

COUNCIL ASSESSMENT REPORT

NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSNTH-367– Coffs Harbour - 0220/25DA
PROPOSAL	Subdivision (113 residential lots, 1 Biodiversity Stewardship Lot, dedication of reserves)
ADDRESS	Lot 22 DP 1070182 & Lot 497 DP 227298 & Lot 498 DP 227298, TI-TREE ROAD SANDY BEACH
APPLICANT	T CARTER
OWNER	ELITE CONSTRUCTION NSW PTY LTD
DA LODGEMENT DATE	8/10/24
APPLICATION TYPE	Designated and Integrated Development
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 8(1)(b)(i) of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 declares the proposal regionally significant development as Coastal Subdivision.
CIV	\$12,753,981.00 (excluding GST)
CLAUSE 4.6 REQUESTS	Clause 4.1 of Coffs Harbour Local Environmental Plan 2013 (40 hectare minimum lot size for lot zoned C2 Environmental Conservation proposed to be varied to create 37.5ha lot)
KEY SEPP/LEP	<ul style="list-style-type: none"> • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • Coffs Harbour Local Environmental Plan 2013
TOTAL & UNIQUE SUBMISSIONS ISSUES SUBMISSIONS UNIQUE KEY IN	398 submissions objecting to the proposal

DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Environmental Impact Statement • Subdivision and Civil Plans • Traffic Report • Biodiversity Development Assessment Report • Bushfire Assessment • Flood Assessment • Aboriginal Cultural Heritage Report • Stormwater Management Plan • Acid Sulfate Soils Report • Coastal Hazard Assessment • Geotechnical and Contamination Assessment • Clause 4.6 written request • Acoustic Assessment • Landscape Plan
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	Nil
RECOMMENDATION	Refusal
DRAFT CONDITIONS TO APPLICANT	NA
SCHEDULED MEETING DATE	11 April 2025
PLAN VERSION	2 September 2024 Version No. A
PREPARED BY	Gary Cheney
DATE OF REPORT	14 March 2025

EXECUTIVE SUMMARY

The proposal seeks consent for Subdivision (113 residential lots, 1 Biodiversity Stewardship Lot, dedication of reserves)

Specifically, the proposal involves:

- Subdivision (113 residential lots ranging in size from 500sqm to 700sqm)
- Bulk Earthworks
- Construction of Public Roads
- 3 drainage reserves to be dedicated to Council
- 2.5m wide cycleway, pedestrian shared use pathways
- Construction of fire trail
- Pathway to Coffs Coast Regional Park, beach access
- Biodiversity Stewardship site (Lot 114) being 37.5ha in size and zoned C2 Environmental Conservation.
- 3.8m high acoustic wall along boundary adjoining Pacific Highway.
- Stormwater pipes to discharge to the bio-retention basin
- Installation of reticulated water, sewer, electrical and communication services
- Tree removal

The application is referred to the Northern Regional Planning Panel for determination ('the Panel') as the development is 'regionally significant development', pursuant to Section 2.19(1) and Clause 8(1)(b)(i) of Schedule 6 State Environmental Planning Policy (Planning Systems) 2021. The development is defined as a 'Coastal Subdivision' under this SEPP.

A briefing was held with the NRPP on 18/2/2025. As substantial information remains outstanding to address significant issues, the Panel's recommendation was to strongly encourage the applicant to withdraw the application and resubmit a complete application. A tentative date for determination was set for April in the event that the DA was not withdrawn.

Following the briefing the City wrote to the applicant on 20/2/25 again encouraging withdrawal of the application. The applicant has not withdrawn the DA and has not submitted the additional information requested in the letter from the City dated 29/1/2025. Assessment of the DA has therefore not been able to be progressed since the Panel briefing and the assessment has been finalised based on the information submitted.

The proposal is integrated development under s4.46 and designated development (land comprises coastal wetland) s4.10 of the Environmental Planning and Assessment Act 1979. Approval bodies are:

- NSW Rural Fire Service - S100B Rural Fires Act 1997
- DPE-Water – s91 Water Management Act 2000
- DPE-Heritage NSW - s90 National Parks and Wildlife Act 1974

The proposal was placed on public exhibition and nearby and adjoining property owners were notified in accordance with Council's Community Participation Plan from 24 October 2024 until 21 November 2024.

A total of **398** unique submissions, by way of objection, were received. The issues raised in the submissions are summarised below:

- Flood and stormwater impacts upon existing neighbourhood
- Likely adverse construction impacts on Hearn's Lake and impacts from additional pedestrian use
- Impact on biodiversity
- Suitability/capability of existing road system and intersections to accommodate the additional traffic demand.
- Amenity related traffic impacts including noise and head light impacts
- Construction related amenity impacts including associated traffic, noise and dust from vehicles delivering fill and undertaking earthworks.
- Compliance with concept approval issued by the NSW Department of Planning in 2010.
- No public consultation occurring as part of the preparation of the Environmental Impact Statement. This was a requirement of the Secretary's Environmental Assessment Requirements (SEARS).
- Public services (existing schools, medical centres, emergency services etc) are insufficient to support such a large-scale development.
- Privacy impacts for existing residences adjoining the development
- Visual intrusion
- Adverse community impact due to increased densities and overcrowding

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

- Flood and stormwater management
- Impacts on coastal wetland and Hearn's Lake
- Biodiversity impacts
- Road design and servicing issues
- The proposal involves departures to development controls and standards that are unjustified.

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. This assessment has found fundamental issues and deficiencies with the application and insufficient information.

The application has attracted a significant amount of community interest, as evidenced by the 398 submissions received, many of the issues raised have not been satisfactorily addressed and it is therefore in the public interest to refuse the application.

Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application should be refused, subject to the reasons contained at Attachment A of this report.

1. THE SITE AND LOCALITY

1.1 The Site

The site is 49.59ha in size and is generally 691m in width from east to west and 1065m in length north to south. The site is generally flat and predominantly comprises of native vegetation. It is currently used for rural agricultural purposes (grazing land and agistment). The site is accessible from the original residential neighbourhood within Sandy Beach to the south.



1.2 The Locality

The site is approximately 5km from the Woolgoolga town centre. Surrounding development is as follows:

- Residential development to the south (original Sandy Beach development)
- The Pacific Highway to the west
- The site adjoins the Coff Coast Regional Park to the east before the ocean.
- Hearn's Lake to the north.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal seeks consent for Subdivision (113 residential lots, 1 Biodiversity Stewardship Lot, dedication of reserves)

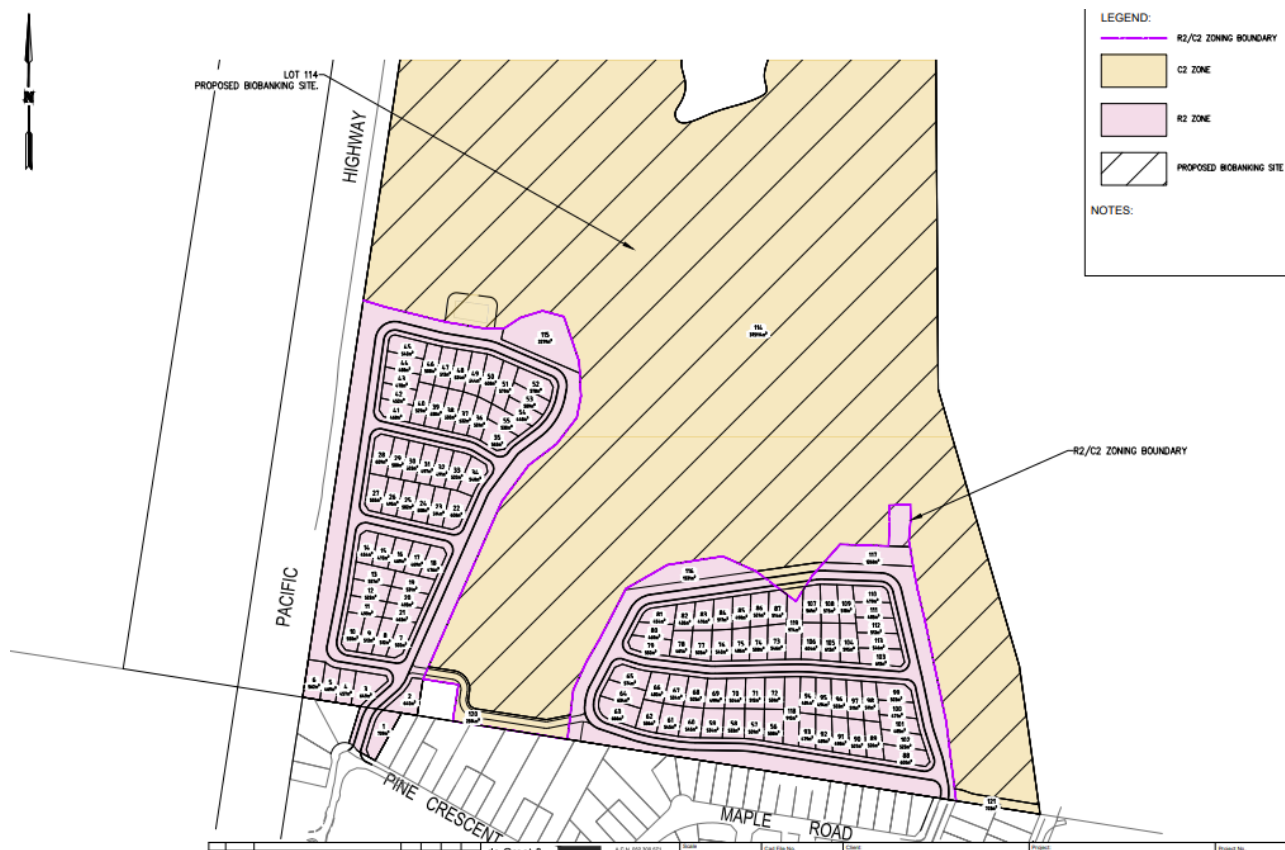
Specifically, the proposal involves:

- Subdivision (113 residential lots ranging in size from 500sqm to 700sqm).
- Bulk Earthworks.
- Construction of Public Roads.
- 3 drainage reserves to be dedicated to Council.
- 2.5m wide cycleway, pedestrian shared use pathways
- Construction of fire trail.
- Pathway to Coffs Coast Regional Park, beach access.
- Biodiversity Stewardship site created 37.5ha in size, zoned C2 Environmental Conservation.
- 3.8m high acoustic wall along boundary adjoining Pacific Highway.
- Stormwater pipes to discharge to the bio-retention basin.
- Installation of reticulated water, sewer, electrical and communication services.
- Tree removal.

