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## S9.1 MINISTERIAL DIRECTIONS

SECTION 9.1 DIRECTION	CONSISTENCY OF THE PLANNING PROPOSAL
<b>1. EMPLOYMENT AND RESOURCES</b>	
<b>Direction 1.1 Business and Industrial Zones</b>	
<p><i>Applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).</i></p>	<p><b>NOT APPLICABLE</b></p> <p>This Planning Proposal does not apply to Business or Industrial zones.</p>
<b>Direction 1.2 Rural Zones</b>	
<p><i>The objective of this direction is to protect the agricultural production value of rural land. A draft LEP shall:</i></p> <ul style="list-style-type: none"> <li><i>a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</i></li> <li><i>b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).</i></li> </ul>	<p><b>INCONSISTENT</b></p> <p>This Planning Proposal is inconsistent with matter (a). The Planning Proposal justifies this inconsistency, as it is:</p> <p><b>(a)</b> justified by a strategy which:</p> <ul style="list-style-type: none"> <li>(i) gives consideration to the objectives of this direction,</li> <li>(ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and</li> <li>(iii) is approved by the Director-General of the Department of Planning, or</li> </ul> <p><b>b)</b> justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or</p> <p><b>(c)</b> in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or</p> <p><b>(d)</b> is of minor significance.</p> <p>The Planning Proposal is consistent with Council's Local Growth Management Strategy 2009, and the North Coast Regional Plan 2036 and is supported by relevant environmental studies.</p>
<b>Direction 1.3 Mining, Petroleum Production and Extractive Industries</b>	
<p><i>Applies when a relevant planning authority prepares a planning proposal that would have the effect of:</i></p>	<p><b>NOT APPLICABLE</b></p> <p>This Planning Proposal does not affect either matter (a) or (b).</p>

- (a) *prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or*
- (b) *restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.*

#### **Direction 1.4 Oyster Aquaculture**

*Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in:*

**NOT APPLICABLE**

- (a) *adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”, or*
- (b) *incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate” and other land uses.*

#### **Direction 1.5 Rural Lands**

*This direction Applies when a relevant planning authority prepares a Planning Proposal that:*

**INCONSISTENT**

- (a) *will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or*
- (b) *changes the existing minimum lot size on land within a rural or environment protection zone.*

The Planning Proposal is inconsistent with this direction as it does not support farmers in exercising their right to farm, particularly in relation to the existing greenhouses located at Lot 8 DP 243972. The inconsistency with this direction is justified as the land is identified in both the *North Coast Regional Plan 2036* and Council’s Department approved local growth management strategy as a R5 Large Lot Residential candidate area.

## **2. ENVIRONMENT AND HERITAGE**

### **Direction 2.1 Environment Protection Zones**

*The direction requires that a draft LEP shall include provisions that facilitate the protection and conservation of environmentally sensitive areas.*

**CONSISTENT**

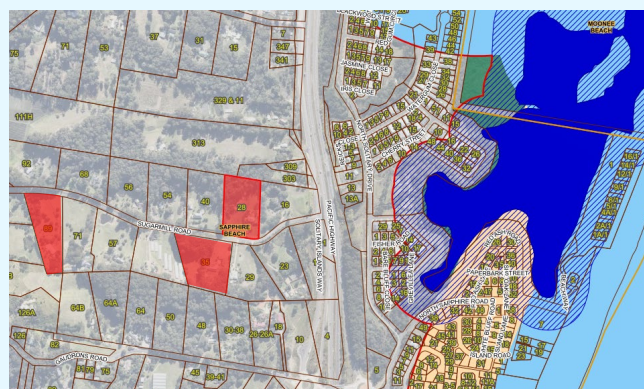
Part of the subject land (Lot 12 DP 243972) is identified on the Biodiversity Values map. This land will be rezoned from RU2 to C2 Environmental Conservation.

*A draft LEP that Applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP shall not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land).*

### Direction 2.2 Coastal Management

*This direction applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016 - comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area - and as identified by the State Environmental Planning Policy (Coastal Management) 2018.*

### NOT APPLICABLE



### Direction 2.3 Heritage Conservation

*The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.*

*A Planning Proposal shall contain provisions that facilitate the conservation of:*

- a) *items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,*
- b) *Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and*
- c) *Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the council, which identifies the area, object, place or landscape as being of heritage*

### INCONSISTENT

#### European Heritage

The Planning Proposal does not impact any items currently listed in Schedule 5 Environmental Heritage of Coffs Harbour LEP 2013.

