



Gateway determination report – PP-2023-2086

Reduction in minimum lot size and changes to the zoning and terrestrial biodiversity mapping, Lindsays Road, Boambee

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Acknowledgment of Country

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

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal City of Coffs Harbour July 2024 – Version 1 Pre-Exhibition
Council Resolution and Report 25 July 2024
Square-stemmed spike rush review of impacts October 2024
Environmental Assessment Boambee August 2021

Preliminary Stockpile Contamination Assessment May 2016

Bushfire Assessment Report September 2023

Noise Impact Assessment February 2015

Wastewater Capability Assessment February 2020

Memorandum of Advice (Grave) August 2023

VMP review of works July 2020

Aboriginal Cultural Heritage Assessment September 2016

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Coffs Harbour
PPA	City of Coffs Harbour
NAME	Lindsays Road, Boambee
NUMBER	PP-2023- 2086
LEP TO BE AMENDED	Coffs Harbour LEP 2013
ADDRESS	Lindsays Road, Boambee
DESCRIPTION	Lot 4 DP 1049350, Lot 15 DP 861057 and Lots 101 and 102 DP 732172
RECEIVED	8/08/2024
FILE NO.	IRF24/1911
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 reduce the minimum lot size of the subject site from 1 hectare to 5000m² and make minor adjustments to the C2 Environmental Conservation and R5 Large Lot Residential boundaries and the Terrestrial Biodiversity Map to accurately reflect the site's environmental values. The proposed changes seek to enable a 15 rural residential lots on the site.

1.3 Explanation of provisions

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

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	R5 Large Lot Residential and C2 Environmental Conservation.	R5 Large Lot Residential and C2 Environmental Conservation.

Maximum height of the building	8.5m	8.5m
Floor space ratio	N/A	N/A
Minimum lot size	1ha and 40ha	5000m ² and 40ha
Number of dwellings	6	15
Number of jobs	N/A	N/A

These amendments will involve changes to the Lot Size Map, Land Zoning Map and the Terrestrial Biodiversity Map.

Coffs Harbour LEP 2013 has transitioned to digital land zoning maps. The planning proposal incorrectly references the land zoning map sheet which has been replaced by the digital land zoning map. It is recommended that the proposal is updated to correct this. Once corrected it is considered that the planning proposal will contain an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The subject site comprises four lots with an area of 19.75 hectares with access from Lindsays Road. The site is located within an existing rural residential area on the western edge of the Pacific Highway and is bordered by Boambee Creek to the north. The majority of the land is cleared, with a vegetated riparian zone along Boambee Creek in the north and a vegetated low-lying area in the southern portion. The site has an existing approval for a 6 lot rural residential subdivision.

The surrounding land to the west and north is zoned R5 Large Lot Residential with a range of lot sizes starting at 3000m²(Figures 4 and 6).

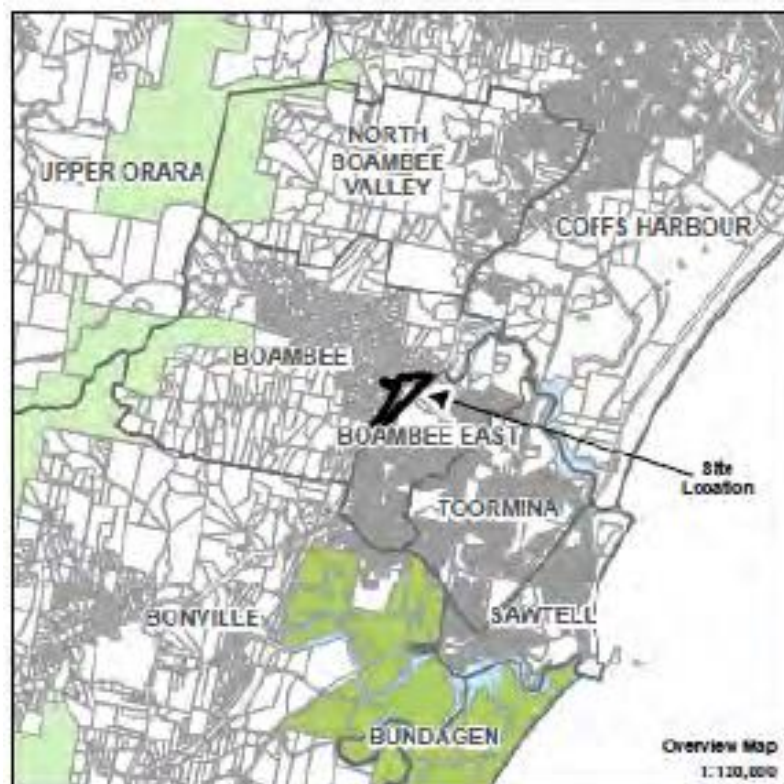


Figure 1 Site context (source: planning proposal)



Figure 2 Subject site (source: LandIQ)

