

Clarence Valley LEP 2011 - Palmers Island Marine Based Industry Precinct (Yamba Welding and Engineering)

Proposal Title :	Clarence Valley LEP 2011 - Palmers Island Marine Based Industry Precinct (Yamba Welding and Engineering)		
Proposal Summary :	The planning proposal seeks to rezone Lot 2 DP 598769, School Road, Palmers Island, to enable the land to be developed as a marine based industry precinct. It is proposed that the subject land will be rezoned from RU1 Primary Production to IN4 Working Waterfront and W3 Working Waterways to facilitate the development of the marine industry precinct, incorporating a wet dock facility (canal slipway), boat building, marine servicing and other associated industries.		
PP Number :	PP_2014_CLARE_004_00	Dop File No :	14/12169

Proposal Details

Date Planning Proposal Received :	22-Jul-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 :	School Road		
Suburb :	Palmers Island	City :	Postcode : 2463
Land Parcel :	Lot 2, DP 598769		

DoP Planning Officer Contact Details

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RPA Contact Details

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Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :		Consistent with Strategy :	
MDP Number :		Date of Release :	
Area of Release (Ha) :	21.00	Type of Release (eg Residential / Employment land) :	Employment Land
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	100
The NSW Government Lobbyists Code of Conduct has been complied with :	Yes		
If No, comment :	The Department of Planning and Environment's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge. The Northern Region has not met with any lobbyists in relation to this proposal, nor has the Northern Region been advised of any meeting between other Departmental Officers and lobbyists concerning the proposal.		
Have there been meetings or communications with registered lobbyists? :	No		

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes : This proposed amendment to the Clarence Valley LEP 2011 will enable the development of the subject land into a marine based industry precinct. Council has received the proposal from Yamba Welding and Engineering who wish to expand their existing business.

Council has sought delegation of the Minister's functions under the Act to progress this Planning Proposal and LEP Amendment.

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 Clarence Valley LEP 2011 by rezoning the subject land to enable it to be developed for marine based industry purposes.

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

Is an explanation of provisions provided? Yes

Comment : The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal. The proposed amendment will rezone the subject land to part IN4 Working Waterfront and part W3 Working Waterways.

It is noted that Council's resolution on 15 July 2014 to seek a Gateway Determination

amended the proposal to not rezone any land to IN4 within 100m of any existing dwellings not located on the site. The submitted proposal has not been amended accordingly. It is recommended that the Gateway Determination if granted require this amendment prior to exhibition.

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

1.4 Oyster Aquaculture

1.5 Rural Lands

2.2 Coastal Protection

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

5.1 Implementation of Regional Strategies

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 55—Remediation of Land

SEPP No 71—Coastal Protection

SEPP (Infrastructure) 2007

SEPP (Rural Lands) 2008

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 :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The planning proposal includes maps which show the subject land, proposed zoning and concept site layout for the development. The configuration of these zones may change following consultation and after any further investigation of the site.

It is considered that the existing maps are adequate for exhibition purposes subject to them being amended to remove any land being rezoned IN4 within 100m of existing dwellings not located on the site.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council staff in their report to Council in July 2014 recommended a 28 day consultation period including direct notification of key stakeholders including the owners of adjoining lands, land owners along School Road and those within 500m of the site. This consultation period and approach is considered appropriate.

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. Advising that Council seeks delegation to make the plan in this instance.**

Council has requested a Written Authorisation to Exercise Delegation of the Minister's powers under s59 of the Environmental Planning and Assessment Act 1979 for this matter. It is considered appropriate that these delegations be given to Council if the Gateway Determination is granted as the proposal is consistent with the Mid North Coast Regional Strategy and is essentially a local planning issue.

No project time line is provided with the planning proposal. If a Gateway Determination is granted, a 12 month period to complete this planning proposal is considered adequate given the nature of the proposed additional studies required.

