

### Housekeeping amendments to Richmond Valley LEP 2012

Proposal Title : Housekeeping amendments to Richmond Valley LEP 2012

Proposal Summary : To undertake "housekeeping" amendments of further corrections and refinements to Richmond Valley LEP 2012. The proposal involves nine amendments to:

- (1) Extend the Land Application Area to include an area inadvertently omitted from the Richmond Valley LEP 2012;
- (2) Exclude the Minimum Lot Size (MLS) applying to certain subdivisions creating residue lots;
- (3) Rezone the Casino Drill Hall site for residential development - 1.275 hectares;
- (4) Amend the Lot Size Map on fringe of Casino (potential for 3 lots);
- (5) Amend the Dwelling Opportunity Map to recognise opportunities for lots meeting the Minimum Lot Size (MLS) - 58 dwelling opportunities;
- (6) Amend the Dwelling Opportunity Map to recognise opportunities that were marginally below MLS - 6 dwelling opportunities;
- (7) Amend Land Zoning, Lot Size and Dwelling Opportunity Maps as they apply to certain land at Busbys Flat - one additional dwelling opportunity;
- (8) Correct errors in the drafting of Clause 4.1C – Exceptions to MLS for dual occupancies; and
- (9) Amend Schedule 2 Exempt Development - standards applicable to garage and signage development types.

PP Number : PP\_2013\_RICHM\_004\_00

Dop File No : 13/04699

#### Proposal Details

Date Planning  
Proposal Received : 07-Mar-2013

LGA covered : Richmond Valley

Region : Northern

RPA : Richmond Valley Council

State Electorate : CLARENCE  
LISMORE

Section of the Act : 55 - Planning Proposal

LEP Type : Housekeeping

#### Location Details

Street :

Suburb :

City :

Postcode :

Land Parcel : Richmond Valley Local Government Area

### DoP Planning Officer Contact Details

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### RPA Contact Details

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### DoP Project Manager Contact Details

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### Land Release Data

|                                    |                                          |                                                      |            |
|------------------------------------|------------------------------------------|------------------------------------------------------|------------|
| Growth Centre :                    |                                          | Release Area Name :                                  |            |
| Regional / Sub Regional Strategy : | <b>Far North Coast Regional Strategy</b> | Consistent with Strategy :                           | <b>Yes</b> |
| MDP Number :                       | <b>N/A</b>                               | Date of Release :                                    |            |
| Area of Release (Ha) :             |                                          | Type of Release (eg Residential / Employment land) : |            |
| No. of Lots :                      | <b>11</b>                                | No. of Dwellings (where relevant) :                  | <b>11</b>  |
| Gross Floor Area :                 | <b>0</b>                                 | No of Jobs Created :                                 | <b>0</b>   |

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

If No, comment :

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

If Yes, comment :

### Supporting notes

Internal Supporting Notes : **To the best of the Regional Team's knowledge the NSW Government Lobbyist Code of Conduct has been complied with.**

External Supporting Notes : **The Planning Proposal deals with items not included in a Planning Proposal for minor administrative corrections, which was submitted concurrently. Council considered the minor administrative corrections to have no policy or public interest implications, while this 'housekeeping' planning proposal involves issues of a policy or public interest nature that would require public exhibition.**

### 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 amendments to the Richmond Valley LEP 2012**

**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 :

**1.2 Rural Zones  
1.5 Rural Lands  
2.1 Environment Protection Zones  
2.3 Heritage Conservation  
3.1 Residential Zones  
4.1 Acid Sulfate Soils  
4.3 Flood Prone Land  
4.4 Planning for Bushfire Protection  
5.1 Implementation of Regional Strategies  
6.1 Approval and Referral Requirements  
6.2 Reserving Land for Public Purposes**

\* May need the Director General's agreement

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 44—Koala Habitat Protection  
SEPP No 55—Remediation of Land  
SEPP No 64—Advertising and Signage  
SEPP (Exempt and Complying Development Codes) 2008  
SEPP (Rural Lands) 2008**

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

**The planning proposal is considered to be consistent with the Far North Coast Regional Strategy.**

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

**The submitted planning proposal identifies one inconsistency with relevant S117 Direction. This relates to S 117 2.1 Environmental Protection Zones and the rezoning of land from E2 Environmental Conservation to RU1 Primary Production.**

