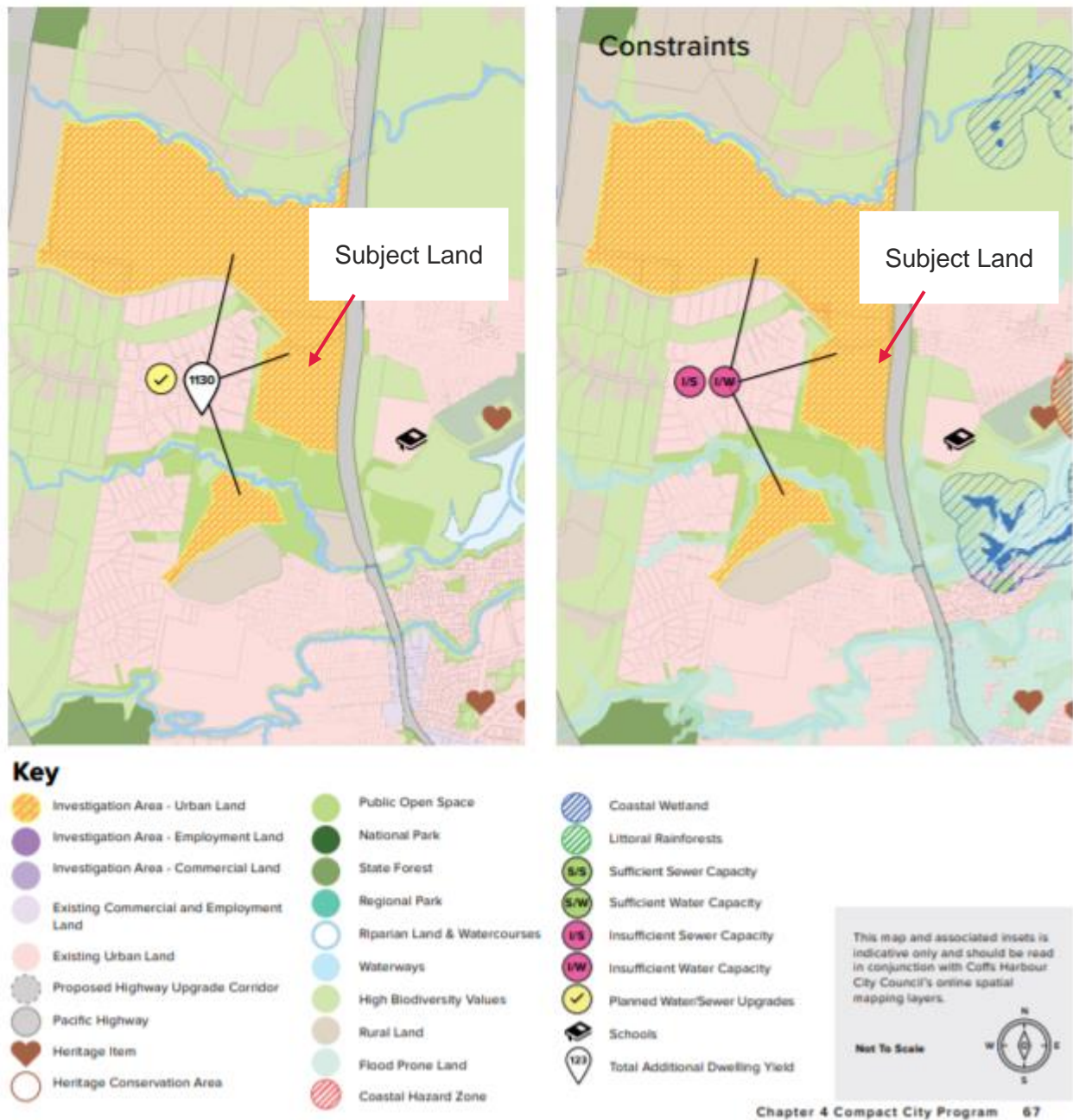


Figure 15 Woolgoolga North West Growth Investigation Area

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.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
Action 1.1	<p><i>Focus future urban development to mapped urban growth areas.</i></p> <p>The proposal is considered consistent with this Action as the subject site is located within an identified urban growth area.</p>
Action 1.3	<p><i>Identify residential, commercial or industrial areas in urban growth areas by developing local growth management strategies endorsed by the Department of Planning and Environment.</i></p> <p>The proposal is considered consistent with this Action as the proposed residential area is identified in a local growth management strategy, endorsed by the Department of Planning, Industry and Environment.</p> <p>This is discussed in more detail under section 3.2 of this report.</p>
Action 2.1	<p><i>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.</i></p> <p>The proposal is supported by an Ecological Assessment, which notes that:</p> <ul style="list-style-type: none"> the site contains good patches of remnant vegetation in the northwest area and southern boundary of the site. The report identifies that the site contains small areas of low and moderate conservation value; vegetation communities within the site boundaries are generally degraded as a result of either frequent slashing of the understorey or dense weedy undergrowth; the desktop review identified five threatened flora species within 5km of the site. no threatened flora species were identified during field surveys. A site survey targeting swamp orchid and a single rusty plum did not locate either species on site. Targeted searches did not locate the three other threatened flora species (slender marsdenia, red boppet nut and rough-shelled bush nut) captured by the 5km BioNet search. the desktop review identified 19 terrestrial fauna species that have been recorded within 5km of the site and the likelihood of occurrence table identified numerous bird, bat and frog species that could potentially utilise the site; no threatened fauna species were observed on-site, however the Rainbow bee-eater (an EPBC listed migratory species) was observed offsite to the

