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CONSISTENCY WITH S9.1 DIRECTIONS

Table C.1 Ministers Directions - Table of Consistency

| SECTION 9.1 DIRECTION | CONSISTENCY OF THE PLANNING PROPOSAL |
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| FOCUS AREA 1: PLANNING SYSTEMS | |
| Direction 1.1 Implementation of Regional Plans | |
| <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>CONSISTENT.</p> <p>Consistency with the <i>North Coast Regional Plan 2041</i> has been addressed in Section 3.3 of this Planning Proposal.</p> |
| Direction 1.2 Development of Aboriginal Land Council land | |
| Direction 1.2 does not apply to Nambucca Valley LGA. | |
| Direction 1.3 Approval and Referral Requirements | |
| <p><i>(1) A planning proposal to which this direction applies must:</i></p> <p><i>(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and</i></p> <p><i>(b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:</i></p> <p><i>i. the appropriate Minister or public authority, and</i></p> <p><i>ii. the Planning Secretary (or an officer of the Department nominated by the Secretary), prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act, and</i></p> <p><i>(c) not identify development as designated development unless the relevant planning authority:</i></p> <p><i>i. can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the class of development is likely to have a significant impact on the environment, and</i></p> <p><i>ii. has obtained the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act.</i></p> | <p>CONSISTENT.</p> <p>The Planning Proposal does not include provisions that require the concurrence, consultation or referral to a Minister or Public Authority. It also does not identify any potential designated development.</p> <p>The Planning Proposal does not contain provisions that contradict or hinder the application of this direction.</p> |

Direction 1.4 Site Specific Provisions

(1) A planning proposal that will amend another environmental planning instrument in order to allow particular development to be carried out must either:

(a) allow that land use to be carried out in the zone the land is situated on, or

(b) rezone the site to an existing zone already in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or

(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

(2) A planning proposal must not contain or refer to drawings that show details of the proposed development.

CONSISTENT.

The planning proposal does not allow a particular development to be carried out. The intention of the planning proposal is to reduce the minimum lot size from 40 ha to 18 ha to enable a subdivision to provide separate title to two existing homesites that are 'naturally' separated by a crown road corridor.

It is not inconsistent with Direction 1.4(2) as references to drawings that show details of the conceptual development are included in the Planning Proposal for context only and do not form part of the proposed change to the environmental planning instrument.

The Planning Proposal will not impose any development standards or requirements in addition to those already contained in the principal environmental planning instrument to be amended.

FOCUS AREA 1: PLANNING SYSTEMS – PLACE-BASED

Directions 1.5 – 1.19 (inclusive) do not apply to Nambucca Valley LGA.

FOCUS AREA 2: DESIGN AND PLACE

This Focus Area did not contain any provisions when the Directions were made.

FOCUS AREA 3: BIODIVERSITY AND CONSERVATION

Direction 3.1 Conservation Zones

*(1) A planning proposal must include provisions that facilitate the protection and conservation of **environmentally sensitive areas***.*

(2) A planning proposal that applies to land within a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP must not reduce the conservation standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with Direction 9.2 (2) of "Rural Lands".

CONSISTENT

The subject land does not include any environmentally sensitive areas.

The subject land is not part of a Conservation Zone, or contains land otherwise identified for conservation purposes.

Direction 3.2 Heritage Conservation

(1) A planning proposal must contain provisions that facilitate the conservation of:

JUSTIFIABLY INCONSISTENT

(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 relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

European Heritage

The Planning Proposal does not impact any items currently listed in Schedule 5 Environmental Heritage of the CHLEP 2013.

Aboriginal Cultural Heritage

An AHIMS search did not indicate any Aboriginal Cultural Heritage items or places within or surrounding the land.

The Planning Proposal does not recommend any provisions for the conservation of matters listed at 4(a) to (c). This inconsistency is of minor significance.

Direction 3.3 Sydney Water Drinking Catchments

Direction 3.3 does not apply to Nambucca Valley LGA.

Direction 3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs

Direction 3.4 does not apply to Nambucca Valley LGA.

Direction 3.5 Recreational Vehicle Areas

(1) 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):

(a) where the land is within a conservation 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 (a) or (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

CONSISTENT

This Planning Proposal does not enable land to be developed for the purpose of a recreational vehicle area, within the meaning of the *Recreation Vehicles Act 1983*.

Recreation Vehicle Areas, State Pollution Control Commission, September 1985.