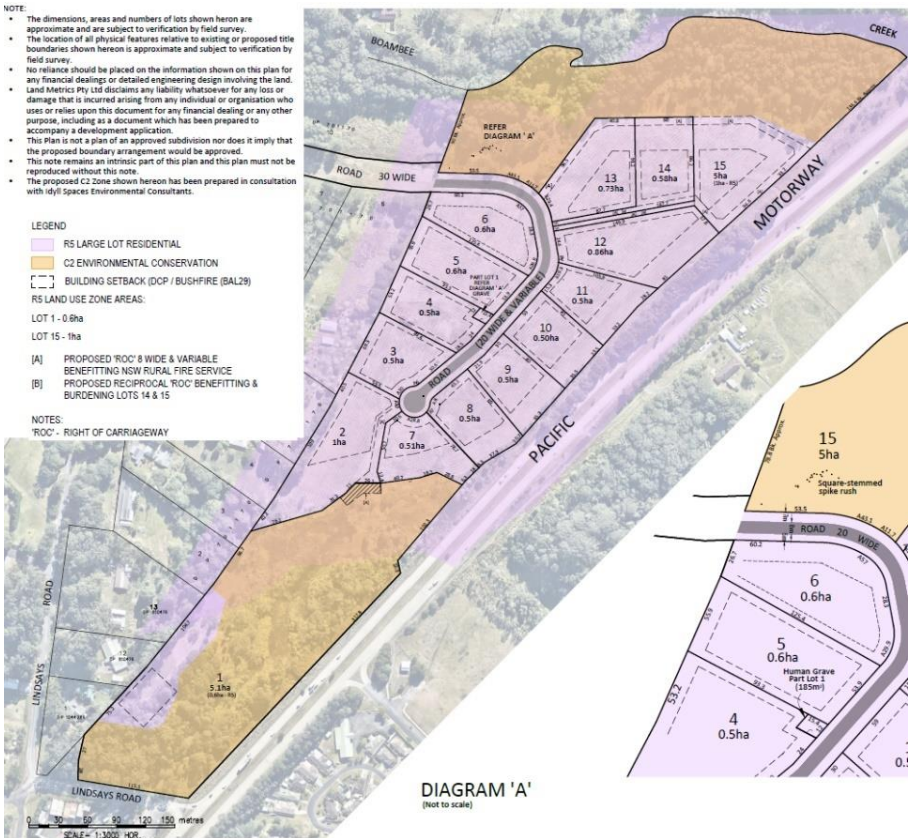


Figure 3 Indicative subdivision plan with the proposed amendments (source: planning proposal)

1.5 Mapping

The planning proposal includes mapping showing the current and proposed changes to the Land Zoning, Lot Size and Terrestrial Biodiversity, Drinking Water Catchment, Riparian Lands and Watercourses maps, which are suitable for community consultation. The change to the later map only impacts the Terrestrial Biodiversity component.

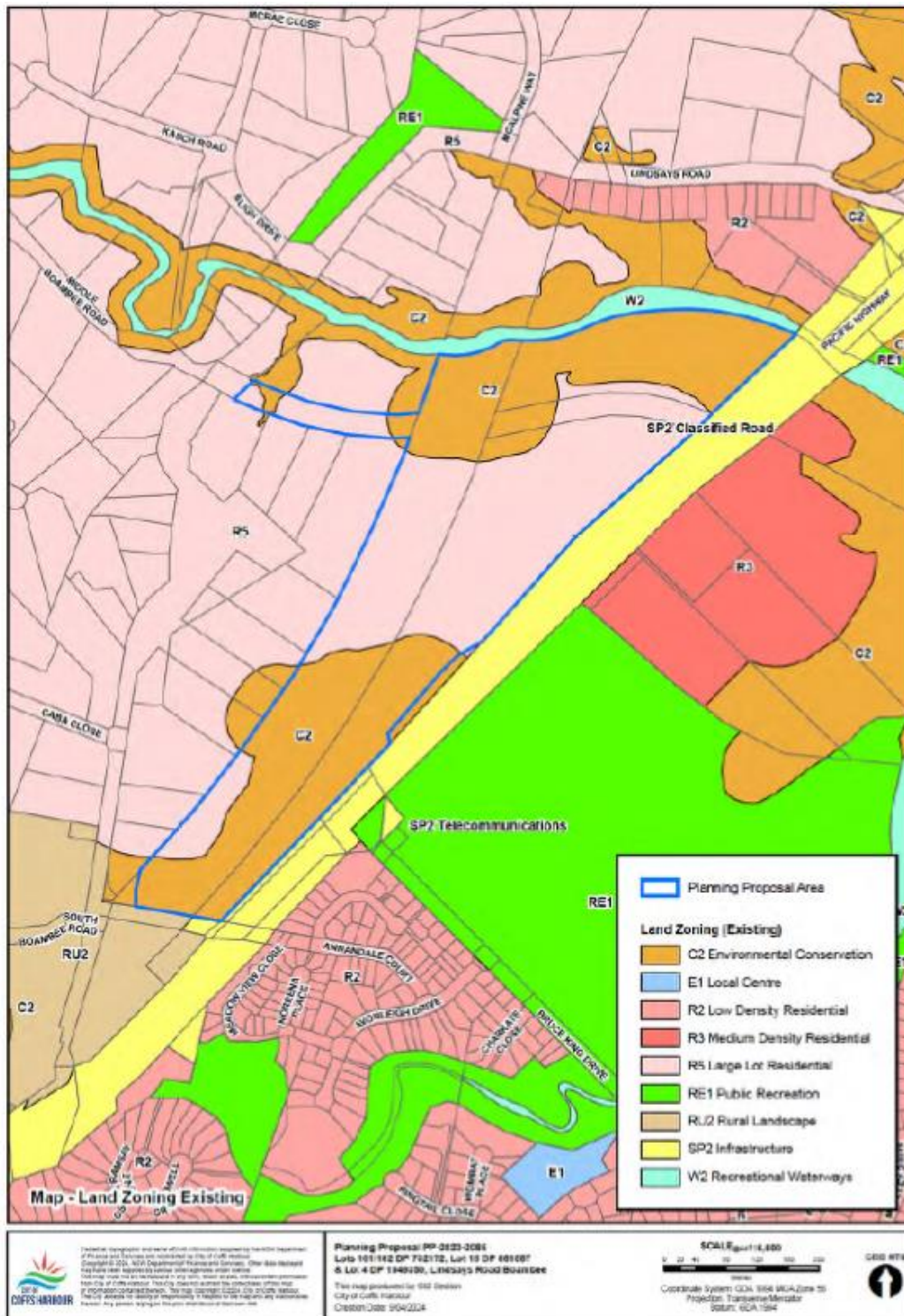


Figure 4 Current zoning map (source: planning proposal)