The key development data is provided in **Table 1**.

Table 1: Key Development Data

Control	Proposal
Site area	49.54ha
Minimum Lot Size	400sqm for land zoned R2 Low Density Residential. 40ha for land zoned C2
Clause 4.6 Requests	Yes, lot comprising land zoned C2 is 37.5ha.
No. Lots	113 development lots



2.2 Background

The development application was lodged on 8 October 2024. A chronology of the development application since lodgement is outlined in **Table 2**.

Table 2: Chronology of the DA

Date	Event
8 October 2024	Exhibition of the application
15 October 2024	DA referred to external agencies
29 January 2025	Request for Information from Council to applicant
19 February 2025	Panel briefing

2.3 Site History

- Concept approval for subdivision of this property issued by the NSW Department of Planning in 2010 under Part 3A of the Environmental Planning and Assessment Act, 1979. This part of the Act is now repealed; however the Land & Environment Court has ruled that this concept approval has not lapsed. Under the current DA

(0220/25DA), the EIS indicates that the applicant intends to surrender this concept approval if the DA is approved.

- A DA for subdivision was approved (0526/19DA) which was for 3 lots. The approval creates 3 lots generally along the R2 and C2 zone boundaries. The approved lots have yet to be registered/created.
- A DA for subdivision (0450/18DA -169 lots) was submitted. The proposal was based upon the concept approval issued by the NSW Department of Planning. This DA was however withdrawn, due to relevant matters not being addressed/resolved.
- A similar proposal (DA) for subdivision was then recently submitted in 2023 (0847/23DA). However, due to a lack of basic information submitted, assessment could not commence, and the DA was consequently withdrawn.

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
- (b) *that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is considered to be (which are considered further in this report):

- Integrated Development (s4.46)
- Designated Development (s4.10)

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Coffs Harbour Local Environmental Plan 2013

A summary of the key matters for consideration and non-compliances arising from the relevant EPIs are outlined in **Table 3**.

Table 3: Summary of Key Matters in the Relevant EPIs

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 8(1)(b)(i) of Schedule 6. The DA will be therefore determined by the Northern Regional Planning Panel (NRPP).	Yes.
State Environmental Planning Policy (Biodiversity & Conservation) 2021	A Biodiversity Development Assessment Report (BDAR) has been submitted as required by State Environmental Planning Policy (Biodiversity & Conservation) 2021. It has been reviewed by the City's Biodiversity Officer and the Department of Planning and Environment- Biodiversity Conservation & Science. Further information has been requested from the applicant to clarify some matters and to ensure an updated BDAR meets the requirements of this SEPP.	No. Insufficient information has been submitted with the application to allow for a proper assessment against the relevant provisions of this Policy. This forms a reason for refusal.
State Environmental Planning	Chapter 2: Coastal Management The site is mapped as being within the: <ul style="list-style-type: none"> • coastal zone 	No.

Policy (Resilience & Hazards) 2021	<ul style="list-style-type: none"> • coastal environment area • coastal use area • coastal lake • coastal vulnerability area • coastal wetland area coastal wetland proximity area • littoral rainforest area • littoral rainforest proximity area <p>The EIS and supporting documentation has been reviewed by the City's Coast & Estuary Officer and other external agencies and approval bodies. Further information has been requested from the applicant to clarify some matters and to adequately address the requirements of this SEPP.</p> <p>Chapter 4: Remediation of Land Section 4.6 - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions.</p>	<p>Insufficient information has been submitted with the application to allow for a proper assessment against the relevant provisions of this Policy.</p> <p>This forms a reason for refusal.</p>
State Environmental Planning Policy (Transport and Infrastructure) 2021	<p>Chapter 2: Infrastructure Section 2.48(2) (Determination of development applications—other development) – electricity transmission - the proposal is satisfactory subject to conditions.</p>	<p>Yes</p> <p>Response from Essential Energy provided. No issues, general advice provided.</p>
Coffs Harbour Local Environmental	<ul style="list-style-type: none"> • Clause 2.3 – Permissibility and zone objectives • Clause 4.1 – Minimum Lot Size • Clause 4.6 Exceptions to Development 	<p>No.</p> <p>Insufficient information</p>

Plan 2013	Standards <ul style="list-style-type: none"> • Clause 5.10 Heritage conservation • Clause 5.21 Flood Planning • Clause 7.1 Acid Sulfate Soils • Clause 7.2 Earthworks • Clause 7.4 Terrestrial biodiversity • Clause 7.6 Riparian Land and watercourses • Clause 7.8 Koala habitat • Clause 7.11 Essential Services 	has been submitted with the application to allow for a proper assessment against the relevant provisions of the CHLEP. This forms a reason for refusal.
Coffs Harbour Development Control Plan 2013	<ul style="list-style-type: none"> • C1 Subdivision of land • E1 Biodiversity • E2 Coastal Vulnerability • E4 Flooding • G6 East Moonee/Sapphire Beach, Hearnese Lake/Sandy Beach 	No. Insufficient information has been submitted with the application to allow for a proper assessment against the relevant provisions of the CHDCP. This forms a reason for refusal.

Table 4: Summary of Applicable Environmental Planning Instruments

Consideration of the relevant SEPPs is outlined below

State Environmental Planning Policy (Planning Systems) 2021

Chapter 2: State and Regional Development Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 8(1)(b)(i) of Schedule 6. The DA will be therefore determined by the NRPP.

State Environmental Planning Policy (Biodiversity & Conservation) 2021

The site is mapped as having Biodiversity Values and therefore the above SEPP is relevant to the development application.

Comment:

A Biodiversity Development Assessment Report (BDAR) has been submitted as required by State Environmental Planning Policy (Biodiversity & Conservation) 2021. It has been reviewed by Council's Biodiversity Officer and the Department of Planning and Environment-Biodiversity Conservation & Science. Further information has been requested from the applicant to clarify some matters and to ensure an updated BDAR meets the requirements of this SEPP. Attachment B lists the information required to adequately address this SEPP.

As the requirements have not been adequately addressed, the proposal cannot be supported.

State Environmental Planning Policy (Resilience & Hazards) 2021

The site is mapped as being within the coastal zone, contains a coastal wetland and littoral rainforest, and therefore the SEPP is relevant to the development application.

Comment:

Further information has been requested from the applicant to ensure this SEPP is adequately addressed. Attachment B lists the information required to adequately address this SEPP. A summary of the issues identified is provided below.

The development does not meet the requirements of the SEPP (Resilience and Hazards) 2021, particularly Division 1 Coastal wetlands and littoral rainforests area. The development is not supported in its current form as it does not sufficiently demonstrate that "sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest" as required under Division 1 (Coastal wetlands and littoral rainforests area) Section 2.7 (Development on certain land within coastal wetlands and littoral rainforests area) of the State Environmental Planning Policy (Resilience and Hazards) 2021. In particular:

- The proposed development is a section of the mapped wetland. The development footprint should be adjusted to avoid the mapped coastal wetland in the south-east corner of the site. Adopting the "avoid" principle would exclude the patch of mapped wetland from being developed.
- In its current form, the DA does not sufficiently demonstrate that "sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest" as is required under Section 2.7.
- The Environmental Impact Statement (EIS) questions the integrity of the mapped wetland area in the south-east corner of the development footprint and whether it is functioning as a wetland. The argument that the mapped area is not behaving like a wetland is not valid as it does not take into account the temporal and spatial variation that can occur with wetlands. They can be wet or dry depending on environmental conditions or other influences and therefore the area should be considered and assessed as a wetland as per the SEPP mapping and requirements.
- The EIS does not give due consideration of Hearn's Lake as an Intermittently Closed and Open Lake or Lagoon (ICOLL). Potential impacts on the ICOLL should be assessed for a range of possible situations including being open or closed.

- The EIS does not model for future climate change scenarios and how this may affect the behaviour and water levels of the Hearn's Lake ICOLL, particularly with the predicted increases in berm heights which could lead to elevated water levels over time and changes to inundation and catchment flooding behaviour. It should also take this into account as to how this may affect the extent of wetlands and other ecological communities in proximity to the lake.

Regarding Division 1 Section 2.8 Development on land in proximity to coastal wetlands or littoral rainforest:

- A portion of the development footprint lies within the "proximity to coastal wetlands or littoral rainforest" area.
- The development is in the catchment of the significant coastal wetland and ICOLL Hearn's Lake.
- There is insufficient detail and information in the EIS to demonstrate that the proposed development will not significantly impact on:
 - a) The biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
 - b) The quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.
- There is no discussion in the EIS regarding potential surface water runoff or diversion impacts on the mapped SEPP Coastal Wetlands or Littoral Rainforest to the east of the development. Instead, the discussion focuses on the receiving waters of Hearn's Lake. The EIS should consider the likely impacts of the proposed stormwater management works in terms of wetland hydrology for this eastern wetland.

Regarding Division 2 Coastal Vulnerability Area – Section 2.9 Development on land within the coastal vulnerability area:

- Part of the development footprint is located within the Coastal Vulnerability Area therefore a Coastal Hazard Assessment Report is required as per Coffs Harbour Development Control Plan 2015; Part E Environmental Controls; E2 Coastal Vulnerability Area; E2.1 Coastal Vulnerability Area Application Requirements.
- A Coastal Hazard Assessment Report has been prepared by Telford Consulting to accompany the DA. The DA and the Coastal Hazard Assessment Report does not meet the requirements of Division 2 Coastal Vulnerability Area Section 2.9. The Coastal Hazard Assessment Report is insufficient and does not include the required details to assess the application. Specifically:
 - There is no clear map in the Coastal Hazard Assessment Report showing the most recent proposed development footprint and plans in relation to the Resilience and Hazards SEPP mapped Coastal Vulnerability Area.
 - The overlay of the subdivision plan in the report is different to the overlay in the EIS and other DA documentation and there are inconsistencies between the Report, the EIS and the Plans. The Coastal Hazard Assessment Report needs to show the latest subdivision plan overlaid with the Coastal Vulnerability Layer as mapped by the SEPP and shown on the City's Intramaps spatial portal.