**Council considers that this inconsistency as justified as it is the result of the land being mistakenly zoned 7(c) Environmental Protection under the previous LEP and the environmental zoning was carried over as E2 in the Richmond Valley LEP 2012. The area is partly cleared of native vegetation and the inconsistency is considered to be of minor significance.**

**Mapping Provided - s55(2)(d)**

Is mapping provided? **No**

Comment : **While the amended LEP sheets have not been provided at this stage, the planning proposal includes a list of the LEP map sheets needing amendment, and is accompanied by identification map extracts of the proposed site specific corrections and amendments. However, the details and maps provided are considered sufficient to enable the planning proposal to proceed to exhibition.**

### Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has identified a 30 day exhibition period as a minimum for the proposal. The planning proposal is considered to be a 'low impact' proposal, and a 28 day notification period is considered appropriate.**

### Additional Director General's requirements

Are there any additional Director General's requirements? **N/A**

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 the outcomes;**
- 3. Providing an adequate justification for the proposal;**
- 4. Outlining a proposed community consultation program; and**
- 5. Providing a project timeline**
- 6. Completing the evaluation criteria for the delegation of plan making functions.**

**Delegation of plan making functions is considered to be appropriate in this instance, as these include minor housekeeping matters.**

**A project timeline of six months is provided by Council. However additional consultation and assessments are being recommended for exhibition, and in these circumstances nine months may be appropriate.**

## Proposal Assessment

### Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Richmond Valley LEP 2012 commenced 21 April 2012**

### Assessment Criteria

Need for planning proposal : **The planning proposal is needed to make "housekeeping" amendments to the Richmond Valley LEP 2012 that have been identified since it was made.**

**The amendments involve mapping omissions or discrepancies, changes to provisions that are not operating appropriately and spot rezonings as follows:**

**(1) Extend the Land Application Area to include an area inadvertently omitted from the Richmond Valley LEP 2012. The proposal is to include an additional 188ha wedge of land that adjoins the Clarence Valley LGA boundary. The land largely comprises Bundjalung NP and is to be zoned E1 National Parks and Nature Reserves but also includes a thin strip of intertidal coastline (beach) adjacent to the NP that is to be zoned E2 Environmental Conservation.**

**This error occurred as digital mapping for the LGA boundary changed without Council being made aware of it.**

The Council will be requested to consult with Clarence Valley Council to ensure the land is not inadvertently zoned by two different instruments.

(2) Exclude the Minimum Lot Size (MLS) applying to certain subdivisions creating residue lots. The proposal is to amend clause 4.1 Minimum subdivision lot size provisions of the Richmond Valley LEP 2012 to allow for an additional exception. This will exclude the minimum lot size from applying to the creation of a residue lot under clause 4.2A Exceptions to minimum lot sizes for certain rural subdivisions and 4.2 Rural subdivision.

Council contends that clauses 4.2 and 4.2A do not exclude the minimum lot size (MLS) from applying to a resulting residue lot. Therefore a residue lot would need to meet the applicable MLS and this is causing problems for the Council. There are differing legal opinions on the issue of standards for a residue lot, however, Council's proposed amendment could be accepted.

(3) Rezone the Casino Drill Hall site for residential development - this is a proposal for a spot rezoning of Lots 1-7 DP 772610, 75-81 Lennox Street, Casino from zone SP1 Special Activities (Defence) to zone R1 General Residential under the provisions of the Richmond Valley 2012.

The site has an area of 1.275 hectares and is owned by the Commonwealth of Australia - Department of Defence (since 1935). The Casino Army Reserve Training Depot (Casino Drill Hall) is located on the site and is listed as a place of local heritage significance. The buildings have been vacant since declared surplus to Defence operational requirements in 2001.

Council is of the opinion that this proposal will support infill development that is consistent with the surrounding land uses - residential to the west and east. This rezoning is likely to increase densities on this under-utilised area of land. There are some land constraints that are being addressed including contaminated land, possible koala habitat and land that can be flood liable ("Low Fringe" in a PMF flood event). The proposal is acceptable - Council and the Department of Defence have already consulted in the matter. Director General's approval is required to rezone land owned by Defence - section 117 direction 6.2 applies.