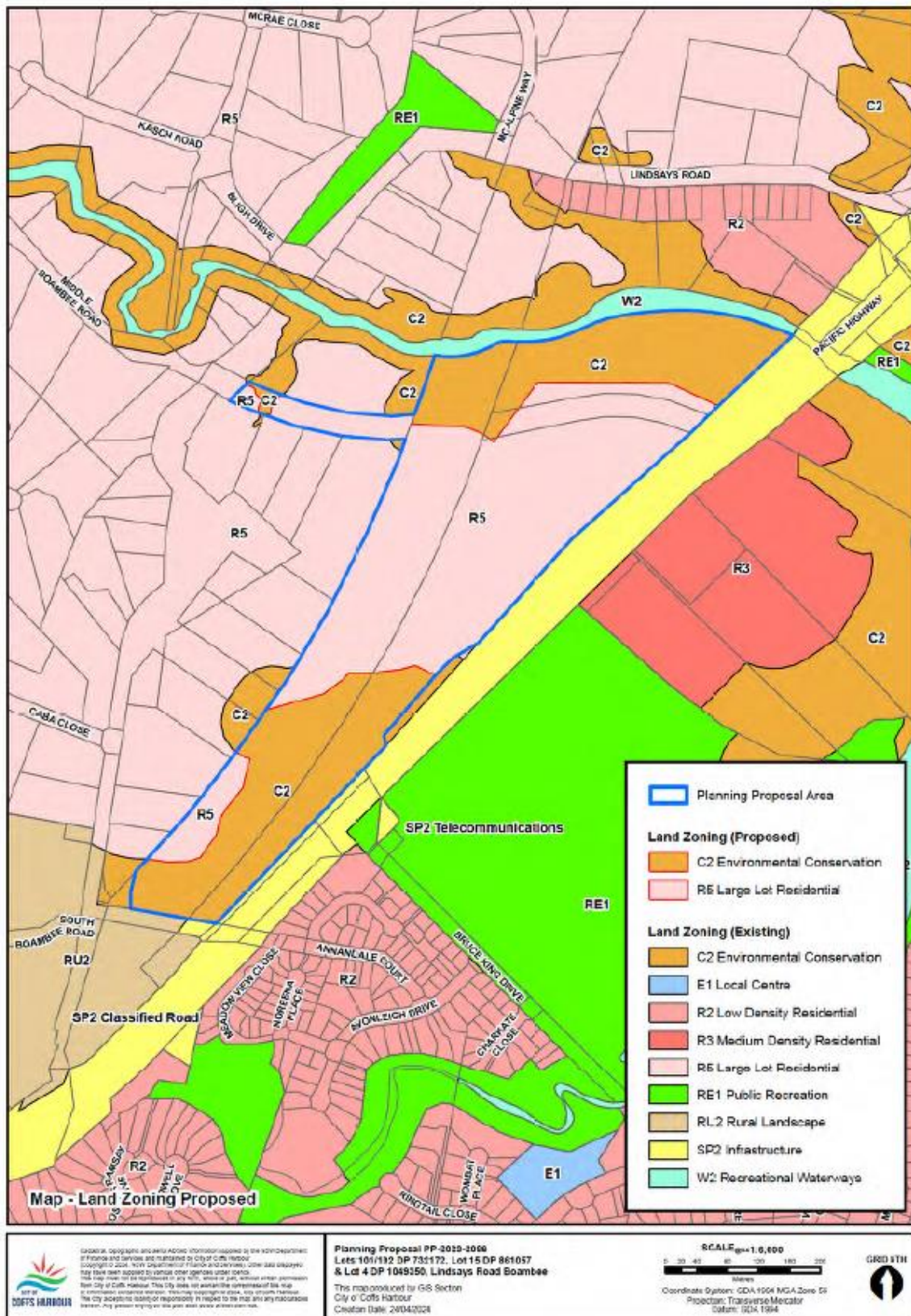


Figure 5 Proposed zoning map (source: planning proposal)

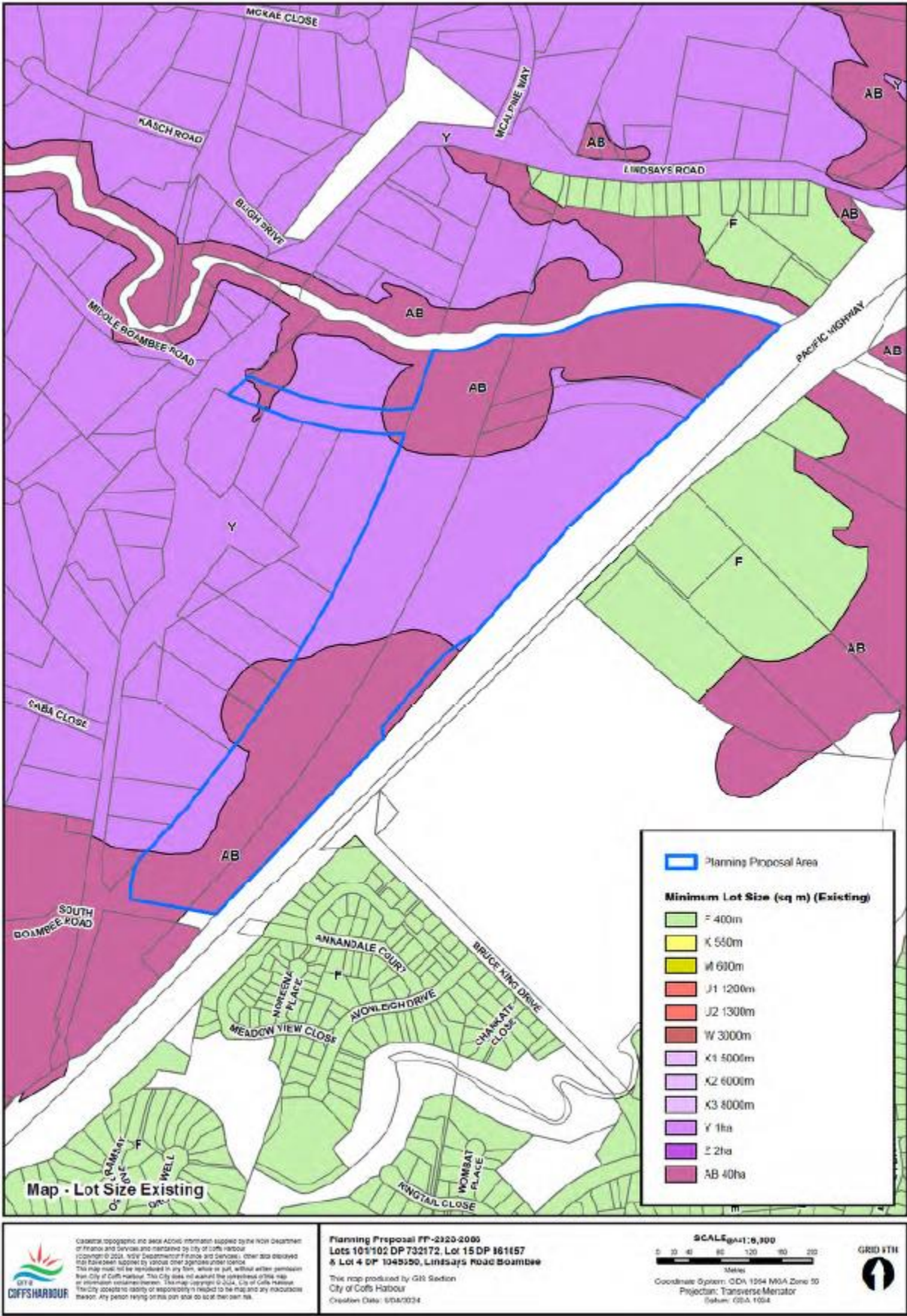


Figure 6 Current Lot Size map (source: planning proposal)

