

Our ref: 8652496
Your ref: PP-2022-3059

23 April 2025

**Coffs Harbour Local Environmental Plan 2013
Planning Proposal PP-2022-3059**

Rezone from RU2 to R5 and C2, and Reduce Minimum Lot Size applicable to Lots 1 and 2 DP 1093448, 218 East Bank Rd, Coramba

Inconsistency with Section 9.1 of the Act, directions as identified in the determination issued by the Department on 5th June 2024 pursuant to Section 3.34(2) of the *Environmental Planning and Assessment Act 1979*:

1.1 Implementation of Regional Plans

The proposal is generally consistent with the requirements of the North Coast Regional Plan 2041, apart from the following:

- *Objective 5: Manage and improve resilience to shocks and stresses, natural hazards and climate change*
- *Coffs Harbour Local Government Narrative*

With consideration given to the above, the City provides the following response:

The site is partially mapped as 1% AEP Flood Extent, Indicative Flood Planning Area and Bushfire Prone Land.

In accordance with Gateway Determination conditions 1 and 2, the planning proposal was amended prior to public exhibition and agency consultation to include an appropriate level of investigation including the level of the PMF event, the level of hazard, potential flood evacuation routes, the time of isolation and shelter in place guideline. Written advice from the NSW Department of Planning, Housing and Infrastructure has been provided confirming Gateway Determination conditions 1 and 2 were satisfied and the amended planning proposal could proceed to exhibition and consultation.

In accordance with Gateway Determination condition 4 and Ministerial Directions 4.1 and 4.3, agency consultation was undertaken with the Department of Climate Change, Energy, the Environment and Water – Conservation Programs, Heritage and Regulation (DCCEEW CPHR), NSW State Emergency Service (SES) and the NSW Rural Fire Service (RFS) seeking their advice.

The City notes that written advice from DCCEEW CPHR, SES and RFS has been provided to the effect that, notwithstanding the non-compliance, these agencies do not object to the progression of the planning proposal.

The City is of the opinion that the inconsistency is of minor insignificance, as the planning proposal does not contain provisions that significantly contradict or hinder the overall intent of the Regional Plan and does not undermine the achievement of the Regional Plan's vision, land use strategy, goals, directions, or actions.

The inconsistency with the Direction is therefore considered to be justified and the City requests the Secretary's agreement for the inconsistency with Section 9.1 Ministerial Direction 1.1 Implementation of Regional Plans.

3.2 Heritage Conservation

An Aboriginal Cultural Assessment was undertaken on the subject site in 2021 by a Cultural Site Officer from the Coffs Harbour & District Local Aboriginal Land Council (LALC). One Aboriginal object was identified on the site.

The assessment concluded that future development will not impact on any known places or sites of cultural significance to the Aboriginal community but has the potential to impact on Aboriginal objects that may be uncovered during excavation works. As such, additional consultation and archaeological investigation would be required with any future development application/s.

The City notes that written advice from the LALC has been provided to the effect that, notwithstanding the non-compliance, the LALC does not object to the progression of the planning proposal.

The City is of the opinion that the inconsistency is of minor significance as this issue can be appropriately managed at the development application stage.

The inconsistency with the Direction is therefore considered to be justified and the City requests the Secretary's agreement for the inconsistency with Section 9.1 Ministerial Direction 3.2 Heritage Conservation.

4.1 Flooding

The site is partially mapped as 1% AEP Flood Extent and Indicative Flood Planning Area.

The planning proposal is supported by a Preliminary Flood Assessment (PFA), completed in 2021, which concludes that flooding is unlikely to prevent the proposed development, as there is ample land to accommodate a subdivision, and the subdivision design can avoid any flood-affected areas at the development application stage.

The NSW Department of Planning, Housing and Infrastructure deemed the PFA insufficient to meet the requirements of a Flood Impact and Risk Assessment (FRA) under the NSW Government Flood Impact and Risk Assessment Guideline 2023, as the assessment provided did not include information on a range of potential flood events, including a Probable Maximum Flood (PMF), nor did it address hazard levels, access and evacuation issues or potential shelter in place.

In accordance with Gateway Determination conditions 1 and 2, the planning proposal was amended prior to public exhibition and agency consultation to include an appropriate level of investigation including a PMF event level, hazard level, potential flood evacuation routes, and the time of isolation and shelter in place. Written advice from the NSW Department of Planning, Housing and Infrastructure was provided confirming Gateway Determination conditions 1 and 2 were satisfied and the amended planning proposal could proceed to exhibition and consultation.

In accordance with Gateway Determination condition 4 and Ministerial Direction 4.1, agency consultation was undertaken with the Department of Climate Change, Energy, the

Environment and Water – Conservation Programs, Heritage and Regulation (DCCEEWS CPHR) and NSW State Emergency Service (SES) seeking their advice.

Department of Climate Change, Energy, the Environment and Water – Conservation Programs, Heritage and Regulation (DCCEEWS CPHR)

Written advice from DCCEEWS CPHR provides the following recommendations in relation to flooding:

- Flood modelling assessment should be undertaken following guidelines for potential blockage of culverts, noting that upgrade of culverts may be required.
- The Planning Proposal should be revised to assess access to the major regional centre of Coffs Harbour, which provides medical, food and other essential services, for the full range of flood events in its assessment of potential isolation.
- The Planning Proposal should be informed by advice from the local State Emergency Services to determine possible impacts on State Emergency Services functions.