	<p>northeast of the survey area. The report recommended further assessment be undertaken to consider the potential impacts on this species;</p> <ul style="list-style-type: none"> the site contains secondary and tertiary koala habitat; no endangered ecological communities, mapped regional corridors or key habitat linkages are present on the site. <p>The proposal intends to apply an E2 Environmental Conservation and an E3 Environmental Management zone to secondary and tertiary koala habitat and other native vegetation that has moderate conservation value.</p> <p>On this basis, it is considered the proposal is consistent with this Action, however it is recommended that consultation be undertaken with Environment, Energy and Science Group – Biodiversity Conservation Division (BCD) to confirm suitability of the final proposal.</p>
Action 2.2	<p><i>Ensure local plans manage marine environments, water catchment areas and groundwater sources to avoid potential development impacts.</i></p> <p>The site is located within a sensitive area in relation to water management, particularly in regard to the proximity of Poundyard Creek to the subject site and the Woolgoolga Lake Estuary.</p> <p>Additionally, documentation submitted to support the proposal identifies that first and second order streams have been identified on site, albeit with no defined bed or bank. It is therefore appropriate, given the presence of the streams on site, that the NRAR be consulted during agency consultation.</p> <p>The proposal is supported by an Ecological Assessment, which identifies the importance of controls during and after construction phase to manage impacts upon water quality.</p> <p>Council have indicated that future development design in accordance with Water Sensitive Urban Design requirements shall ensure the proposal results in no long-term hydrological impacts to downstream waterways.</p> <p>Additionally, there are a number of recommendations contained in the Ecological Assessment which may be of assistance to Council at future development stages.</p> <p>The proposal is therefore considered to be broadly consistent with this Action.</p>
Action 3.1	<p><i>Reduce the risk from natural hazards, including the projected effects of climate change, by identifying, avoiding and managing vulnerable areas and hazards.</i></p> <p>The proposal is supported by a conceptual subdivision layout, which has been prepared to assist in estimating overall lot yield and internal road network.</p> <p>The conceptual subdivision layout identifies a perimeter road, as required by <i>Planning for Bushfire Protection 2019</i>. In addition, the proposal is supported by a Bushfire Risk Assessment Report, which identifies a number of actions to manage bushfire hazard protection.</p> <p>As is discussed below, referral to the NSW Rural Fire Service is considered appropriate, given the bushfire prone nature of the land.</p> <p>Additionally, a small section of the site on the south eastern boundary is subject to flooding. Council proposes to locate all lands proposed for R2 Low Density</p>

	<p>Residential zoning outside the mapped flood extent by applying an E3 Environmental Management zone to this area of the site.</p> <p>Given the proposal will not result in a residential zone being applied to this area of the site, it is considered that an adverse impact as a result of inundation is unlikely and the proposal is broadly consistent with this Action.</p>
Action 11.1	<p><i>Enable the growth of the agricultural sector by directing urban and more residential development away from important farmland and identifying locations to support existing and small-lot primary production, such as horticulture in Coffs Harbour.</i></p> <p>The land is currently zoned RU2 Rural Landscape and the site is in proximity of agricultural land uses, comprising a blueberry farm, to the north. The site itself is not identified as important farmland.</p> <p>The proposal is supported by a Land Use Conflict Risk Assessment, which recommends a 30m vegetated buffer be established on the northern part of the subject land. This is to reduce impacts arising from chemical spray drift and to act as a visual barrier between the two land uses.</p> <p>The proposal contains amendments to existing clause 7.19 of the Coffs Harbour LEP 2013 to require a masterplan of the site and specific Development Control Plan provisions. The vegetated buffer requirements can be contained within subsequent DCP provisions.</p> <p>The proposal is therefore considered consistent with this Action, however consultation is recommended with DPI – Agriculture to confirm suitability of the proposal.</p>
Action 16.2	<p><i>Ensure Aboriginal communities are engaged throughout the preparation of local growth management strategies and local environmental plans</i></p> <p>Consultation has been undertaken with the local Aboriginal community as part of the Aboriginal Cultural Heritage Assessment Report, in accordance with the <i>Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010)</i>. The proposal is therefore considered broadly consistent with this Action.</p>
Action 18.2	<p><i>Undertake Aboriginal cultural heritage assessments to inform the design of planning and development proposals so that impacts to Aboriginal cultural heritage are minimised and appropriate heritage management mechanisms are identified.</i></p> <p>The proposal is supported by an Aboriginal Cultural Heritage Assessment Report (ACHA). The report identified two artefacts (Bark Hut Road IF 01 #22-1-0503 and Bark Hut Road IF 02 #22-1-0504) on the access trail immediately south of the Bark Hut Road entrance to the Project Area.</p> <p>Consultation was undertaken with Aboriginal Site Officer present during the assessment which concluded that the sites are considered to be of social or cultural significance. The aesthetic significance of the sites is considered to be low given the extent of surrounding land clearing.</p> <p>An onsite AHIP consultation was held on 18 January 2018 and attended by the applicant's Aboriginal cultural heritage consultant, local Aboriginal cultural knowledge holders and the Coffs Harbour and District Local Aboriginal Land</p>