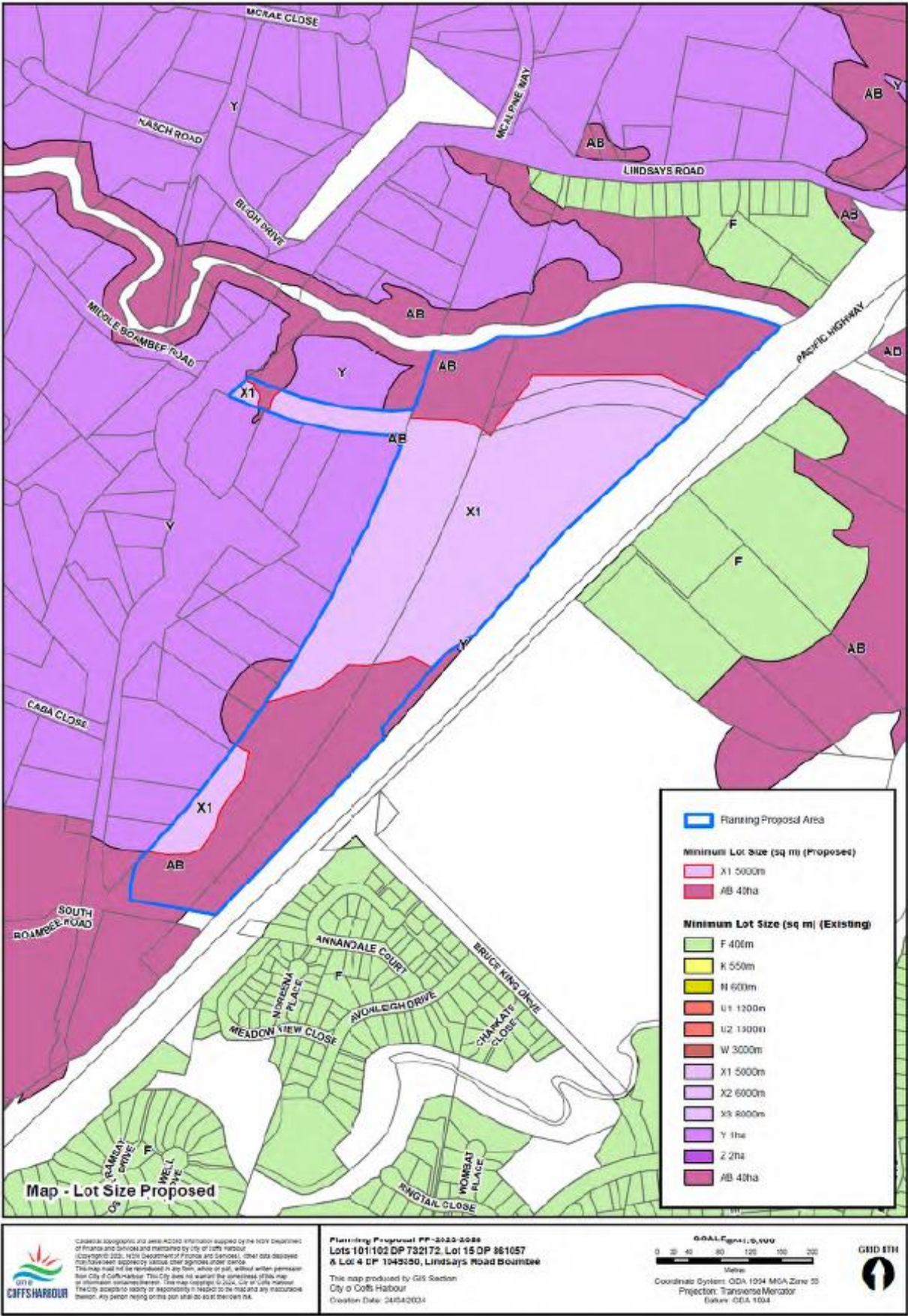


Figure 7 Proposed Lot Size map (source: planning proposal)