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

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

Assessment Criteria

Need for planning
proposal :

The Applicant (Yamba Welding and Engineering) is a long established boat building business within Yamba. Recent expansion of the business has seen it out grow its capacity at its current site. The business has purchased the subject site with the intention of developing it as a marine based industry precinct. The business has a 'vision' of growth that requires a site capable of accommodating larger vessels requiring refurbishment, fit out or construction.

A marine based industry precinct on the Clarence River has been considered for some time and is referred to in several local and regional plans. The local plans include:

- 1. The Clarence Marine Precinct. This document (primarily a investment guidance tool for Council) proposes a marine precinct that extends from Yamba to Grafton and includes marine based industry uses.**
- 2. The Clarence River Way Masterplan 2008 proposes the promotion and development of port facilities as part of a regional harbour network and maintenance of the Port as a deep water anchorage and working port. The Port of Yamba extends from the mouth of the Clarence River upstream to the Harwood Bridge and includes the river adjacent to the subject site. The Masterplan also advocates the expansion of shipbuilding and repair facilities and the development of a marine based industry cluster.**
- 3. The Clarence Valley Industrial Lands Strategy 2007 supports the expansion and clustering of marine businesses and identifies the Lower Clarence, close to existing industries as the preferred location.**

The proposed rezoning of the subject land to facilitate a marine based industry precinct is generally consistent with these strategies.

The proposal to rezone the subject land and apply IN4 and W3 Zones is the most appropriate means of achieving the intent of the planning proposal. The land uses

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permitted in the IN4 and W3 Zones relate to maritime purposes and do not permit broader industrial developments. The IN4 and W3 Zones will enable an appropriate level of control to ensure the land develops for a marine precinct as intended and not as a general industrial estate.

An additional local clause in the LEP as advocated by the Department's Draft Marine Based Industry Policy - Far North Coast and Mid North Coast NSW, is also recommended to ensure only genuine marine based and associated industries can be located on the land.

Consistency with
strategic planning
framework :

State Environmental Planning Policies

The planning proposal identifies SEPP (Rural Lands) 2008 and SEPP 71- Coastal Protection as being relevant to the planning proposal.

The planning proposal identifies an inconsistency with the objectives of SEPP (Rural Lands) 2008. The SEPP aims to protect the agricultural production value of rural land while the proposal seeks to use agricultural land for industrial purposes. The subject land is mapped as regionally significant farmland in the Mid North Coast Farmland Mapping Project 2008 (MNCFMP). The MNCFMP does however allow the rezoning of regionally significant farmland where there is a need to zone land for marine based industries that depend on access to navigable waterways.

The SEPP also recognises the need to balance the economic interests of the community in the Rural Planning Principles contained in clause 7 of the SEPP. Given the acknowledgement and support for marine based industry precincts in the MNCRS and the MNCFMP, and the relatively small size of the subject land (21 ha), it is considered that the proposal is not inconsistent with the SEPP.

The planning proposal includes an assessment of the matters for consideration listed in clause 8(a) of SEPP 71 - Coastal Protection. It is also considered that the other relevant matters listed in clause 8 have also been satisfactorily addressed in the planning proposal.

The proposal is considered to be consistent with all other State environmental planning policies.

Mid North Coast Regional Strategy (MNCRS)

The subject land is not located within an agreed growth area identified in the MNCRS, nor does the Strategy specifically identify the land as future employment lands. Despite this, the strategy states:

"In the case of some marine-based industries that depend upon access to navigable waterways, additional opportunities for industry establishment may be provided outside the growth areas. The Department will work with other relevant State agencies on suitable locational criteria to assist in guiding any future development opportunities."

