

Clarence Valley LEP 2011 – Addition of Land at Ulmarra to the Riverbank Erosion Planning Map

Proposal Title : **Clarence Valley LEP 2011 – Addition of Land at Ulmarra to the Riverbank Erosion Planning Map**

Proposal Summary : **The proposal seeks to amend the Clarence Valley Local Environmental Plan 2011 to include land affected by riverbank erosion fronting the eastern bank of the Clarence River in the vicinity of Ulmarra on the 'Riverbank Erosion Planning Map'.**

PP Number : **PP_2014_CLARE_006_00** Dop File No : **14/19992**

Proposal Details

Date Planning Proposal Received : **28-Nov-2014** LGA covered : **Clarence Valley**

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

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

LEP Type : **Precinct**

Location Details

Street :
 Suburb : City : Postcode :
 Land Parcel : **The proposal applies to 93 land parcels along the eastern bank of the Clarence River at Ulmarra.**

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : **Jim Clark**
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Land Release Data

Growth Centre : **N/A** Release Area Name :
 Regional / Sub Regional Strategy : Consistent with Strategy :

Clarence Valley LEP 2011 – Addition of Land at Ulmarra to the Riverbank Erosion Planning Map

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

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 :

External Supporting Notes : **Clause 7.6 of the Clarence Valley Local Environmental Plan 2011 specifies a number of matters that must be considered in relation to development applications for land that is identified on the 'Riverbank Erosion Planning Map'.**

Adequacy Assessment

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

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

Comment : **The statement of objectives adequately describes the intention of the proposal. The proposal seeks to identify land that is subject to riverbank erosion hazard along the eastern bank of the Clarence River in the vicinity of Ulmarra.**

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

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

Comment : **The explanation of provisions provided by Council clearly details how the objectives of the proposal will be achieved. The objectives of the proposal will be achieved by amending the Riverbank Erosion Planning Map of the Clarence Valley LEP 2011 to include land affected by riverbank erosion hazard in the vicinity of Ulmarra. Clause 7.6 of the Clarence Valley Local Environmental Plan 2011 specifies a number of matters that must be considered by the consent authority in relation to development applications for land that is identified on the 'Riverbank Erosion Planning Map'.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

**1.1 Business and Industrial Zones
1.2 Rural Zones
1.5 Rural Lands
2.1 Environment Protection Zones
2.3 Heritage Conservation**

Clarence Valley LEP 2011 – Addition of Land at Ulmarra to the Riverbank Erosion Planning Map

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
5.4 Commercial and Retail Development along the Pacific Highway, North Coast

Is the Director General's agreement required? **No**

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

d) Which SEPPs have the RPA identified? **SEPP (Rural Lands) 2008**

e) List any other matters that need to be considered : **There are no other matters required to be considered in relation to the proposal.**

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

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

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The planning proposal includes maps which adequately show affected properties and the proposed map changes for the LEP amendment.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The RPA will undertake community consultation in accordance with Council's 'Consultation Strategy' which includes notification in the local newspaper, Council's website and written notification to affected landowners. The RPA considers that the proposal is a low impact proposal. However, a twenty eight (28) day public exhibition period has been requested by the RPA. It is considered a twenty eight (28) day public exhibition period is acceptable for public examination and comment on the proposal.**

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 the outcomes;
3. Providing an adequate justification for the proposal;
4. Outlining a proposed community consultation program;
5. Providing a project time line, which proposes a completion time of 9 months. This is acceptable, and;
6. Providing a completed evaluation criteria for the delegation of plan making functions recommending that delegations be issued. This is acceptable.

Clarence Valley LEP 2011 – Addition of Land at Ulmarra to the Riverbank Erosion Planning Map

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

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

Assessment Criteria

Need for planning
proposal :

The need for the planning proposal has been adequately demonstrated. The proposal reflects the findings of Council's adopted Ulmarra Riverbank Management Plan 2000. The area proposed to be included within the Riverbank Erosion Map reflects the area nominated under the Management Plan as being subject to riverbank erosion hazard. The plan recommends that appropriate development controls be imposed to manage the impact of riverbank erosion on land and development.

It is considered that the planning proposal is the most appropriate means of achieving the objectives of the proposal. Riverbank erosion hazard is currently managed in this location through relevant development controls contained within the Clarence Valley Development Control Plan.

Including the land in the Riverbank Erosion Map of Councils LEP will:

- Provide greater transparency in relation to the hazard that exists in this location.
- Provide consistency for assessment of riverbank hazard throughout the Council area by aligning the controls for Ulmarra with those that exist at Palmers Island and Woodford Dale.
- Increase the statutory weight to consideration of riverbank erosion in Ulmarra and thus appropriately manage risk.

Clarence Valley LEP 2011 – Addition of Land at Ulmarra to the Riverbank Erosion Planning Map

Consistency with strategic planning framework :

MNC Regional Strategy:

The proposal is consistent with the objectives and actions of the Mid North Coast Regional Strategy. In particular, the planning proposal seeks to recognise the riverbank erosion area so as to protect riparian corridor values, limit land use conflict to the adjoining Clarence River and provide a planning framework that is consistent with the risk associated with riverbank erosion hazard in this location.