- The Report is generally outdated and refers to outdated Council policy and should be referencing the Resilience and Hazards SEPP 2021 and the mapped Coastal Vulnerability Area (which is available on the City's web site via the Intranet mapping tool, and comments stating that the mapping in unavailable are incorrect) and the relevant Coffs Harbour DCP Environmental Controls (Coffs Harbour Development Control Plan 2015; Part E Environmental Controls; E2 Coastal Vulnerability Area; E2.1 Coastal Vulnerability Area Application Requirements) and not the Coastal Hazard Zone Policy Area.
- The report indicates that part of the development will take place within the CVA including a swale, fill platform, portion of a water quality control basin, a road and a portion of five residential lots. This seems to contradict with more recent site plans showing a different development footprint. There is no discussion of consideration of the “avoid” principle moving the development footprint and locating infrastructure and development outside the Coastal Vulnerability Area.
- Moving the footprint to avoid the Coastal Vulnerability Area would also meet the principles of the SEPP to first “avoid” as an option before other options are considered.
- Infrastructure is proposed within the Coastal Vulnerability Area according to the Coastal Hazard Assessment Report. Accordingly, it needs to be demonstrated how the development has considered projected coastal hazards and what design and construction measures are in place to protect the infrastructure for its design life. There is no discussion or consideration of how proposed infrastructure (such as the road) would be appropriately designed to accommodate and withstand the future projected coastal hazards for their design life.
- The Coastal Hazard Assessment appears to misinterpret the Resilience and Hazards SEPP legislation and DCP Controls. The report has interpreted that being located within the CVA means the site is unlikely to experience coastal erosion within the year 2100. This is not the definition. The definition is that the zone is defined by the 2100 unlikely hazard line which applies to land west of that line and not to the east. Any land to the east of the 2100 unlikely hazard line is defined as being in the Coastal Vulnerability Area.
- The coastal hazard assessment suggests that the site won't be affected by coastal erosion because the mapping is overly conservative. This argument does not carry validity or evidence. In order to question the accuracy of these hazard lines the Coastal Hazard Assessment Report would have to undertake a credible and appropriate hazard assessment for the immediate area and provide reputable and justifiable evidence as outlined in E2 of the Coffs Harbour DCP.
- It must also be noted that any proposed lots and future development / buildings within the Coastal Vulnerability Area will need to be subject to separate individual coastal hazard assessments at the DA stage to demonstrate how the buildings have been designed to withstand coastal hazards for their design life (as per SEPP (Resilience and Hazards) 2021 Division 2 Coastal Vulnerability Area, Section 2.9 Development on land within the coastal vulnerability area and the Coffs Harbour DCP.
- A Coastal Hazard Assessment Report that conforms with the SEPP and DCP requirements is required to assess the proposal.

Consideration of Certified Coastal Management Programs:

- The EIS / DA is required to take into consideration any relevant coastal management programs (Division 5 – Section 2.13 Development in coastal zone generally – coastal management programs to be considered). This has not occurred.
- The DA needs to specifically demonstrate it has taken into consideration any relevant provisions of the Woolgoolga Region Estuaries Coastal Management Program, including those relating to water quality and ecological value of Hearn's Lake.
- The Woolgoolga Region Estuaries CMP sets objectives for water quality and ecological outcomes for Hearn's Lake and these must be demonstrated as to how they have been met.
- Opportunities to improve water quality outcomes through effective stormwater management such as wider vegetated channels should be demonstrated as part of the Stormwater Management Plan, this means lots 118 and 119 need to be revised.

As the requirements have not been adequately addressed and insufficient information has been provided, the proposal cannot be supported. This forms a reason for refusal.

Chapter 4: Remediation of Land

The provisions of Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 ('the Resilience and Hazards SEPP') have been considered in the assessment of the development application.

Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. In order to consider this, a Preliminary Site Investigation ('PSI') has been prepared for the site.

Comment:

The site has a history of agriculture including livestock and beekeeping. According to the City's mapping there is no history of banana land cultivation or any contamination on the site. A preliminary contamination assessment has been undertaken and there were reportedly no signs of soil contamination. The site is considered suitable for the proposed purpose in its current state without remediation.

Coffs Harbour Local Environmental Plan 2013

The relevant local environmental plan applying to the site is the Coffs Harbour Local Environmental Plan 2013 ('the LEP'). The aims of the LEP include:

- to promote a sustainable growth footprint by directing urban development and growth into the existing urban footprint and identified greenfield investigation areas,
- to protect and sustainably manage areas of high biodiversity, agricultural, scenic, recreational and European and Aboriginal cultural heritage value,
- to promote ecologically sustainable development that supports a strong and diverse local economy both now and into the future,
- to ensure that sensitive land uses and development are sited and designed so that they do not affect the viability of existing uses,
- to provide for the social and economic welfare of the community by facilitating equitable access to public open spaces, community services and facilities that are safe and meet the needs of a diverse population,

- to promote the delivery and maintenance of housing diversity and affordable housing,
- to promote a strong sense of community, identity and place,
- to promote the effective management of natural hazards and risks and the creation of a climate resilient community.

Comment:

The proposal is inconsistent with these aims as the proposal does not demonstrate compliance with relevant SEPPs and the LEP in terms of biodiversity impacts, coast and estuary management and impacts, flood management and traffic management.

Attachment B lists the information required to adequately address all relevant State Environmental Planning Policies and the LEP. The information has not been provided. As the requirements have not been adequately addressed, the proposal cannot be supported.

Zoning and Permissibility

The site is located within the R2 Low Density Residential and C2 Environmental Conservation Zone pursuant to Clause 2.3 of Coffs Harbour Local Environmental Plan 2013. Subdivision is permissible with prior development consent in accordance with clause 2.6.

The zone objectives for each zone are:

Zone R2 Low Density Residential

1 Objectives of zone

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for housing diversity and choice and associated infrastructure that supports the changing housing needs of the population that is consistent with local character.*
- *To encourage active living through the provision of healthy, walkable, green and safe built environments and streets, greener connections and walking and cycling infrastructure.*
- *To ensure that development reflects design excellence in its presentation to the public realm.*

Zone C2 Environmental Conservation

1 Objectives of zone

- *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*

The proposal, being a residential subdivision, satisfies the objectives of the R2 zone in terms of providing for additional housing opportunities however insufficient information has been provided to ensure the impact of the proposal on the environment is satisfactory.

Clause 4.1 of the LEP requires lots to comply with the minimum applicable lot size. The proposal does not comply with this clause. Lot 114 entirely comprises land zoned C2 and the minimum lot size applicable is 40ha. Lot 114 is only 37.5ha and therefore does not comply.

A submission addressing clause 4.6 has been submitted which requests flexibility in the application of the 40ha development standard in this case. However, the proposal does not demonstrate how proposed lot 114 (zoned entirely C2 - Environmental Conservation) is capable of supporting a future dwelling within the designated building envelope, having regard to site suitability in terms of flooding, biodiversity impacts and effluent disposal. The proposal also therefore does not demonstrate consistency with the objectives of the C2 zone.

Insufficient information has been submitted with the application to allow for a proper assessment of the proposal and the proposal in its current form does not satisfy the objectives of the relevant land use zones. This forms a reason for refusal of the application.

General Controls and Development Standards

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below.

Table 5: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Minimum subdivision Lot size (cl 4.1)	400sqm for land zoned R2 Low Density Residential. 40ha for land zoned C2	Lots zoned R2 are at least 400sqm and comply However, lot 114 entirely comprising land zoned C2 is 37.5ha and therefore does not comply.	No, subject to clause 4.6 variation.
Exceptions to minimum lot size (cl 4.6)	Must demonstrate that compliance with the 40ha lot size development standard is unreasonable or unnecessary in the circumstances, and there are sufficient environmental planning grounds to justify the contravention of the development standard.	The applicants written request seeking to vary clause 4.1 of the CHELP is, in its current form, insufficient. It is considered that variation to the development standard cannot be supported as it has not been demonstrated that future development such as a dwelling is capable of being accommodated on the site without causing inconsistency with the objectives of the C2 zone. Attachment B lists the information required to adequately address the LEP. The information has not been provided and there for a full	No

		and proper assessment of the proposal against this clause has not been able to be undertaken. This is included as a reason for refusal.	
Heritage (cl 5.10)	Must demonstrate measures implemented to conserve the heritage significance of heritage items and heritage conservation areas, archaeological sites, Aboriginal objects and Aboriginal places of heritage significance.	General Terms of Approval issued by DPE-Heritage NSW.	Yes
Flood planning (cl 5.21)	<p>This clause applies to land at or below the flood planning level. Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <ul style="list-style-type: none"> • is compatible with the flood hazard of the land; • is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties; • incorporates appropriate measures to manage risk to life from flood; • is not likely to significantly adversely affect 	The Flood Impact Assessment and EIS does not adequately address the flood requirements of Coffs Harbour LEP 2013 (clause 5.21). Attachment B lists the information required to adequately address clause 5.21 of the LEP. The information has not been provided and there for a full and proper assessment of the proposal against this clause has not been able to be undertaken. This is included as a reason for refusal.	No

	<p>the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses; and</p> <p>is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</p>		
Acid sulphate soils (cl 7.1)	Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.	An acid sulfate soils management plan has been submitted. Based on the results of the assessment, the site is generally considered to be suitable for residential development.	Yes
Earthworks (cl. 7.2)	<p>Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p>	<p>The site is located on mostly flat, low-lying flood affected land. The majority of the proposed development footprint is on land ranging from 3m AHD to 4m AHD, significant filling works will be required to raise the development footprint to 4.5-6.5m AHD to achieve flood planning levels and to allow the development to be serviced by a pipe and pit drainage network and treated via bioretention basins.</p> <p>To achieve the above the proposal involves placing of approximately 180,000 cubic metres of fill across the site. It is considered that the proposed volume of fill required to be imported to the site is excessive</p>	No