To this end the Department has prepared a Draft Marine Based Industry Policy – Far North Coast and Mid North Coast NSW. The draft policy sets locational criteria for consideration of where marine industry land uses could be considered outside of the growth areas. These criteria exclude marine based industry on certain land and identifies a variety of site criteria that must be met or can be sustainably managed, ameliorated or off-set. These include:

- Any new dredging required for site access would not adversely affect estuarine habitats, marine vegetation, fishery resources and water quality;
- The site is not located where its development would be likely to adversely affect water quality for other users or impact on water quality or tidal regimes for estuaries, wetlands, marine parks, aquatic reserves or other high conservation value habitats;
- Development of the site would not have an adverse effect on oyster aquaculture development or Priority Oyster Aquaculture Areas (POAA) and/or commercial and recreational fishing activities;
- The site is not located in a high flood risk precinct or high flood area;
- Water-based access to the site would be practicable given river currents and tidal movements in the locality;
- The site does not contain high-risk acid sulfate soils which could be disturbed, exposed or drained;
- The main industrial complex (excluding the slipway(s)), could be set back to avoid bank erosion issues;
- Native vegetation (including riparian vegetation and other trees, shrubs, grasses, etc) would not be disturbed;
- The proposed development of the site would not conflict with neighbouring land uses

(such as residential and recreational/tourism pursuits); and
- Services and infrastructure could be practicably provided.

It is considered that the subject land is consistent with the criteria. An issue of concern for the proposal is the potential for land use conflict with the neighbouring residential uses. The size and orientation of the site offers some opportunities for land use conflicts to be minimised via design considerations and onsite buffering of the development. It is recommended that a noise and potential land use conflict study for the use of the site as a marine based industry precinct be prepared prior to exhibition to address this issue in greater detail.

While the Draft Marine Based Industry Policy identifies that marine based enterprises should be clustered where possible, the new 'greenfield' location is considered appropriate due to the lack of existing alternatives in the location and the ability for clustering of associated enterprises to occur on the site in the future.

Section 117 Directions

The proposal is considered to be consistent with all applicable s117 Directions except in relation to the following:

1.2 Rural Zones

Direction 1.2 Rural Zones states that a planning proposal shall not rezone land from a rural zone to a residential, business or industrial zone. The planning proposal aims to rezone the subject land from RU1 Primary Production to IN4 Working Waterfront and W3 Working Waterway.

A planning proposal may be inconsistent with the Direction if the inconsistency is justified by a strategy, a study, or is of minor significance. The MNCRS identifies the need for marine based industry precincts in rural locations and provides for the development of criteria for their consideration. The proposal to rezone the subject land is considered to be consistent with the criteria contained in the Draft Marine Based Industry Policy. It is therefore considered that the inconsistency with the Direction is justified.

3.4 Integrating Land Use and Transport

Direction 3.4 Integrating Land Use and Transport states that a planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:

- (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and
- (b) The Right Place for Business and Services – Planning Policy (DUAP 2001).

A planning proposal may be inconsistent with the Direction if the inconsistency is justified by a strategy, a study, is in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department which gives consideration to the objective of this direction, or is of minor significance. The planning proposal is considered to be consistent with the Mid North Coast Regional Strategy and the inconsistency is justified.

4.1 Acid Sulfate Soils

Direction 4.1 Acid Sulfate Soils provides that a draft plan shall not permit the intensification of land containing acid sulfate soils unless a study of the land assessing its suitability has been conducted.

The draft plan proposes to rezone land from RU1 Primary Production to IN4 Working Waterfront and W3 Working Waterway. The land is mapped as containing class 2 and 3 acid sulfate soils. The proposal may be inconsistent with the Direction if it is justified by a study or is of minor significance. The planning proposal's concept site layout indicates that the proposed industrial sheds and workshops will be located on mounds to ensure they are flood free. At development application stage, the active waterfront interface area (ie the wet dock canal) will also need further detailed geotechnical assessment to confirm

soil characteristics and identify appropriate treatments. The inconsistency of the proposal with the Direction is considered to be of minor significance as management of acid sulfate soils can be adequately addressed and controlled through the development application process. It is recommended however that the assessment of the impact of the wet dock to be prepared prior to exhibition also address the issue of acid sulfate soils.

