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|------|-----------|-------------------------------------------------------------|
| ITEM | 13.129/14 | PLANNING PROPOSAL – PALMERS ISLAND MARINE INDUSTRY PRECINCT |
|------|-----------|-------------------------------------------------------------|

|                      |                                                                        |                    |
|----------------------|------------------------------------------------------------------------|--------------------|
| <b>Meeting:</b>      | <i>Environment, Planning &amp; Works</i>                               | <i>8 July 2014</i> |
| <b>Directorate:</b>  | <i>Environment, Planning &amp; Community</i>                           |                    |
| <b>Submitted by:</b> | <i>Director - Environment, Planning &amp; Community (Des Schroder)</i> |                    |

**SUMMARY**

|                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Applicant/Proponent</i>       | Yamba Welding & Engineering (YWE)<br>C/-Hopkins Consultants                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <i>Owner</i>                     | Yamba Welding & Engineering                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <i>Subject land</i>              | Lot 2 DP598769, School Road, Palmers Island                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <i>Site area</i>                 | 21.22 ha                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <i>Current Zoning CVLEP 2011</i> | RU1 Primary Production                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <i>Proposal</i>                  | <p>Rezone subject land from RU1 Primary Production zone to the following zones:</p> <ul style="list-style-type: none"> <li>• Part IN4 Working Waterfront</li> <li>• Part W3 Working Waterways,</li> </ul> <p>To enable the establishment of a marine industry precinct which will involve boat building and associated services.</p> <p>Note - Refer to Parts 1 &amp; 2 of the planning proposal for objectives and intended outcomes and explanation of provisions, respectively. Refer also to Figure 4 of planning proposal for a draft rezoning scheme.</p> |
| <i>Submissions</i>               | None at this stage. This matter has not reached exhibition/consultation stage.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

Council is in receipt of an application and request to support a planning proposal (i.e. rezoning application) for a marine industry precinct at School Road, Palmers Island. It is intended to develop the site progressively for a boat building and associated services enterprise in accordance with the vision of YWE.

The report considers that the proposal satisfies broad strategic compliance but also that there is scope for some anticipated planning and environmental merit issues to be more fully addressed and documented at the development application stage to ensure that a future development at this site is designed to operate with minimal environmental and amenity impact whilst still providing positive economic and employment benefits to the region.

This report recommends that Council provide its initial qualified support to the planning proposal so it can proceed to the Planning Gateway and community/stakeholder consultation. The recommendation is based on:

- Council's adopted strategies (Clarence Marine Precinct and Clarence River Way Master Plan) and the State Government's draft Marine Based Policy both support the development of a marine cluster on the Clarence.
- Whilst both the above strategic frameworks encourage a co-located cluster, which is the preferred land use planning outcome, both acknowledge that a dispersed cluster model may be appropriate.
- The key planning decision is therefore whether to force a co-located cluster, which would logically be focussed on existing infrastructure, or whether to accept, given the apparent market impediments to the preferred colocation, that the benefits of an expanded marine industry in a dispersed cluster model is acceptable notwithstanding the local planning issues.

- Allowing the proposal to progress to the next stage of Agency and community consultation will allow these issues to be further explored.

**OFFICER RECOMMENDATION**

That Council:

1. As the relevant planning authority, initiate the Local Environmental Plan “Gateway” process pursuant to Section 55 of the Environmental Planning and Assessment Act 1979 by endorsing the attached Planning Proposal over Lot 2 DP598769, School Road, Palmers Island to rezone the land to IN4 Working Waterfront and W3 Working Waterways to enable the development of a marine industry precinct, amended to delete land proposed to be zoned IN4 within 100 metres of any existing dwelling not located on the subject land.
2. Forward the Planning Proposal to the Department of Planning and Environment requesting a “Gateway” determination, pursuant to Section 56 (1) of the Environmental Planning and Assessment Act.
3. Acknowledge inconsistencies with Section 117 Directions 1.2, 3.4, 4.1 and 4.3 as being justified in the circumstances.
4. Undertake community consultation regarding the Planning Proposal, subject to the determination of the Gateway Process.
5. Request that the proponent provide the following additional assessment to support the proposal prior to exhibition :
  - a. Impact on local hydrology, bank stability and aquatic habitat associated with the proposed open canal, and
  - b. Additional traffic assessment that considers business as well as employee traffic generated by the proposal including more detailed assessment of likely intersection requirements at the corner of Yamba Road and School Lane.
6. That Council’s delegate exercise any delegation that may be specified and issued by the Gateway determination and Written Authorisation to Exercise Delegation.

