

Clarence Valley LEP 2011 - Rannoch Avenue, Maclean - R2 to R1 for 55 three story townhouses

Proposal Title : **Clarence Valley LEP 2011 - Rannoch Avenue, Maclean - R2 to R1 for 55 three story townhouses**

Proposal Summary : **The planning proposal seeks to amend the Clarence Valley LEP 2011 by rezoning part of Lot 2 DP 1101094, Rannoch Avenue, Maclean from R2 Low Density Residential to R1 General Residential to facilitate the development of 55 three story townhouses.**

PP Number : **PP_2015_CLARE_005_00** Dop File No : **15/10309**

Proposal Details

Date Planning Proposal Received : **30-Jun-2015** LGA covered : **Clarence Valley**

Region : **Northern** RPA : **Clarence Valley Council**

State Electorate : **CLARENCE** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Rannoch Avenue**

Suburb : City : **Maclean** Postcode : **2463**

Land Parcel : **Part of Lot 2 DP 1101094**

DoP Planning Officer Contact Details

Contact Name : **Jon Stone**

Contact Number : **0267019688**

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RPA Contact Details

Contact Name : **David Morrison**

Contact Number : **0266430200**

Contact Email : **david.morrison@clarence.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Jim Clark**

Contact Number : **0266416604**

Contact Email : **jim.clark@planning.nsw.gov.au**

Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**

Regional / Sub Regional Strategy : **Mid North Coast Regional Strategy** Consistent with Strategy : **No**

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MDP Number :		Date of Release :	
Area of Release (Ha) :	1.35	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	55
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment : **The Department of Planning and Environment's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge. The Northern Region has not met with any lobbyists in relation to this proposal, nor has the Northern Region been advised of any meeting between other Departmental Officers and lobbyists concerning the proposal.**

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **Mid North Coast Regional Strategy aims to limit development in places constrained by flooding. An outcome of the Strategy is for future urban development not to be located in areas of high risk from natural hazards including sea level rise, coastal recession, rising water tables and flooding. An action of the strategy is that Local environmental plans will zone areas subject to high hazard to reflect the limitations of the land.**

The Maclean Urban Catchment Local Growth Management Strategy acknowledges that the town has reached its practical geographic size, as defined by physical constraints imposed by the Clarence River, the floodplain and Maclean Hill and that future residential growth will continue as infill development within the existing zoned area with only minor extensions at the edges where major constraints are absent.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The objectives and intended outcomes of the Planning Proposal are adequately expressed for the proposed amendment to the Clarence Valley LEP 2011.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The Planning Proposal provides a clear explanation of the intended provisions to achieve the objectives and intended outcomes.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

3.1 Residential Zones

* May need the Director General's agreement

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

5.1 Implementation of Regional Strategies

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 14—Coastal Wetlands

SEPP No 55—Remediation of Land

SEPP No 71—Coastal Protection

SEPP (Exempt and Complying Development Codes) 2008

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain : **See the assessment section of this report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The planning proposal contains maps which adequately show the site, and the proposed zoning map changes for the LEP amendment.

If supported, maps which comply with the Standard Technical Requirements for LEP Maps will be required prior to the LEP amendment being finalised.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal describes the proposed rezoning as a low impact proposal and recommends that a community consultation period of 14 days is appropriate.

In accordance with "A Guide to Preparing Local Environmental Plans" (the 'Guide'), it is considered that the planning proposal is not a low impact planning proposal as it is not consistent with the strategic planning framework.

It is therefore recommended that, if supported, a community consultation period of 28 days is appropriate and affected and adjoining properties should be notified in writing.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

The planning proposal satisfies the adequacy criteria by;

1. Providing appropriate objectives and intended outcomes.

2. Providing a suitable explanation of the provisions proposed for the LEP to achieve

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the outcomes.

3. Providing an adequate justification for the proposal.
4. Outlining a proposed community consultation program.
5. Providing a project time line
6. Completing the evaluation criteria for the delegation of plan making functions.

The planning proposal includes a project timeline which estimates the completion of the planning proposal in December 2015. If the Planning Proposal is supported and to ensure the RPA has adequate time to complete exhibition, map preparation and legal drafting it is recommended that a time frame for completion of 9 months is appropriate.

An Evaluation Criteria For the Delegation of Plan Making Functions has been provided. As the Planning Proposal is not compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General and is not consistent with all relevant S117 Planning Directions Delegation of the Minister's plan making powers can not be delegated to Council.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP :

The Clarence Valley LEP commenced in December 2011. This planning proposal seeks an amendment to the Clarence Valley LEP 2011.

