

PLANNING PROPOSAL

Rezoning of Part Lot 101 DP1110269, Centenary Drive, Maclean



Prepared by: Clarence Valley Council
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TABLE OF CONTENTS

Section	Page
Preliminary	Page 3
Part 1 - Objectives or Intended Outcomes	Page 9
Part 2 - Explanation of Provisions	Page 9
Part 3 - Justification	Page 10
Section A – Need for the Planning Proposal	Page 10
Section B – Relationship to Strategic Planning Framework	Page 13
Section C – Environmental, Social and Economic Impact	Page 16
Section D – State and Commonwealth Interests	Page 17
Part 4 Community Consultation	Page 17
Appendices	
Appendix A – Proposed Zoning Map	Page 19
Appendix B - State Environmental Planning Policies	Page 20
Appendix C – Section 117 Directions	Page 23
Appendix D – PN 09-003 Written Statement	Page 28
Appendix E – Clause 8 Matters (SEPP 71)	Page 30
Appendix F – Strategic Actions – NSW Coastal Policy 1997	Page 32
Appendix G – Aims of SEPP 71	Page 33
Figures	
Figure 1 – Aerial Photograph of Subject Land (Lot 102)	Page 4
Figure 2 – Subject Land	Page 5
Figure - 3 Subject Land	Page 6

PRELIMINARY

Context

This Planning Proposal has been drafted in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 and the Department of Planning and Infrastructure's "*A guide to preparing planning proposals*" (July 2009).

The Proposal has been prepared as a first step in the preparation of a local environmental plan (LEP). It is intended to explain the effect of the intended LEP, including setting out the justification for the making of the LEP.

Clarence Valley Council, at its Meeting¹ held on 17 May 2011 resolved to accept an offer from IGA to purchase a portion of public car park (in Council's ownership) located in Centenary Drive, Maclean to enable the development of a supermarket thereon, subject to a number of conditions.

At a subsequent Meeting² (19 July 2011), Council resolved to initiate action to rezone that part being purchased from its existing 'special use' zoning to a 'business' zone suitable for accommodating a supermarket. This Proposal represents Council's action to comply with this resolution.

Subject Land

The Proposal applies to land described as proposed Lot 102 in a subdivision of Lot 101 DP 1110269. The land is located off Centenary Drive in the township of Maclean.

The land is 3750m² in area; Figures 1³ and 2 identify the subject land.

¹ Clarence Valley Council Ordinary Meeting 17 May 2011.

² Clarence Valley Council Ordinary Meeting 19 July 2011.

³ The configuration of the car park has changed from that shown in the Figure.



Figure 1: Aerial Photograph of Subject Land (Lot 102).

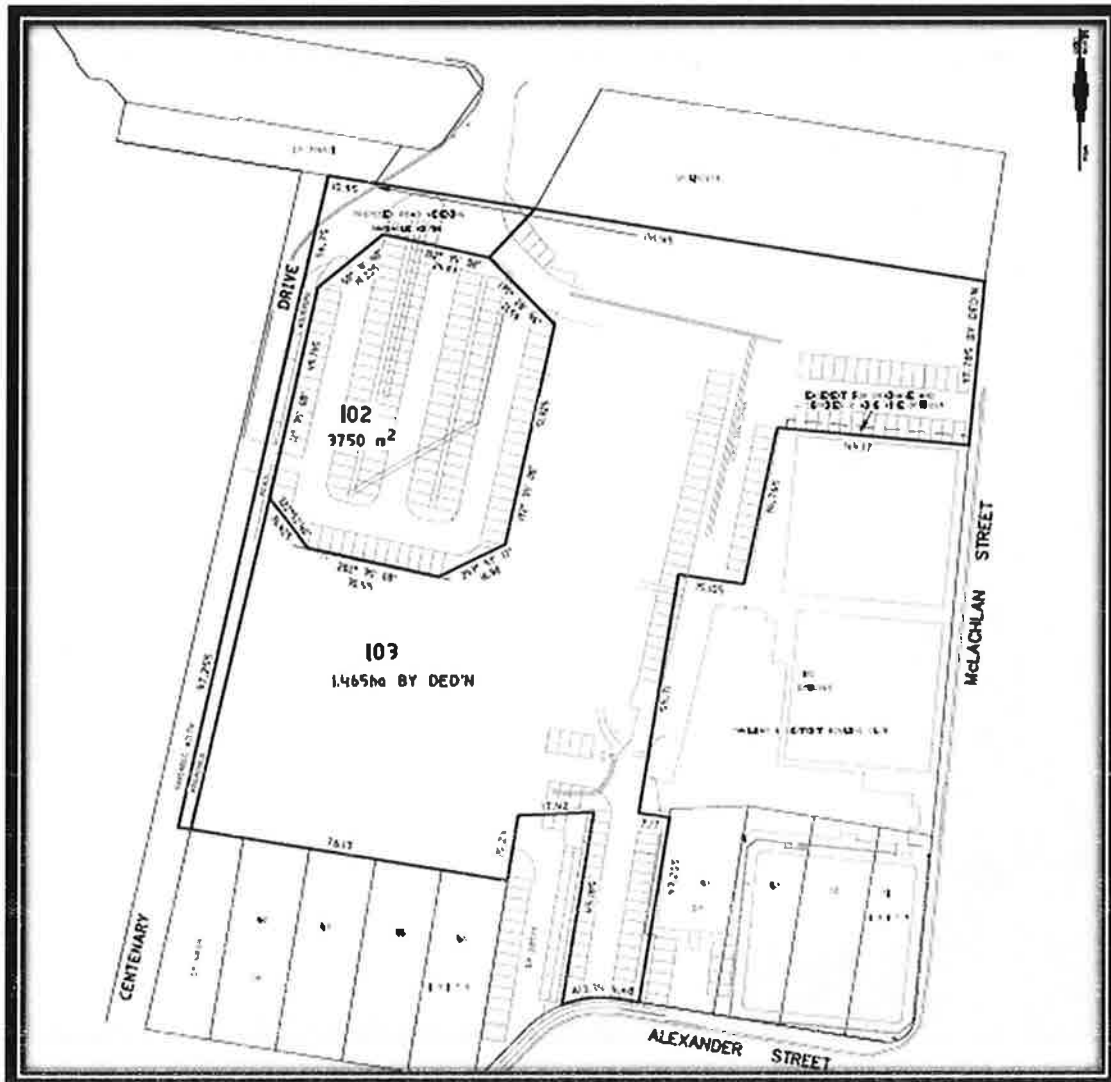


Figure 2: Subject Land (Lot 102).