**COMMITTEE RECOMMENDATION**

McKenna/Hughes

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: McKenna, Williamson, Hughes, Simmons

Against: Howe

**MOTION**

(Crs Howe/McKenna)

That Council:

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amended to delete land proposed to be zoned IN4 within 100 metres of any existing dwelling not located on the subject land.

2. Forward the Planning Proposal to the Department of Planning and Environment requesting a “Gateway” determination, pursuant to Section 56 (1) of the Environmental Planning and Assessment Act.
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6. That Council’s delegate exercise any delegation that may be specified and issued by the Gateway determination and Written Authorisation to Exercise Delegation.

#### AMENDMENT TO MOTION

(Baker/Hughes)

That Council

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3. Acknowledge inconsistencies with Section 117 Directions 1.2, 3.4, 4.1 and 4.3 as being justified in the circumstances.
4. Undertake community consultation regarding the Planning Proposal, subject to the determination of the Gateway Process.
5. That Council’s delegate exercise any delegation that may be specified and issued by the Gateway determination and Written Authorisation to Exercise Delegation.

The amendment to the motion was put and declared **LOST**.

Voting recorded as follows

For: Councillors Baker, Toms, Challacombe

Against: Councillors Williamson, Simmons, Howe, Hughes, McKenna

## AMENDMENT TO MOTION

(Baker)

That Council:

1. As the relevant planning authority, initiate the Local Environmental Plan “Gateway” process pursuant to Section 55 of the Environmental Planning and Assessment Act 1979 by endorsing the attached Planning Proposal over Lot 2 DP598769, School Road, Palmers Island to rezone the land to IN4 Working Waterfront and W3 Working Waterways to enable the development of a marine industry precinct, amended to delete land proposed to be zoned IN4 within 100 metres of any existing dwelling not located on the subject land.
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  - b. Additional traffic assessment that considers business as well as employee traffic generated by the proposal including more detailed assessment of likely intersection requirements at the corner of Yamba Road and School Lane.
6. That Council’s delegate exercise any delegation that may be specified and issued by the Gateway determination and Written Authorisation to Exercise Delegation.

The Chair ruled the Amendment to Motion out of order.

## MOTION OF DISSENT

(Cr Baker)

That the ruling of the Chairperson on the Amendment to the Motion Item 13.129/14 was out of order.

*The Chairperson suspended business to consider the Motion of Dissent.*

*The Motion of Dissent was put.*

Voting recorded as follows

For: Councillors Baker, Challacombe, Toms

Against: Councillors Williamson, Howe, Simmons, McKenna, Hughes

The Motion of Dissent was LOST.

The original Motion became the Motion, was put and CARRIED.

**COUNCIL RESOLUTION - 13.129/14****(Crs Howe/McKenna)****That Council**

1. As the relevant planning authority, initiate the Local Environmental Plan “Gateway” process pursuant to Section 55 of the Environmental Planning and Assessment Act 1979 by endorsing the attached Planning Proposal over Lot 2 DP598769, School Road, Palmers Island to rezone the land to IN4 Working Waterfront and W3 Working Waterways to enable the development of a marine industry precinct, amended to delete land proposed to be zoned IN4 within 100 metres of any existing dwelling not located on the subject land.
2. Forward the Planning Proposal to the Department of Planning and Environment requesting a “Gateway” determination, pursuant to Section 56 (1) of the Environmental Planning and Assessment Act.
3. Acknowledge inconsistencies with Section 117 Directions 1.2, 3.4, 4.1 and 4.3 as being justified in the circumstances.
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  - b. Additional traffic assessment that considers business as well as employee traffic generated by the proposal including more detailed assessment of likely intersection requirements at the corner of Yamba Road and School Lane.
6. That Council’s delegate exercise any delegation that may be specified and issued by the Gateway determination and Written Authorisation to Exercise Delegation.