	<p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,</p> <p>(i) the effect of the development on Aboriginal cultural heritage.</p>	<p>and would result in unacceptable amenity related impacts upon the locality and the potential for adverse environmental impacts.</p> <p>Furthermore, the Application has not demonstrated sufficient measures to minimise or mitigate the impacts of the bulk earthworks.</p> <p>Therefore, the City is not satisfied that the proposal achieves Clause 7.2 of the LEP.</p>	
<p>Terrestrial Biodiversity (cl 7.4)</p>	<p>Before determining a development application for development on land to which this clause applies, the consent authority must consider—</p> <p>(a) whether the development is likely to have—</p> <p>(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and</p> <p>(ii) any adverse impact on the importance of the vegetation on the land to the habitat and</p>	<p>A Biodiversity Development Assessment Report has been submitted as required by State Environmental Planning Policy (Biodiversity & Conservation) 2021. It has been reviewed by Council's Biodiversity Officer and the Department of Planning and Environment- Biodiversity Conservation & Science. Further information has been requested from the applicant to clarify some matters and to ensure an updated BDAR meets the requirements of this SEPP and the LEP. Attachment B lists the information required to adequately address this SEPP.</p> <p>The information has not been provided and there for a full and proper assessment of the</p>	<p>No</p>

	<p>survival of native fauna, and</p> <p>(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and</p> <p>(iv) any adverse impact on the habitat elements providing connectivity on the land, and</p> <p>(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>proposal against this clause has not been able to be undertaken. This is included as a reason for refusal.</p>	
<p>Riparian land and watercourses (cl 7.6)</p>	<p>Before determining a development application for development on land to which this clause applies, the consent authority must consider—</p> <p>(a) whether or not the development is likely to have any adverse impact on the following—</p> <p>(i) the water quality and flows within the watercourse,</p> <p>(ii) aquatic and riparian species, habitats and ecosystems of the watercourse,</p> <p>(iii) the stability of the bed and banks of the watercourse,</p> <p>(iv) the free passage of fish and other aquatic organisms within or along the watercourse,</p> <p>(v) any future rehabilitation of the watercourse and riparian areas, and</p> <p>(b) whether or not the development is likely to increase water</p>	<p>Further information has been requested from the applicant to ensure this LEP clause is adequately addressed. Attachment B lists the information required to adequately address this.</p> <p>The information has not been provided and there for a full and proper assessment of the proposal against this clause has not been able to be undertaken. This is included as a reason for refusal.</p> <p>DPE-Water have not issued their General Terms of Approval for works within 40m of a watercourse (s91 controlled activity). Additional information has also been requested from DPE-Water to undertake their assessment.</p>	<p>No</p>

	<p>extraction from the watercourse, and</p> <p>(c) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>		
<p>Koala Habitat (cl. 7.8)</p>	<p>Development consent must not be granted to development on land to which this Plan applies unless the development is in accordance with Coffs Harbour City Koala Plan of Management, ISBN 0 7313 6050 8, published in November 1999.</p>	<p>A Biodiversity Development Assessment Report has been submitted as required by State Environmental Planning Policy (Biodiversity & Conservation) 2021. It has been reviewed by Council's Biodiversity Officer and the Department of Planning and Environment- Biodiversity Conservation & Science. Further information has been requested from the applicant to clarify some matters and to ensure an updated BDAR meets the requirements of this SEPP and the LEP. Attachment B lists the information required to adequately address this SEPP.</p> <p>The information has not been provided and there for a full and proper assessment of the proposal against this clause has not been able to be undertaken. This is included as a reason for refusal.</p>	<p>No</p>
<p>Essential Services (cl 7.11)</p>	<p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</p> <p>(a) the supply of water,</p> <p>(b) the supply of electricity,</p> <p>(c) the disposal and management of sewage,</p>	<p>The development is proposed to be serviced from the existing water and sewer mains and electrical services supporting the existing residential development to the south.</p> <p>In terms of stormwater, runoff will be directed to a pipe and pit network to bioretention basins prior to discharge into the existing drainage channels conveying the water to Hearn's Lake. The proposed subdivision will be connected to the existing residential road network to the south via two local streets. The Eastern Precinct is linked via an</p>	<p>No</p>

	(d) stormwater drainage or on-site conservation, (e) suitable vehicular access.	extension of Ti-Tree Road, the western will link to Pine Crescent. Both Ti-Tree Road and Pine Crescent will link the proposed development to Diamond Head Drive. In accordance with the Development Engineer Referral Response additional information is required in relation to the Civil Design (see Attachment B). The information has not been provided and forms a reason for refusal.	
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The proposal is considered to be generally consistent inconsistent with the LEP.

(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no proposed instruments which have been the subject of public consultation under the EP&A Act that are relevant to the proposal.

(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

Coffs Harbour Development Control Plan 2015 ('the DCP') is relevant to this application. The following components of the DCP are relevant to this proposal:

- C1 Subdivision of land
- E1 Biodiversity
- E2 Coastal Vulnerability
- E4 Flooding
- G6 East Moonee/Sapphire Beach, Hearn's Lake/Sandy Beach

These DCP components contain various controls and objectives in relation to subdivision design, ecological preservation and restoration, stormwater and flood management, coastal hazard management, land contamination and heritage conservation. These considerations are also considered separately under the previously mentioned SEPPs and LEP clauses.

Attachment B lists the information required to adequately address these DCP components. This information has not been provided.

(d) Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

(e) Section 4.15(1)(a)(iv) - Provisions of Regulations

Section 191 of the Environmental Planning and Assessment Regulation 2021 requires the environmental impact statement (EIS) to comply with the environmental assessment requirements notified under section 176.

Comment:

Prior to the preparation of the Environmental Impact Statement, the applicant sought the Secretary's Environmental Assessment Requirements (SEARS) in accordance with section 173 of the Regulations. The SEARS were issued in accordance with section 176 of the Regulations. One of the requirements of the SEARs was for surrounding landowners and occupiers that are likely to be impacted by the proposal to be consulted prior to final preparation and submission of the EIS.

This required consultation has not occurred. As a result, the EIS and application do not comply with the requirements of the SEARS.

3.2 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

Access and traffic generation

The proposed subdivision is likely to cause an adverse impact on the existing local road network both during works and after completion when the subdivision comprises housing. These issues include:

- The northbound traffic on Solitary Islands Way does not have provision for passing when vehicles are turning right.
- It is envisaged that a roundabout may need to be constructed at the intersection to reduce speeds approaching, and at the intersection subsequently making a safer intersection. A preliminary design is required for a roundabout at the intersection of Diamond Head Road and Solitary Island Drive, or some other design that will improve the performance of the intersection.
- Details are required for the intersection design to ensure sufficient road reserve is dedicated and the extent of works required noting that Pine Crescent will need to be upgraded with kerb and gutter with path to the intersection with Diamond Head Drive due to the increase in traffic volume.
- The intersection design is to detail a T-intersection with the east-west section of Pine Crescent being the minor road. Details of any changes required for existing driveway crossings to ensure they comply with Councils standards and AS2890.1 are required to be shown on the plan. Where driveway crossings are required to be changed, agreement from the effected property owner will be required.
- Road 1 along the southern boundary is significantly elevated from the existing lots fronting Maple Road (up to 2m). This will result in glare from the streetlights, cars entering and exiting properties fronting this road and

undertaking turning manoeuvres at the eastern and western end of this section of road.

Flood Impacts

The Flood Impact Assessment and EIS does not adequately address the flood requirements of Coffs Harbour DCP 2015 (section E4), and objectives of Coffs Harbour LEP 2013 (clause 5.21) in regard to:

- Taking into account projected changes as a result of climate change. Climate change not assessed in the Flood Impact Assessment.
- Avoiding adverse or cumulative impact on flood behaviour and the environment. Additional/amended flood modelling is required to assess this.
- Compatibility with the flood function and behaviour of the land. The western portion of the development is located within the floodway and justification is required as to the earthworks proposed in this area.

Attachment B lists the information required to adequately address these matters. The information has not been provided. As the requirements have not been adequately addressed, the proposal cannot be supported.

Impact on Coastal Wetland and Coastal Lake

The site is mapped as being within the coastal zone, a coastal wetland and littoral rainforest and therefore the SEPP (Resilience and Hazards) 2021 is relevant to the development application. Further information has been requested from the applicant to ensure this SEPP is adequately addressed. Attachment B lists the information required to adequately address this SEPP. A summary of the issues identified is provided below.

The development does not meet the requirements of the SEPP (Resilience and Hazards) 2021, particularly Division 1 Coastal wetlands and littoral rainforests area. The development is not supported in its current form as it does not sufficiently demonstrate that “sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest” as required under Division 1 (Coastal wetlands and littoral rainforests area) Section 2.7 (Development on certain land within coastal wetlands and littoral rainforests area) of the State Environmental Planning Policy (Resilience and Hazards) 2021. In particular:

- The proposed development is a section of the mapped wetland. The development footprint should be adjusted to avoid the mapped coastal wetland in the south-east corner of the site. Adopting the “avoid” principle would exclude the patch of mapped wetland from being developed.
- In its current form, the DA does not sufficiently demonstrate that “sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest” as is required under Section 2.7.
- The Environmental Impact Statement (EIS) questions the integrity of the mapped wetland area in the south-east corner of the development footprint and whether it is functioning as a wetland. The argument that the mapped area is not behaving like a wetland is not valid as it does not take into account the temporal and spatial variation that can occur with wetlands. They can be wet or dry depending on environmental

conditions or other influences and therefore the area should be considered and assessed as a wetland as per the SEPP mapping and requirements.

- The EIS does not give due consideration of Hearn's Lake as an Intermittently Closed and Open Lake or Lagoon (ICOLL). Potential impacts on the ICOLL should be assessed for a range of possible situations including being open or closed.
- The EIS does not model for future climate change scenarios and how this may affect the behaviour and water levels of the Hearn's Lake ICOLL, particularly with the predicted increases in berm heights which could lead to elevated water levels over time and changes to inundation and catchment flooding behaviour. It should also take this into account as to how this may affect the extent of wetlands and other ecological communities in proximity to the lake.