Current Zoning and Use

The subject land is currently zoned SP2 – Infrastructure (Car Parking) under the Clarence Valley Local Environmental Plan 2011 (CVLEP 2011), as shown in Figure 3.

The land is presently used as a public car park and includes 142 car spaces.

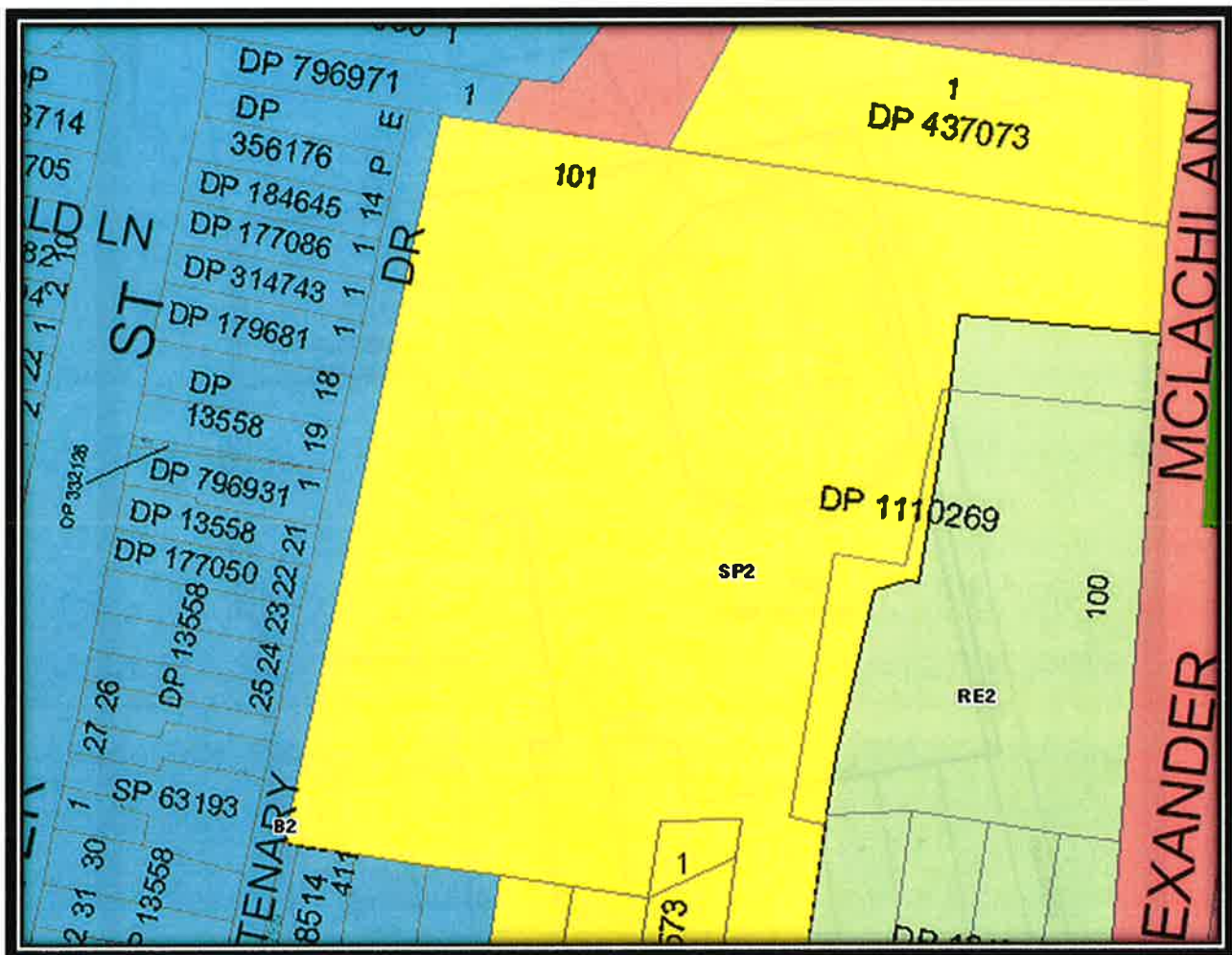


Figure 3: Zoning.

Background

In 2007 the then Maclean Shire Council retained consultants to produce a retail strategy for the Lower Clarence region with specific emphasis on the township of Maclean. The decision to prepare the strategy was in response to proposals to establish supermarkets in a variety of locations within Maclean.

The Strategy described its purpose⁴ as:

“... present a sustainable framework for the future direction of retail development in the Lower Clarence over the next 10 years. The study analyses existing and future floorspace requirements, assesses the relative merits of potential locations for retail expansion, and recommends a preferred location and scale for future retail expansion that will not adversely impact the existing retail sector.”