	<p>Council. The report notes that those present agreed that the progression of the rezoning would be acceptable.</p> <p>The ACHA concludes that the proposal is satisfactory, subject to a number of management recommendations, to guide future development of the land.</p> <p>Council have noted in it's report that the intention is to place an attribute on the subject land, embedded within Council's property information system to alert development assessment staff of the need to contact Coffs Harbour and District LALC during the development assessment process. This is in response to former comments raised by Coffs Harbour and District LALC relating to PP_2019_COFFS_003_00, requesting implementation of all management measures recommended in the report at the assessment stage. This is supported, however is to be managed by Council outside of the Gateway determination process.</p> <p>In this regard it is considered that the proposal is therefore broadly consistent with this Action.</p> <p>In addition, it is considered appropriate that Heritage NSW and the Coffs Harbour and District LALC be consulted during the public agency consultation process. The Gateway determination contains a condition requiring this be undertaken.</p>
Action 21.2	<p><i>Maximise the cost-effective and efficient use of infrastructure by directing development towards existing infrastructure or promoting the co-location of new infrastructure.</i></p> <p>Council have advised in its report that servicing of the site will be coordinated via Council's Development Servicing Plan. The intention is to extend existing reticulated services to the site. In addition, electricity and telecommunications infrastructure are available in the locality and capacity is adequate to service the release area.</p> <p>In this regard, the proposal is considered broadly consistent with this Action.</p>
Action 22.1	<p><i>Deliver an appropriate supply of residential land within local growth management strategies and local plans to meet the region's projected housing needs.</i></p> <p>The proposal is supported by a RLDA, which identifies that there is only three years of serviced residential zoned land supply available to the market within the study area, including land that is currently not being developed and subject to owner intentions and commercial viabilities.</p> <p>More broadly, Regional NSW is experiencing issues in regard to housing affordability and leading to areas of exacerbated housing stress.</p> <p>The RLDA indicates that rezoning of the subject land for residential purposes will facilitate additional low density residential land stock to meet current demand.</p> <p>Additionally, the proposal is identified in the Coffs Harbour Local Growth Management Strategy as a high priority 1-4 year land release program.</p> <p>The proposal is considered consistent with this Action as there is a demonstrated need for the proposal and the rezoning is supported by the LGMS.</p>

Table 5 Coffs Harbour Regional City Action Plan 2036

Objectives	Justification
Coffs Harbour Regional City Action Plan 2036	<p>The Coffs Harbour Regional City Action Plan 2036 (RCAP) was developed by the NSW Government in collaboration with Coffs Harbour City Council to manage and shape the city's growth to 2036.</p> <p>The plan itself applies to the Coffs Harbour city area. Woolgoolga falls outside of this identified area. The plan however broadly outlines a number of objectives relative to the role that the broader Coffs Harbour LGA plays in supporting the regional city of Coffs Harbour.</p> <p>The proposal is broadly consistent with the actions identified in the RCAP and nothing in the proposal is contrary to the goals and objectives of the RCAP.</p>

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 6 Local strategic planning assessment

Local Strategies	Justification
Coffs Harbour Local Strategic Planning Statement 2020 (LSPS)	<p><i>5. Deliver greater housing supply, choice and diversity</i></p> <p><i>A5.1 Review and amend Council's local planning controls relating to housing supply, choice and diversity as outlined in the Local Growth Management Strategy</i></p> <p><i>A5.5 Implement remaining actions from the Local Growth Management Strategy as funding allows</i></p> <p>The proposal is broadly consistent with the above Actions contained in the LSPS. The proposal facilitates a review of LEP controls to adopt those outlined in the Local Growth Management Strategy.</p> <p>The proposal will generate land for release to support future housing, aiding in supply, choice and diversity.</p>
My Coffs Community Strategic Plan (CSP)	<p><i>Liveable neighbourhoods with a different identity</i></p> <p><i>C1.1 We create liveable spaces that are beautiful and appealing</i></p> <p><i>C1.2 We undertake development that is environmentally, socially and economically responsible</i></p> <p><i>A natural environment sustained for the future</i></p> <p><i>C2.1 We protect the diversity of our natural environment</i></p> <p><i>C2.2 We use resources responsibly to support a safe and stable climate</i></p> <p>The proposal is broadly consistent with the above Actions contained in the CSP.</p> <p>The proposed amendment to clause 7.19 of the Coffs Harbour LEP 2013 will require a masterplan for the site, Development Control Plan and Development Contributions Plan. This will facilitate site specific controls for the land, allowing for the matters raised in the CSP to be addressed at future stages of development</p>