#### Aboriginal Cultural Heritage

The Planning Proposal does not contain any provisions for the conservation of matters listed at 4(a) to (c).

This inconsistency is considered to be of minor significance.

An Aboriginal Cultural Heritage Assessment (ACHA) was prepared by Everick Heritage (**Appendix E**).

A site inspection of the Project Area was undertaken on Monday 27 September 2021 by Coffs Harbour and District LALC. The site inspection aimed to identify the potential for Proposed Works to impact on Aboriginal artefacts, and identify the nature and extent of previous soil disturbance and locate intact soils with the potential to contain archaeological sites. As a result of a desktop study, field inspection and

*significance to Aboriginal culture and people.*

consultation with Coffs Harbour and District LALC, the following is concluded:

The Site Officers noted that:

- *No physical evidence of cultural items or sites were found.*

The recommendations of the site inspection are:

- *Unexpected finds procedure to be implemented to any future ground disturbance works as per relevant cultural heritage protection legislation.*
- *Contact the Land Council or Heritage Division should any unexpected finds be uncovered.*

Any future DA would be required to address these recommendations.

**The findings of the Cultural Heritage Assessment and Site Inspection provide sufficient justification to address this inconsistency.**

#### **Direction 2.4 Recreation Vehicle Areas**

A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the *Recreation Vehicles Act 1983*):

(4)

*(a) where the land is within an environmental protection zone,*

*(b) where the land comprises a beach or a dune adjacent to or adjoining a beach, (c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration:*

*(i) the provisions of the guidelines entitled Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985, and*

*(ii) the provisions of the guidelines entitled Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985.*

#### **CONSISTENT**

This Planning Proposal does not enable land to be developed for the purpose of a recreational vehicle area.

## Direction 2.5 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs

**NOT APPLICABLE**

## Direction 2.6 Remediation of Contaminated Land

*The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.*

*This direction Applies to:*

- (a) ...*
- (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out.*

### **CONSISTENT**

The subject land has a history of agricultural land use including broadacre banana cultivation on 35 and 89 Sugarmill Road.

Earth Water Consulting prepared an Environmental Site Assessment including soil testing for the subject land. The assessment concluded that the land is suitable for residential development without further soil analysis, and that no further investigations or remediation of soils is required for the proposed rural-residential use of the Site.

## **3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT**

### **Direction 3.1 Residential Zones**

*A Planning Proposal must include provisions that encourage the provision of housing that will:*

- a) broaden the choice of building types and locations available in the housing market, and*
- b) make more efficient use of existing infrastructure and services, and*
- c) reduce the consumption of land for housing and associated urban development on the urban fringe, and*
- d) be of good design.*

*A Planning Proposal must, in relation to land to which this direction applies:*

- a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and*
- b) not contain provisions which will reduce the permissible residential density of land.*

### **CONSISTENT**

This Planning Proposal will facilitate the creation of up to 3 additional R5 Large Lot Residential lots. Future R5 Large Lot Residential lots will contribute to the supply of vacant rural residential land and increase lifestyle choices in the Coffs Harbour LGA.

The Planning Controls contained within Coffs Harbour DCP 2015 will apply to future development proposals to ensure that any subsequent housing development will be of good design.