The Strategy included the following recommendation⁵:

“Develop a new supermarket of a maximum of 2,000sqm in the Maclean Town Centre, unless the proposal represented an expanded/relocated supermarket or other preconditions are determined as outlined earlier in this study. The possible locations for the development are the Northern end of the Town Centre and Council car park. Council would not need to rezone the Northern end of the Town Centre, but may need to sell public land if a development proposal involved the purchase of Clyde Street. Preference for the Council car park would require Council to allow the ownership/lease of airspace and subterranean space and the rezoning to business. Council would also need to be satisfied parking requirements were met. Both sites represent the potential to activate the waterfront. The key issue with regards to the Council car park site is whether its merits (such as potential linkages to River Street and any future waterfront development) are strong enough to warrant its rezoning despite development potential existing within the existing business zone at the Northern end of the Town Centre at the boulevard”

The issue of where is the most appropriate location for a supermarket in the Maclean Township has been around for some considerable time, and Council has given much consideration to the sale of public land for this purpose.

More recently, in May 2011, Council resolved to accept an offer for the purchase of the subject land, for the purposes of accommodating a supermarket⁶. Subsequent to this Council resolved in July 2011:

“d) Action be now taken to subdivide the proposed 3,750 sq m site from Centenary Drive Car Park, as previously identified and reported to the Council, and that action also be now taken to initiate the rezoning of the land to suitable Business zoning.”⁷

⁴ Page ii Lower Clarence Retail Strategy 2007 (AEC Group).

⁵ Page viii Lower Clarence Retail Strategy 2007 (AEC Group).

⁶ Clarence Valley Council Ordinary Meeting 17 May 2011.

⁷ Clarence Valley Council Ordinary Meeting 19 July 2011.



This Planning Proposal seeks to implement Council's decision to rezone the site of the proposed supermarket (the subject land) to a "suitable" business zone to accommodate a supermarket.

PART 1 OBJECTIVES OR INTENDED OUTCOME

The objective of this Proposal is to facilitate the redevelopment of the subject land (proposed Lot 102 in the subdivision of Lot 101 DP 1110269, forming part of the Centenary Drive public car park in the Maclean Township) for the purpose of accommodating a supermarket.

PART 2 EXPLANATION OF PROVISIONS

The Proposal to rezone the subject land is described as:

- Amendment of the CVLEP 2011 Land Zoning Map (Sheet LZN_011F) by zoning the site B2 – Local Centre, in accordance with the proposed zoning map shown in Appendix A; and
- Amendment of the CVLEP 2011 Height of Building Map (Sheet HOB_011F) in accordance with the proposed height map, shown in Appendix A, which indicates a maximum permissible height of 9m on the subject land.

PART 3 JUSTIFICATION

SECTION A - NEED FOR THE PLANNING PROPOSAL

1 Is the Proposal a result of any strategic study or report?

The Lower Clarence Retail Strategy was adopted by the Clarence Valley Council on 19 June 2007.

The Strategy's purpose was to present a *"Retail Strategy for the Lower Clarence Region, with specific emphasis on the township of Maclean."* Its aim was to *"present a sustainable framework for the future direction of retail development in the Lower Clarence over the next 10 years. The study analyses existing and future retail floor space requirements, assess the relative merits of potential locations for retail expansion, and recommends a preferred location and scale for future retail expansion that will not adversely impact the existing retail sector."*⁸

The Strategy included an outline of the (retail) strategic context for the Lower Clarence area, and provided that:

"The Maclean Town Centre is unique in that it is one of the few small regional towns that have managed to retain a vibrant Town Centre, with an historic village atmosphere, in the face of large-scale modern development in nearby towns. The Town Centre has remained relatively compact and a measure of the vibrancy of the centre is its zero retail vacancy rate. The centre has maintained a healthy mix of small independent retail tenants focused on customer service as a point of difference. The appeal of the Town Centre is reflected by the significance of tourism markets as a generator of retail sales."

The competitive advantages of the Maclean centre are, in summary, identified as its customer service, convenience, range of services and lively atmosphere. Maclean's administrative role is also an activity inspirer, as is a range of community facilities and professional services. In terms of trading disadvantages, there is some evidence of overcrowding in areas of River Street and for particular retailers, perhaps indicating overshopping of these facilities and the need for retail expansion. Consumers indicate some dislike of the small range of stores, prices and parking and access issues. In general, parking represents one of the key issues for the centre, while price and range is identified as a reason for the shopping leakage to places like Grafton, Yamba and Ballina."

Population growth, consumer needs, market forces and regional planning direction now necessitates the expansion of retail facilities in the Maclean area. Population, expenditure and market share analysis projects demand ... over the next 10 years ... a 1,500-2,000sqm supermarket ... A larger full line 3,000sqm supermarket could be sustained depending on certain conditions outlined in the study. Development to these scales requires the capture of market share from, and the reduction of leakage to, other competing locations. Any short-term

⁸ Page 1 Lower Clarence Retail Strategy 2007 (AEC Group).

development beyond these parameters threatens the viability of existing retailers given the size of the market and expansion capacity set out in this study.”⁹

The Strategy included a development strategy¹⁰ the purpose of which was to outline sustainable development benchmarks for future retail development and the optimal locations and guiding principles for new development within the Lower Clarence area. In relation to this Planning Proposal, the development strategy provided:

“Develop a new supermarket of a maximum of 2,000sqm in the Maclean Town Centre, unless the proposal represented an expanded/relocated supermarket or other preconditions are determined as outlined earlier in this study. The possible locations for the development are the Northern end of the Town Centre and Council car park. Council would not need to rezone the Northern end of the Town Centre, but may need to sell public land if a development proposal involved the purchase of Clyde Street. Preference for the Council car park would require Council to allow the ownership/lease of airspace and subterranean space and the rezoning to business. Council would also need to be satisfied parking requirements were met. Both sites represent the potential to activate the waterfront. The key issue with regards to the Council car park site is whether its merits (such as potential linkages to River Street and any future waterfront development) are strong enough to warrant its rezoning despite development potential existing within the existing business zone at the Northern end of the Town Centre at the boulevard”¹¹

The development strategy developed for the Lower Clarence was in part based on the Strategy’s assessment of how best to address an identified gap in local retail provision without unreasonably impacting on the existing retail sector and “main street” of Maclean.