Direction 3.6 Strategic Conservation Planning

(1) A planning proposal authority must be satisfied that a planning proposal that applies to avoided land identified under the State Environmental Planning Policy (Biodiversity and Conservation) 2021 demonstrates that it is consistent with:

- (a) the protection or enhancement of native vegetation,*
- (b) the protection or enhancement of riparian corridors, including native vegetation and water quality,*
- (c) the protection of threatened ecological communities, threatened species and their habitats,*
- (d) the protection or enhancement of koala habitat and corridors, and*
- (e) the protection of matters of national environmental significance.*

(2) A planning proposal authority must be satisfied that a planning proposal that applies to a strategic conservation area identified under the State Environmental Planning Policy (Biodiversity and Conservation) 2021 demonstrates that it is consistent with:

- (a) the protection or enhancement of native vegetation,*
- (b) the minimisation of impacts on areas of regionally significant biodiversity, including threatened ecological communities, threatened species and their habitats,*
- (c) the protection or enhancement of koala habitat and corridors, including habitat connectivity and fauna movement, and links to ecological restoration areas, and*
- (d) the maintenance or enhancement of ecological function.*

(3) A planning proposal must not rezone land identified as avoided land in the State Environmental Planning Policy (Biodiversity and Conservation) 2021 to:

- (a) a rural, residential, business, industrial, SP1 Special Activities, SP2 Infrastructure, SP3 Tourist, RE2 Private Recreation, or equivalent zone.*

(4) A planning proposal must not rezone land identified as a strategic conservation area in the State Environmental Planning

This Direction applies to all planning proposals concerning 'avoided land' or a 'strategic conservation area' as identified under the *State Environmental Planning Policy (Biodiversity and Conservation) 2021*.

'Avoided land' is shown on the Avoided Land Map and a 'strategic conservation area' is shown on the Strategic Conservation Area Map of *State Environmental Planning Policy (Biodiversity and Conservation) 2021*. These are geographically limited to the Sydney basin and do not extend to the Nambucca Valley local government area.

Accordingly, the land does not contain 'avoided land' or a 'strategic conservation area' and Direction 3.6 is not applicable to the Planning Proposal.

Policy (Biodiversity and Conservation) 2021 to:

(a) RU4, RU5, RU6, residential, business, industrial, SP1 Special Activities, SP2 Infrastructure, SP3 Tourist, RE2 Private Recreation, or equivalent zone.

FOCUS AREA 4: RESILIENCE AND HAZARDS

Direction 4.1 Flooding

This direction applies to all relevant planning authorities that are responsible for flood prone land when preparing a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.

NOT APPLICABLE

The subject land is not mapped as Flood Prone.

(1) A planning proposal must include provisions that give effect to and are consistent with:

- (a) the NSW Flood Prone Land Policy,*
- (b) the principles of the Floodplain Development Manual 2005,*
- (c) the Considering flooding in land use planning guideline 2021, and*
- (d) any adopted flood study and/or floodplain risk management plan prepared in accordance with the principles of the Floodplain Development Manual 2005 and adopted by the relevant council.*

Direction 4.2 Coastal Management

The objective of this direction is to protect and manage coastal areas of NSW.

NOT APPLICABLE

The subject land is not located within the Coastal Zone, as defined under the *Coastal Management Act 2016*.

Direction 4.3 Planning for Bushfire Protection

This direction applies to all local government areas when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to, land mapped as bushfire prone land.

JUSTIFIABLY INCONSISTENT

Mapped bush fire prone land is identified by Council and certified by the Commissioner of the NSW Rural Fire Service as land which can support a bush fire or is subject to bush fire attack. The land is mapped as bush fire prone land and Direction 4.3 applies to the planning proposal.

This applies where the relevant planning authority is required to prepare a bush fire prone land map under section 10.3 of the EP&A Act, or, until such a map has been certified by the Commissioner of the NSW Rural Fire Service, a map referred to in Schedule 6 of that Act.

A Bush Fire Risk Assessment has been prepared that has regard to *Planning for Bushfire Protection*

2019. The Bush Fire Risk Assessment provides recommendations for development within the land. The Planning Proposal and Concept Plan of Subdivision will meet the requirements of *Planning for Bushfire Protection 2019*.

The Planning Proposal is inconsistent with this Direction until the PPA (Nambucca Valley Council) consults with the Commissioner of the NSW Rural Fire Service (RFS) following the issue of a Gateway determination. Until this consultation has occurred the inconsistency with the Direction is unresolved.

Direction 4.4 Remediation of Contaminated Land

This direction applies when a planning proposal authority prepares a planning proposal that applies to:

- (a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997,*
- (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,*
- (c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land:*
 - i. in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
 - ii. on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

CONSISTENT

The Planning Proposal will sever two existing rural dwellings and does not propose any additional residential density within either resultant lot.

