

Clarence Valley LEP 2011 - Amendment to Schedule 1 to permit the continued use of a helipad in Golding St, Yamba

Proposal Title :	Clarence Valley LEP 2011 - Amendment to Schedule 1 to permit the continued use of a helipad in Golding St, Yamba		
Proposal Summary :	The purpose of the planning proposal is to amend Schedule 1 of Clarence Valley LEP 2011 by including a helipad as an additional permitted use on Lot 51 DP 751395, Golding St, Yamba.		
PP Number :	PP_2015_CLARE_003_00	Dop File No :	15/08741

Proposal Details

Date Planning Proposal Received :	01-Jun-2015	LGA covered :	Clarence Valley
Region :	Northern	RPA :	Clarence Valley Council
State Electorate :	CLARENCE	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	Golding St		
Suburb :	City :	Postcode :	2464
Land Parcel :	Lot 51 DP 751395		

DoP Planning Officer Contact Details

Contact Name :	Gina Davis
Contact Number :	0267019687
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RPA Contact Details

Contact Name :	Terry Dwyer
Contact Number :	0266430243
Contact Email :	terry.dwyer@clarence.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :	
Contact Number :	
Contact Email :	

Land Release Data

Growth Centre :	Release Area Name :
Regional / Sub Regional Strategy :	Consistent with Strategy :
Mid North Coast Regional Strategy	Yes

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MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
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 : **The Department's Code of Practice in relation to communication and meetings with Lobbyists has been complied with to the best of the Region's knowledge.**

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

If Yes, comment : **Northern Region has not met any lobbyists in relation to this proposal, nor has Northern Region been advised of any meetings between other department officers and lobbyists concerning this proposal.**

Supporting notes

Internal Supporting Notes :

It is noted that the Council resolution for this proposal differs to the submitted planning proposal. The Council resolution supported the proposal subject to it being amended to limit the operation of the proposed provisions for a maximum period of 15 years, the date upon which a subdivision certificate is issued for the residential subdivision of the land, or issue of a development consent for residential accommodation or tourist and visitor accommodation, whichever milestone occurs first. The planning proposal submitted for Gateway consideration does not include these requirements. These requirements were also discussed with Parliamentary Counsel who indicated that an LEP amendment could be legally drafted to include the proposed 15 year time limit but not the other proposed requirements due to uncertainty over them ever occurring.

These matters were discussed with Council staff who advised:

- it was not their practice to seek any amendments to proposals prepared by proponents until after the issue of Gateway Determination; and
- it was their preference that a 15 year time limit be required in accordance with Council's resolution (while confirming that the other criteria requirements outlined in Council's resolution will be dealt with by suitable development consent conditions if necessary due to the legal LEP drafting issues).

External Supporting Notes :

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 except in relation to the proposed 15 year maximum time period as outlined in Council's resolution for this matter. The statement of objectives will need to be amended prior to exhibition to include the proposed 15 year maximum time period for the operation of a helipad on the subject land.

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

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

Comment : **The proposal seeks to amend Schedule 1 of Clarence Valley LEP 2011 to permit a helipad as an additional use on the land. The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal except in relation to the proposed 15 year maximum time period as outlined in Council's resolution for this matter. The explanation of provisions will need to be amended prior to exhibition to include the proposed 15 year maximum time period.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

2.1 Environment Protection Zones

3.1 Residential Zones

* May need the Director General's agreement

3.5 Development Near Licensed Aerodromes

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

6.3 Site Specific Provisions

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 71—Coastal Protection

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

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

If No, explain : **Refer to assessment section of the report**

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **The planning proposal contains maps which adequately show the location of the subject land except for the locality map in the Background section of the proposal which incorrectly identifies the wrong site. This map should be amended prior to exhibition.**

The proposal will also require the creation of an 'Additional Permitted Uses' map for Clarence Valley LEP 2011 before the amendment can be made. This map is not considered necessary for public exhibition purposes.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The planning proposal identifies a 28 day exhibition period and the notification of all residences within 500m of the subject land. Despite the helipad having operated on this site for 7 years, the nature of the development within a residential zone means the community may benefit from the longer consultation period as suggested by Council. As such, a 28 day period is considered appropriate.**

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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 and accompanying documentation are considered to satisfy the adequacy criteria by:

- 1. Providing appropriate objectives and intended outcomes;**
- 2. Providing a suitable explanation of the provisions proposed by 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 time line.**

Council has sought an authorisation to exercise its plan making delegations in this instance. An Evaluation Criteria For the Delegation of Plan Making Functions has been provided. The proposal is considered to be a local matter with no issues of State or regional significance. It is therefore recommended that an authorisation to exercise its plan making delegations be issued to Council in regard to this matter.

The RPA has provided a project time line which estimates that the plan will be finalised in October 2015. Whilst a six month timeframe may be possible, a 9 month timeframe is considered more appropriate in this instance to provide a sufficient period for completion.

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

The Clarence Valley LEP 2011 commenced in December 2011.

Assessment Criteria

Need for planning
proposal :

The proposal is not a result of a strategic study or report.

The subject land is zoned part R1 General Residential and part E3 Environmental Management under Clarence Valley LEP 2011. The helipad infrastructure is located within the R1 zoned portion of the site.

The site has been used for the purpose of a helipad for the last 7 years with a DA being approved in 2008. A condition of the DA required that the approved use cease when the land was zoned for future residential purposes. The existing DA lapsed and the use become prohibited in the new residential zone with the notification of Maclean LEP 2001 (Amd 20) in April 2010.