**Voting recorded as follows****For:** Councillors Williamson, Howe, Simmons, Baker, Challacombe, Toms, McKenna, Hughes**Against:** Nil**LINKAGE TO OUR COMMUNITY PLAN**

Theme Our Leadership

Objective 5.1 We will have a strong, accountable and representative Government

Strategy 5.1.6 - Make prioritised decisions in the long-term interest of the broad community and have regard to financial and infrastructure sustainability

**BACKGROUND**

The location of Lot 2 DP598769 is indicated in the figure below. The site has Clarence River frontage as its western boundary and is located between 1.1 to 1.5 km north or downstream of the Palmers Island village.



*Location of Lot 2 DP598769*

As mentioned above it is proposed to establish a marine industry precinct at the site which is intended to be developed progressively as a boat building and associated services enterprise in accordance with the vision of YWE.

Other elements of the proposed future development, as expressed in the YWE vision in the Planning Proposal document (p.3) include:

1. A new modern environmentally responsible facility including a larger workshop (100m x 50m) to accommodate larger vessels.
2. Construction and fitting out of new vessels, based on initial forecast, sized as follows -
  - 6m - 9m - 20 vessels per annum
  - 9m - 25m - 4 vessels per annum
  - 25m - 35m - 1 per annum
3. Provision of good access to deep water for large vessels including provision for large boat travel lift (50 tonne capacity).
4. Facilitate the refit and refurbishment of super yachts and commercial vessels up to 300 tonne, length 35- 40m, which would require a 300 tonne travel lift.
5. Construction of an open short canal (reinforced/lined) to facilitate the transfer of vessels from the deep water frontage to the workshop facilities.
6. Possible development of haul out and painting facilities in accordance with best practice and environmental controls.
7. An attractive Marine Industrial Park employing over 100 people directly in the boat building business with a further 200 people employed in the associated service industries.

Plans indicating a possible future site layout and predicted site usage are contained in Appendix A of the Flood Impact Assessment (BMT WBM P/L February 2014) which forms Appendix C of the Planning Proposal.

It should be noted that such plan shows a “wet dock” which it is now confirmed is to be the short open canal referred to above.

The particular area to be rezoned/developed is currently zoned RU1 Primary Production under the Clarence Valley LEP 2011. Industrial uses (including light industry and general industry) and boat building and repair facilities are not permissible in the RU1 zone and hence the need for a planning proposal to facilitate a change of zone to a zone or zones that are appropriate for the intended purpose.

The lodged Planning Proposal entitled “*Planning Proposal Lot 2 DP2598769, School Road, Palmers Island*” (May 2014) contains a number of appendices including a flood impact assessment and a transport & traffic assessment in addition to other statutory inclusions. It is considered that the lodged Planning Proposal complies with Section 55 of the Environmental Planning and Assessment Act 1979 (the Act) and the Department of Planning and Environments “*A guide to preparing planning proposals*” (October 2012).

A copy of the lodged Planning Proposal is in the attachments.

### KEY ISSUES

The key issues according to the Planning Proposal document are:

1. Strategic issues – compliance with relevant strategies
2. Compliance with other relevant policies/direction etc
3. Access, Transport & Traffic
4. Soils / Acid Sulphate Soils
5. Air & Microclimate
6. Noise & Vibration
7. Natural Hazards

This section also identifies other issues and issues that any future development application/s should address in more detail.

#### **Strategic issues – compliance with relevant strategies**

Section B - Relationship to Strategic Planning Framework of the Planning Proposal (pp. 12 – 15) identifies and discusses applicable local and regional strategies. It identifies the Clarence Marine Precinct (CMP) as a relevant local strategy citing that the proposed rezoning is consistent with the strategy and referring also to other underlying strategies in the Strategic Planning Framework including the Clarence River Way Master Plan (CRWMP).

In asserting consistency with this latter plan the Planning Proposal notes that CRWMP also expresses Strategic Intent to create a regional marine industry cluster, specifically:

5. “*Expand regional shipbuilding and repair facilities at Yamba by facilitating investment and promoting the development of a marine industry based cluster*”.