Regarding Division 1 Section 2.8 Development on land in proximity to coastal wetlands or littoral rainforest:

- A portion of the development footprint lies within the "proximity to coastal wetlands or littoral rainforest" area.
- The development is in the catchment of the significant coastal wetland and ICOLL Hearn's Lake.
- There is insufficient detail and information in the EIS to demonstrate that the proposed development will not significantly impact on:
 - c) The biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
 - d) The quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.
- There is no discussion in the EIS regarding potential surface water runoff or diversion impacts on the mapped SEPP Coastal Wetlands or Littoral Rainforest to the east of the development. Instead, the discussion focuses on the receiving waters of Hearn's Lake. The EIS should consider the likely impacts of the proposed stormwater management works in terms of wetland hydrology for this eastern wetland.

Regarding Division 2 Coastal Vulnerability Area – Section 2.9 Development on land within the coastal vulnerability area:

- Part of the development footprint is located within the Coastal Vulnerability Area therefore a Coastal Hazard Assessment Report is required as per Coffs Harbour Development Control Plan 2015; Part E Environmental Controls; E2 Coastal Vulnerability Area; E2.1 Coastal Vulnerability Area Application Requirements.
- A Coastal Hazard Assessment Report has been prepared by Telford Consulting to accompany the DA. The DA and the Coastal Hazard Assessment Report do not meet the requirements of Division 2 Coastal Vulnerability Area Section 2.9. The Coastal Hazard Assessment Report is insufficient and does not include the required details to assess the application. Specifically:
 - There is no clear map in the Coastal Hazard Assessment Report showing the most recent proposed development footprint and plans in relation to the Resilience and Hazards SEPP mapped Coastal Vulnerability Area.
 - The overlay of the subdivision plan in the report is different to the overlay in the EIS and other DA documentation and there are inconsistencies between the Report, the EIS and the Plans. The Coastal Hazard Assessment Report needs to

show the latest subdivision plan overlaid with the Coastal Vulnerability Layer as mapped by the SEPP and shown on the City's Intramaps spatial portal.

- The Report is generally outdated and refers to outdated Council policy and should be referencing the Resilience and Hazards SEPP 2021 and the mapped Coastal Vulnerability Area (which is available on the City's web site via the Intranet mapping tool, and comments stating that the mapping in unavailable are incorrect) and the relevant Coffs Harbour DCP Environmental Controls (Coffs Harbour Development Control Plan 2015; Part E Environmental Controls; E2 Coastal Vulnerability Area; E2.1 Coastal Vulnerability Area Application Requirements) and not the Coastal Hazard Zone Policy Area.
- The report indicates that part of the development will take place within the CVA including a swale, fill platform, portion of a water quality control basin, a road and a portion of five residential lots. This seems to contradict with more recent site plans showing a different development footprint. There is no discussion of consideration of the "avoid" principle moving the development footprint and locating infrastructure and development outside the Coastal Vulnerability Area.
- Moving the footprint to avoid the Coastal Vulnerability Area would also meet the principles of the SEPP to first "avoid" as an option before other options are considered.
- Infrastructure is proposed within the Coastal Vulnerability Area according to the Coastal Hazard Assessment Report. Accordingly, it needs to be demonstrated how the development has considered projected coastal hazards and what design and construction measures are in place to protect the infrastructure for its design life. There is no discussion or consideration of how proposed infrastructure (such as the road) would be appropriately designed to accommodate and withstand the future projected coastal hazards for their design life.
- The Coastal Hazard Assessment appears to misinterpret the Resilience and Hazards SEPP legislation and DCP Controls. The report has interpreted that being located within the CVA means the site is unlikely to experience coastal erosion within the year 2100. This is not the definition. The definition is that the zone is defined by the 2100 unlikely hazard line which applies to land west of that line and not to the east. Any land to the east of the 2100 unlikely hazard line is defined as being in the Coastal Vulnerability Area.
- The coastal hazard assessment suggests that the site won't be affected by coastal erosion because the mapping is overly conservative. This argument does not carry validity or evidence. In order to question the accuracy of these hazard lines the Coastal Hazard Assessment Report would have to undertake a credible and appropriate hazard assessment for the immediate area and provide reputable and justifiable evidence as outlined in E2 of the Coffs Harbour DCP.
- It must also be noted that any proposed lots and future development / buildings within the Coastal Vulnerability Area will need to be subject to separate individual coastal hazard assessments at the DA stage to demonstrate how the buildings have been designed to withstand coastal hazards for their design life (as per SEPP (Resilience and Hazards) 2021 Division 2 Coastal Vulnerability Area, Section 2.9 Development on land within the coastal vulnerability area and the Coffs Harbour DCP.

- A Coastal Hazard Assessment Report that conforms with the SEPP and DCP requirements is required to assess the proposal.
- The EIS / DA is required to take into consideration any relevant coastal management programs (Division 5 – Section 2.13 Development in coastal zone generally – coastal management programs to be considered). This has not occurred.
- The DA needs to specifically demonstrate it has taken into consideration any relevant provisions of the Woolgoolga Region Estuaries Coastal Management Program, including those relating to water quality and ecological value of Hearn's Lake.
- The Woolgoolga Region Estuaries CMP sets objectives for water quality and ecological outcomes for Hearn's Lake and these must be demonstrated as to how they have been met.
- Opportunities to improve water quality outcomes through effective stormwater management such as wider vegetated channels should be demonstrated as part of the Stormwater Management Plan, this means lots 118 and 119 need to be revised.

As the requirements have not been adequately addressed, the proposal cannot be supported.

Impacts on Biodiversity

A Biodiversity Development Assessment Report has been submitted as required by State Environmental Planning Policy (Biodiversity & Conservation) 2021. It has been reviewed by Council's Biodiversity Officer and the Department of Planning and Environment-Biodiversity Conservation & Science. Further information has been requested from the applicant to clarify some matters and to ensure an updated BDAR meets the requirements of this SEPP. Attachment B lists the information required to adequately address this SEPP. This information has not been provided. As the requirements have not been adequately addressed, the proposal cannot be supported.

Sewer, Water Reticulation and Stormwater Management

Further information has been requested from the applicant to demonstrate how the proposed lots will be serviced with water and sewer reticulation and how stormwater will be adequately managed. Attachment B lists the information required to adequately address these matters. The information has not been provided.

Accordingly, as the above issues have not been addressed it is considered that the proposal will result in significant adverse impacts in the locality. As the requirements have not been adequately addressed, the proposal cannot be supported.

These matters have not been adequately addressed within the information submitted with the application. Further, correspondence requesting the required information and a reasonable timeframe provided to supply this information has been given to the applicant. To date this information has not been provided and there is insufficient information available to allow a full and proper assessment of the application. Therefore the application is recommended to be refused and insufficient information is included as a reason for refusal.

3.3 Section 4.15(1)(c) - Suitability of the site

Accordingly, as the above issues have not been addressed it is considered that the proposal is not suitable for the site.

3.4 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 4.3 of this report.

3.5 Section 4.15(1)(e) - Public interest

Accordingly, as the above issues have not been addressed it is considered that the proposal is not within the Public Interest.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 5.

The outstanding issues raised by Agencies are considered in the Key Issues section of this report.

Table 6: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
TfNSW	Referred under section 2.122 (traffic generating development) of SEPP (Transport & Infrastructure) 2021	TfNSW indicated that comments not required under this clause.	N/A
Referral/Consultation Agencies			
Essential Energy	SEPP (Transport and Infrastructure) 2021, s2.48	No issues raised, general advice provided	Yes
Department of Primary Industries (Fisheries)	Section 56 of the Marine Estate Management Act, 2014	Recommended conditions to be imposed, if approved.	Yes
DPE-Biodiversity, Conservation and Science	Section 56(2) (b)(i) of Environmental Planning and Assessment Regulation 2021	Additional information requested. No response from applicant.	No
DPE-National	Section 56(2) (b)(i) of	Response received, no issues	Yes

Parks and Wildlife Service	Environmental Planning and Assessment Regulation 2021	raised.	
CH Local Aboriginal Land Council	Clause 5.10 of CH LEP 2013	Waiting for response, however approval already issued by Heritage NSW	Yes
Integrated Development (S 4.46 of the EP&A Act)			
Rural Fire Service	S100B - Rural Fires Act 1997	No objections, subject to conditions.	Yes
DPE-Water	Department of Planning and Environment-Water Management Act 2000 s91 controlled activity	Further information requested from applicant. No response.	No
DPE-Heritage NSW	National Parks and Wildlife Act 1974 s.90	No objections, subject to conditions.	yes

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

Table 7: Consideration of Council Referrals

Officer	Comments	Resolved
Development Engineer	Additional information requested, regarding servicing, road design and stormwater management.	No
Environmental Health	Issues regarding acid sulphate soils, exposure to noise from highway and land contamination have been addressed and resolved through imposing conditions (if approved).	Yes
Flood Engineer	Additional information requested to adequately address clause 5.21 of CH LEP 2015.	No
Coast and Estuary Officer	Additional information requested to adequately address SEPP (Resilience and Hazards) 2021.	No
Biodiversity Officer	Requested further information to address biodiversity matters and to clarify matters in submitted BDAR.	No

The outstanding issues raised by the City's officers are considered in the Key Issues section of this report.

4.3 Community Consultation

The proposal was put on public exhibition and nearby and adjoining property owners were notified in accordance with Council's Community Participation Plan from 24 October 2024 until 21 November 2024. A total of **398** unique submissions, all being objections were received.

The issues raised in these submissions included the following and are addressed below:

- **Flood and stormwater impacts upon existing neighbourhood.**

Comment: The application was referred to the City's Flood and Development Engineers which found that the proposal is unsatisfactory in its current form. Additional information was requested to assess flooding and stormwater impacts to satisfy clause 5.21 of Coffs Harbour Local Environmental Plan 2013 and Component E4 of Coffs Harbour Development Control Plan 2015. The issues identified have not been addressed and therefore this forms a reason for refusal.