	<p>Additionally, the proposal applies environmental zones to areas of environmental sensitivity on site, as well as to manage environmental hazards appropriately and limit development on land affected by these hazards.</p> <p>These zones are also applied to protect identified objects on site that contribute to the Aboriginal cultural heritage of the area and surrounds.</p> <p>Additionally, the proposal takes into account the bushfire prone nature of the land and surrounding land, addressing the requirements of Planning for Bushfire Protection 2019 in regard to perimeter roads and other management techniques within the Bushfire Impact Assessment and the conceptual subdivision layout.</p> <p>Notwithstanding, as previously mentioned, a number of agencies are recommended to be consulted in relation to these matters, to ensure suitability of the proposal. These are contained in the Gateway determination.</p>
Coffs Harbour Local Growth Management Strategy 2020	<p>As mentioned under section 2 of this report, the proposal is consistent with the strategic approach outlined by the Department endorsed Coffs Harbour LGMS 2020.</p> <p>The subject land is identified within the Woolgoolga North West Growth Area as a high priority 1-4-year land release program.</p> <p>The residential demand undertaken for the wider growth area identifies that there is capacity for an additional 1030 total dwelling yield. The RSDA undertaken to support this proposal indicates that there is only three years of serviced residential zoned land supply available to the market within the study area, including land that is currently not being developed and subject to owner intentions and commercial viabilities.</p> <p>Additionally, the LGMS identifies that greenfield developments should carefully consider environmental constraints, Water Sensitive Urban Design (WSUD) and walkability, while maintaining important heritage values.</p> <p>In regard to environmental constraints and heritage values, supporting studies and information have been submitted to identify mitigation in regard to land use conflict, Aboriginal cultural heritage, flooding, bushfire, traffic impacts, walkability and land contamination</p> <p>In regard to WSUD, preliminary information regarding onsite water management has been provided and Council have indicated that future development design will be carried out in accordance with WSUD requirements, ensuring the proposal results in no long-term hydrological impacts to downstream waterways.</p> <p>The proposal is therefore considered to be consistent with the LGMS.</p>

3.3 Section 9.1 Ministerial Directions

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

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.2 Rural Zones	No – Justifiably inconsistent	<p>The proposal is inconsistent with the Direction as the planning proposal rezones land from a rural zone to a residential zone.</p> <p>The planning proposal is justifiably inconsistent with this Direction as the provisions of the planning proposal that are inconsistent are justified by the LGMS which:</p> <ul style="list-style-type: none"> - gives consideration to the objectives of this direction, - identifies the land which is the subject of the planning proposal; - is endorsed by the Secretary of the Department of Planning, Industry and Environment.
1.3 Mining, Petroleum Production and Extractive Industries	Unresolved	<p>This Direction is relevant to the proposal as the planning proposal has the effect of:</p> <ul style="list-style-type: none"> - prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or - 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. <p>The planning proposal will prohibit extractive industries, currently permissible under the RU2 Rural Landscape zoning, when the site is rezoned to part R2 Low Density Residential, E2 Environmental Conservation and E3 Environmental Management.</p> <p>The inconsistency is considered to be likely of minor as the land is highly unlikely to be suitable for extractive industries, given the site adjoins a Lot that contains an existing watercourse (Poundyard Creek and Woolgoolga Lake Estuary) and is in close proximity to existing urban areas, (including R5 Large Lot Residential, proposed recreation facilities and R2 Low Density Residential).</p> <p>It is however recommended that consistency remain unresolved until Council consults with Department of Regional NSW – Mining,</p>

		Exploration and Geoscience to confirm suitability of the proposal.
1.5 Rural Lands	No – Justifiably inconsistent	<p>This Direction is relevant to the proposal as the planning proposal will affect land within an existing or proposed rural or environment protection zone.</p> <p>The proposal is considered to demonstrate consistency with a number of objectives specified in the Direction, as the proposal:</p> <ul style="list-style-type: none"> - is consistent with the North Coast Regional Plan 2036. The site is identified within the urban growth area of the regional plan and as a high priority land release (1-4 years) in the LGMS. - is supported by documentation, including a Land Use Conflict Risk Assessment, which considers the significance of agriculture and primary production to the State and rural communities; - identifies and protects environmental values of the site by applying environmental zones to areas identified as having specific values such as ecological, cultural heritage or water resources; - identifies mitigation for land to the north, currently operating as a blueberry farm. <p>Notwithstanding the above, the proposal is considered inconsistent with this Direction as the proposal does not facilitate support for farmers in exercising their right to farm, particularly in regard to the adjacent blueberry farm, located to the north of Bark Hut Road.</p> <p>It should be noted that the rural land to the north of the site is also identified as possible future urban investigation in the LGMS.</p> <p>The inconsistency with the Direction is justified on the basis that the proposal is supported by the strategic planning framework, including the North Coast Regional Plan 2036 and the LGMS.</p> <p>Despite this, it is recommended that Council consult with Department of Primary Industries – Agriculture (DPI – Agriculture) to confirm suitability of the proposal.</p>
2.1 Environment Protection Zones	Yes	<p>This Direction is relevant to the proposal as the planning proposal includes provisions to facilitate the protection and conservation of environmentally sensitive areas.</p> <p>The proposal intends to apply E2 Environmental Conservation and E3 Environmental Management</p>