Native vegetation within the residual land (clear of the dwellings and their curtilage (ornamental landscape and managed APZ areas) within each resultant regenerated over time.

There is no indication of any past agricultural land use as the land is steep and not well suited to grazing or horticulture.

No detailed soil contamination assessments are considered necessary for the Planning Proposal.

Council will have a further opportunity to request a detailed contamination assessment at Development Application stage for the resultant subdivision.

Direction 4.5 Acid Sulfate Soils

This direction applies to all relevant planning authorities that are responsible for land having a probability of containing acid sulfate soils when preparing 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 held by the Department of Planning and Environment.

CONSISTENT.

The land is not mapped as containing acid sulfate soils.

Direction 4.6 Mine Subsidence and Unstable Land

This direction applies when a relevant planning authority prepares a planning proposal that permits development on land that is within a declared mine subsidence district in the Coal Mine Subsidence Compensation Regulation 2017 pursuant to section 20 of the Coal Mine Subsidence Compensation Act 2017, or has been identified as unstable in a study, strategy or other assessment undertaken by or on behalf of the relevant planning authority or by or on behalf of a public authority and provided to the relevant planning authority.

NOT APPLICABLE

The subject land is not identified as being within a declared mine subsidence district in the *Coal Mine Subsidence Compensation Regulation 2017* and is not identified as unstable in a study, strategy or other assessment undertaken by or on behalf of the relevant planning authority or by or on behalf of a public authority and provided to the relevant planning authority.

FOCUS AREA 5: TRANSPORT AND INFRASTRUCTURE

Direction 5.1 Integrating Land Use and Transport

This direction applies to all relevant planning authorities when preparing a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.

(1) A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:

(a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and

(b) The Right Place for Business and Services – Planning Policy (DUAP 2001)

CONSISTENT

The Planning Proposal does not create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.

The proposal is of minor significance as it accords with the Local Growth Management Strategy and will not result in an increase in traffic utilising the public road network.

Direction 5.2 Reserving land for Public Purposes

A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Planning Secretary (or an officer of the Department nominated by the Secretary).

CONSISTENT

The Planning Proposal does not create or reduce existing zonings or reservations of land for public purposes.

Direction 5.3 Development Near Regulated Airports and Defence Airfields

This direction applies to all relevant planning authorities when preparing a planning proposal that will create, alter or remove a zone or a provision relating to land near a regulated airport which includes a defence airfield.

CONSISTENT

The Planning Proposal will have no effect on airports or airfields.

Direction 5.4 Shooting Ranges

This direction applies to all relevant planning authorities when preparing a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.

NOT APPLICABLE

The subject land does not affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.

FOCUS AREA 6: HOUSING

Direction 6.1 Residential Zones

This direction applies to all relevant planning authorities when preparing a planning proposal that will affect land within an existing or proposed residential zone (including the alteration of any existing residential zone boundary), or any other zone in which significant residential development is permitted or proposed to be permitted.

CONSISTENT

The Planning Proposal does not affect land within an existing or proposed residential zone.

Direction 6.2 Caravan Parks and Manufactured Home Estates

The objectives of this direction are to:

- (a) provide for a variety of housing types, and*
- (b) provide opportunities for caravan parks and manufactured home estates.*

CONSISTENT

Caravan Parks and Manufactured Home Estates are not permissible land uses within the RU1 or RU2 zone.

This Planning Proposal does not seek to facilitate the permissibility of either land use on this land.

(1) In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:

- (a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and*
- (b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park.*

(2) In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:

- (a) take into account the categories of land set out in Schedule 6 of State Environmental Planning Policy (Housing) 2021 as to where MHEs should not be located,*

(b) take into account the principles listed in clause 125 of State Environmental Planning Policy (Housing) 2021 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and

(c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the Community Land Development Act 1989 be permissible with consent.

FOCUS AREA 7: INDUSTRY AND EMPLOYMENT

Direction 7.1 Business and Industrial Zones

The objectives of this direction are to:

- (a) encourage employment growth in suitable locations,
- (b) protect employment land in business and industrial zones, and
- (c) support the viability of identified centres.

This direction applies to all relevant planning authorities when preparing 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).

CONSISTENT

This Planning Proposal does not affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).

Direction 7.2 Reduction in non-hosted short-term rental accommodation period

Direction 7.2 does not apply to Nambucca Valley LGA.