The Planning Proposal is consistent with, and facilitates the implementation of, the Lower Clarence Retail Strategy, by making available land within the Maclean Town Centre for development for the purposes of a supermarket.

2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes; the development of a supermarket is prohibited under the existing zoning.

The alternative statutory mechanism to facilitate a supermarket on the subject land would be to make a supermarket an additional permitted use under Schedule 1 of the CVLEP 2011. Given that the site is contiguous with the Maclean Town Centre (zoned B2 – Local Business Zone); Department of Planning directions recommend the use of land use zones rather than the addition of a use to Schedule 1 of the CVLEP 2011. This approach allows for a more flexible planning approach.

⁹ Page 51 Lower Clarence Retail Strategy 2007 (AEC Group).

¹⁰ Page 53 Lower Clarence Retail Strategy 2007 (AEC Group).

¹¹ Page viii Lower Clarence Retail Strategy 2007 (AEC Group).

3 Is there a net community benefit?

There are a number of external costs and benefits that will arise from the Planning Proposal. The Proposal, via rezoning and ultimate development of a supermarket on the subject land will result in benefits which include:

- Satisfaction of the overriding demand and need for additional retail development (supermarket) in Maclean from the general public and business community, as detailed in the Lower Clarence Retail Strategy;
- Provision of a wider range of goods and a reduction in trade leakage to other centres; and
- Reinforcement of Maclean as a district centre and major town in the region, facilitating increased levels of landlord reinvestment in the Maclean Town Centre to improve trading positions, shop fronts, fit outs and general amenity of retail premises.

Costs arising from the Planning Proposal and resultant development of a supermarket on this site include:

- Net loss of public car parking spaces and increased competition for existing spaces within the Maclean Town Centre
- Increased activity levels in the Maclean Town Centre, which may increase overcrowding and further exacerbate traffic (congestion) issues.

Council has on numerous occasions considered the issue of a potential loss of public car parking spaces as part of the sale and development of the subject land, with some or all of this loss being made good via a variety of options. In the absence of a car parking replacement strategy, the planning proposal would effectively result in a parking shortfall, nominally, of 109 spaces.¹² However, Council has resolved to investigate options to replace that car parking loss. Initial investigations reported to Council have identified 49 replacement spaces at the rear of the Council Library and 28 on-street spaces in the vicinity of the subject. It is also noted that a reconfiguration of the Centenary Drive car park in 2009 provided a net increase of 44 spaces. Other options currently under consideration include :

- The construction of an above ground car park over an existing public car;
- The purchase of private land for the purposes of construction of a car park.

¹² The existing car park provides 142 spaces. A supermarket of the size proposed would require an additional 67 spaces under Council's normal requirements. IGA have agreed to provide 100 spaces on site following construction. Hence, the net parking loss is 109 spaces (142 existing plus 67 additional spaces attributed to the new supermarket, less the 100 spaces provided as part of construction).

To date, no decisions have been made as to whether the public car spaces on the subject land will be replaced following the sale of the subject land. It is of note however that the contract for the sale of the subject land:

- permits a 2000m² GFA supermarket; and
- that 100 car spaces must be provided as part of the supermarket development.

The contract of sale of the subject land is for the amount of \$2.5M. The value of the subject land is estimated at approximately \$1.5M, leaving a further \$1M as monies which might be considered as addressing car parking provision.

Given the nature of the benefits and costs outlined above, it is as a result difficult to quantify the net community benefit that will arise from the rezoning of the subject land, and ultimately its development for the purposes of a supermarket. In simple terms, it might be described as the economic and social benefits of a supermarket located in the Town Centre (as recommended by the Lower Clarence Retail Strategy) against a potential loss of some car parking, should Council be unable to source suitable replacement parking.

Council is of the view that this proposal represents a net gain in terms of community benefit.

SECTION B - RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

4 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Mid North Coast Regional Strategy 2009 (the Regional Strategy) is the relevant regional strategy encompassing Maclean.

In the Regional Strategy, Maclean is identified as a major town; major towns are described as having “... a functional role in servicing their subregions with outreaches of regional services. They are self-contained with shopping and business services and may have bulky goods, warehousing, transport logistics, farm support services, health and professional services mixed with some medium density residential.”¹³

In relation to economic development and employment growth, the Regional Strategy provides:

“In identification of four major regional centres and supporting major towns ... the Strategy recognises the existing retail and service functions of centres in the Region. In order to meet employment capacity projections additional commercial floor space (including car parking and associated services) will need to be provided in a manner that maintains and reflects this hierarchy. Additional floor space will be established through the development and redevelopment of existing centres and business zones.

¹³ Page 16 Mid North Coast Regional Strategy 2009 (Department of Planning).

... Centres such as ... Maclean are also expected to undergo some growth and redevelopment of their commercial centres reflecting their role as major towns.”¹⁴

The Planning Proposal is consistent with the view stated in the Regional Strategy that centres such as Maclean are expected to undergo some growth and redevelopment of their commercial centres reflecting their role as major towns.

The Regional Strategy also includes a number of outcomes and actions for economic development and employment growth. In this regard, the Regional Strategy provides the following outcome:

“The hierarchy of settlement identified in this Strategy will be reflected in the hierarchy of commercial centres – consistent in scale and centrally located within each community. Commercial development will be located within the boundaries of towns and villages, utilising existing commercial centres where possible.”¹⁵

The Regional Strategy also includes the following action:

“Local environmental plans (and other planning provisions) will facilitate employment growth in the major regional centres and major towns, as well as facilitate appropriate local jobs in towns and villages and recognize appropriate home-based employment opportunities.”¹⁶

The Planning Proposal is considered consistent with the Regional Strategy insofar as it seeks to:

- reinforce Maclean as a major town within the hierarchy of settlements; and
- include further commercial development within the Maclean Town Centre.