### **Direction 3.2 Caravan Parks and Manufactured Home Estates**



<p><i>The objectives of this direction are:</i></p> <ul style="list-style-type: none"> <li><i>to provide for a variety of housing types, and</i></li> <li><i>to provide opportunities for caravan parks and manufactured home estates.</i></li> </ul>	<p><b>CONSISTENT</b></p> <p>Caravan Parks and Manufactured Home Estates are not permissible land uses within the R5 Large Lot Residential zone. This Planning Proposal does not seek to facilitate the permissibility of either land use on this land.</p>
<p><b>Direction 3.3 Home Occupations</b></p>	
<p><i>The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.</i></p> <ul style="list-style-type: none"> <li><i>Planning Proposals shall permit home occupations to be carried out in dwelling houses without the need for development consent.</i></li> </ul>	<p><b>CONSISTENT</b></p> <p>Home occupations are permitted without consent in the R5 zone. This Planning Proposal does not seek to alter that provision.</p>
<p><b>Direction 3.4 Integrating Land Use and Transport</b></p>	<p><b>NOT APPLICABLE</b></p>
<p><b>Direction 3.5 Development Near Regulated Airports and Defence Airfields</b></p>	<p><b>NOT APPLICABLE</b></p>
<p><b>Direction 3.6 Shooting Ranges</b></p>	<p><b>NOT APPLICABLE</b></p>
<p><b>Direction 3.7 Reduction in non-hosted short term rental accommodation period</b></p>	<p><b>NOT APPLICABLE</b></p>
<p><b>4. HAZARD AND RISK</b></p>	
<p><b>Direction 4.1 Acid Sulfate Soils</b></p>	
<p><i>This direction applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.</i></p> <p><i>A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.</i></p>	<p><b>INCONSISTENT</b></p> <p>The proposed amendment to the Minimum Lot Size will enable the intensification of land uses within the site.</p> <p>The whole of Property 1 (28 Sugarmill Road) and part of Property 2 (35 Sugarmill Road) are mapped as Class 5 Acid Sulfate soils.</p> <p>Class 5 is a 500m wide buffer zone created around mapped ASS risk soils. A Preliminary Acid Sulfate Soil (PASS) Assessment was prepared by Earth Water Consulting (Appendix J) and is summarised as follows:</p> <p><i>The desktop review shows no ASS risk the residual clay subsoils. Biophysical indicators, field screening and soil profiles suggest that the properties are not underlain by ASS.</i></p> <p><i>As such ASS are not present at the Site that would be impacted by the proposed rural-residential development, and no</i></p>

	<p><i>further investigations or plans of management are required.</i></p> <p>The findings of the PASS assessment provide sufficient justification to address this inconsistency.</p> <p>There are suitable provisions within the Coffs Harbour LEP 2013 that allow acid sulfate soils to be appropriately addressed at the development application stage.</p>
<b>Direction 4.2 Mine Subsidence and Unstable Land</b>	
<b>NOT APPLICABLE</b>	
<b>Direction 4.3 Flood Prone Land</b>	
<b>NOT APPLICABLE</b>	
<b>Direction 4.4 Planning for Bushfire Protection</b>	
<p><i>This direction Applies when a council prepares a draft LEP that affects, or is in proximity to land mapped as bushfire prone land.</i></p> <p><i>A draft LEP shall:</i></p> <ul style="list-style-type: none"> <li><i>a) have regard to Planning for Bushfire Protection 2019,</i></li> <li><i>b) introduce controls that avoid placing inappropriate developments in hazardous areas, and ensure that bushfire hazard reduction is not prohibited within the APZ.</i></li> </ul>	<p><b>INCONSISTENT</b></p> <p>Bushfire Assessments have been prepared that have regard to <i>Planning for Bushfire Protection 2019</i> and provides recommendations for development within the land. The PP and subdivision will meet the requirement of <i>Planning for Bushfire Protection 2019</i>.</p> <p>The PP is potentially inconsistent with this Direction until Council consults with the Commissioner of the NSW Rural Fire Service (RFS) following the issue of a Gateway determination. consultation. Until this consultation has occurred the inconsistency with the Direction is unresolved.</p>
<b>5. REGIONAL PLANNING</b>	
<b>Direction 5.4 Commercial and Retail Development along the Pacific Highway, North Coast</b>	<b>NOT APPLICABLE</b>
<b>Direction 5.10 Implementation of Regional Plans</b>	
<p><i>The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</i></p> <p><i>Planning Proposals must be consistent with a Regional Plan released by the Minister for Planning.</i></p>	<p><b>CONSISTENT</b></p> <p>Consistency with the <i>North Coast Regional Plan 2036</i> has been addressed in Section 3.2 of this Planning Proposal. The land is within the urban growth area boundary.</p>
<b>Direction 5.11 Development of Aboriginal Land Council Land</b>	<b>NOT APPLICABLE</b>
<b>6. LOCAL PLAN MAKING</b>	



Direction 6.1 Approval and Referral Requirements	
<i>This direction aims to minimise concurrence and referral application to Ministers and public authorities and not classify designated development unless significant impact is likely.</i>	<b>CONSISTENT</b> The Planning Proposal does not include any additional referral requirements.
Direction 6.2 Reserving Land for Public Purposes	
<i>This direction requires land to be reserved for public purposes in accordance with the latest directions of the relevant authority.</i>	<b>CONSISTENT</b> The Planning Proposal does not create or reduce existing zonings or reservations of land for public purposes.
Direction 6.3 Site Specific Provisions	
<i>This direction discourages unnecessarily restrictive site controls.</i>	<b>CONSISTENT</b> The Planning Proposal does not recommend any changes to existing provisions of the LEP, that would lead to restrictive site controls outside of current LEP/DCP provisions.