Direction 7.3 Commercial and Retail Development along the Pacific Highway, North Coast

The objectives for managing commercial and retail development along the Pacific Highway are to:

- (a) protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route,
- (b) prevent inappropriate development fronting the highway,
- (c) protect public expenditure invested in the Pacific Highway,
- (d) protect and improve highway safety and highway efficiency,
- (e) provide for the food, vehicle service and rest needs of travellers on the highway, and
- (f) reinforce the role of retail and commercial development in town centres,

NOT APPLICABLE

The subject land does not adjoin the Pacific Highway.

where they can best serve the populations of the towns.

This direction applies when a relevant planning authority prepares a planning proposal for land within those council areas on the North Coast that the Pacific Highway traverses, being those council areas between Port Stephens Shire Council and Tweed Shire Council, inclusive, and that applies to land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.

FOCUS AREA 8: RESOURCES AND ENERGY

Direction 8.1 Mining, Petroleum Production and Extractive Industries

Applies when a relevant planning authority prepares a planning proposal that would have the effect of:

- 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.*

NOT APPLICABLE

This Planning Proposal does not affect either matter (a) or (b).

FOCUS AREA 9: PRIMARY PRODUCTION

Direction 9.1 Rural Zones

The objective of this direction is to protect the agricultural production value of rural land.

This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).

A planning proposal must:

- *not rezone land from a rural zone to a residential, employment, mixed use, SP4 Enterprise, SP5 Metropolitan Centre, W4 Working Waterfront, village or tourist zone.*

JUSTIFIABLY INCONSISTENT

The land is zoned RU1 and RU2. The Planning Proposal seeks to amend the minimum subdivision lots size applicable to the land.

Under present land holding arrangements there are two dwellings (dual occupancy) located within the land. Subject to the completion of the proposed subdivision, a dual occupancy will be permissible within each resultant lot, meaning that two additional dwellings would be permissible within the land.

The construction of additional dwellings within either is not planned by the proponents for the subdivision. Should an application be made to further intensify the land, Council would consider

- *not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).*

bushfire safety, traffic generation and the lands capability for onsite wastewater disposal.

The land is not used for agricultural purposes, it is used for rural living, therefore this inconsistency is considered to be of minor significance.

Direction 9.2 Rural Lands

The objectives of this direction are to:

(a) protect the agricultural production value of rural land,

(b) facilitate the orderly and economic use and development of rural lands for rural and related purposes,

(c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State,

(d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses,

(e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land,

(f) support the delivery of the actions outlined in the NSW Right to Farm Policy.

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

- *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*
- *changes the existing minimum lot size on land within a rural or environment protection zone.*

(2) A planning proposal that changes the existing minimum lot size on land within a rural or conservation zone must demonstrate that it:

(a) is consistent with the priority of minimising rural land fragmentation and land

JUSTIFIABLY INCONSISTANT

The proposed change to the existing minimum lot size will enable a subdivision of the land, however, the inconsistency is of minor significance.

The land is used for rural living and vegetation conservation. It is not used for agriculture. The land is situated within an area that is already

use conflict, particularly between residential and other rural land uses

(b) will not adversely affect the operation and viability of existing and future rural land uses and related enterprises, including supporting infrastructure and facilities that are essential to rural industries or supply chains

(c) where it is for rural residential purposes:
i. is appropriately located taking account of the availability of human services, utility infrastructure, transport and proximity to existing centres

ii. is necessary taking account of existing and future demand and supply of rural residential land.

Note: where a planning authority seeks to vary an existing minimum lot size within a rural or conservation zone, it must also do so in accordance with the Rural Subdivision Principles in clause 5.16 of the relevant Local Environmental Plan.

fragmented with the prevailing land use being rural lifestyle dwellings and hobby farms.

The land is serviced with public road access, town water supply, electricity and telecommunications and is nearby commercial and community services at Bowraville.

The land is within a Rural Residential candidate area identified in the Nambucca LEP 1995 (repealed) and the Rural Residential Land Use Strategy 2009 (Modified 2010).

Direction 9.3 Oyster Aquaculture

This direction applies to any relevant planning authority when preparing a planning proposal in 'Priority Oyster Aquaculture Areas' and oyster aquaculture outside such an area as identified in the NSW Oyster Industry Sustainable Aquaculture Strategy (2006) ("the Strategy"), when proposing a change in land use which could result in:

(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.

NOT APPLICABLE

This Planning Proposal does not apply to lands identified in the NSW Oyster Industry Sustainable Aquaculture Strategy (2006).

Direction 9.4 Farmland of State and Regional Significance on the NSW far North Coast

Direction 9.4 does not apply to Nambucca Valley LGA.