5 Is the planning proposal consistent with the local council’s Community Strategic Plan, or other local strategic plan?

Valley Vision 2020 is Council’s adopted corporate strategic plan. This Planning Proposal is consistent with that plan’s vision for human habitat, being “to live in sustainable communities, including a healthy natural environment, supported by efficient and effective essential services and transport systems ...”¹⁷. The provision of commercial facilities required by the local community at a scale and location that does not adversely impact on other sectors of the community (and especially the existing business sector) supports that vision.

6 Is the planning proposal consistent with applicable state environmental planning policies?

¹⁴ Pages 24-25 Mid North Coast Regional Strategy 2009 (Department of Planning).

¹⁵ Page 26 Mid North Coast Regional Strategy 2009 (Department of Planning).

¹⁶ Page 26 Mid North Coast Regional Strategy 2009 (Department of Planning).

¹⁷ Page 28 Valley Vision 2020 (Clarence Valley Council).



The Planning Proposal is consistent with applicable state environmental planning policies; see Appendix B.

7 Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The Planning Proposal is consistent with applicable Section 117 Directions; see Appendix C.

SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

8 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

There is little likelihood that the Planning Proposal will adversely impact on critical habitat or threatened species, populations or ecological communities, or their habitats. The subject land is presently developed in the form of a public car park with little environmental value. The development of the subject land for a supermarket is also considered unlikely to impact critical habitat or threatened species, populations or ecological communities, or their habitats located in more distant locations.

9 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The development of the site for the purposes of a supermarket may result in increased traffic and access congestion issues within the Maclean Town Centre. It is anticipated that such impacts can be satisfactorily addressed via the development consent process. In addition, it is acknowledged that the development of the subject land will result, on its face, in the loss of approximately 109 public car spaces from the Maclean Town Centre unless replacement public car spaces are provided elsewhere. While Council have made no decisions to date on how some or all of these public car spaces could be replaced, it has identified 28 replacements public car spaces and requested staff to report on options to replace some or all of the balance.

10 How has the planning proposal adequately addressed any social and economic effects?

As previously stated, the Planning Proposal seeks to implement a component of the development strategy contained in the Lower Clarence Retail Strategy, which effectively seeks to provide for a new supermarket in the Maclean Town Centre. The principal social and economic effects of this component were examined in the Strategy. The two notable effects include:

- A reduction in the leakage of trade to other centres from Maclean; and
- A strengthening of the Maclean Town Centre, which will enhance its vibrancy, atmosphere and ambience.

Both of these effects are considered desirable outcomes arising out of the Planning Proposal.

SECTION D – STATE AND COMMONWEALTH INTERESTS

11 Is there adequate public infrastructure for the planning proposal?

Yes. The subject land is within the Maclean Town Centre and is serviced by the normal range of urban infrastructure. Normal reticulation extensions and upgrading, if necessary, will be required through the development consent process for the development of a supermarket.

12 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

No gateway determination has been made in respect of this Planning Proposal. Accordingly the views of State and Commonwealth public authorities is not known at this stage.

It is intended to revise this section of the Planning Proposal following review of the Proposal by the Minister for Planning (gateway determination).

PART 4 - COMMUNITY CONSULTATION

It is considered that the Planning Proposal is a “low impact planning proposal” under section 4.5 of *“A guide to preparing local environmental plans”*. This conclusion is made on the basis that:

- The Proposal seeks to rezone land to a (business) zone which adjoins the existing business zone encompassing the Maclean Town Centre, and which will provide for a land use (supermarket) which is compatible with nearby land uses;
- is consistent with the strategic planning framework, most notably as set out in the Lower Clarence Retail Strategy and Regional Strategy;
- presents no issues with regard to infrastructure servicing;
- is not a principal LEP; and
- does not reclassify public land.

The proposal to rezone the subject land so as to accommodate a supermarket has also been extensively discussed in a public forum; firstly through the Lower Clarence Retail Strategy and more recently in numerous Council deliberations on the proposed sale of the subject land.¹⁸

¹⁸ Clarence Valley Council Ordinary Meeting 17 May 2011 and Clarence Valley Council Ordinary Meeting 19 July 2011



Department of Planning LEP practice note PN 09–003 *Classification and reclassification of public land through a local environmental plan* provides guidance on the process to classify or reclassify public land through a local environmental plan.

PN 09-003 supersedes (re)classification advice in "*Best practice Guidelines for LEPs and Council Land*" January 1997.

PN 09-003 states that when exhibiting a planning proposal or draft LEP to classify or reclassify public land, council must provide a written statement which addresses various matters. Such a statement is included in Appendix D.

Appendix A: Proposed Zoning Map



Appendix B: State Environmental Planning Policies

State Environmental Planning Policy	Compliance	Comments
SEPP 1 Development Standards	Not applicable.	
SEPP 4 Development Without Consent and Miscellaneous Complying and Exempt Development	Not applicable	
SEPP 14 Coastal Wetlands	Not applicable.	
SEPP 15 Rural Landsharing Communities	Not applicable.	
SEPP 19 Bushland in Urban Areas		
SEPP 21 Caravan Parks	Not applicable.	
SEPP 22 Shops and Commercial Premises	Not applicable.	
SEPP 26 Littoral Rainforests	Not applicable.	
SEPP 29 Western Sydney Recreation Area	Not Applicable	
SEPP 30 Intensive Agriculture	Not applicable.	
SEPP 32 Urban Consolidation (Redevelopment of Urban Land)	Yes.	The subject land is proposed to be rezoned for "related development", which might serve existing and future multi-unit housing.
SEPP 33 Hazardous & Offensive Development	Not applicable.	
SEPP 36 Manufactured Home Estates	Not applicable.	
SEPP 39 Split Island Bird Habitat	Not Applicable	
SEPP 41 Casino/Entertainment Complex	Not Applicable	
SEPP 44 Koala Habitat Protection	Not applicable.	
SEPP 47 Moore Park Showground	Not Applicable	
SEPP 50 Canal Estate Development	Not applicable.	
SEPP 52 Farm Dams & Other Works in Land & Water Management Plan Areas	Not Applicable	
SEPP 55 Remediation of Land	Yes.	Coffey Geotechnics Pty Ltd has undertaken a preliminary investigation of the geotechnical conditions of the subject land. This investigation was based on the following information: <i>"Coffey understands that Council is negotiating the sale of this site for the development of an IGA Supermarket. The developer has proposed to excavate the site to approximately 1 metre below the existing grade over a 4,000m² area. Such an excavation will require the removal of up to approximately 4,000m³ of surplus soil material from</i>