The Planning Proposal also references the *draft Marine Based Industry Policy Far North Coast & Mid North Coast NSW* stating that it:

1. Discusses (in Section 3.2) the prospect of multiple marine based industries and the need to strategically plan to avoid a proliferation of unplanned Marine Industry sites.
2. Suggests that Council identify sites or precincts most suited to marine based industry and the type or scale of industry that site and waterway could support.

3. Enterprises should be clustered into a precinct (if more than one enterprise is likely) rather than scattered along the waterways edge, with a view to maximising efficiency of infrastructure and minimising environmental impacts.
4. Suggests that Council could include the outcomes of these strategic investigations within its Local Growth Management Strategies.
5. A review of Council's current Local Growth Management Strategies indicate a primarily residential focus with Council's strategic planning for marine based industries expressed through a series of local strategy documents including:
  - Clarence Marine Precinct 2010
  - Clarence Valley Sustainability Framework
  - Clarence River Way Master Plan
  - Clarence Valley Industrial Lands Strategy
  - Clarence Economic Development Strategic Plan; and
  - Mid North Coast Planning Strategy.

The Planning Proposal relies heavily on the CMP report citing it extensively as follows:

Pages 5 – 11 – stating that Yamba is identified as one of 5 internationally recognised ports and that the Port of Yamba offers Customs & Quarantine classification and unrestricted port of first entry for overseas imports status.

Page 6 - noting that the CMP report takes a slightly different approach to site selection than expressed in the draft Marine Based Industry policy and states:

*"The CMP presents a market first in that it is not limited to a single geographical site, rather, the precinct is the Clarence River itself with existing marine industry located from Yamba and Iluka on the coast to the River City of Grafton, some 32 nautical miles upstream.*

*Recognising this large section of the River as the precinct area, provides scope for a wide range of industries to be considered as partners and participants in new development, and offers a choice of sites for potential investment and future growth collaborations....*

*The CMP already supports the largest concentration of commercial fishing vessels in New South Wales and is renowned for its innovative and award winning boat building industry; however the precinct also boasts a wider range of established marine services encompassing the follow sectors:*

1. Boat design,
2. Boat refit, repair and maintenance,
3. Commercial fishing support activities,
4. Recreational fishing and boating,
5. Marine tourism and water sports,
6. Aquaculture,
7. Marina services and vessel storage options, as well as
8. Commercial wharf activities via the Port of Yamba, a recognised port of entry to Australia complete with the provision of federal customs service".

Page 9 – stating that it identifies advantages that the CMP seeks to have over other regions, including:

- *"...The size and spread of the precinct. The 'traditional' view of marine industry precincts is one based on a fixed location. The Clarence Marine Precinct is not limited to a single location, but rather has development possibilities located between the river mouth at Yamba and the City of Grafton. This spread of geography ensures that development will not be limited by artificial boundaries....*
- *The potential to develop and supplement industries that support a marine precinct, such as metal fabrication, electrical services and marine fit out ...".*



In this context the Planning Proposal further states that the:

- Palmers Island proposal is a large site chosen for its capacity to serve multiple operators and act as a precinct.
- Draft Marine Based Industry Policy Far North Coast & Mid North Coast NSW does not prescribe that a single site or single precinct must be chosen, rather it counsels against permitting a proliferation of sites.
- YWE boat building business has plans for production of larger vessel sizes.
- YWE project/expansion and the Harwood Marine project would operate across different markets, both benefiting the Clarence Region employment and training opportunities and both supporting the Port of Yamba.
- It would be incongruous to expect the Port of Yamba to operate at an international and national level with only one site/precinct allowed along the entire deep water section of the Clarence River system.

The Planning Proposal concludes that the proposed Palmers Island Marine Precinct is consistent with:

- The intent of the draft Marine Based Industry Policy in that *“it is not proposing a single user site, nor would it generate a proliferation of unplanned marine industries, rather it is proposing a pre-planned purpose designed boat building precinct with capacity to accommodate ancillary marine industries and supporting trades across fit out, maintenance and servicing sectors”*.
- The CMP document.

#### Comment

The Planning Proposal has provided much of its justification for consistency with local and regional strategy (outlined above) in Part 3. Justification, Section A. Need For The Planning Proposal. This case for consistency is more briefly reinforced in Section B. Relationship to Strategic Planning Framework of Part 3. Justification.