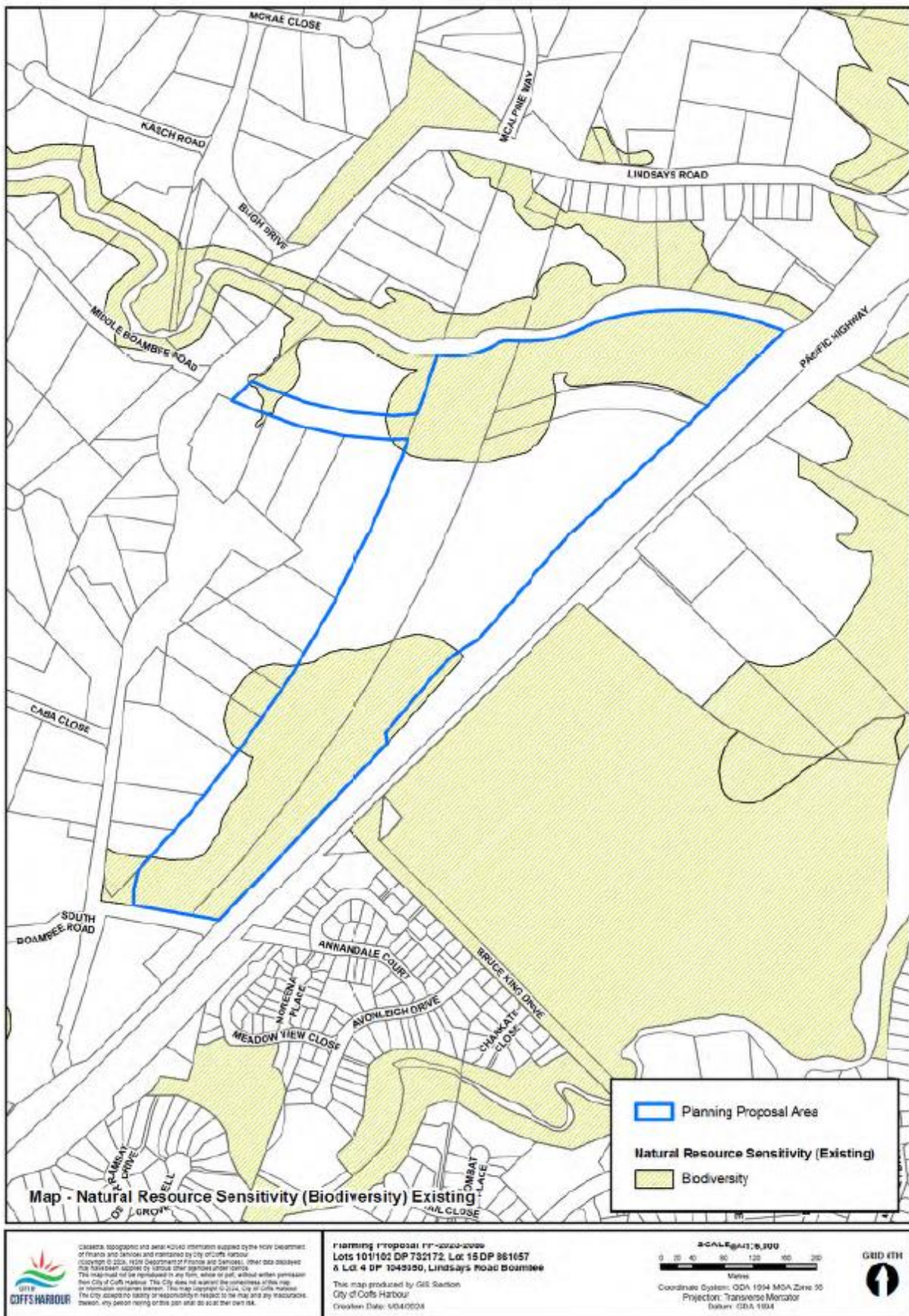


Figure 8 Current Terrestrial Biodiversity, Drinking Water Catchment, Riparian Lands and Watercourses map (source: planning proposal)

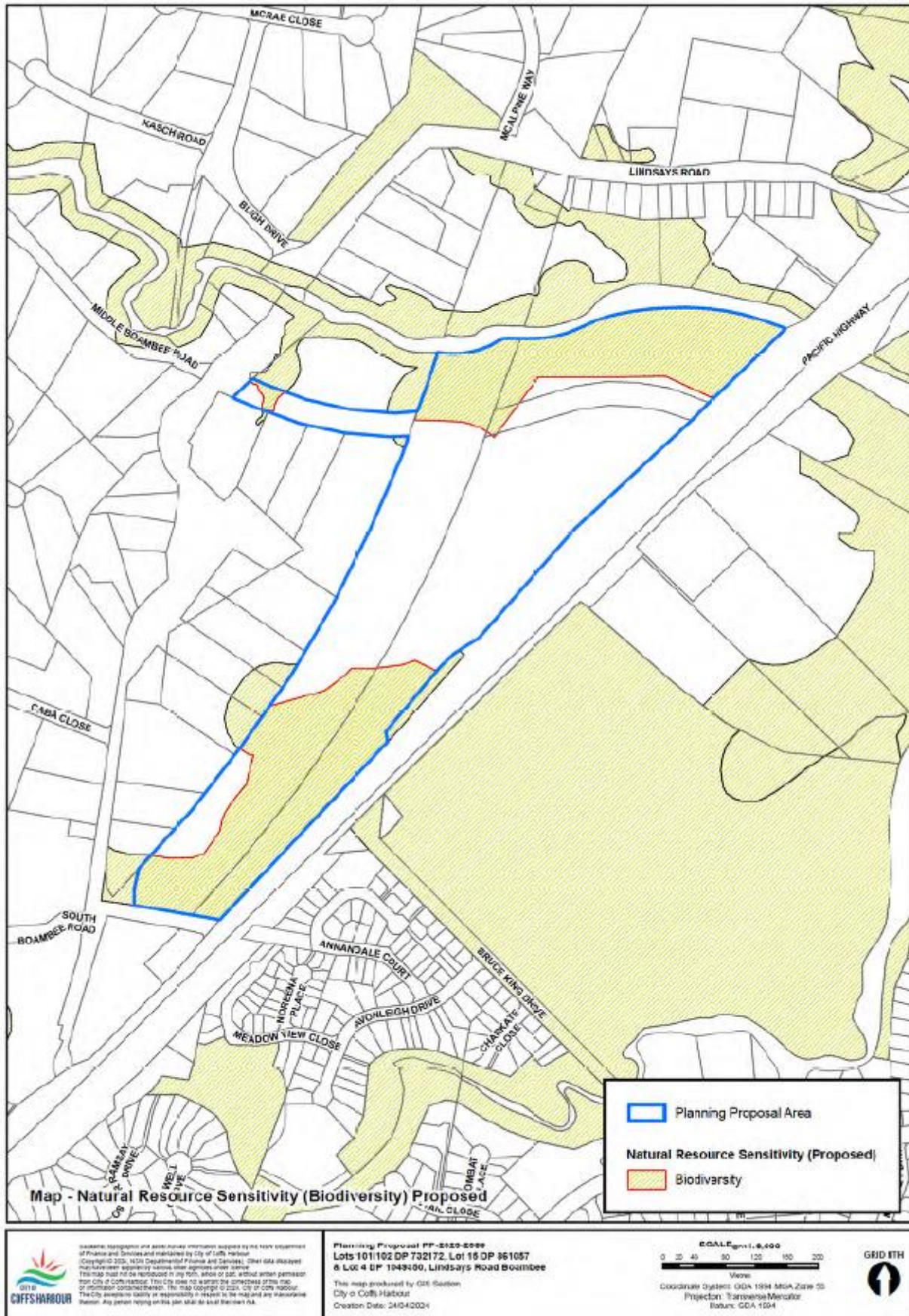


Figure 9 Proposed Terrestrial Biodiversity, Drinking Water Catchment, Riparian Lands and Watercourses map (source: planning proposal)

2 Need for the planning proposal

The proposal has been prepared in response to Council's Department approved Coffs Harbour Local Growth Management Strategy (LGMS). Chapter 6 of the LGMS states that undeveloped R5 land can be considered for a reduction in lot size based on land capability assessment through a proponent-initiated planning proposal. The minor associated changes to the zoning and terrestrial biodiversity maps seek to better reflect the actual location of high conservation land across the site.

The planning proposal and supporting documentation indicate the subject site can accommodate a reduced minimum lot size and that the changes to the zone and terrestrial biodiversity boundaries are justified. The planning proposal is the most appropriate mechanism to undertake the proposed planning control changes.

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 2041.