State Environmental Planning Policy	Compliance	Comments
		<i>this site.</i>¹⁹ The investigation concluded: <i>"Based on the site observations and the reported laboratory results the site, following removal of surplus and contaminated soils, is assessed to be suitable for the proposed commercial use."</i>²⁰ A copy of the investigation is included in Appendix E.
SEPP 59 Central Western Sydney Economic & Employment Area.	Not Applicable.	
SEPP 60 Exempt & Complying Development.	Not Applicable.	
SEPP 62 Sustainable Aquaculture.	Not applicable.	
SEPP 64 Advertising & Signage.	Not applicable.	
SEPP 65 Design Quality of Residential Flat Buildings.	Not applicable.	
SEPP 70 Affordable Housing (Revised Schemes).	Not Applicable.	
SEPP 71 Coastal Protection	Yes.	Clause 7 of SEPP 71 requires that the matters listed in that clause be taken into account in the preparation of any draft LEP. These clause 8 matters are addressed in Appendix G.
State Environmental Planning Policy (Affordable Rental Housing) 2009	Not applicable.	
SEPP (Building Sustainability Index: BASIX) 2004	Not applicable.	
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Not applicable.	
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	Not applicable.	
State Environmental Planning Policy (Infrastructure) 2007	Not applicable.	
State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007	Not applicable.	

¹⁹ Page 2 Site Contamination Assessment, Proposed Supermarket Site – Centenary Drive, Maclean NSW 14 October 2011 (Coffey Geotechnics Pty Ltd).

²⁰ Page 1 Site Contamination Assessment, Proposed Supermarket Site – Centenary Drive, Maclean NSW 14 October 2011 (Coffey Geotechnics Pty Ltd).

State Environmental Planning Policy	Compliance	Comments
State Environmental Planning Policy (Kurnell Peninsula) 1989	Not applicable	
SEPP(Major Development) 2005	Not applicable.	
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	Not applicable.	
State Environmental Planning Policy (Penrith Lakes Scheme) 1989	Not applicable.	
State Environmental Planning Policy (Rural Lands) 2008	Not applicable.	
State Environmental Planning Policy (SEPP 53 Transitional Provisions) 2011	Not applicable.	
State Environmental Planning Policy (State and Regional Development) 2011	Not applicable.	
State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011	Not applicable.	
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	Not applicable.	
State Environmental Planning Policy (Temporary Structures) 2007	Not applicable.	
State Environmental Planning Policy (Urban Renewal) 2010	Not applicable.	
State Environmental Planning Policy (Western Sydney Employment Area) 2009	Not applicable.	
State Environmental Planning Policy (Western Sydney Parklands) 2009	Not applicable.	
Draft NSW Planning Guidelines: Wind Farms	Not applicable.	

Appendix C: Section 117 Directions

Section 117 Direction	Compliance	Comments
1. EMPLOYMENT AND RESOURCES		
1.1 Business and Industrial Zones	Not applicable.	
1.2 Rural Zones	Not applicable.	
1.3 Mining, Petroleum Production and Extractive industries	Not applicable.	
1.4 Oyster Aquaculture	Not applicable.	
1.5 Rural Lands	Not applicable.	
2. ENVIRONMENT AND HERITAGE		
2.1 Environmental Protection Zones	Not applicable.	
2.2 Coastal Protection	Yes.	Appendix C of the NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997 sets out those matters of the Policy most relevant to the making of a LEP and which should be given consideration. These matters are set out in Appendix F. The Coastal Design Guidelines 2003 do not contain anything of direct relevance to the Planning Proposal, apart from the Proposal's compliance with the statement: <i>"Larger settlement types, such as cities and towns, are ideal locations for major new commercial, retail and employment generating developments because they have economic, service and social infrastructure which can support increased activity."</i>²¹ No coastal management plan has been prepared which encompasses the Maclean Township. Notwithstanding, the Planning Proposal is considered of minor significance, given it is a relatively small site located within the Maclean Town Centre, which is also distant from the edge of the Clarence River.
2.3 Heritage Conservation	Not applicable.	The Planning Proposal seeks to

²¹ Page 8 Coastal Design Guidelines for NSW (Coastal Council of NSW, Urban Design Advisory Service and Tourism New South Wales).

Section 117 Direction	Compliance	Comments
		amend CVLEP 2011. This principal LEP includes clause 5.10 Heritage conservation, which manages the impact of development on heritage values. Future development facilitated by this Planning Proposal will be subject to the provisions of clause 5.10 of the CVLEP2011.
2.4 Recreation Vehicle Areas	Not applicable.	
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	Not applicable.	
3.2 Caravan Parks and Manufactured Home Estates	Not applicable.	
3.3 Home Occupations	Not applicable.	
3.4 Integrated Land Use and Transport	Yes.	The Planning Proposal will give effect to principles 1 and 2 of <i>Improving Transport Choice – Guidelines for planning and development (DUAP 2001)</i>, which are of direct relevance to the Proposal. In relation to principle 8, it is noted that Council has carried out some investigation into the provision of public car parking in order to make good the loss of spaces resulting from the development of the subject land by a supermarket. In relation to the <i>The Right Place for Business and Services – Planning Policy (DUAP 2001)</i>, the Planning Proposal is considered the 'right location' for the location of a supermarket, and the following statement of particular note: <i>"Shops typically generate high trip levels and those serving more than a neighbourhood catchment should always be located in centres and be provided with pedestrian, cycling and public transport access ..."</i> <i>Supermarkets and large specialist and department stores have an important role in anchoring a broad range of shopping and other services and thereby allow single multi-purpose trips. Retail proposals should be accommodated in centres</i>