Assessment Criteria

Need for planning proposal :

The proposal is not the result of a strategy or study. The proponent, acting for land owners has requested that Council amend the land zoning for the site from R2 Low Density Residential to R1 General Residential. This will enable the development of multi dwelling housing and residential flat buildings in accordance with a concept plan for the site.

The subject land is approximately 1.346ha in area, is zoned R2 Low Density Residential and has no minimum lot size under the provisions of the Clarence Valley LEP 2011.

The subject land, including adjoining R2 Low Density Residential zoned land, enjoys a development consent for a relatively standard low density residential subdivision. The subdivision has not been constructed but the consent has been acted upon. In addition, a 22 dwelling residential flat building has development approval on adjoining land that is zoned R3 Medium density. This is located on slightly higher land.

The subject land is potentially inundated by a 1:100 year flood event to a depth of 3.55m – 1.75m across the site and as such is within the flood planning area under the Clarence Valley LEP 2011.

Council staff did not support this Planning Proposal. The elected Council resolved to support the proposal and submit the planning proposal for a Gateway Determination.

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Consistency with strategic planning framework :

Mid North Coast Regional Strategy (MNCRS).

The MNCRS requires that local environmental plans will zone areas subject to high hazard to reflect the limitations of the land and that future urban development will not be located in areas of high risk from natural hazards including flooding. The Regional Strategy was a key strategic document that informed the preparation of the Clarence Valley LEP 2011. The subject land was zoned R2 Low Density Residential under that plan, which reflects the outcome of the Regional Strategy.

This Planning Proposal aims to amend the zoning of the land to R1 General Residential to allow for the consideration of a development application for a proposed townhouse development, significantly increasing the development density on the site. Given the nature of the flooding on the site, it is considered that this future urban development will be located in an area of high risk from natural hazards and as such is inconsistent with the MNCRS.

Council Strategies

The Maclean Urban Catchment Local Growth Management Strategy (MUCLGMS) covers the subject land and identifies that Maclean has reached its practical geographic size, as defined by physical constraints imposed by the Clarence River, the floodplain and Maclean Hill. It recognises that future residential growth will continue as infill development within the existing zoned area with only minor extensions at the edges where major constraints are absent.

The planning proposal is not inconsistent with the MUCLGMS as the townhouse proposal on this site is considered to be infill development as the site is already zoned for residential purposes, albeit low density residential purposes.

SEPPs

The planning proposal indicates that the proposed development is consistent with all State Environmental Planning Policies.

S117 Directions.

The following S117 directions are applicable to the proposal, 2.2 Coastal Protection, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land, and 5.1 Implementation of Regional Strategies.

Of the above s117 Directions the proposal is consistent with Directions 2.2 Coastal Protection, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils.

Direction 4.3 Flood Prone Land

Direction 4.3 Flood Prone Land is relevant to the draft plan. The direction provides that a planning proposal must not permit a significant increase in the development of land within a flood planning area. Inconsistencies can be justified by reference to a flood risk management plan or if the inconsistency is of minor significance.

The draft plan proposes an increase in the potential residential density on the subject land that represents a significant increase in development potential. The land is inundated by a 1:100 year flood event with flood heights ranging from 3.55m to 1.75m across the site in such an event. The Grafton and Lower Clarence Floodplain Risk Management Plan defines this as a high flood hazard.

The Grafton and Lower Clarence River Floodplain Risk Management Plan makes broad strategic comment on how Council should address new development on a valley-wide basis. It states that "...Minimal infill development should be allowed within the floodplain, including areas surrounded by flood levees as overtopping and failure can occur". While

the plan indicates that infill development can be allowed in areas protected by a levee, the development should be "minimal". It can not be concluded that development of 55 town houses on land which is currently zoned for low density residential development, in water of the indicated depth can be considered as "minimal".

Further, according to engineer's comments in the planning proposal, the site is located below (i.e. downstream of) a proposed flood retention basin. In the unfortunate circumstances of the retention basin walls failing, residents of this site would be in significant danger compared to nearby areas.

The Floodplain Risk Management Plan also indicates that overtopping of the levee in Maclean in a 100 year flood is extensive and the 'protected' basin area would fill to the same level as the river (3.7m AHD). The Floodplain Risk Management Plan states that as a general principle, it is preferable that intensification of existing urban areas be restricted to a level that can be accommodated within the evacuation capacity of the State Emergency Service". Given the nature of usual flooding of the Clarence River (this area is normally a flood storage area of low flow) it is considered that the SES could be able to accommodate the additional evacuation requirements. However the existence of the retention basin might alter the SES's view. If the Planning Proposal is supported, consultation with the SES is recommended.