		<p>zones to areas of the site with identified attributes that align with section 9.1 Ministerial Direction 2.1, Northern Councils E-Zone Review Final Recommendations Report and LEP Practice Note PN09-002 (Environment Protection Zones). It should be noted that the Northern Councils E-Zone Review Final Recommendations Report and associated section 9.1 Ministerial Direction 5.3 does not directly apply to Coffs Harbour LGA, however does provide guidelines for a consistent approach to application of environment protection zones.</p> <p>The application of environment protection zones on site has been undertaken in response to comments received from BCD during PP_2019_COFFS_003_00, which identified areas appropriate for environmental zones to be applied on site.</p> <p>The proposal is therefore considered consistent with this Direction.</p> <p>Notwithstanding, given the zone layout has been developed in response to past comments on former rezoning applications, it is recommended that consultation be undertaken with BCD during public agency consultation.</p>
2.2 Coastal Protection	No – Justifiably inconsistent	<p>This Direction is relevant to the proposal as the planning proposal applies to land identified in SEPP (Coastal Management) 2018.</p> <p>The south-eastern corner of the subject site is identified as Coastal Environment Area, one of four coastal management areas defined under the SEPP.</p> <p>Council indicates that overall, the proposal is consistent with the aims and objectives of the Coastal Management Act.</p> <p>The proposal will not impact upon public beach access and coastal foreshore areas, nor generate the need to provide new access.</p> <p>The proposal will not result in adverse impacts upon coastal environmental assets, nor increase risks to the Woolgoolga Lake Catchment.</p> <p>Further, Council indicates that mitigation measures will be applied at the development application stage to manage stormwater runoff and ensure the design will have no negative impacts downstream. The land comprises sufficient area to accommodate this outcome and the Department are satisfied that the requirements can be accounted for by way of the Development</p>

		<p>Contributions Plan, required under an amended clause 7.19.</p> <p>Therefore, aspects of the planning proposal that are inconsistent with this Direction are considered to be of minor significance.</p>
2.3 Heritage Conservation	Unresolved	<p>This Direction is relevant to the proposal as the planning proposal must contain provisions that facilitate the conservation of items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>The planning proposal is supported by an Aboriginal cultural heritage assessment, which has been prepared in consultation with the local Aboriginal community and was informed by an onsite AHIP consultation meeting.</p> <p>The outcome of the meeting, as documented in submitted reports, was that those present agreed that the progression of the rezoning of the land would be acceptable.</p> <p>The report contains a number of management measures. During previous consultation for PP_2019_COFFS_003_00, Coffs Harbour and District LALC requested that all of these identified management measures be implemented as part of future development of the site.</p> <p>Council intends to embed an attribute within its property information system to alert development staff of the need to contact the Coffs Harbour and District LALC during the development assessment process. This is supported, however should be managed by Council separately of the Gateway determination process.</p> <p>Notwithstanding, it is recommended that consistency of the proposal remain unresolved until formal consultation has been undertaken with Heritage NSW and Coffs Harbour and District LALC, confirming suitability of the proposal.</p>
2.6 Remediation of Contaminated Land	Yes	<p>This Direction is relevant to the proposal as the planning proposal applies to rural zoned land that may have supported land on which development</p>

		<p>for the purpose of agricultural or horticultural activities may have been carried out.</p> <p>In its planning report, Council have undertaken a review of past land uses and note that contamination of the site is unlikely.</p> <p>The site has been used for low intensity stock grazing and the land is not mapped as banana cultivation land.</p> <p>The subject land has not been identified in searches of the land contamination register, record of notices and contaminated sites notified to the Environmental Protection Authority.</p> <p>A Preliminary Land Contamination Assessment (PLCA) submitted to support the proposal made the following observations:</p> <ul style="list-style-type: none"> - the site walkover indicated there was no visual or olfactory signs of contamination identified; - test pit logs also appeared to contain no visual or olfactory signs of contamination (such as staining or odours); - soil sample concentrations were recorded below the adopted assessment criteria; - there is a low potential for soil contamination to be present at the site. <p>A number of recommendations were made by the report, relating to future development of the site. This can be assessed and adopted by Council during the development assessment process.</p> <p>The proposal is therefore considered consistent with this Direction.</p>
3.1 Residential Zones	Yes	<p>This Direction is relevant to the proposal as the planning proposal applies to land within an existing or proposed residential zone.</p> <p>The proposal is supported by a RSDA, which identifies the need for additional housing in the area and will contribute to broadening the choice of building types and locations available in the housing market.</p> <p>The proposal makes efficient use of existing infrastructure and services, as it is located in an area that is in close proximity to other urban zones.</p> <p>Additionally, the proposal will manage the delivery of design aspects of the proposal as well as infrastructure requirements, by amending clause 7.19 of the LEP 2013, requiring master planning of</p>