Table 4 Regional Plan assessment

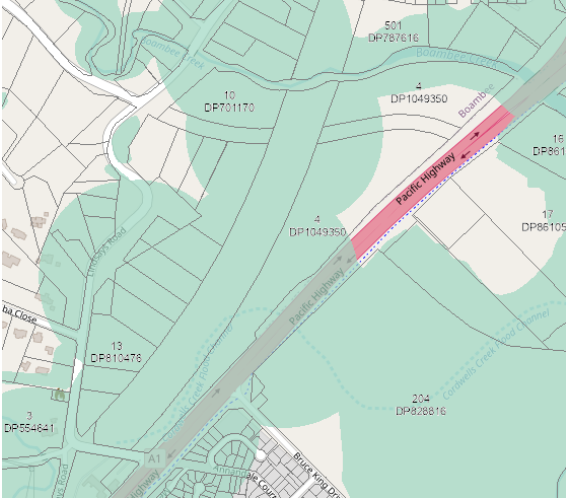
Regional Plan Objectives	Justification
Objective 1: Provide well located homes to meet demand	The proposal will provide for additional housing in accordance with a Department approved local strategy in an existing rural residential area and is considered consistent with this objective.
Objective 3: Protect regional biodiversity and high environmental value	<p>The planning proposal is supported by ecological studies that outline the areas that have environmental value and should remain protected by conservation zoning. It is noted that the much of the site is identified as containing potential high environmental value (PHEV) in the North Coast Regional Plan 2041 (Figure 10) while some of the land is also identified on the NSW Biodiversity Viewer (Figure 11). Review and confirmation of the proposal by the NSW Biodiversity Conservation and Science Group is recommended to confirm consistency with this objective.</p> 

Figure 10: PHEV (source: northern spatial viewer)

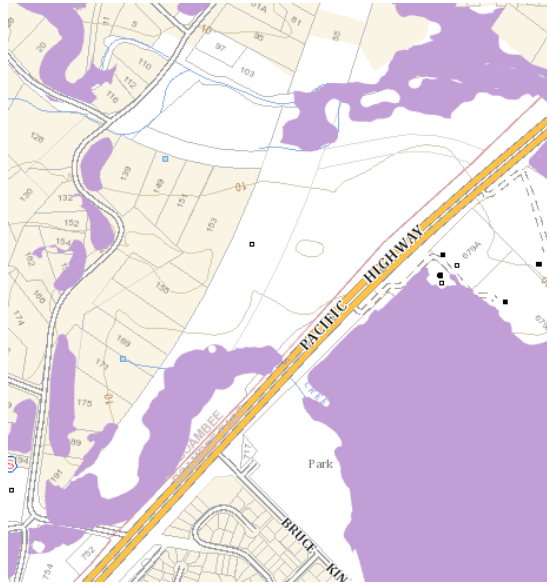


Figure 11: Biodiversity Values Map (source: eplanning spatial viewer)

Objective 5:
Manage and
improve resilience
to shocks and
stresses, natural
hazards and
climate change

The subject site is mapped as bushfire prone land (Figure 12). The proposal is supported by a bushfire assessment report that confirms the site is suitable for increased rural residential density. Consultation with RFS will be required. A small area of the land is impacted by the 1% AEP flood level and the PMF (Figure 15). It is expected that all lots will be able to accommodate dwellings above the PMF. A small area of land below the flood planning area is proposed to be rezoned to residential which is not supported and is discussed in further detail below.



Figure 12: Bushfire Prone Land (source: planning proposal)

Objective 20:
Celebrate local
character

The planning proposal is accompanied by an Aboriginal Cultural Heritage Assessment which concludes that the proposal is unlikely to result in harm to Aboriginal objects. This report was however prepared in 2016 and should be updated prior to community and agency consultation.

The report identifies an old dairy structure on the site and recommends that a heritage assessment of the structure is undertaken prior to any works that may affect it to determine if it meets the criteria of a locally significant heritage item. The planning proposal will not have a direct impact on the old dairy and further consideration can be provided at the development application stage.

3.2 Local

The following local plans and endorsed strategies are relevant to the proposal.

Table 6 Local strategic planning assessment

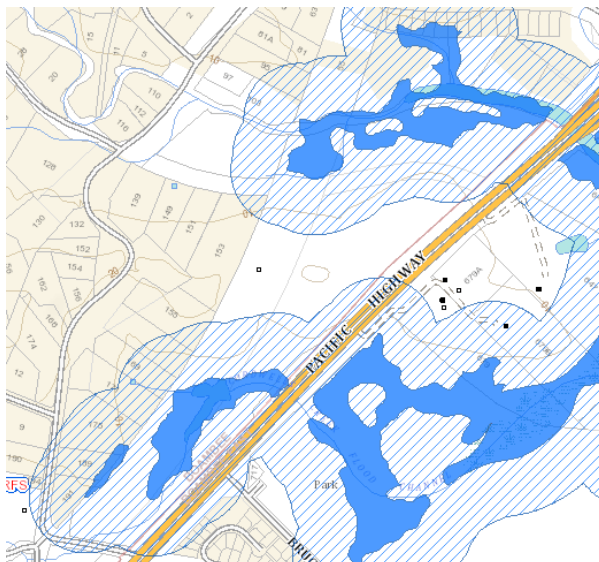
Local Strategies	Justification
Coffs Harbour Local Strategic Planning Statement 2020	The planning proposal is considered consistent with Coffs Harbour LSPS Planning Priority 1 which focuses growth within the existing urban footprint and Planning Priority 5 as it will provide for greater housing supply choice and diversity through the reduction in lot size.
Coffs Harbour Local Growth Management Strategy 2020	Chapter 6 of the Coffs Harbour LGMS, approved by the Department on January 2020 relates to large lot residential lands within the LGA. The LGMS states that undeveloped R5 land can be considered for a reduction in lot size based on land capability assessment through a proponent-initiated planning proposal. The proposal is supported by a land capability assessment.
Coffs Harbour Regional City Action Plan 2036	The site is located outside of the city action plan area however is considered to be not inconsistent with the objectives of the plan.