Local Strategies:

The proposal is also consistent with Councils local strategies and its community Strategic Plan. In particular, the proposal is consistent with the themes and strategies of the Clarence Valley Community Plan 2014-2024 as it seeks to establish a healthy balance between development and the environment and ensure that the Clarence Valley is sufficiently prepared to deal with natural disasters.

State Environmental Planning Policies:

SEPP (Rural Lands) applies to the proposal. The planning proposal has been considered in relation to the provisions of SEPP (Rural Lands) including the Rural Planning Principles and is consistent with this policy. The proposed amendments will not impact the ability to carry out exempt agricultural uses as these uses are permitted without development consent in the RU1 Zone. The proposed amendments balance the social, economic and environmental interests of the community by identifying erosion hazard to appropriately manage the risk posed by development of the erosion hazard area. The proposal also identifies and protects natural resources by seeking that future development avoids constrained land.

Ministerial Directions (s.117 directions):

The following Ministerial Directions (s.117 directions) apply to the proposal:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 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
- 5.4 Commercial and Retail Development along the Pacific Highway, North Coast

The proposal is consistent with all of the aforementioned Directions except Direction 3.1 Residential Zones as the proposal does not include provisions to encourage the provision of housing. It is considered that this inconsistency is justified however as the proposal is of minor significance and is justified by the findings of a study which supports the planning proposal, The Ulmarra Riverbank Management Plan 2000. The Ulmarra Riverbank Management Plan 2000 supports objective (c) of this direction, to minimise the impact of residential development on the environment and resource lands. The land affected by the proposal reflects the area nominated under the Management Plan as being subject to riverbank erosion hazard. The proposal recommends that appropriate heads of consideration be introduced for this land to manage the impact of riverbank erosion on development.

Environmental social economic impacts :

The planning proposal is likely to improve environmental outcomes by appropriately managing development on land immediately adjacent to the Clarence River. There is no likelihood that the proposed amendments will adversely affect critical habitat, threatened species, populations or ecological communities, or their habitats.

The proposal adequately addresses social and economic effects. The perceived social and economic effects of the proposal relate to the addition of the affected properties to the Erosion Planning Map which triggers consideration of the matters identified under Clause 7.6 of Clarence Valley LEP 2011 for any development application received within the erosion planning area. Riverbank erosion risk is presently managed by the provisions of

Clarence Valley LEP 2011 – Addition of Land at Ulmarra to the Riverbank Erosion Planning Map

the Clarence Valley DCP 2006 and landowners are aware of the erosion risk in this location. The proposal seeks to manage the risk of damage to assets and infrastructure located in the riverbank erosion area and is therefore consistent with the public interest. Council is aware that these issues may be raised during the consultation period and will appropriately consider any submissions made.

Assessment Process

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

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

Public Authority Consultation - 56(2)(d) : **NSW Department of Primary Industries - Fishing and Aquaculture
Transport for NSW - Roads and Maritime Services**

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

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

If no, provide reasons :

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
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Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones**
- 1.2 Rural Zones**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**

Clarence Valley LEP 2011 – Addition of Land at Ulmarra to the Riverbank Erosion Planning Map

5.1 Implementation of Regional Strategies

5.4 Commercial and Retail Development along the Pacific Highway, North Coast

Additional Information :

It is recommended that;

1. The planning proposal should proceed as a minor planning proposal.
2. The planning proposal is to be completed within nine (9) months.
3. That a community consultation period of 28 days is necessary.
4. That the RPA consult with the NSW Department of Primary Industries (Fishing and Aquaculture and NSW Office of Water) and Transport for NSW (Roads and Maritime Services) in relation to the proposed amendment that affects land owned or managed by this authority.
5. It is recommended that a delegate of the Director General agree that the inconsistency of the proposal with S117 Directions 3.1 Residential Zones is justified in accordance with the provisions of the directions.
6. A written authorisation to exercise delegation is issued to Clarence Valley Council in this instance to enable Council to make the plan.

Supporting Reasons :

The reasons for the recommendation are as follows;

1. The planning proposal is consistent with Council's broad strategic framework for management of riverbank erosion hazard and the Mid North Coast Regional Strategy.
2. The planning proposal has planning merit, in particular it will provide greater transparency in relation to riverbank erosion hazard in the vicinity of Ulmarra Village, provide consistency for assessment of riverbank hazard throughout the Council area by aligning the controls for Ulmarra with those that exist at Palmers Island and Woodford Dale and appropriately manage riverbank erosion risk by increasing the statutory weight to consideration of riverbank erosion in Ulmarra.
3. The inconsistencies of the proposal with the S117 Directions are of minor significance.
4. The proposal is otherwise consistent with all relevant local and regional planning strategies, section 117 Directions and SEPPs.

Lobbyists

The Department of Planning and Infrastructure's Code of Practice in relation to meeting with lobbyists has been complied with to the best of the Region's knowledge.

Communication

Northern Region has not met with any lobbyists in relation to this proposal, nor has Northern Region been advised of any meeting between other Departmental officers and lobbyists regarding this proposal.

Signature:



Printed Name:

JIM CLARK

Date:

9 December 2014