(4) Amend the Lot Size Map for Lot 82 DP 624006, 49 Sextonville Road, Casino to enable the property to be subdivided to create three allotments, each with a dwelling, outside of flood prone land. Lot 82 has an area of 1.4 ha and an existing dwelling. It is located on the fringe of the Gays Hill urban precinct, near the township of Casino and is zoned part R1 General Residential and part RU1 Primary Production.

The current minimum lot size for subdivision is 2ha. The proposal will involve reducing the minimum lot size of the flood free and low flood hazard parts of the property from 2ha to 600sqm and the residue from 2ha to 5000sqm. This is acceptable subject to assessment under section 117 direction 4.3 - Flood Prone Land.

(5) Amend the Dwelling Opportunity Map to recognise opportunities for lots meeting the Minimum Lot Size (MLS)

- (i) to show 58 dwelling opportunities for lots meeting the MLS on the map originally missed;
- (ii) omits an additional dwelling opportunity to accommodate two of the 58 above.

The 58 dwelling opportunities already exist under clause 4.2B(3)(a) - this will show the opportunities on a map.

(6) Amend the Dwelling Opportunity Map to recognise opportunities that were marginally below (i.e. <2ha) MLS, this involves 6 dwelling opportunities for lots just below the MLS on the map that were originally missed.

Council has argued that all the lots identified could have had a dwelling house under the former LEP if supported with a SEPP 1 objection. While these could be addressed by a development application including a variation of the MLS under clause 4.6 of the Richmond Valley LEP, it is reasonable and simpler to allow the Council to include them as "dwelling opportunities".

**(7) Amend Land Zoning, Lot Size and Dwelling Opportunity Maps as they apply to certain land at Busbys Flat - this proposal is for:**

- (i) a spot rezoning of the majority of Lot 94 DP 43839, Old School Road, Busbys Flat from zone E2 Environmental Conservation to zone RU 1 Primary Production. A small area of E2 is to be retained over wetlands;**
- (ii) to apply a dwelling opportunity to the parcel consisting of Lot 94 DP 43839 and Lot 67 DP 755636.**

The site has an area of 72.89ha and is located approximately 32 kms south west of Casino and 17kms west of Rappville. Parts of Lot 94 are low lying and vegetation on the southern half of the Lot is visible from the aerial photograph. The land is partly cleared and the RU1 zone is appropriate.

**(8) Correct errors in the drafting of Clause 4.1C – Exceptions to minimum lot size for dual occupancies. The proposal is to remove a restriction that only older dual occupancy developments (approved under the former LEP) can be subdivided under the clause. Council has advised that the intent of the clause was that it apply to all urban dual occupancy developments. However, the clause as drafted by Parliamentary Counsel originally, is incorrect. The amendment is acceptable.**

**(9) Amend Schedule 2 Exempt Development - standards applicable to garage and signage development types. The proposal is to correct errors and omissions by changing development standards applicable to "Garage" and to improve the performance of "signage" provisions.**

Consistency with strategic planning framework :

The "housekeeping" planning proposal includes two spot rezonings:

(i) Lots 1-7 DP 772610, 75-81 Lennox Street, Casino (Casino Drill Hall site with an area of 1.275ha). Rezone the land from zone SP1 Special Activities (Defence) to zone R1 General Residential under the provisions of the Richmond Valley 2012

**SEPP 55 - Remediation of Land** - The site is identified as having been contaminated and is currently being remediated before being disposed of with the intent it will be developed for residential purposes. While this matter is being addressed Council should place the Assessment and Management Plan on exhibition with the planning proposal and consult with the Environment Protection Authority in relation to this matter.

**SEPP 44 - Koala Habitat Protection** - A flora and fauna assessment identified some potential feeding habitat for koala. Council has advised that the habitat is not considered to be an area critical to the survival of a viable threatened species population. Council should consult with the Office of Environment and Heritage. A koala Plan of Management may be necessary at development stage.

### Section 117 Directions

**2.1 Environmental Protection Zones** - Council has advised that no flora or fauna are listed as threatened under the Environment Protection and Biodiversity Act 1999 or the NSW Threatened Species Conservation Act 1995 were identified at the Site. However Council should consult with the Office of Environment and Heritage.