		the site, Development Control Plan and Development Contributions Plan.
3.4 Integrating Land Use and Transport	Yes	<p>This Direction is relevant to the proposal as the proposal applies to the creation of urban land, including land zoned for residential purposes.</p> <p>Council indicate that the intention of the amendment to clause 7.19 of the LEP will allow Council to strategically examine the area and prepare specific DCP controls to provide for an efficient transport network.</p> <p>It is noted there are opportunities for passive transport to be supported, particularly in regard to the proximity of the proposed Woolgoolga Sports Fields.</p> <p>The proposal is supported by a Traffic Impact Assessment which further justifies consistency with this Direction.</p> <p>It is considered appropriate that consultation be undertaken with Transport for NSW, given the proximity of the Pacific Highway to the site.</p>
4.1 Acid Sulfate Soils	No – Justifiably inconsistent	<p>This Direction is relevant to the proposal as the proposal applies to land that has a probability of containing acid sulfate soils as shown on Acid Sulfate Soils Planning Maps.</p> <p>The site is mapped as having class 4 and 5 acid sulfate soils and is not supported by an acid sulfate soils study. This inconsistency is considered to be of minor significance as class 4 and 5 acid sulfate soils are low risk classes and suitable provisions already exist within the Coffs Harbour LEP 2013 that allow acid sulfate soils to be appropriately addressed at the development application stage.</p>
4.3 Flood Prone Land	No – Justifiably inconsistent	<p>This Direction is relevant to the proposal as the proposal applies to land that is identified as flood prone.</p> <p>The proposal is inconsistent with this Direction as part of the subject site is identified as being within the flood planning level and may be impacted by the 1:500 year ARI or probable maximum flood event.</p> <p>The inconsistency is considered to be minor as all lands proposed to be zoned R2 Low Density Residential are located outside the 1:100 year ARI flood extent and there would be no adverse impact by any inundation.</p>

4.4 Planning for Bushfire Protection	No	<p>This Direction is relevant to the proposal as the proposal applies to land identified as bushfire prone. The Direction requires consultation with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued.</p> <p>The proposal is considered inconsistent with this Direction until formal consultation has been undertaken with NSW RFS.</p>
6.3 Site Specific Provisions	No – Justifiably inconsistent	<p>This Direction is relevant to the proposal as the proposal contains provisions specific to the site that will facilitate the use of the site for residential purposes, but imposes development standards or requirements in addition to those already contained in the principal environmental planning instrument.</p> <p>The proposal includes amendments to existing clause 7.19 of the Coffs Harbour LEP 2013 and associated key sites map that requires a masterplan for the area, preparation of a site-specific Development Control Plan and Development Contributions Plan, prior to development consent being granted for the area.</p> <p>It is considered that, given clause 7.19 is an existing clause within the LEP guiding development within other Woolgoolga North West Investigation Areas, the proposed amendment is minor and is in keeping with existing arrangements.</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal is considered consistent with all relevant SEPPs. A number of SEPPs will be relevant to future development on the site and will require consideration at the appropriate development stage, including but not limited to:

- SEPP No. 55 – Remediation of Land;
- SEPP (Coastal Management) 2018;
- SEPP (Koala Habitat Protection) 2020;
- SEPP (Koala Habitat Protection) 2021;
- SEPP (Primary Production and Rural Development) 2019.