Section 117 Direction	Compliance	Comments
		to allow choice and free pedestrian movement.²² The subject land is the 'right centre', given it is a district centre serving the immediate locality, consistent with its status under the Regional Strategy.
3.5 Development Near Licensed Aerodromes	Not applicable.	
3.6 Shooting Ranges	Not applicable.	
4. HAZARD AND RISK		
4.1 Acid Sulphate Soils	Yes.	The subject land is identified as having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps held by the Department of Planning. Coffey Geotechnics Pty Ltd has undertaken a preliminary investigation of the geotechnical conditions of the subject land. In relation to potential acid sulfate soils they advise: <i>"If planned construction activities include excavations on the eastern site boundary it is recommended that an ASS Management Plan is prepared for the treatment and management of these PASS materials. The horizontal extent of the PASS soils is shown on Figure 3. The implementation of this plan and the treatment of these soils with agricultural lime following their excavation will be required to prevent formation ASS. Options for removal of this treated ASS material include applying to the NSW Office of Environment and Heritage (OEH) for a site specific exemption for treated low grade ASS to be removed as ENM. Alternatively, the treated PASS material may be excavated and managed separately from the ENM material and removed from site for disposal to landfill. However, these measures will not be required if no</i>

²² Page 6 Integrating Land Use and Transport: The Right Place for Business and Services — Planning policy (Transport NSW and Department of Urban Affairs and Planning).

Section 117 Direction	Compliance	Comments
		construction excavations are to occur in this eastern area of the site.²³ It is also of note that the instrument (CVLEP 2011) to be amended by the rezoning contains adequate provisions (clause 7.1) to ensure that subsequent development of the site is properly managed having regard to the potential presence of acid sulfate soils.
4.2 Mine Subsidence and Unstable land	Not applicable.	
4.3 Flood Prone Land	Yes.	Flooding within the Maclean Township was given particular consideration in the Grafton and Lower Clarence Floodplain Risk Management Plan. The findings and recommendations from this Plan have informed clause 7.3 Flood planning within CVLEP 2011, which will regulate future development (in terms of flooding) on the subject land.
4.4 Planning for Bushfire Protection	Not applicable.	
5. REGIONAL PLANNING		
5.1 Implementation of Regional Strategies	Yes.	Consistency with this Direction has been addressed in previous sections of this Planning Proposal.
5.2 Sydney Drinking Water Catchments	Not applicable.	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable.	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable.	
5.5 Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	Not applicable.	
5.6 Sydney to Canberra Corridor	Not applicable.	
5.7 Central Coast	Not applicable.	
5.8 Second Sydney Airport: Badgerys Creek	Not applicable.	
6. LOCAL PLAN MAKING		

²³ Page 1 Site Contamination Assessment, Proposed Supermarket Site – Centenary Drive, Maclean NSW 14 October 2011 (Coffey Geotechnics Pty Ltd).

Section 117 Direction	Compliance	Comments
6.1 Approval and Referral Requirements	Not applicable.	
6.2 Reserving Land for Public Purposes	Not applicable.	
6.3 Site Specific Provisions	Not applicable.	

Appendix D: PN 09-003 Written Statement

Statement of Council's Interest	Description of Council's Interest
The reasons why the draft LEP or planning proposal is being prepared including the planning merits of the proposal, e.g. the findings of a centres' strategy, council's intention to dispose of the land, provision of open space in a town centre	This has been addressed in previous parts of this Planning Proposal.
the current and proposed classification of the land	The subject land is presently classified as operational land. The subject land will have no change in classification upon rezoning.
the reasons for the reclassification including how this relates to council's strategic framework, council's proposed future use of the land, proposed zones, site specific requirements, e.g. heritage controls, anticipated physical or operational changes resulting from the reclassification	This has been addressed in previous parts of this Planning Proposal.
council's ownership of the land, if this applies	The subject land is owned by Council (Freehold).
the nature of council's interest in the land, e.g. council has a 50 year lease over the site	The subject land is owned by Council (Freehold).
how and when the interest was first acquired, e.g. the land was purchased in 20XX through section 94	There is no information indicating when Council acquired its interest in the subject land.
the reasons council acquired an interest in the land, e.g. for the extension of an existing park; council was given responsibility for the land by a State agency	Not applicable.
any agreements over the land together with their duration, terms, controls, agreement to dispose of the land, e.g. whether any aspect of the draft LEP or planning proposal formed part of the agreement to dispose of the land and any terms of any such agreement	Council has contracted to sell the subject land conditional (in part) upon it being rezoned to permit business development (a supermarket) within 2 years of the date of contract..
an indication, as a minimum, of the magnitude of any financial gain or loss from the reclassification and of the type(s) of benefit that could arise e.g. council could indicate the magnitude of value added to the land based on comparable sites such as the land is currently valued at \$1500 per square metre, nearby land zoned for business development is valued at between \$2000 and \$5000 per square metre	Council has agreed to sell the subject land for \$2.5M. Taking into account the loss of public car spaces on the subject land; the gain of an additional 33 car spaces when the site is developed; and, Council's section 94 contributions for car spaces, the sale of the subject land will raise approximately \$1M. In February 2011 Council engaged Taylor Byrne to value the subject land. They calculated a value of \$400m² based on sales evidence of commercial sites in the locality, giving the subject land a value of \$1.5M, with a recommended range of \$1.4M to \$1.6M.
the asset management objectives being pursued, the manner in which they will be achieved and the type of benefits the council wants, i.e. without necessarily providing details	Council has not formally decided where proceeds from the sale of the subject land will reside, or how these will be spent, however staff have been instructed to investigate