**2.3 Heritage Conservation** - Council has advised that the Heritage listed drill hall will be incorporated into any future plans for the property. This rezoning is not incompatible with the management of this heritage item. However, a heritage assessment document should be prepared that includes the recommended curtilage around the Drill Hall and should be placed on exhibition with the planning proposal. Council will also need to contact the Local Aboriginal Land Council.

**3.1 Residential Zones** - Council has advised that the proposed R1 General Residential Zone will allow for a range of uses including Residential, Aged Care, shops and community uses. This flexibility would also enable the possible adaptive reuse of the locally heritage listed Drill Hall for community uses. Despite council's comment that an inconsistency is involved, there is no inconsistency.

**4.3 Flood Prone Land** - Council has advised the land is not affected by flooding up to a 1 in 100 year ARI Flood Event.

**5.1 Implementation of Regional Strategies** - The site is identified within an existing Town and Village Growth Boundary; and

**6.2 Rezoning of land zoned SP1 owned by the Department of Defence.** Defence has initiated the proposed rezoning with Council and no further consultation is needed; however the Director General has to agree to remove the SP1 zoning.

(ii) the majority of Lot 94 DP 43839, Old School Road, Busbys Flat is proposed to be rezoned from zone E2 Environmental Conservation to zone RU 1 Primary Production . A small area of E2 is to be retained over wetlands.

### S117 Directions

**2.1 Environmental Protection Zones** - The proposal to rezone Lot 94 is inconsistent with this Direction. The rezoning of most of the land from E2 Environmental Conservation to RU1 Primary Production is reducing the environmental protection standards that apply to the land. Council considers that this inconsistency as justified as it is the result of the land being mistakenly zoned 7(c) Environmental Protection under the previous LEP and the environmental zoning being carried over to the Richmond Valley LEP 2012.

Part of the area is cleared and while this is considered to be of minor significance, Council should consult with the Office of Environment and Heritage, particularly with regard to

wetland areas.

**4.1 Flood Prone Land** - Part of the land is flood prone, any proposed development will need to be placed on flood free land.

**4.4 Planning for Bushfire Protection** - any proposed development will need to be away from any hazardous area.

**Amendments to Clauses within the Richmond Valley LEP 2012:**

(i) amend clause 4.1 Minimum subdivision lot size provisions to permit a residue lot to be created less than the minimum size if it has been created under the provisions of clause 4.2 or clause 4.2A.

**Rural Lands SEPP** - Council has advised that prior to the making of the Richmond Valley LEP 2012, the Rural Land SEPP was silent with regard to creating a residue lot and meeting the minimum lot size. Council's concern is that now rural land subdivision has been included in the new LEP this omission needs to be rectified. The Department has legal advice that this action is not necessary as a residue lot appears "automatically" once a subdivision takes place - however, there is no problem in Council pursuing the matter.

(ii) amend clause 4.1C – Exceptions to minimum lot size for all dual occupancies. Outcomes from this amendment will be that new dual occupancy development (granted consent under the provisions of the Richmond Valley LEP 2012) can also be subdivided under the clause.

**Other matters:**

(i) Changes to the Lot Size Map to enable Lot 82 DP 624006, 49 Sextonville Road, Casino to be subdivided to create three allotments each with a dwelling outside of flood prone land. Lot 82 has an area of 1.4 ha and an existing dwelling.

It is identified within the Casino Town and Village Growth Boundary within the Far North Coast Regional Strategy.

The current minimum lot size for subdivision is 2ha based on flood constraints. The proposal will involve reducing the minimum lot size of the flood free and low flood hazard parts of the property from 2ha to 600sqm and the residue from 2ha to 5000sqm.

**S117 Directions**

**4.3 Flood Prone Land** - Part of the land is flood prone, any proposed residential development will need to be placed on flood free land. Council has indicated that this will be the case, however, the planning proposal will increase the residential density of the subject land. Council is of the opinion that this will not substantially increase development of a flood planning area. Council should consult with the Office of Environment and Heritage (Flooding) to confirm that this proposal is appropriately located.