- **Likely adverse construction impacts on Hearnese Lake and impacts from additional pedestrian use.**

Comment: In terms of construction related impacts, the City has requested further information to assess impacts on Hearnese Lake to satisfy SEPP (Resilience and Hazards) 2021 and Component E2 of Coffs Harbour Development Control Plan 2015. The issues identified have not been addressed and therefore this forms a reason for refusal.

- **Impact on biodiversity.**

Comment: The application was referred to the City's Biodiversity Officer. The City has requested further information to assess biodiversity impacts to meet legislative requirements of State Environmental Planning Policy (Biodiversity & Conservation) 2021, clause 7.8 of Coffs Harbour Local Environmental Plan 2013 and Component E1 of Coffs Harbour Development Control Plan 2015. The issues identified have not been addressed and therefore this forms a reason for refusal.

- **Suitability/capability of existing road system and intersections to accommodate the additional traffic demand.**

Comment: The application was referred to the City's Development Engineer. The City has requested further information to assess traffic related impacts as a result of the proposal. The issues identified have not been addressed and therefore this forms a reason for refusal.

- **Amenity related traffic impacts including noise and head light impacts.**

Comment: The City has requested further information to assess amenity related impacts as a result of the proposal. The issues identified have not been addressed and therefore this forms a reason for refusal.

- **Construction related amenity impacts including associated traffic, noise and dust from vehicles delivering fill and undertaking earthworks.**

Comment: The City has requested further information to assess amenity related impacts as a result of the proposal. The issues identified have not been addressed and therefore this forms a reason for refusal.

- **Compliance with concept approval issued by the NSW Department of Planning in 2010.**

Comment: Concept approval for subdivision of this property was issued by the NSW Department of Planning in 2010 under Part 3A of the Environmental Planning and Assessment Act, 1979. This part of the Act is now repealed, however the Land & Environment Court has ruled that this concept approval has not lapsed. Under the current DA (0220/25DA), the EIS indicates that the applicant intends to surrender this concept approval if the DA is approved. Therefore the concept approval is not a relevant consideration for this DA.

- **No public consultation occurring as part of the preparation of the Environmental Impact Statement. This was a requirement of the Secretary's Environmental Assessment Requirements (SEARS).**

Comment: Prior to the preparation of the Environmental Impact Statement, the applicant sought the Secretary's Environmental Assessment Requirements (SEARS) in accordance with section 173 of the Regulations. The SEARS were issued in accordance with section 176 of the Regulations. One of the requirements of the SEARS was for surrounding landowners and occupiers that are likely to be impacted by the proposal to be consulted prior to final preparation and submission of the EIS. This required consultation has not occurred. As a result, the EIS and application do not comply with the requirements of the SEARS. Therefore, this forms a reason for refusal.

- **Public services (existing schools, medical centres, emergency services etc) are insufficient to support such a large-scale development.**

Comment: It is considered that existing services such as existing schools, medical centres, emergency services, etc can accommodate for a 113 residential lot subdivision.

- **Privacy and visual intrusion impacts for existing residences adjoining the development.**

Comment: Coffs Harbour Development Control Plan 2013 contains aims and planning controls to ensure impacts associated with loss of privacy and overlooking are minimised as a result of a proposed residential development. Future development (housing) of each proposed lot would be assessed against the aims and controls of Coffs Harbour Development Control Plan 2013. Impacts associated with privacy and

overlooking upon existing residences as a result of future housing will be addressed at DA stage for each dwelling proposed for each lot.

- **Adverse community impact due to increased densities and overcrowding.**

Comment: The land proposed to be subdivided for residential purposes is zoned R2 Low Density Residential and a minimum lot size of 400sqm is applicable under Coffs Harbour Local Environmental Plan 2013. The housing lots proposed in this subdivision meets the minimum lot size (400sqm) applicable under Coffs Harbour Local Environmental Plan 2013. The proposed density for this subdivision will be consistent with the existing residential neighbourhood. It is considered that the proposed subdivision will not unacceptable impacts in relation to overcrowding.

A letter requesting additional information has been sent to the applicant to adequately address the issues raised in the submissions, see Attachment B. A response addressing all of the issues has yet to be provided and therefore insufficient information exists to allow a full and proper assessment of the application. This has been included as a reason for refusal.

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

- Flood and stormwater management
- Impacts on coastal wetland and Hearn's Lake
- Biodiversity impacts
- Road design and servicing issues
- The proposal involves departures to development controls and standards that are unjustified.

A letter requesting additional information was sent to the applicant to adequately address the above matters (see Attachment B). A timeframe of 28 days was given to the applicant to provide the requested information. The issues have not been resolved and accordingly, warrants refusal of the application.

6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application cannot be supported.

It is considered that the key issues have not been resolved satisfactorily through amendments to the proposal or additional information being provided.

7. RECOMMENDATION

That the Development Application PPSNTH-367– Coffs Harbour - 0220/25DA for Subdivision (113 residential lots, 1 Biodiversity Stewardship Lot, dedication of reserves) at Lot 22 DP 1070182 & Lot 497 DP 227298 & Lot 498 DP 227298, Ti-Tree Road, Sandy Beach be

REFUSED pursuant to Section 4.16(1)(b) and 4.16(2) of the *Environmental Planning and Assessment Act 1979*. The reasons for refusal attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Reasons for Refusal
- Attachment B: Letter from the City of Coffs Harbour dated 29/1/2025 requesting further information from the applicant.

ATTACHMENT A: REASONS FOR REFUSAL

1. State Environmental Planning Policy (Resilience & Hazards) 2021.

Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with State Environmental Planning Policy (Resilience & Hazards) 2021.

Particulars:

- i) The following clauses are applicable to the development proposal:
- 2.7 Development on certain land within coastal wetlands and littoral rainforests area
 - 2.8 Development on land is proximity to coastal wetlands or littoral rainforest.
 - 2.9 Development on land within coastal vulnerability area.
 - 2.10 Development on land within the coastal environment area.
 - 2.11 Development on land within the coastal use area.
 - 2.12 Development in coastal zone generally—development not to increase risk of coastal hazards.
 - 2.13 Development in coastal zone generally - coastal management programs to be considered.

Additional information was requested from the applicant to adequately address these clauses. This information has not been provided. As the requirements of this environmental planning instrument has not been adequately addressed, the proposal cannot be supported.

2. State Environmental Planning Policy (Biodiversity & Conservation) 2021

Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with State Environmental Planning Policy (Biodiversity & Conservation) 2021.

Particulars:

- i) The following clauses are applicable to the development proposal:
- 2.3 Vegetation in non-rural areas - Land to which Chapter applies
 - 2.6 Clearing that requires permit or approval.
 - 4.4 Koala Habitat Protection 2021 - Land to which Chapter applies.
 - 4.8 Development assessment process—approved koala plan of management for land.

Additional information was requested from the applicant to adequately address these clauses. This information has not been provided. As the requirements of this environmental planning instrument has not been adequately addressed, the proposal cannot be supported.

3. Coffs Harbour Local Environmental Plan 2013

Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with Coffs Harbour Local Environmental Plan 2013.

Particulars:

- i) The following clauses are applicable to the development proposal:
- 4.1 Minimum Lot Size

- 4.6 Exceptions to development standards
- 5.21 Flood Planning
- 7.2 Earthworks
- 7.4 Terrestrial Biodiversity
- 7.6 Riparian land and watercourses
- 7.8 Koala Habitat
- 7.11 Essential Services

Additional information was requested from the applicant to adequately address these LEP clauses. This information has not been provided. As the requirements of this environmental planning instrument has not been adequately addressed, the proposal cannot be supported.

4. Coffs Harbour Development Control Plan 2015

Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with Coffs Harbour Development Control Plan 2015.

Particulars:

- i) The following DCP components are applicable to the development proposal:
 - C1 Subdivision of land
 - E1 Biodiversity
 - E2 Coastal Vulnerability
 - E4 Flooding
 - G6 East Moonee/Sapphire Beach, Hearnese Lake/Sandy Beach

Additional information was requested from the applicant to adequately address these DCP components. This information has not been provided. As the requirements of this environmental planning instrument has not been adequately addressed, the proposal cannot be supported.

5. Environmental Planning and Assessment Regulation 2021

Pursuant to Section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with the Environmental Planning and Assessment Regulation, 2021.

Particulars:

Section 191 of the EP&A Regulation 2021 requires the environmental impact statement (EIS) to comply with the environmental assessment requirements notified under section 176. Prior to the preparation of the EIS, the applicant sought the Secretary's Environmental Assessment Requirements (SEARS) in accordance with section 173 of the Regulations. The SEARS were issued in accordance with section 176 of the Regulations. One of the requirements of the SEARS was for surrounding landowners and occupiers that are likely to be impacted by the proposal to be consulted prior to final preparation and submission of the EIS with the development application. This consultation did not occur. As a result, the EIS and application do not comply with the requirements of the SEARS.

6. Likely Impacts of the Development

Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development is likely to cause adverse impacts on the natural and built environment.

Particulars:

The proposal is likely to cause adverse impacts on the natural and built environment in regard to traffic generation, biodiversity, flooding, coastal wetland and coastal lake.

Additional information was requested from the applicant to adequately address these matters. This information has not been provided. As the likely impacts of the development have not been addressed, the proposal cannot be supported.

7. The Suitability of the Site for the Development

Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the site is not suitable for the development.

Particulars:

The development is likely to cause adverse impacts in regard to biodiversity, flooding and impacts on the coastal wetland and coastal lake. The site is therefore not suitable for the development.

Additional information had been requested from the applicant to address these matters to determine the suitability of the site for the proposed development. This information has not been provided. As the above impacts have not been addressed, the proposal cannot be supported.

8. Public interest

Pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not in the public interest.

Particulars:

The development application has not demonstrated adequate regard for impacts in relation to traffic generation, biodiversity, flooding and impacts on the coastal wetland and coastal lake.

Assessment of the information submitted has found the proposal to be contrary to the relevant requirement(s) of section 4.15(1)(e) as it will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community, as indicated in the 398 submissions received objecting to the proposal. In this regard, the development, as proposed, is not considered to be in the public interest.