In Section B the Planning Proposal adds that the CRWMP (Section 7.3, p 14) also expresses Strategic Intent to create a regional marine industry cluster, specifically:

*“5. Expand regional shipbuilding and repair facilities at Yamba by facilitating investment and promoting the development of a marine industry based cluster”*.

The case for consistency with local strategy is considered acceptable in the circumstances though arguably the status of the CMP document as a planning strategy in the context of the Planning Proposal guidelines and Section 117 Directions at best has to be considered as uncertain. Council has adopted the document as one directed more at investors. It is not for instance a local planning strategy that has been adopted following a public process nor endorsed by Dept. of Planning and Environment.

The Planning Proposal has acknowledged the Mid North Coast Regional Strategy (MNCRS) which provides the context for the *draft Marine Based Industry Policy Far North Coast & Mid North Coast NSW* which contains the (draft) locational criteria referred to in the MNCRS. The draft policy also encourages the clustering of enterprises *“into a precinct rather than scattered along the waterway’s edge, with a view to maximising efficiency of infrastructure and minimising environmental impacts”*.

Council has not undertaken strategic planning to the extent of identifying sites or a precinct conforming to the draft Policy’s locational criteria. Council has supported a Planning Proposal for the expansion of the Harwood Slipway operation onto land adjoining the existing Harwood Slipway operation. That particular Proposal complies with the draft Policy’s marine enterprise clustering intent whereas the current Palmers Island Planning Proposal does not in so far as the selected site is a green fields site not located proximate to any existing marine-based industry infrastructure or enterprise. It may be difficult for the current Palmers Island proposal to provide adequate buffer distances to adjoining sensitive receptors/development without precipitating a redesign of the concept of the proposed development. Further, the impacts of any canal to

be incised into the river bank in such an erosion prone context are not known nor explored even in a preliminary way by the Planning Proposal.

It is considered that the Planning Proposal has provided an adequate case for broad consistency with the Policy despite that Policy's clustering "ideal". In turn the Planning Proposal can be considered to be consistent with the MNCRS.

#### **Compliance with other relevant policies/directions**

The Planning Proposal has acknowledged relevant Ministers Section 117 Directions and State Environmental Planning Policies (SEPPS) and has assessed compliance with relevant directions and policies.

In particular it has noted and justified variation of the following s117 Directions:

| S.117 Direction                        | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.2 Rural Zones                        | In justifying variation of this direction the Planning Proposal (Appendix B) relies on the following statement:<br>MNCRS (p.27) - <i>"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"</i> .<br>Mid North Coast farmland mapping project: final report 2008 (recommendations p.17) – <i>"Regionally significant farmland can be considered where there is a need to zone land for marine-based industries that depend on access to navigable waterways"</i> .<br>The reliance on the MNCRS and the Mid North Coast farmland mapping project to help justify a variation of or inconsistency with this direction is agreed with in the circumstances. |
| 3.4 Integrating Land Use and Transport | The Planning Proposal (Appendix B) has again cited the consistency of the current Planning Proposal with the MNCRS and local strategies to make a case for justifiable inconsistency with this direction. Reliance on Council's local strategies (Clarence River Way Masterplan) which have as an action promotion of regional shipbuilding and repair facilities at Yamba as part of a marine industry cluster is considered acceptable in the circumstances.                                                                                                                                                                                                                                                                                                                                |
| 4.1 Acid Sulfate Soils                 | The Planning Proposal (Appendix B) has cited the implementation of mitigation measures as part of the DA to address and manage acid sulfate soil issues and potential impacts. This is a plausible approach to justifying any inconsistency with this direction.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 4.3 Flood Prone Land                   | The Planning Proposal (Appendix B) relies on a supporting flood risk assessment to help address any inconsistency with this direction. This assessment uses a concept future development and site layout and concludes that no notable hydraulic peak level impacts are predicted as a result of filling the site to the extent shown in supplied concept plans.                                                                                                                                                                                                                                                                                                                                                                                                                              |

#### Comment

It should also be noted that Section 117 Direction 1.5 Rural Lands is relevant and requires a planning proposal to be consistent with the Rural Planning Principles listed in clause 7 of SEPP (Rural Lands) 2008. The Planning Proposal (Appendix F) has satisfactorily addressed the relevant Rural Planning Principles.