Amending Clarence Valley LEP 2011 to permit a helipad on the land is needed to allow its continued operation until the land is required for more intensive residential purposes.

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Consistency with strategic planning framework :

Mid North Coast Regional Strategy (MNCRS)

The proposal is consistent with the MNCRS. While the subject land is within the identified growth area boundary for West Yamba, the proposal is unlikely to have an adverse impact on the future residential nature of this area. It has been estimated that the land will not be required for residential purposes for the next 15-20 years and that the helipad will not affect the development of the main West Yamba release area located to the west of the site in the meantime. The proponent has also indicated that the use of the helipad on the site will cease when a subdivision application for the future residential use of the land is lodged and registered, and Council has resolved to time limit the LEP amendment for a maximum period of 15 years.

SEPP'S

The proposal is considered to be consistent with all applicable State Environmental Planning Policies (SEPPs).

S117 Directions.

The proposal is considered to be consistent with all applicable S117 Directions except 3.1 Residential Zones, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land and 4.4 Planning for Bushfire Protection. These are discussed below.

3.1 Residential Zones

The Planning Proposal is inconsistent with this Direction as it will not broaden housing choice in this location. It is considered that this inconsistency is of minor significance as the residential use of the land will not take place for approximately 15-20 years at which time the use of the land for a helipad will cease.

4.1 Acid Sulfate Soils

The planning proposal is inconsistent with this Direction as an acid sulfate soils study to support the proposal has not been prepared. This inconsistency is considered to be of minor significance as the helipad is existing and no further ground works are proposed, and as Clarence Valley LEP 2011 already contains appropriate acid sulphate soil provisions that can address this matter if needed at the development application stage.

4.3 Flood Prone Land

The planning proposal is inconsistent with this Direction as it will allow development within a flood planning area. This inconsistency is considered to be of minor significance as the development is existing and as no further work or intensification of the existing land use is proposed.

4.4 Planning for Bushfire Protection

This Direction is relevant as the proposal will affect land that is mapped as bushfire prone. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued. Until this consultation has occurred the consistency of the proposal with the Direction remains unresolved.

6.3 Site Specific Provisions

While the submitted proposal is consistent with this Direction, Council's resolution to limit the helipad use cease for a maximum period of 15 years will make the proposal inconsistent with the Direction as it would impose site specific requirements in addition to those already contained in Clarence Valley LEP 2011. This inconsistency is considered to be of minor significance as a time limited LEP provision is specifically permitted by Section 26(3A) of the Environmental Planning and Assessment Act.

Environmental social economic impacts :

The subject land is classed as containing acid sulphate soils and is mapped as flood prone and bushfire prone.

The original development application for the use of the site (2008) required the applicant to undertake various studies to address potential noise, visual and environmental issues associated with the development. These studies in particular related to acoustic and visual impacts of the proposed landuse on adjoining lands, an assessment of flight paths, etc, as well as a flora and fauna assessment. The helipad has operated successfully since

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2008 with no complaints or adverse outcomes.

Additional studies that relate in general to the land have also been carried out in conjunction with the draft DCP for West Yamba. These studies include flooding, bushfire, Aboriginal and archeological, traffic, stormwater design, services and infrastructure, road hierarchy and vegetation management.

It is considered that the proposal to permit the continued use of the existing helipad for a temporary period is unlikely to have any negative social or environmental impacts on surrounding lands or the community as a whole, and will also provide an important piece of infrastructure for the public in times of emergency.

Assessment Process

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

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

Public Authority Consultation - 56(2) (d) : **Other**

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

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

If no, provide reasons : **No referral to agencies (other than the NSW RFS) is considered necessary, particularly due to its existing nature and successful operation for the last 7 years without complaint.**

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
2015-05-27-CVC Amendment_Lot 51 DP 751395 Golding Street Yamba_Cover letter.obr	Proposal Covering Letter	Yes
2015-05-27 Council Resolution 19 May 2015 - Golding Street Yamba.obr	Proposal	Yes
2015-05-27 Planning Proposal - Golding Street Yamba#2.obr	Proposal	Yes
2015-05-27 Project timeline - Golding Street Yamba.obr	Proposal	Yes
Att 4_Eval of Delegation Criteria_completed.obr	Proposal	Yes

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Planning Team Recommendation

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

S.117 directions: **2.1 Environment Protection Zones**
 3.1 Residential Zones
 3.5 Development Near Licensed Aerodromes
 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
 6.3 Site Specific Provisions

Additional Information : **It is recommended that;**

1. The planning proposal be supported;
2. That the planning proposal be exhibited for a period of 28 days;
3. The planning proposal is to be completed within 9 months.
4. The Secretary (or her delegate) agree that the inconsistencies of the proposal with S117 Directions 3.1, 4.1, 4.3 and 6.3 are justified in accordance with the terms of the directions.
5. The Secretary (or her delegate) note the outstanding inconsistency with section 117 Direction 4.4 Planning for Bushfire Protection and that it is anticipated this inconsistency will need to be resolved prior to the proposal being finalised;
6. Prior to public exhibition, the planning proposal should be amended to:
 - include an amended locality map which correctly identifies the subject land;
 - include a 15 year maximum period for the helipad in the statement of objectives; and
 - include a 15 year maximum period for the helipad in the explanation of provisions; and
7. That an authorisation to exercise plan making delegations be issued to Council.

Supporting Reasons : **Amending Clarence Valley LEP 2011 to permit a helipad on the land is supported to allow the continued operation of the existing helipad infrastructure until the land is required for more intensive residential purposes.**

Signature:



Printed Name:

Jim Clark

Date:

10.6.2015

Team Leader Local Planning