4 Site-specific assessment

4.1 Environmental

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

Table 9 Environmental impact assessment

Environmental Impact	Assessment
Ecological	<p>The proposal intends to apply E2 Environmental Conservation and E3 Environmental Management zones to areas of the site with identified attributes, including ecological, heritage and water resource values.</p> <p>The application of environment protection zones on site has been undertaken in response to comments received from BCD during PP_2019_COFFS_003_00, which identified areas appropriate for environmental zones to be applied on site.</p> <p>The proposed zone layout is considered to be of positive benefit to the local community in protecting ecological and heritage values of the site.</p> <p>Notwithstanding, given the zone layout has been developed in response to past comments on former rezoning applications, it is recommended that consultation be undertaken with BCD during public agency consultation.</p>
Flooding	<p>A small section of the site is identified as being within the flood planning level and may be impacted by the 1:500 year ARI or probable maximum flood event. This is considered satisfactory as it will be zoned E3 Environmental Management limiting development in this area.</p> <p>All lands zoned R2 Low Density Residential are located outside the 1:100 year ARI flood extent. This will limit inundation of urban areas and manage the localised impacts of flooding on site. Additionally, Council has identified that runoff will be restricted to limit any adverse stormwater impacts.</p>
Bushfire	<p>A Bushfire Risk Assessment to support the use of asset protection zones, as well as the implementation of a perimeter road, in accordance with PBP 2019, within the subject land to protect the proposed residential development has been proposed.</p> <p>The findings of the Ecological Report have been incorporated into the Bushfire Risk Assessment to ensure consistency with the plans and the Bushfire Impact Assessment identifies that forest vegetation will be retained within an environmental protection zone and all APZs are contained within land zoned R2 Low Density Residential.</p> <p>The NSW RFS will be consulted in accordance with Section 9.1 Direction 4.4 Planning for Bushfire Protection.</p>
Land Contamination	<p>A preliminary site contamination investigation supporting the proposal has found that there were no exceedances of adopted assessment criteria and it is considered that there is a low potential for soil contamination to be present within the subject land that would preclude the proposed R2 Low Density Residential use. The report concluded with number of recommendations, relating to future development of the site. This can be assessed and adopted by Council during the development assessment process.</p>

4.2 Social and economic

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

Table 10 Social and economic impact assessment

Social and Economic Impact	Assessment
Demand	<p>The proposal to develop the land for residential purposes is considered to generate a net positive impact that will contribute to additional land for the development of housing. The R2 Low Density zone allows for the development of the land for varying residential purposes, which contributes to housing choice within the LGA.</p> <p>Additionally, the RSDA outlines the need for the release area to deliver adequate supply of residential land within the LGA. Broadly, Regional NSW is experiencing high levels of housing stress and additional housing in planned locations is an appropriate approach to alleviating this stress.</p>
Aboriginal Cultural Heritage	<p>Two stone flake artefacts have been identified on the Bark Hut Road site. The supporting ACHA concludes the proposal is satisfactory, provided management measures are implemented during future site works.</p> <p>During consultation for PP_2019_COFFS_003_00, Coffs Harbour and District LALC outlined these measures should be implemented as part of the future development of the site.</p> <p>Council have indicated that it is their intention to update the property information services to alert planning assessment officers during the development application stage.</p> <p>Further, per the proposed amendment to clause 7.19, the development on the site cannot be issued consent until a Development Control Plan is prepared for the West Woolgoolga release area (identified on key sites map) that takes into account:</p> <ul style="list-style-type: none"> the appropriate use of land for residential development and infrastructure construction, including the supply of water and the provision of sewerage services, having regard to the environmental and other constraints of West Woolgoolga, for example, bush fire, water quality and Aboriginal heritage. <p>Whilst it is anticipated that all measures are adequate, the update of the property information services is Council's responsibility outside the Gateway Determination process and the consultation undertaken for PP_2019_COFFS_003_00 relates specifically to that proposal. Additionally, final legal drafting will be left to the consideration of Parliamentary Counsel.</p> <p>Therefore, it is appropriate that Department of Premier and Cabinet – Heritage NSW and the Coffs Harbour and District LALC be formally consulted on this proposal.</p>
Amenity	<p>The proposal is considered to have a net positive impact on amenity, due to the location of the subject land in proximity of nearby sporting fields and potential for the provision of future community facilities that add to the amenity of the surrounding area.</p> <p>Additionally, the inclusion of the site in clause 7.19 of the Coffs Harbour LEP 2013 will allow for the master planning of the site, generation of a Development Control Plan and Development Contributions Plan, to ensure the delivery of appropriate services and community infrastructure to contribute to the liveability of the release area.</p>

Land Use Conflict	<p>The proposal is supported by a Land Use Conflict Risk Assessment, which identifies mitigation measures to manage any arising conflict between the proposed residential uses on the subject land and the blueberry farm to the north of the site.</p> <p>Council have indicated that a 30m vegetated buffer proposed to the north of the site can be implemented through Development Control Plan controls.</p> <p>In addition, per the proposed amendment to clause 7.19, the development on the site cannot be issued consent until a Development Control Plan is prepared for the West Woolgoolga release area (identified on key sites map) that takes into account:</p> <ul style="list-style-type: none"> the appropriate use of land for residential development and infrastructure construction, including the supply of water and the provision of sewerage services, having regard to the surrounding land uses, particularly agricultural activities, by proposing appropriate measures to minimise or mitigate the impacts of the surrounding land uses, for example, dust, noise and spray drift. <p>Whilst it is anticipated that these measures are adequate, final legal drafting will be left to the consideration of Parliamentary Counsel.</p> <p>Therefore, it is considered appropriate that Council consult DPI – Agriculture on the suitability of the proposal.</p>
Economic	<p>The loss of the use of the subject land for rural uses is considered satisfactory in this circumstance, as the proposal is supported by an endorsed LGMS, which identifies the land for high priority 1-4 year land release program.</p> <p>The land is located in close proximity to multiple other residential land uses, reducing the productivity of the land and making sustainable agricultural practices on the site, difficult.</p> <p>The overall impact in regard to the loss of the site for rural uses is considered low, given these identified factors.</p>
Traffic	<p>The Traffic Impact Assessment identifies that there is significant capacity within the Solitary Islands Way and connecting road network to accommodate increases in traffic from on-going residential development.</p> <p>The TIA recommends that a new shared intersection along Solitary Islands Way, be located on or near the common property boundary of the proposed residential land and the West Woolgoolga Playing Fields. The TIA identifies that the proposed intersection will have minimal impact on the existing Solitary Islands Way/Centenary Drive intersection and provide an opportunity for shared access to the two developments.</p> <p>The impact of the development therefore on the local road network is considered to be minor.</p> <p>Council is undertaking a broader traffic assessment and traffic modelling exercise as part of the masterplan for the Woolgoolga North West urban investigation area. This will provide an overview of traffic movement in the area.</p> <p>Notwithstanding, it is considered appropriate for the proposal to be referred to Transport for NSW to confirm suitability of the proposal.</p>

