

Clarence Valley LEP 2011 – Amendments to the Flood Planning Map

Proposal Title : **Clarence Valley LEP 2011 – Amendments to the Flood Planning Map**

Proposal Summary : **The proposal seeks to amend the Flood Planning Map of the Clarence Valley LEP 2011 to include land affected by flood hazard at Glenreagh and update the flood planning map for land within the Clarence River floodplain, downstream of Seelands-Mountainview.**

PP Number : **PP_2015_CLARE_001_00** Dop File No : **15/01036**

Proposal Details

Date Planning Proposal Received :	05-Jan-2015	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 numerous land parcels in the vicinity of Glenreagh Village and within the Clarence River floodplain, downstream of Seelands-Mountainview.**

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 :	Consistent with Strategy :

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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 7.3 and 7.4 of the Clarence Valley Local Environmental Plan 2011 specify a number of matters that must be considered in relation to development applications for land that is identified on the Flood 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 planning proposal. The proposal seeks to amend the Flood Planning Map of the Clarence Valley LEP 2011 to include land affected by flood hazard at Glenreagh and update the Flood Planning Map for land within the Clarence River floodplain, downstream of Seelands-Mountainview.**

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 objective of the proposal will be achieved by amending the Flood Planning Map of the Clarence Valley LEP 2011 to include land affected by flood hazard at Glenreagh and update the Flood Planning Map for land within the Clarence River floodplain, downstream of Seelands-Mountainview. Clause 7.3 and 7.4 of the Clarence Valley Local Environmental Plan 2011 specify a number of matters that must be considered in relation to development applications for land that is identified on the 'Flood 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 :

1.1 Business and Industrial Zones

* May need the Director General's agreement

1.2 Rural Zones

1.5 Rural Lands

- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 5.4 Commercial and Retail Development along the Pacific Highway, North Coast
- 6.1 Approval and Referral Requirements

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 identify affected properties. Proposed changes to the Flood Planning Map have been prepared for Glenreagh however the Flood Planning Map updates for the floodplain area are not yet finalised. These will be finalised prior to public exhibition of the proposal. A condition requiring Council to finalise appropriate mapping prior to public exhibition will be included on the Gateway Determination, this condition will also seek that Council prepare a map for exhibition purposes that illustrates the changes to land parcels affected by the Probable Maximum Flood Event and Flood Planning Area on the Lower Clarence Floodplain.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The RPA considers that the proposal is a low impact proposal. However, a twenty eight (28) day public exhibition period has been requested.**

The RPA has indicated that notification of the exhibited planning proposal will comprise the following:

- Newspaper advertisement;
- Notification on Council's website; and
- Written notification to owners of all land parcels affected to be added to the Flood Planning Map at Glenreagh Village. Note, written notification to landowners within the Clarence River floodplain is not proposed as these properties are familiar with flooding development controls and the geographical coverage is extensive.

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. Note, a 12 month completion timeframe has been allocated to the Gateway Determination to allow finalisation and adoption of the Glenreagh Floodplain Risk Management Plan prior to the plan being made in order to satisfy the requirements of section 117 Direction 4.3.
6. Providing a completed evaluation criteria for the delegation of plan making functions recommending that delegations be issued. This is acceptable.

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 two recently completed flood studies; The Lower Clarence Flood Model Update 2013 and the Glenreagh Flood Study 2013. The land parcels proposed for inclusion in the revised Flood Planning Map are identified by the flood studies as being flood prone. The Grafton and Lower Clarence Floodplain Risk Management Plan recommends that appropriate development controls be imposed to ensure proper assessment of the potential impact of flood hazard on land and development affected by flood hazard. Whilst an equivalent Management Plan has not been prepared for Glenreagh it is considered prudent that the planning proposal be progressed in the interim to allow Council's planning controls to be updated to reflect the Management Plan when finalised.

The Lower Clarence Flood Model Update 2013 and the Glenreagh Flood Study 2013 were prepared using improved ground level data and modelling techniques, as such the total number of properties considered to be subject to flood hazard has changed.