9. Insufficient Information

Pursuant to Section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been submitted to enable a proper assessment of the application.

Particulars:

- Response to the issues raised from external approval bodies, particularly the Department Planning & Environment – Water.
- Details of proposed water and sewer reticulation to service the development.
- Details of proposed works within existing and proposed road networks to address road safety, traffic and amenity impacts.
- Details of proposed fill (earthworks)
- Details of Stormwater Management
- Revised Flood Impact Assessment
- Revised Coastal Hazard Assessment Report

- Revised Biodiversity Development Assessment Report
- Details demonstrating how proposed lot 114 is capable of supporting a future dwelling (on land zoned C2 Environmental Conservation) within the designated building envelope, having regard to relevant planning controls.

As indicated in the City's Request for Information Letter dated 29 January 2024, insufficient information has been submitted to properly consider the development application against the matters for consideration listed under Section 4.15 of the *Environmental Planning and Assessment Act, 1979*. Furthermore, a response adequately addressing the issues has not been submitted within a reasonable time.

ATTACHMENT B: Letter from the City of Coffs Harbour dated 29/1/2025 requesting further information from the applicant.



Our ref: (0220/25DA)
PAN: PAN-476648

29 January 2025

T CARTER
15 FITZROY STREET &
115 VICTORIA STREET
COFFS HARBOUR NSW 2450

Dear Sir/Madam

Development Application No. 0220/25DA – Subdivision (113 residential lots, 1 Biodiversity Stewardship Lot, dedication of reserves), Lot 22 DP 1070182, Lot 497 DP 227298, Lot 498 DP 227298, TI-TREE ROAD SANDY BEACH

I refer to your development application as described above that was submitted for assessment on 10 October 2024.

A review of the application has been undertaken. A number of issues have been identified by internal sections of Council, external approval bodies and objectors (397 submissions) which prevents further consideration of the application. Below are the issues.

Response from External Agencies

- It is noted that you have reviewed the responses from external agencies and will be providing a response to address the matters raised.

Water and Sewer Reticulation

- A 225mm diameter water main to be extended from Diamond Head Drive to the site, this needs to be shown on plans. Reclaimed water mains to be shown on plans.
- Sewer mains are to be kept out of rear yards of proposed lots as much as possible. Redesign to ensure sewer along frontage of properties. Please provide long-sections.
- A redesign of the reticulated sewer layout for the eastern precinct of the development is required to ensure discharge locations have adequate capacity (i.e. discharge into SMH A/02).
- Manoeuvring diagrams are required to ensure access for maintenance vehicles is possible from the fire trail to the pump station to facilitate future maintenance.
- The pump station would appear to be at or near capacity. An analysis is required to be undertaken to ensure there is adequate capacity. It needs to be determined what works are required and when to adequately service this development.
- No filling within the rising main easement is allowed. Earthworks plans are required to be amended to reflect this.

- Long-section of proposed relocation of rising main required, including any fitting, to allow the proposal to realign the rising main to be assessed by the asset owner.

Existing Road Network

- The northbound traffic on Solitary Islands Way does not have provision for passing when vehicles are turning right. Please undertake the sidra analysis considering only one northbound lane (that is no Basic Axillary Right (BAR) provisions).
- It is envisaged that a roundabout may need to be constructed at the intersection to reduce speeds approaching, and at the intersection subsequently making a safer intersection. Please provide preliminary design for a roundabout at the intersection of Diamond Head Road and Solitary Island Drive, or some other design that will improve the performance of the intersection.

Road Layout within proposed subdivision

- Intersection and road design within the development site shall incorporate concepts from 'Austroads Guide to Traffic Management Part 8: Local Street Management' to achieve a compliant speed environment for the proposed road network and in accordance with Councils Design Guidelines.
- Street Trees to be located within verge and not on batters with all roads.
- Road 4 – the Noise Wall to be shown on cross-section.

Pine Crescent and new road:

- Details are required for the intersection design to ensure sufficient road reserve is dedicated and the extent of works required noting that Pine Crescent will need to be upgraded with kerb and gutter with path to the intersection with Diamond Head Drive due to the increase in traffic volume.
- The intersection design is to detail a T-intersection with the east-west section of Pine Crescent being the minor road. Details of any changes required for existing driveway crossings to ensure they comply with Councils standards and AS2890.1 are required to be shown on the plan. Where driveways crossings are required to be changed, agreement from the effected property owner will be required.

Fire Trail and Open Space Areas:

- A long section is required for the fire trail.

Road 1 - Street Light Glare:

- Road 1 along the southern boundary is significantly elevated from the existing lots fronting Maple Road (up to 2m). This will result in glare from the streetlights, cars entering and exiting properties fronting this road and undertaking turning manouevres at the eastern and western end of this section of road. How is this impact to be addressed?

Earthworks:

- Filling is not allowed over the easement for the rising main. Amended fill plans required.
- The central drainage reserves have batters at 1:2. These are unmaintainable, and in their current form not acceptable to Council for maintenance.
- Section plans to be provided showing extent of earthworks/cut/fill, including road and site profiles in relation to surrounding land, with the final topography and any retaining walls to be identified.

Stormwater:

- Please detail how maintenance for any stormwater assets (including open drains) can be undertaken. This will also affect the noise wall.
- Please provide MUSIC Model and Drains model so that a full assessment of the stormwater drainage through the site can be undertaken.
- Plans showing any proposed inter-allotment drainage.

Stormwater under Pacific Highway:

- Full details for culverts crossing the Pacific Highway towards the site are required including grades, IL, hydrology is required.
- The culverts cannot be directed towards batters on the site, as shown with the piped crossing near lots 44 & 28. Details and considerations are required regarding how the area around the headwalls including the batters will be protected from damage during larger storm events.
- Headwalls for piped drainage through the site cannot be located over other Council infrastructure (i.e. sewer rising main).
- Hydraulic analysis is required for all stormwater event up to and including the 1% AEP storm.
- Long-section and cross-sections for diversion drains and overland flow path through the site is required including freeboard.

Eastern Precinct – Open Drain

- Please provide hydraulic assessment of proposed open drain on the southern boundary. The assessment must consider:
 - contributing catchments
 - various tail water levels scenarios including lake levels using dynamic modelling
 - All stormwater events up to the 1% AEP.

Eastern Precinct Central Drainage Reserve:

- Hydraulic analysis is required for the low flow drainage and the culverts under the road considering blockage factors for all storm events up to the 1% AEP storm.
- Longsection for the pedestrian path is required.

Open Drains within easements in Biodiversity Stewardship Lot:

- Please provide hydraulic assessment of proposed open drains. The assessment must consider:
 - contributing catchments
 - various tail water levels scenarios including lake levels using dynamic modelling
 - All stormwater events up to the 1% AEP event.

Maintenance within Biodiversity area:

- Assets are not to be designed in a way that may require additional approvals for maintenance activities. i.e. open drains cannot be located in this area.

Flood Management

- The Flood Impact Assessment and EIS does not adequately address the flood requirements of Coffs Harbour DCP 2015 (section E4), and objectives of Coffs Harbour LEP 2013 (clause 5.21) in regards to:
 - Taking into account projected changes as a result of climate change. Climate change not assessed in the Flood Impact Assessment.
 - Avoiding adverse or cumulative impact on flood behaviour and the environment. Additional/amended flood modelling is required to assess this.
 - Compatibility with the flood function and behaviour of the land. The western portion of the development is located within the floodway and justification is required as to the earthworks proposed in this area.
- To further assist with the assessment of the application in regards to flooding, the flood impact assessment should be updated to address the following:
 - Given the potential impacts of the fill pad on the local hydraulics in relation to inflow locations HL_AC_1, HL_AC_2A and HL_AC_2D, these inflow locations should be amended to better understand any impacts of the fill pad on flood and overland flow behaviour from the existing urbanized area around Pine Crescent, Maple Road, and Ti-Tree Road. (A local stormwater assessment should also be considered to address any potential issues of the development impacting the local stormwater flows)
 - Are any upgrades required to the existing drainage channels behind the properties on Ti-Tree Road and Maple Crescent? Can these channels still operate effectively, and minimise impacts on properties adjoining these channels and does the fill pad encroach on these channels? Is the fire trail being raised and are any drainage upgrades required across the fire trail? These should be addressed by either updated flood modelling or a local stormwater assessment.
 - Provide existing model and design culverts as a figure (Appendix C.08 only includes the new design culverts).

- Confirm and justify the mannings used for the open drainage channels
- Tailwater conditions are not consistent with the Northern LGA Flood Study (WMAwater, 2023) in regards to coincident catchment-ocean events. Need to understand the impacts of the development across the enveloped catchment - ocean conditions in particular in the 1% AEP as considered in the endorsed flood study. It is unclear in the report what tailwater heights were used (please provide in mAHD as well as the design event).
- No assessment of the impacts of climate change (including both rainfall increases and sea level rise) has been undertaken. An assessment of the impacts of the development on flood levels based on the latest climate change guidance is required in regards to rainfall increases and sea level rise.
- No assessment of the potential impacts of the development on lakes levels with elevated ICOLL berm heights. An assessment should be made of the impacts on lake levels of the development in "sunny day/frequent rain event" scenario to the unlikely current day berm height of 2.7 mAHD, and also 3.5 mAHD to take into consideration potential climate change unlikely berm heights.
- Flood function calculations are not consistent with the Northern LGA flood study which utilized the encroachment method. Do not support the use of a methodology in the Boambee Newports Creek flood study which is based on the indicator technique. Based on the Northern LGA flood study, the western portion of the proposed development and fill pad is located within the low hazard floodway. An updated assessment of the flood function is required to be consistent with Flood Risk Management guideline FB02 and justification that the western portion of the development is compatible with the flood function and behaviour of the land.
- Provide justification that the upstream IL of the new culverts 1,2,4 and 5 will not cause an adverse impact on adjoining properties given the potential for elevated lake levels as well as during a rare flood events.
- A number of culverts under the highway entering seem to be missing from the associated plans. Have these been properly included in the model. The plans should include all relevant cross drainage culverts.
- Maintenance/ Construction issues
 - The channel to the west along the highway alignment is over an existing sewer main. Is construction feasible?
 - How is maintenance access to the open channels proposed?
- Scour/Erosion
 - Outlet of triple RCP under highway to the north of the western development outlets directly into the fill pad. How is this being managed to avoid scour and erosion?
- A copy of the flood model should be provided for review.