(ii) Extension to the Land Application Area

This majority of the land is to be zoned E1, with a small area of E2, there are no relevant s 117 directions.

**Other S 117 Directions applying to planning proposals**

**4.4 Planning for Bushfire** - the planning proposal is currently inconsistent with this Direction as the Council has not yet consulted with the Commissioner of the Rural Fire Service. It is anticipated that it will be consistent with the Direction after consultation with the Commissioner of the NSW Rural Fire Service has been completed.

**6.1 Approval and Referral Requirements** - Council has identified as applicable to all proposals except the amendment to Schedule 2 Exempt Development - standards applicable to garage and signage development types. However, no concurrence or referrals are proposed.



## Housekeeping amendments to Richmond Valley LEP 2012

Environmental social economic impacts : **No significant adverse environmental, social or economic impact has been identified as resulting from the proposal.**

### Assessment Process

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

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

Public Authority Consultation - 56(2)(d) **Office of Environment and Heritage**  
**NSW Rural Fire Service**

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

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **Other Public Authority consultation:**  
**Clarence Valley Council - Additional land now within Richmond Valley LGA**  
**Office of Environment and Heritage (Biodiversity) - (1) Drill Hall, Lennox Street, Casino**  
**(2) Old School Road, Busbys Flat**  
**Office of Environment and Heritage (Flooding) - (1) Sextonville Road, Casino; (2) Drill Hall, Lennox Street, Casino**  
**Environmental Protection Authority - Drill Hall, Lennox Street, Casino**  
**Local Aboriginal Land Council - Drill Hall, Lennox Street, Casino**

**These consultations can occur during public exhibition**

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

If Yes, reasons :

Identify any additional studies, if required. :

#### Flooding

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  |
|------------------------------------------------------------------------------|---------------------------------|------------|
| <b>Proposal Letter 05-03-2013 housekeeping amendment.pdf</b>                 | <b>Proposal Covering Letter</b> | <b>Yes</b> |
| <b>Planning Proposal - housekeeping amendment.pdf</b>                        | <b>Proposal</b>                 | <b>Yes</b> |
| <b>Report &amp; Minutes 18 Dec 2012 Meeting - Housekeeping Amendment.pdf</b> | <b>Proposal</b>                 | <b>Yes</b> |
| <b>Evaluation criteria for Housekeeping Amendment.pdf</b>                    | <b>Proposal</b>                 | <b>No</b>  |

### Planning Team Recommendation

## Housekeeping amendments to Richmond Valley LEP 2012

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes

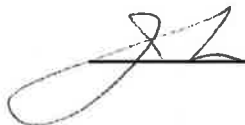
Additional Information : It is recommended that:

- 1) The planning proposal be supported subject to conditions;
- 2) The planning proposal be exhibited for a period of 28 days;
- 3) that the following agencies be consulted during community consultation :  
NSW Rural Fire Service;  
Office of Environment and Heritage (Biodiversity);  
Office of Environment and Heritage (Flooding); and  
Environmental Protection Authority  
Clarence Valley Council  
Local Aboriginal Land Council
- 4) The following assessments should be prepared to augment the planning proposal for the Drill Hall, Casino at the time of public exhibition:  
the Contaminated Land Assessment and Management Plan and a heritage assessment that includes a recommended curtilage around the Drill Hall.
- 5) The planning proposal should be completed within 9 months;
- 6) The Director General (or an officer nominated by the Director General) agree that the inconsistencies with s117 Directions 1.2, 1.5, 2.3, 5.1, and 6.2 are justified as matters of minor significance;
- 7) The Director General (or an officer nominated by the Director General) agree that the inconsistencies with s117 Directions 2.3 (heritage assessment) 4.3 (flooding) and 4.4 (bushfire) remain outstanding and will require justification following completion of consultation with the relevant Government agencies; and
- 8) Delegation is to be given to Council for plan making providing any inconsistencies with the 117 Directions are of minor significance and there are no outstanding Government agency objections.

Supporting Reasons : The recommended conditions to the Gateway determination are required to provide adequate protection, where appropriate, for the issues outlined above.

The corrections and refinements are considered to be important in permitting the LEP to operate effectively and accurately.

Signature:



JIM CLARK

Printed Name:

Date:

15 March 2015