As outlined within the Floodplain Development Manual, the Probable Maximum Flood is the largest flood that could conceivably occur at a particular location. The probability of the PMF occurring is lower than a 1:100 ARI flood event and as such, not all sites identified within the PMF will also be subject to the 1:100 ARI flood event. For the Clarence River floodplain Council estimates that less than 5% of properties affected by the PMF are not affected by the 1:100 ARI flood level.

Clause 7.3 will only apply to land within the "Flood planning area" as illustrated on the Flood Planning Map which is the area of land below the flood planning level (the flood planning level is the level of a 1:100 ARI flood event plus 0.5 metre freeboard). Clause 7.4 applies to certain land uses that are vulnerable to flooding on land between the flood planning area and the line indicating the level of the probable maximum flood as shown on the proposed Flood Planning Map, and land surrounded by the flood planning area, but does not apply to land subject to the discharge of a 1:100 ARI flood event plus 0.5 metre freeboard.

On the Clarence River Floodplain there are 2008 land parcels proposed to be identified as subject to the PMF that were not previously identified. Conversely, 2614 land parcels are

currently identified as subject to the PMF that are proposed to no longer be identified. The net result is that, 606 land parcels are no longer deemed to be subject to the Probable Maximum Flood event on the Clarence River Floodplain under the proposed amendments. For the 1:100 ARI flood event there are 3800 land parcels proposed to be identified that were not previously and 4837 land parcels will no longer be identified. The net result is that, 1037 land parcels are proposed to no longer be identified as subject to the 1:100 ARI flood event on the Clarence River Floodplain under the proposed amendments.

The land proposed to be identified as subject to flood hazard in the vicinity of Glenreagh Village comprises 227 land parcels in the 1:100 ARI flood event and 240 land parcels in a Probable Maximum Flood event. No previous flood study or management plan has been prepared for Glenreagh. Only 77 land parcels are presently identified as flood liable, this identification relies on limited data collated by the NSW Public Works Department during the 1974 flood event and only relates to the western bank of the Orara River. Council has indicated that the net result is that 163 additional land parcels will be identified as subject to the Probable Maximum Flood event under the proposed revisions but have not outlined the net difference in properties affected by the 1:100 ARI event as this data is not available. All owners of land proposed to be added to the Flood Planning Map at Glenreagh will be notified of this proposed change in writing as part of the exhibition process.

It is considered that the planning proposal is the most appropriate means of achieving the objectives of the proposal.

Use of the Flood Planning Map to identify land affected by flood hazard at Glenreagh will improve planning outcomes by:

- Providing greater transparency in relation to the hazard that exists in this location.
- Providing consistency for assessment of flood hazard throughout the Council area by aligning the controls for Glenreagh with those that exist elsewhere in the LGA.
- Increasing the statutory weight to consideration of flood hazard in Glenreagh and thus appropriately managing risk.

Updating the area identified on the Flood Planning Map for the Clarence River floodplain will ensure that Council's planning controls reflect the latest flood data and that flood hazard is accurately identified and appropriately managed.

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 ensure that development is not located in areas subject to environmental hazard and that hazards are appropriately identified through planning provisions. The proposal seeks to provide a planning framework that is consistent with the risk associated with flood hazard in these locations.

Local Strategies:

The proposal is consistent with Council's 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. The proposal is also consistent with Council's Delivery and Operational Program, in particular, the proposal complements the scheduled preparation of the Glenreagh Floodplain Risk Management Plan in 2015.

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 and RU2 Zones. The proposed amendments balance the social, economic and environmental interests of the community by identifying flood hazard to appropriately manage the risk posed by development of flood prone land. The proposal also identifies and protects natural resources by seeking that future development avoids constrained land.

Ministerial Directions (s.117 directions):

The planning proposal seeks to update the Flood Planning Map of Clarence Valley LEP 2011. 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
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 5.4 Commercial and Retail Development along the Pacific Highway, North Coast

Inconsistencies with Direction 4.3 Flood Prone Land and Direction 4.4 Planning for Bushfire Protection have been identified.