Coast and Estuary (State Environmental Planning Policy (Resilience and Hazards) 2021)

- Supporting information to address requirements of SEPP Resilience and Hazards 2021 Section 2.7 Development on certain land within coastal wetlands and littoral rainforests.
- Supporting information to address requirements of SEPP Resilience and Hazards 2021 Section 2.8 Development on land in proximity to coastal wetlands. In particular, discussion of potential impact on the mapped coastal wetlands and littoral rainforest to the east and appropriate and effective management measures.

- Supporting information to demonstrate the DA has taken into consideration the relevant provisions of the certified Woolgoolga Region Estuaries Coastal Management Program, including those relating to water quality and ecological outcomes for Hearnes Lake (as per Section 2.13 of the SEPP Resilience and Hazards 2021).
- A revised or new Coastal Hazard Assessment Report that meets the requirements of the SEPP Resilience and Hazards 2021 (Division 2 Coastal Vulnerability Area) and the Coffs Harbour Development Control Plan 2015 – Part E2 Coastal Vulnerability Area.
- Section E1.3 of the Coffs Harbour DCP also needs to be adequately addressed in the EIS (the section in the BDAR is insufficient). It appears as though the development has substantial variations from the requirements and these must be justified.
- Further clarification and justification on the effectiveness of water quality management measures including stormwater and surface water runoff and sediment and erosion control in regard to water quality objectives for receiving wetlands including Hearnes Lake.

Biodiversity Development Assessment Report (BDAR)

- The BAM field data sheets need to be completed and included in Appendix A-9 of the BDAR.
- All BAM plot data used in the BAM-C need to be reviewed to ensure it is consistent with the results recorded on the BAM plot field data sheets and the BAM-C updated accordingly.
- The BAM plot data for site Q17 needs to be assigned to different Vegetation Zones with the same Plant Community Type and similar broad condition state.
- Section 3.2 of the BDAR needs to be revised to include a more detailed plot-by-plot analysis of the native vegetation on the subject land to identify all Plant Community Types (PCT) and Threatened Ecological Communities present on the subject land.
- The BDAR needs to be revised to acknowledge all areas of PCT 4004 on the subject land are representative of the swamp sclerophyll forest on coastal floodplain of the NSW North Coast, Sydney Basin and South East Corner Bioregions EEC and the BAM-C updated accordingly, as per the context provided by BCS.
- The BDAR needs to be revised to limit use of survey data collected in 2017 to informing the initial identification of vegetation zones on the subject land and all other uses or references to the 2017 survey data be deleted and updated with new survey data.
- The BDAR needs to be revised to ensure the lists of candidate species credit species included and excluded from targeted survey are correct and consistent with part 6 of the BAM-C.

- The BDAR and BAM-C needs to be revised to be consistent and ensure targeted survey for each candidate species credit species has been undertaken in accordance with the BAM survey methods and timing requirements.
- Tables 7 and 11 of the BDAR needs to be revised to ensure they contain a consistent list of species credit flora species.
- Table 11 and Appendix A-5 of the BDAR needs to be revised to ensure they contain a consistent list of threatened species recorded on the subject land.
- The BDAR needs to be revised to include a species polygon, species-specific mitigation measures and offset credit requirement for southern myotis (*Myotis macropus*).
- The species polygon for squirrel glider needs to be revised to include all suitable habitat for the species on the subject land.
- The BDAR needs to be revised to:
 - a) remove references to land zoned C2 having been avoided by the proposal.
 - b) identify and detail valid measures proposed to avoid areas of high biodiversity value on the subject land.
- Comments in the BDAR such as 'the proposed development layout has intentionally retained the northern portion of the Subject Land to ensure that mature intact vegetation and Hearn's Lake are left in-situ' are not appropriate as these areas were not available for development. Avoiding developing land zoned C2 cannot be used as justification for meeting the avoid principle of the BC Act. Further details as to how the avoidance principle has been met are to be provided.
- All measures to minimise impacts in Section 5 must be included in Table 5 - Mitigation measure summary.
- The report uses the terms complementary replanting (as required by the Coffs Harbour DCP) and offsetting interchangeably, i.e section 5.5.4 and elsewhere throughout the document. The report should be revised to separate the 2 terms with offsetting only used as per the Biodiversity Offsets Scheme.
- Appendix A-1 Coffs Harbour City Koala Plan of Management needs to address the objectives and management actions in section 3.4 'Secondary Koala Habitat' of the KPOM.
- Section 5.4.4 'Water Bodies, Water Quality and Hydrological Processes' is not accepted. This section relates back to the stormwater report which states that there is an '80% increase of site generated flows compared with the predeveloped conditions. It is important to note that when looking at the impact to the receiving Hearn's Lake wetland as a whole, the 51ML/yr increase in site generated flows only amounts to a 5-

10% increase in the mean annual runoff discharging to the wetland (from both onsite and offsite sources) through the site and via the existing main drainage channels. Given the nature of the receiving coastal wetland, the 51ML/yr of increased mean annual runoff would likely not have a negative impact'.

This section of the BDAR, and the stormwater report, needs to justify how the 80% increase has been reduced down to 5-10% increase in the mean annual runoff, and describe what this means for both the vegetation communities (which are not described in this section but need to be) and Hearnes Lake. Additionally, justification via looking at the mean annual runoff is not a meaningful quantification considering the potential changes to a highly variable and sensitive system which is also an ICOLL. I also note that the drainage line taking the stormwater from adjacent residential areas through the eastern residential area is now to be piped for an approx. distance of 150m which means less treatment than currently exists. The impact from this change needs to be justified.

Section 5.4.4 and the stormwater report needs to address the impacts to the lake hydrology and the vegetation communities both spatially and temporally and with the berm open and closed.

Opportunities to improve water quality outcomes through effective stormwater management such as wider vegetated channels should be demonstrated, this will mean lots 118 and 119 need to be revised.

EIS

- The EIS and the submitted plans refer to the concept approval and refer to the North West precinct as being approved when in fact this precinct was only provisionally approved subject to appropriate offsets being determined. As such, using this precinct as justification for a reduced impact, or avoidance, is not accepted. This is to be amended and further justification as how the avoidance principle has been met is to be provided.
- Comments on required changes to the BDAR should be made to the corresponding sections of the EIS to ensure consistency.
- The EIS needs amending as it incorrectly states that the APZs 'widths are comfortably accommodated within the perimeter road widths', this is not always the case with APZs going beyond the road reserves in some places. This is also in conflict with E1.4(2) of the DCP that states that infrastructure including APZs must be outside high conservation value land (which includes land zoned C2). The plans need to be amended or a variation justified.

Bushfire Safety

- The bushfire report only makes passing comment to the area subject to a future Biodiversity Stewardship Agreement (BSA) with figure 5 showing the required APZ within the subdivision area but extending into the C2 land in some places. While the bushfire report does not make much commentary on the BSA the EIS states 'Future

vegetation management works within Lot 114, the BSA lot, would be guided by a Vegetation Management Plan that ensures vegetation along the perimeter of Lot 114 does not introduce additional bushfire threat'. It is unlikely that APZ works, or informal maintenance to retain the adjacent land as 'managed land' will be approved on a BSA.

- The plans, EIS and bushfire report need to be amended to ensure that the APZ can be comfortably accommodated within the subdivision even if the BSA lot is revegetated, or allowed to naturally regenerate.
- The plans, EIS and bushfire report need to be amended to ensure that the APZ can be comfortably accommodated within the subdivision even if the BSA lot is revegetated, or allowed to naturally regenerate.

Conservation Management Plan

- A conservation management plan has been lodged with the DA. This document has not been updated since 2017, still has the previous subdivision plan and the BDAR and EIS does not refer to this document. Given the area covered by the CMP is proposed to become a BSA the intent of this document is not clear and should be explained.

Biodiversity Stewardship Agreement (BSA)

- The DA relies on the residual land becoming part of a BSA to meet the principles of avoid and minimise and to meet the compensatory replanting requirements of the DCP i.e Section 5.5.2 VMP' and Appendix A-2. However, the report also acknowledges that the details of the BSA are yet to be confirmed. Without the details of a BSA being confirmed the City is likely to condition a VMP and an 88E covenant to ensure the long maintenance of the residual C2 land. This is likely to make the site ineligible for a BSA under 5.1 (1) (c) (i) of the BC Regs. The timing and approach of the BSA are required to be confirmed.

Proposed Lot 114 - Biodiversity Stewardship Site

- The EIS indicates that proposed lot 114 (being the biodiversity stewardship site) will have dwelling permissibility when created under the previously approved DA (0526/19DA – 3 lot subdivision). The Notice of Determination for 0526/19DA however indicates that this lot is not approved for future development. The plans for 0220/25DA indicate a building envelope for lot 114 on land zoned C2 however there is no details demonstrating that the building envelope is capable of supporting a dwelling (effluent disposal, etc). A possible solution is to allocate at least 400sqm of land zoned R2 to proposed lot 114 which will then be serviced with reticulated water and sewer. The clause 4.6 (LEP variation) submission also becomes unnecessary as the lot is permissible under clause 4.1A of CH LEP 2013.

As the proposal has attracted significant community interest (397 objections) and it will take substantial time to prepare documentation to address the issues, it is recommended that the application be withdrawn within 21 days, or a determination will be made based on the information provided.

Pursuant to Part 4, Division 4 of the *Environmental Planning and Assessment Regulation*, the period between the date of this letter and the date on which the requested information is provided, is not considered part of the development application assessment period.

When submitting additional information, please ensure that reference is made to the relevant development application number and that information is submitted through the NSW Planning Portal.

For further information, please contact Gary Cheney on 6648 4648.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Gary Cheney'.

Gary Cheney
Development Assessment Officer-Senior