4.3 Flood Prone Land

Direction 4.3 Flood Prone Land provides that a draft plan must not rezone land within a flood planning area to an industrial zone.

The draft plan proposes to rezone land below the 1 in 100 year flood level to enable development of a marine based industry precinct. The Direction states that the proposal may be inconsistent if the proposal is consistent with a floodplain management plan or if the inconsistencies are of minor significance. The planning proposal includes a flood risk assessment which concludes that the filling of the site to create building pads and raise internal road levels will enable development to occur without being restricted by flooding and also without having any notable hydraulic peak level impact (as a result of filling the site to the extent shown in the concept layout plan). Council's engineers have also reviewed the flood risk assessment and concluded that it is acceptable. The inconsistency of the proposal with the Direction is therefore considered to be justified.

Environmental social economic impacts :

The majority of the subject land is cleared rural land having been used for sugar cane production. The planning proposal does not identify any remnant native vegetation on the subject site nor any potential critical habitats. The proposal includes the construction of a wet dock facility. This will essentially be a short canal incised into the riverbank to facilitate the transfer of vessels from the deep water frontage to the workshops. Little detail is provided in the planning proposal as to what this wet dock area will entail. However, given that it will involve a significant excavation into the riverbank below existing ground and water levels it is considered prudent that further investigation into the potential impacts on fish habitat, marine vegetation and riverbank stability is provided prior to the proposal proceeding to exhibition.

The site is subject to flooding and the planning proposal is supported by a flood risk assessment. This assessment concludes that the proposed finished floor levels will be above the 100 year ARI event including climate change allowances and that no notable hydraulic peak levels impacts are predicted as a result of any filling on the site.

The development of the site for marine based industries will potentially have impacts on the surrounding properties in relation to noise, vibration, traffic and amenity. The concept layout of the development in the planning proposal shows a buffer of approximately 30m along the northern boundary of the property. This buffer includes an existing dwelling not associated with the proposed development. From the plans provided, this dwelling will be a maximum of 25m from the nearest proposed workshop. Indications on the plan show that this property will be acquired but there is no guarantee that this will occur. The proposed 'Preliminary Earthworks' plan also indicate that this property is within the area being filled to provide a flood free building site. Other nearby receptors are located approximately 40m, 60m, 160m, 230m, 360m and 450m from the site. It is expected that noise could have a significant impact on neighbouring properties unless mitigation methods are adopted. It is also noted that Council has resolved not to rezone any of the site that is within 100m of an existing dwelling not located on the site. Due to the size and orientation of the site it is considered that buffering and mitigation measures are possible through the design process to address any issues. It is recommended that a noise and potential land use conflict study for the proposal be prepared prior to exhibition to address this matter in greater detail.

The planning proposal is supported by a Traffic Impact Assessment of the proposed development. This assessment concludes that the development's impact on the external road network is minimal and the performance of the intersection of School Road and Yamba Road is operating at an acceptable level. No ameliorative works are recommended by the assessment. However, Council in its assessment of the proposal identified the need for:

1. The development site and the proposed entry/exit intersection with School Road will require engineering details, based on the design vehicles and traffic flows, for any future development application and construction certificate approval of the development.
2. The source of any traffic movement data used and the date/time when any traffic surveys were completed for this report should be provided to confirm its suitability. Council has traffic count data available at this location.
3. Comments and requirements from the Roads & Maritime Services are to be sought and provided as this is a Classified Road, managed by Council on behalf of the RMS.
4. The applicant should provide more information on the type of 'heavy vehicle' (5 x 2 = 10 trips per day) that is envisaged for the development. The study may not adequately investigate the traffic management, operational efficiency and safety of School Road and the Yamba Road – School Road intersection given:
 - A State Primary School is located at the intersection (in School Road);
 - A bus stop exists in Yamba Road (at the intersection);
 - Lot 1 DP652359 has an approved commercial use (not operating at present) with existing car-park entry/exit;
 - The proximity of the intersection of Yamba Road – Yamba Street intersection; and
 - Available sight distance due to existing horizontal geometry and physical environmental constraints (buildings, canefields etc.)