The proposal is partially inconsistent with Direction 4.3 Flood Prone Land as it does not follow the process for flood planning specified within the Floodplain Development Manual 2005. The area of land at Glenreagh Village proposed for inclusion in the Flood Planning Map is not supported by a Floodplain Risk Management Study and Plan. Whilst Council has indicated that preparation of a Floodplain Risk Management Plan is scheduled to commence in the near future, consistency with this Direction is currently unresolved. The proposal is consistent with all other aspects of the Floodplain Development Manual and is consistent with the primary objective of reducing the impact of flooding and flood liability on individual owners and occupiers of flood prone property, and to reduce private and public losses resulting from floods. Conditions will be attached to the Gateway Determination to resolve consistency with this Direction prior to making of the plan.

Direction 4.4 Planning for Bushfire Protection is relevant to the planning proposal as some

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of the subject land parcels are bushfire prone land. Consultation with the Commissioner of the NSW Rural Fire Service is therefore required and has not yet been undertaken. Consistency with this Direction is therefore currently unresolved. Any inconsistency of the proposal with the direction will need to be considered once consultation has occurred.

It is considered that the proposal is not inconsistent with any other s117 direction.

Environmental social
economic impacts :

The planning proposal is likely to improve environmental outcomes by appropriately managing development on land subject to flood hazard. 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 affected properties to the Flood Planning Map which triggers consideration of the matters identified under either Clause 7.3 or 7.4 of Clarence Valley LEP 2011 for development applications received within this area. Council is aware that these issues may be raised during the consultation period and will appropriately consider any submissions made. The proposal seeks to manage the risk of flood damage to assets and infrastructure and is therefore consistent with the public interest.

Assessment Process

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

Timeframe to make **12 months** Delegation : **RPA**
LEP :

Public Authority **Office of Environment and Heritage**
Consultation - 56(2) **NSW Rural Fire Service**
(d) : **Transport for NSW - Roads and Maritime Services**
State Emergency Service

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
CVC Cover Letter 22-12-14.pdf	Proposal Covering Letter	Yes

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Planning Proposal.pdf	Proposal	Yes
Council Report and Resolution.pdf	Proposal	Yes

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
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.4 Integrating Land Use and Transport
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- 5.1 Implementation of Regional Strategies
- 5.4 Commercial and Retail Development along the Pacific Highway, North Coast
- 6.1 Approval and Referral Requirements

Additional Information :

It is recommended that;

1. The Planning Proposal proceed as a routine planning proposal.
2. The Planning Proposal be completed within twelve (12) months.
3. The Planning Proposal be amended prior to public exhibition to include:
 - Maps in accordance with the Department's Technical Guidelines for the proposed Flood Planning Area.
 - Separate maps which identify the change to land parcels affected by the Probable Maximum Flood Event and Flood Planning Area on the Clarence River Floodplain for exhibition purposes.
 - Additional explanatory information that clearly outlines the difference between the level of a 1:100 ARI flood event and the probable maximum flood event and the implications of the draft planning controls for properties affected by these constraints.
4. That a community consultation period of 28 days is necessary.
5. That a condition be included with the Gateway Determination to require adoption of the Glenreagh Flood Risk Management Plan prior to making of the plan in order to resolve inconsistencies with Ministerial Direction 4.3 Flood Prone Land.
6. That the RPA consult with the NSW Office of Environment and Heritage, NSW Rural Fire Service, the State Emergency Service and Transport for NSW (Roads and Maritime Services) in relation to the proposed amendment that affects land owned or managed by this authority.
7. The delegate of the Department's Secretary note the potential outstanding inconsistency with s117 Direction 4.3 Flood Prone Land and 4.4 Planning for Bushfire Protection.
8. A written authorisation to exercise delegation be 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 flood 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 flood hazard in the vicinity of Glenreagh Village, ensure that Council's planning controls reflect the latest flood data and that flood hazard is accurately identified and appropriately managed.
3. The inconsistencies of the proposal with the S117 Directions are of minor significance or can be resolved prior to the plan being made.
4. The proposal is otherwise consistent with all relevant local and regional planning strategies, section 117 Directions and SEPPs.

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Signature:



Printed Name:

PAUL CARNETT

Date:

16/1/15

A/Team Leader, Local Planning