It is considered that the Planning Proposal is not consistent with the Floodplain Risk Management Plan and therefore inconsistent with this Ministerial direction.

Direction 5.1 Implementation of Regional Strategies

Direction 5.1 Implementation of Regional Strategies is relevant to the planning proposal. The direction requires that a planning proposal must be consistent with the Mid North Coast Regional Strategy. As discussed previously in this report, the proposal is considered to be inconsistent with the MNCRS because the future urban development will be located in an area of high risk from natural hazards including flooding. The direction provides that a proposal may be inconsistent with the direction if the inconsistency is of minor significance and the proposal achieves the overall intent of the strategy.

The proposal to amend the zoning of the land to permit the proposed townhouse development will significantly increase the potential density of residential development on the site. As the site is flood prone and subject to inundation up to 3.55m in a 1:100 year flood event, it is not considered to achieve the intent of the MNCRS nor is such a proposal considered to be of minor significance.

It is considered that the inconsistency of the proposal with the direction has not been adequately justified in accordance with the terms of the direction.

Environmental social
economic impacts :

The rezoning of the subject land is likely to have minimal economic or social impacts on the community of Maclean.

The development of the proposed townhouses is likely to have minor environmental implications for the surrounding area. Due to its low lying nature the disposal of stormwater has previously been an issue that surrounding landowners have raised with previous development applications for residential subdivisions. The planning proposal includes a Stormwater Management Study and proposes the use of part of the lot for a detention basin for stormwater disposal. The construction of the townhouses may also impact the flow of floodwater

The proposed alteration to the zoning and the intended construction of townhouses would not have a significant effect on threatened species, populations or ecological communities or their habitats from development of the site.

REPRESENTATIONS FROM CONSULTANT

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The consultant for the applicant has written to the Department (copy in Documents Tab) indicating reasons why the proposal should be allowed to proceed and inviting contact if further information is required.

It is considered sufficient information for a determination has been provided. The representations will be responded to once a determination has been made.

Assessment Process

Proposal type : **Inconsistent** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 months** Delegation : **DDG**

Public Authority Consultation - 56(2)(d) : **Office of Environment and Heritage
State Emergency Service**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **No**

If no, provide reasons : **It is considered that the inconsistency of the proposal with the Direction 5.1 Implementation of Regional Strategies has not been adequately justified in accordance with the terms of the direction.**

The proposal to amend the zoning of the land to potentially significantly increase the density of residential development on a site that is flood prone and subject to inundation up to 3.55m in a 1:100 year flood event is not considered to achieve the intent of the MNCRS nor is such a proposal is not considered to be of minor significance.

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Clarence Valley Council_30-06-2015_LEP 2011 letter from Council.pdf	Proposal Covering Letter	Yes
2015-06-30 Council meeting Rannoch Avenue.pdf	Proposal	Yes
2015-06-30 planning proposal Rannoch Avenue.pdf	Proposal	Yes
Geoff Smyth & Associates_30-06-2015_Planning proposal for Rannoch Avenue Maclean.pdf	Proposal Covering Letter	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Not Recommended**

S.117 directions: **3.1 Residential Zones**
 3.4 Integrating Land Use and Transport
 4.1 Acid Sulfate Soils
 4.3 Flood Prone Land
 5.1 Implementation of Regional Strategies

Additional Information : **It is recommended that the planning proposal not proceed for the following reasons;**
1. The proposal is inconsistent with the Mid North Coast Regional Strategy because it amends the zoning of the land to potentially significantly increase the density of residential development on a site that is flood prone and subject to inundation up to 3.55m in a 1:100 year flood event;
2. The proposal is not considered to achieve the intent of the MNCRS nor is such a proposal is not considered to be of minor significance.
3. The proposal is inconsistent with S117 directions 4.3 Flood Prone Land and 5.1 Implementation of Regional Strategies and the inconsistencies have not been justified.

Supporting Reasons : **If the proposal is to proceed, consultation with the SES and with the Office of Environment and Heritage (Flooding) would be recommended, with a community consultation period of 28 days and a timeframe for completion of 9 months. Delegation for the Council to finalise the proposal should not be authorised.**

Signature: _____

Printed Name: _____


_____ JIM CLARK Date: 10 July 2015

Team Leader Local Planning