An amended FRA prepared by Downs Roadside Engineering dated 28 February 2025 is now included in support of the planning proposal. Further agency consultation was undertaken with DCCEEWS CPHR seeking their advice in response to the amended FRA. The written response provided makes the following recommendations in relation to flooding:

- In summary, DCCEEWS CPHR considers the amended FRA provides more detailed assessment on potential isolation during flood events.
- The amended FRA recommends mitigation of the impacts and dangers of isolation using Primary and Secondary Emergency Evacuation Routes (EER). The Primary route is via East Bank Rd - Coramba Rd to Coffs Harbour. The Secondary Route is via Burra Fire Rd - Rocky Trail – Mount Coramba Rd to the Pacific Highway.
 - The Primary EER experiences inundation during a flood event less than 24 hours for events up to and including the 1% AEP. This level of isolation is commonly experienced across rural catchments in NE NSW.
 - The Secondary EER is via gravel roads in steep terrain and State Forests. This route would be unsafe and unsuitable for 2WD vehicles in a flood event. It may also be unsafe for 4WD vehicles in a flood event.
- The NSW Government guideline 'Support for Emergency management planning, Flood risk management guideline EM01, DPE 2023' recognises there is no evidence-based method for determining a safe or tolerable duration of isolation that may result from flooding.

The City notes that written advice from DCCEEWS CPHR has been provided to the effect that, notwithstanding the non-compliance, DCCEEWS CPHR does not object to the progression of the planning proposal.

NSW State Emergency Service (SES)

Written advice from SES makes the following comments in relation to flooding:

- Support the proposal to zone areas along the watercourses of the subject sites to C2 Environmental Conservation.

- Recommend considering site design and stormwater management that reduces the impact of flooding and minimises any risk to the community. Any future site design should avoid entry or exit through high hazard floodwaters, such as East Bank Road which has a H5 hazard level in a PMF event. If possible, alternative access to East Bank Road should be incorporated into the design of the site layout. Any improvements that can be made to reduce flood risk will benefit the community.

The City notes that written advice from the SES has been provided to the effect that, notwithstanding the non-compliance, the SES does not object to the progression of the planning proposal.

With consideration given to the above advice from DCCEEW CPHR and SES, the City provides the following response:

- The amended FRA has determined the planning proposal is consistent with the Floodplain Development Manual 2005 and has been accepted by DCCEW CPHR as consistent with their requirements.
- The amended FRA addresses the NSW Government Flood Impact and Risk Assessment Guideline 2023, providing information on a range of potential flood events, including a PMF, hazard levels, access, evacuation routes and potential shelter in place.
- The amended FRA demonstrate consistency with the NSW Department of Planning, Housing and Infrastructure's Shelter-in-Place guideline for flash flooding.
- There is adequate land to accommodate a future subdivision design for lots of minimum 5000m² with development envelopes located:
 - outside of flood prone land
 - as not to result in significant flood impacts to other properties
 - to enable safe occupation of and efficient evacuation of the lot
 - to not significantly increase the density as to result in an increased requirement for government spending on flood mitigation and emergency response measures.
- The development has proposed multiple evacuation routes taking into consideration the recommendations from NSW SES.
 - The development has flood free access to East Bank Road for all events up to an including PMF event.
 - A primary and secondary EER is provided for the site. The primary evacuation route connects the development via East Bank Road to Coramba Road west to Coffs Harbour centre. The secondary evacuation route has been identified in the case of an emergency. This route proposes the use of Burra Fire Road to Rocky Trail, continuing east and connecting to Mount Coramba Road east linking onto the Pacific Highway.
 - Secondary measures to mitigate flood risk include evacuation. Two proposed EER's are provided for the site. The analysis demonstrates that the EER's are temporarily shut for durations less than a day up to the 1% AEP events. There is also a long duration / warning time up to the 1% AEP event before the EER at Lees Bridge over Popperaperrin Creek at Karangi is inundated.

- The development will not unduly burden SES, Emergency Departments or the City of Coffs Harbour during flood events, including a PMF event.

The inconsistency with the Direction is therefore considered to be justified and the City requests the Secretary's agreement for the inconsistency with Section 9.1 Ministerial Direction 4.1 Flooding.

4.3 Planning for Bushfire Protection

The site is mapped as Bushfire Prone Land. In accordance with Gateway Determination condition 4 and Ministerial Direction 4.3, agency consultation was undertaken with the NSW Rural Fire Service (RFS) seeking their advice.

The City notes that written advice from the Commissioner of the RFS has been provided to the effect that, notwithstanding the non-compliance, the RFS does not object to the progression of the planning proposal. The agency noted that future subdivisions of the land must comply with the Planning for Bushfire Protection Guidelines 2019.

The inconsistency with the Direction is therefore considered to be justified and the City requests the Secretary's agreement for the inconsistency with Section 9.1 Ministerial Direction 4.3 Planning for Bushfire Protection.

8.1 Mining, Petroleum Production and Extractive Industries

The site is in Zone RU2 Rural Landscape and is proposed to be rezoned to Zone R5 Large Lot Residential with a reduced minimum lot size of 5000m², and Zone C2 Environmental Conservation with a minimum lot size of 40ha.

The change in zoning from RU2 Rural Landscape to R5 Large Lot Residential and C2 Environmental Conservation will prohibit extractive industries on the land under the Coffs Harbour Local Environmental Plan (LEP) 2013.

In response to Gateway Determination condition 4 and Ministerial Direction 8.1, agency consultation was undertaken with the Department of Primary Industries and Regional Development – NSW Resources (NSW Mining, Exploration and Geoscience) seeking their advice.

The City notes that written advice from the NSW Mining, Exploration and Geoscience has been provided to the effect that, notwithstanding the non-compliance, NSW Mining, Exploration and Geoscience does not object to the progression of the planning proposal.

The City is of the opinion that the inconsistency is 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 inconsistency with the Direction is therefore considered to be justified and the City requests the Secretary's agreement for the inconsistency with Section 9.1 Ministerial Direction 8.1 Mining, Petroleum Production and Extractive Industries.