Statement of Council's Interest	Description of Council's Interest
of any possible financial arrangements, how the council may or will benefit financially	options for creating additional public car parking spaces within the Maclean Town Centre utilizing some of the proceeds from the sale of the subject land.
whether there has been an agreement for the sale or lease of the land; the basic details of any such agreement and, if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time	The contract of sale for the subject land provides that a development application is to be lodged for a supermarket within 6 months of the rezoning of the subject land.
Relevant matters required in plan making under the EP&A Act	Those matters have been addressed throughout this Planning Proposal.
A copy of this practice note must be included in the exhibition material to assist the community in identifying information requirements. Council staff may wish to identify the column in Attachment 1 that applies	A copy of PN09-003 is attached to this Planning Proposal.

Appendix E: Clause 8 Matters (SEPP 71)

Matter	Comment
the aims of this Policy set out in clause 2	See Appendix G below.
existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved	Not applicable; the subject land being distant from the Clarence River.
opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability	Not applicable; the subject land being distant from the Clarence River.
the suitability of development given its type, location and design and its relationship with the surrounding area	The subject land is well located within the Maclean Town Centre to accommodate the proposed supermarket.
any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore	Not applicable; the subject land being distant from the Clarence River.
the scenic qualities of the New South Wales coast, and means to protect and improve these qualities	Not applicable; the subject land being distant from the Clarence River.
measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats	Not applicable; the subject land being distant from the Clarence River.
measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats	Not applicable; the subject land being distant from the Clarence River.
existing wildlife corridors and the impact of development on these corridors	Not applicable; the subject land being distant from the Clarence River.
the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards	Coastal processes and hazards likely to impact the subject land relate to those which exacerbate flooding. CVLEP 2011 includes adequate controls regulating development subject to flooding (causes 7.3 and 7.4). It is notable that the subject land is not included in an area subject to "coastal risk" as identified on the Coastal Risk Planning Map forming part of CVLEP 2011.
measures to reduce the potential for conflict between land-based and water-based coastal activities	Not applicable; the subject land being distant from the Clarence River.
measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals	Not applicable; the subject land is within an existing urban area.
likely impacts of development on the water quality of coastal waterbodies	Not applicable; the subject land being distant from the Clarence River.
the conservation and preservation of items of heritage, archaeological or historic significance	The proposed supermarket is not anticipated to have any adverse impacts on the heritage

Matter	Comment
	values of Maclean. It is of note that CVLEP 2011 includes clause 5.10 which deals with heritage related matters.
only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities	Not applicable.
only in cases in which a development application in relation to proposed development is determined: (i) the cumulative impacts of the proposed development on the environment, and (ii) measures to ensure that water and energy usage by the proposed development is efficient	Not applicable.

Appendix F: Strategic Actions – NSW Coastal Policy 1997

Strategic Action	Compliance	Comment
Table 1		
1.1.2	Not applicable.	
1.1.3	Not applicable.	
1.1.5	Not applicable.	
1.1.9	Not applicable.	
1.1.10	Not applicable.	
1.1.11	Not applicable.	
1.3.7	Not applicable.	
1.3.14	Not applicable.	
2.1.1	Yes.	
2.2.2	Not applicable.	The subject land is not identified on the Coastal Risk Planning Map forming part of CVLEP 2011.
3.1.2	Not applicable.	
3.2.4	Not applicable.	
3.3.1	Not applicable.	
4.1.2	Yes.	The subject land will be subject to clause 5.10 of the CVLEP 2011.
4.1.4	Not applicable.	
5.1.2	Not applicable.	THE CVLEP 2011 has been informed by various strategies.
5.1.3	Not applicable.	
5.1.7	Not applicable.	
5.1.8	Not applicable.	
5.2.3	Not applicable.	
5.2.11	Not applicable.	
6.1.1	Not applicable.	
6.1.2	Not applicable.	
6.1.4	Not applicable.	
6.2.1	Not applicable.	
6.3.1	Not applicable.	
6.4.1	Not applicable.	
6.4.2	Not applicable.	
7.2.4	Not applicable.	
Table 3 (Strategic Action 3.2.4)		
1	Not applicable.	
2	Not applicable.	
3	Not applicable.	
4	Not applicable.	
5	Not applicable.	
7	Not applicable.	
8	Not applicable.	
9	Not applicable.	
10	Not applicable.	

Appendix G: Aims of SEPP 71

Aim	Comment
(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast	The Planning Proposal is consistent with strategic planning previously carried out relating to this part of the coast; it therefore forms part of a 'managed' process, which has regard for the protection and management of the natural, cultural, recreational and economic attributes of the coast.
(b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore	Not applicable; the subject land being distant from the Clarence River.
(c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore	Not applicable; the subject land being distant from the Clarence River.
(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge	Not applicable; the subject land is within an existing urban area.
(e) to ensure that the visual amenity of the coast is protected	Not applicable; the subject land being distant from the Clarence River.
(f) to protect and preserve beach environments and beach amenity	Not applicable; the subject land being distant from the Clarence River.
(g) to protect and preserve native coastal vegetation	Not applicable; the subject land being distant from the Clarence River.
(h) to protect and preserve the marine environment of New South Wales	Not applicable; the subject land being distant from the Clarence River.
(i) to protect and preserve rock platforms	Not applicable; the subject land being distant from the Clarence River.
(j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991)	The Planning Proposal is considered consistent with the principles of ecologically sustainable development.
(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area	Not applicable; these matters will be dealt with at the time the subject land is actually developed (assessment process).

(l) to encourage a strategic approach to coastal management	The Planning Proposal is consistent with strategic planning previously conducted (most notably the Lower Clarence Retail Strategy).
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