3.3 Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with the relevant section 9.1 Directions except those discussed below:

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Unresolved	As noted in the discussion above, until the proposal has been reviewed and assessed by the NSW Biodiversity Conservation and Science Group to confirm that it is satisfactory, the consistency with this direction remains unresolved.
3.1 Conservation Zones	Unresolved	The planning proposal is inconsistent with this direction as it reduces C2 Environmental Conservation zoning applying to the site. The reduction in the conservation zoning is supported by an ecological assessment. It is recommended that consultation with NSW Biodiversity Conservation and Science group occurs to confirm if the inconsistency with this direction is justified.
4.1 Flooding	Unresolved	This proposal is inconsistent with this direction as a small part of the site to be rezoned to R5 Large Lot Residential in the northern portion is mapped as flood prone land (Figure 15). Rezoning land below the flood planning level is not considered appropriate and is not supported. Further information was provided by Council that has confirmed that while some of the proposed lots will be partly impacted by the PMF, each lot will have sufficient flood free land to accommodate a dwelling. This is considered

		acceptable in the situation noting that the existing R5 Zone on the site is already affected by the PMF and that the proposed zoning changes will only increase that area by a minor amount on the fringe and can be adequately considered and addressed at the development application stage.
4.2 Coastal management	Unresolved	<p>This direction applies as the site is mapped as coastal use and environment areas and contains mapped coastal wetlands. The proposal seeks to make changes that would enable development in the mapped buffer area to coastal wetlands. This direction requires submission of NSW Coastal Design Guidelines 2023 Appendix 1: Assessment checklist for planning proposals to provide consistency with the NSW Coastal Design Guidelines. It is recommended that the Gateway require a completed checklist be included in the proposal prior to exhibition. Consultation with the NSW Biodiversity Conservation and Science Group is recommended to confirm that no significant adverse environmental impacts will occur.</p>  <p>Figure 13: R&H SEPP Coastal Wetlands (source: eplanning spatial viewer)</p>
4.3 Planning for Bushfire Protection	Unresolved	<p>This direction applies as the site is mapped as bushfire prone land. A bushfire assessment report has been provided to support the proposal that confirms that it is satisfactory. This direction requires consultation with NSW RFS before consistency can be determined.</p>
4.5 Acid Sulfate Soils	Justified	<p>The proposal is inconsistent with this direction as the majority of the site is mapped as Class 5 (with the edges being Class 3) ASS and the proposal will allow an intensification of future development and is not supported by an acid sulphate soils study.</p> <p>This inconsistency is considered to be of minor significance as the LEP already contains provisions that can ensure that this matter can be dealt with appropriately at the development application stage.</p>

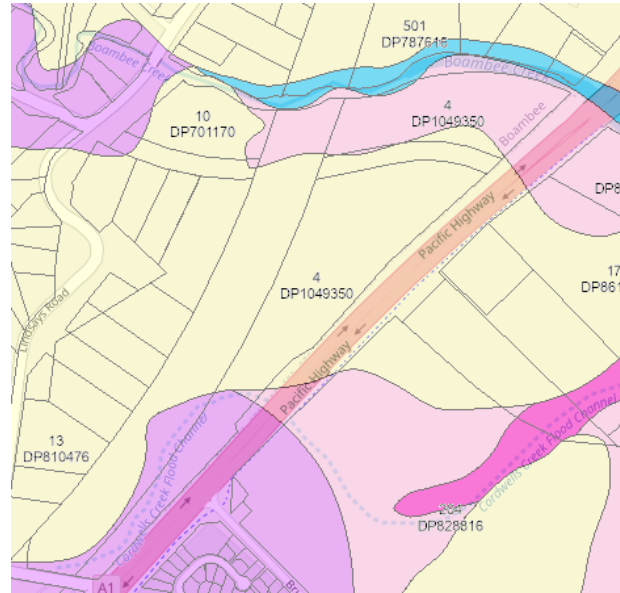


Figure 14: Acid sulphate soils (source: northern spatial viewer)

4.4. Remediation of Land	Unresolved	The planning proposal is potentially inconsistent with this direction as the accompanying preliminary contamination assessment report was prepared in 2016. While the report advises that the land is acceptable for its intended future use and focuses on a stockpile of approximately 4700m ² that was utilised during the construction of the adjacent Pacific Highway upgrade, consistency with this direction is unable to be determined until an updated report that includes the last eight years of activity is provided.
9.2 Rural Lands	Justified	The proposal is inconsistent with this direction as it affects land within an existing conservation zone and does not achieve all the stated objectives such as supporting farmers to exercise their right to farm. This inconsistency is considered to be of minor significance noting that land is already zoned predominantly residential, only minor changes to the environmental zones are proposed and the proposal is supported by an environmental assessment that confirms that environmentally sensitive land will remain within the C2 Zone.

3.4 State environmental planning policies (SEPPs)

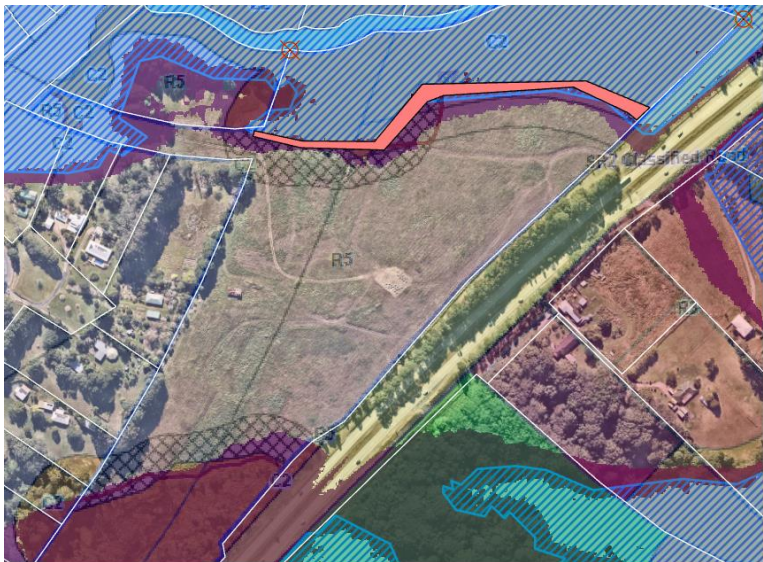
The planning proposal is considered to be consistent with all relevant SEPPs.