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 11 Infrastructure assessment

Infrastructure	Assessment
Essential Services	<p>Council have indicated that following the preparation of a masterplan under clause 7.19 and resolution of a development servicing plan issues, reticulated services will be extended to service the development on site.</p> <p>Council further indicate that electricity and telecommunications infrastructure is available in proximity of the site and capacity is considered adequate for the future development of the site.</p>
Stormwater Management	<p>The subdivision masterplan demonstrates that a detention basin for on-site stormwater management is proposed on the south eastern corner of the subject land. On-site stormwater management will ensure minimal impacts on the sensitive coastal Woolgoolga Lake.</p> <p>Per the proposed amendment to clause 7.19, the development on the site cannot be issued consent until a Development Control Plan is prepared for the West Woolgoolga release area (identified on key sites map) that takes into account:</p> <ul style="list-style-type: none"> the appropriate use of land for residential development and infrastructure construction, including the supply of water and the provision of sewerage services, having regard to the following <ul style="list-style-type: none"> environmental and other constraints of West Woolgoolga, for example, bush fire, water quality and Aboriginal heritage. <p>Council have further indicated that existing controls contained in Council's DCP relate specifically to Water Sensitive Urban Design Guidelines. Future development applications for subdivision will incorporate these guidelines to maintain or improve water quality levels, prior to draining into Woolgoolga Lake.</p>

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

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

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 21 days to comment:

- Transport for NSW
- Environment, Energy and Science Group - Biodiversity Conservation Division

- Department of Premier and Cabinet - Heritage NSW
- NSW Rural Fire Service
- NSW Department of Primary Industries – Agriculture
- Coffs Harbour and District Local Aboriginal Land Council
- NSW Department of Natural Resources Access Regulator
- Department of Primary Industries – Mining, Exploration and Geoscience

6 Timeframe

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

The Department recommends a time frame of six months to ensure it is completed in line with its commitment to reduce processing times.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

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

It is recommended that the Gateway not authorise Council to be the local plan-making authority as the planning proposal seeks rezoning of part of the site from RU2 Rural Landscape to E2 Environmental Conservation and E3 Environmental Management.

8 Assessment summary

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

- The proposal is consistent with the goals of the North Coast Regional Plan 2036 and is identified as an urban growth area;
- The proposal is broadly consistent with the goals of the Coffs Harbour Regional City Action Plan 2036;
- The proposal is identified as a high priority 1-4 year land release program in the Coffs Harbour Local Growth Management Strategy 2020.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands, 2.2 Coastal Protection, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land and 6.3 Site Specific Provisions are minor or justified *and*
- Note that the consistency with section 9.1 Directions 1.3 Mining, Petroleum Production and Extractive Industries, 2.3 Heritage Conservation and 4.4 Planning for Bushfire Protection are unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal PP_2019_COFFS_003_00 should be terminated.

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 to:
 - Reference the correct legal description for the land;

- Amend reference in Explanation of Provisions dot point 3 (page 5) of Council's Planning Proposal Report, from E3 Environmental Conservation to E3 Environmental Management;
 - Include current key sites and terrestrial biodiversity maps.
2. Consultation is required with the following public authorities:
 - Transport for NSW
 - Environment, Energy and Science Group - Biodiversity Conservation Division
 - Department of Premier and Cabinet - Heritage NSW
 - NSW Rural Fire Service
 - Department of Primary Industries - Agriculture
 - Coffs Harbour and District Local Aboriginal Land Council
 - NSW Department of Natural Resources Access Regulator
 - Department of Primary Industries – Mining, Exploration and Geoscience
 3. The planning proposal should be made available for community consultation for a minimum of 28 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.



29 October 2021

(Signature)_____
(Date)

Craig Diss

Manager, Local and Regional Planning, Northern Region



1 November 2021

(Signature)_____
(Date)

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