Additional work into the impact of traffic from the development is therefore considered appropriate prior to the exhibition of the proposal to address these issues.

The planning proposal has given consideration to the economic benefits of the proposal. The proposal estimates that 100 jobs will be created in the long term which will have a positive multiplier effect on the local community. Council's local impact model suggests that the proposal, when fully developed, will potential represent a direct and indirect annual increase of the Clarence Valley's gross regional product of about \$11 million to \$21 million p.a.

Assessment Process

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

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

Public Authority Consultation - 56(2) (d) : **Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture
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. :

Other - provide details below

If Other, provide reasons :

Prior to exhibition it is recommended that further studies are prepared:

- further information on the 'wet dock' and an assessment of the potential impact on hydrology of the area, river bank stability, aquatic habitats and acid sulfate soils.

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- additional traffic assessment that considered business as well as employee traffic generation including a more detailed assessment of likely intersection requirements at School Road and Yamba Road.

- a noise and potential land use conflict study for the use of the site as a marine based industry precinct is to be prepared due to the location of nearby rural residential housing to the north of the site.

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
Council Cover Letter.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Council Report - 15 July 2014.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**
 - 1.4 Oyster Aquaculture**
 - 1.5 Rural Lands**
 - 2.2 Coastal Protection**
 - 3.4 Integrating Land Use and Transport**
 - 4.1 Acid Sulfate Soils**
 - 4.3 Flood Prone Land**
 - 5.1 Implementation of Regional Strategies**
 - 6.3 Site Specific Provisions**

- Additional Information :
- It is recommended that;**
 - 1. The planning proposal should proceed.**
 - 2. Prior to exhibition the planning proposal is to be amended as follows:**
 - a. land within 100m of an existing dwelling not located on the site shall be removed from the proposed IN4 Zone;**
 - b. a project timeline demonstrating that the proposal can be finalised within a 12 month period shall be included; and**
 - c. inclusion of the proposed marine based industry clause from the Department's Draft Marine Based Industry Policy - Far North Coast and Mid North Coast NSW shall be included to ensure the site is utilised only by genuine marine based and associated industries.**
 - 3. That the following studies are completed and included with the material to be placed on exhibition with the planning proposal;**
 - a. An assessment of the impact the 'wet dock' will have on the hydrology of the area, river bank stability, aquatic habitats and acid sulfate soils.**
 - b. Additional traffic assessment that considered business as well as employee traffic generation including a more detailed assessment of likely intersection requirements at School Road and Yamba Road.**
 - c. A noise and potential land use conflict study due to the location of nearby residential housing.**
 - 4. The planning proposal is to be completed within 12 months.**

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5. That a community consultation period of 28 days is necessary.

6. That the RPA consult with the following State Agencies

- a. Roads and Maritime Services in relation to road access and maritime issues**
- b. NSW Office of Environment and Heritage**
- c. Department of Primary Industries – Fisheries and Aquaculture**
- d. Department of Primary Industries – Agriculture**

7. It is recommended that a delegate of the Director General agree that the inconsistencies of the proposal with S117 Directions 1.2, 3.4, 4.1 and 4.3 are justified in accordance with the provisions of the Directions.

Supporting Reasons :

The reasons for the recommendation are as follows;

- 1. The development of a marine industry precinct on the Clarence River is supported by local and regional strategies and offers significant economic and employment opportunities for the area.**
- 2. The proposal is generally consistent with the broader strategic planning framework for the site subject to further investigation of specific site constraints and potential development impacts are necessary.**

Signature:



Printed Name:

Craig Diss

Date:

1 / 8 / 14