4 Site-specific assessment

4.1 Environmental

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

Table 9 Environmental impact assessment

Environmental Impact	Assessment
Bushfire	<p>The site is mapped as bushfire prone land. A bushfire assessment report has been provided and assessed the indicative subdivision against PBP 2019. It concludes the bushfire risk is manageable in accordance with PBP 2019. Consultation with RFS will occur as part of the public exhibition of the planning proposal.</p>
Wastewater capacity	<p>The accompanying wastewater capability assessment indicates that 5000m² lots would be acceptable in managing on site wastewater (if the lots are not battle-axe alignment) and that a minimum lot size of 6000m² would be acceptable with no restrictions. On this basis the proposed 5000m² minimum lot size is considered satisfactory in terms of accommodating wastewater noting that any site-specific issues that may require larger lot sizes can be dealt with adequately at the development application stage.</p>
Flooding	<p>The flood planning area (blue hatched) and PMF (purple) have a minor impact on the edges of the land proposed to be zoned from C2 to R5 (black hatched). The pink / salmon area however is land within the flood planning area that is being proposed to be rezoned to R5 Large Lot Residential. As noted above, while some of the proposed lots will be partly impacted by the PMF, each lot will have sufficient flood free land to accommodate a dwelling. This is considered acceptable in the situation subject to the removal of the land to be rezoned R5 below the flood planning level. It is noted that the existing R5 Zone on the site is already affected by the PMF and that the proposed zoning changes will only increase that area by a minor amount on the fringe and can be adequately considered and addressed at the development application stage. It is also noted that the site is already subject to a 6-lot rural residential subdivision that has previously been approved.</p>  <p>Figure 15: Flood Levels (source: Coffs Harbour City Council)</p>
Acoustic	<p>The site is adjacent to the Pacific Highway and an acoustic report was provided which recommends that noise mitigation can be achieved by applying acoustic architectural treatment to the houses. This report was however prepared in 2015 and it is recommended that it be updated prior to consultation</p>

Burial (grave)	The site contains a private burial grave, however there is little known about the grave other than its location and that it is less than 100 years old. It is understood that the grave is located in the southern portion of site near the existing dwelling and the proposed changes and future rural residential subdivision proposed will have no impact. It is noted that matter and any design / remediation measures can also be considered by Council at the development application stage if needed.
Ecological	<p>The planning proposal is accompanied by an environmental assessment report, square-stemmed spike rush (SSSR) review of impacts and Vegetation Management Plan review of works. These reports have been prepared to determine the appropriateness of the current extent of the C2 Environmental Conservation zoning and recommend changes to better reflect areas of conservation value (Figure 16). The reports conclude that reduced buffers to SSSR will allow for managed R5 land which is likely to minimise the threat from pasture grasses and invasive exotics. The mapped coastal wetlands and threatened ecological communities remain within the C2 Environmental Conservation zone. The proposed R5 boundaries apply generally to cleared land and are not likely to have a significant ecological impact. Consultation with NSW Biodiversity Conservation and Science is however recommended.</p>  <p>Figure 15: Proposed amendment to environmental conservation (E2) boundary in relation to Threatened Ecological Communities (TEC) and Bionet Records</p> <p>Jindralpal Rai Environmental Assessment, Boambee</p> <p>ecosure</p> <p>Job number: PR4965 Revision: 0 Author: ET Date: 11/12/2019</p> <p>0 100 200 m</p> <p>GDA 1994 MGA Zone 56 Projection: Transverse Mercator Datum: GDA 1994 Units: Meter</p> <p>Figure 16: Environmentally sensitive areas (source: planning proposal)</p> <p>Boambee Creek to the north is mapped as key fish habitat. The proposal retains a minimum 50m buffer to the creek and is therefore unlikely to have an adverse impact of fish habitat however consultation with NSW Fisheries is recommended.</p>

4.2 Social and economic

The planning proposal will facilitate a minor increase in housing in an existing large lot residential area. The planning proposal is not likely to result in land use conflicts and it is considered the proposal will have a mostly positive social and economic impact for the locality.

4.3 Infrastructure

The planning proposal is not likely to result in a significant increase in the demand for public infrastructure. An internal road will be required providing access to Lindsays Road. The proposal confirms that power and telecommunications are available to the site. The lots will be able to accommodate on-site wastewater as outlined in the land capability assessment.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The planning proposal is categorised as a standard under the LEP Making Guidelines (August 2023). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- NSW Rural Fire Service
- NSW Biodiversity Conservation and Science
- NSW Department of Primary Industries and Regional Development – Fisheries

6 Timeframe

The LEP Plan Making Guidelines (August 2023) establish maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard

Noting that some of the accompanying studies will need updating prior to consultation, an LEP completion date of nine months from the date of the Gateway determination is recommended in line with the Department's commitment to reducing processing times and with regard to the benchmark timeframes. 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.

As the planning proposal is consistent with Coffs Harbour Local Growth Management Strategy and the North Coast Regional Plan 2041, it is recommended that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

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

- the planning proposal is consistent with Chapter 6 of Coffs Harbour Local Growth Management Strategy and the North Coast Regional Plan 2041;
- areas of environmental importance will be retained through conservation zoning; and
- the proposal will provide for additional housing within an established rural residential area.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- remove any land proposed to be rezoned to R5 Large Lot Residential that is located within the flood planning area;
- provide an assessment against NSW Coastal Design Guidelines 2023 Appendix 1: Assessment checklist for planning proposals;
- provide updated and current potential land contamination, Aboriginal Cultural Heritage Assessment and noise impact assessment reports; and
- remove reference to the land zoning map sheet.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Direction 4.5 Acid Sulfate Soils and 9.2 Rural Lands are of minor significance; and
- Note that the consistency with section 9.1 Directions 1.1 Implementation of Regional Plans, 3.1 Conservation Zones, 4.1 Flooding, 4.2 Coastal Management, 4.3 Planning for Bushfire Protection and 4.4 Remediation of Land are unresolved and will require justification.

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

The following conditions are recommended to be included on the Gateway determination:

1. Prior to agency and community consultation, the planning proposal is to be updated to:
 - remove any land proposed to be rezoned to R5 Large Lot Residential that is located within the flood planning area;
 - provide an assessment against NSW Coastal Design Guidelines 2023 Appendix 1: Assessment checklist for planning proposals;
 - provide updated and current potential land contamination, Aboriginal Cultural Heritage Assessment and noise impact assessment reports; and
 - remove reference to the land zoning map sheet.
2. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
 - NSW Biodiversity Conservation and Science
 - NSW Department of Primary Industries and Regional Development – Fisheries
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.

Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority and that an LEP completion date of nine months be included on the Gateway.



22/8/24

(Signature)

(Date)

Craig Diss

Manager, Hunter and Northern Region



23/8/24

(Signature)

(Date)

Jeremy Gray

Director, Hunter and Northern Region

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