The Planning Proposal (Appendix E) has acknowledged and addressed another relevant SEPP – SEPP No. 71 - Coastal Protection. In this regard it has provided an assessment of how the proposal satisfies the aims of the Policy – clause 8(a) of SEPP No. 71. It is also considered that the Planning Proposal satisfactorily considers the other relevant matters for consideration in clause 8 of the SEPP.

**Access, transport and traffic**

The Planning Proposal identifies access & traffic as matters which will require detailed analysis as part of any specific development proposal. A Transport & Traffic Assessment for the rezoning stage has been undertaken by TTM Consulting Pty Ltd and forms Appendix D of the Planning Proposal document.

It concludes that the development's impacts on the external network are minimal and the performance of the intersection will operate at an acceptable level in accordance with RMS's Guide to Traffic Generating Developments and TMR's Guidelines for Assessment of Road Impacts of Development even based on a year 2026 scenario where the development has been commenced for 10 years. It considers that that ameliorative works on the external network will not be required as part of the development and that the rezoning should proceed.

**Comment**

The submitted Traffic Report by TTM Consulting (GC) Pty LTD supports the development by finding that there is minimal impact on the existing road network and there is no need for any upgrade works due to the development, however:

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. Works and Civil Branch may wish to comment further.
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 (refer Austroads Guides Part4A and Part 6) 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
  - Available sight distance due to existing horizontal geometry and physical environmental constraints (buildings, canefields etc.)

**Soils/acid sulphate soils**

The Planning Proposal acknowledges that the land is class 2 & 3 acid sulfate soils. In addressing s.117 Direction 4.1 Acid Sulfate Soils the Planning Proposal (Appendix B) acknowledges that any use or construction activity proposed as part of a future development application would need to identify the likely areas and depth of disturbance proposed, supported by geotechnical soil sampling and incorporation of effective soil treatment and water quality protection measures.

The Planning Proposal also points out that:

- The marine industrial buildings would be constructed on filled land as outlined by the fill concept for the flood impact assessment.
- At the DA stage, the active waterfront interface area will need further detailed geotechnical assessment to confirm soil characteristics and identify appropriate treatments.

Comment

It is agreed that the acid sulfate soil issue is one that can be further addressed through the development assessment process. The construction of the canal facility will at least involve exposure of acid sulfate soil material.

**Air and microclimate**

The Planning Proposal states that any new boat building facility will be required to satisfy the air quality provisions of the relevant environmental protection agencies, as a part of the development approval process and as part of its annual licensing requirements.

Comment

It is agreed that the air quality issue is one that can be addressed through the development assessment process.

**Noise and vibration**

The Planning Proposal states that:

- Noise is an issue that needs to be considered and incorporated in the design of any facility for the site.
- The site is large with opportunity to provide buffers to neighbouring uses.
- The ongoing operations and management of the precinct would need to address noise in the context of its location.

Comment

Whilst it is agreed that noise issues be considered at the development application stage it is considered that is a major localised issue that is likely to determine buffers required to nearby noise sensitive land use (rural dwellings) which in turn will guide the extent and location of industrial zone boundaries.

In this regard it is considered that any support of a Planning Proposal be conditioned on further assessment being undertaken and submitted to Council prior to the formal exhibition of the Planning Proposal. Such assessment should apply the *NSW Industrial Noise Policy* (NSW EPA, 2000) and *Noise Guide for Local Government* (NSW EPA, 2000) and should provide a basis for either:

- Justifying an IN4 zone and marine industrial activity within 100 metres of 3 existing dwellings within an existing rural context; and/or,
- Determining appropriate buffer distances between future marine industrial activity and existing noise sensitive land uses and therefore the extent and location of industrial zone boundaries.

**Natural hazards**

The Planning Proposal acknowledges that flooding is a key consideration for the site. Site levels range from 2.2m AHD near the western (river) boundary sloping down to 0.75m AHD near School Road.

The flood assessment stated that:

- The existing site is at risk to flooding from the Clarence River for the 100 year ARI event with the peak flood levels varying between 2.48m AHD in the east of the site to 2.63m AHD in the west. Corresponding flood depths range between 1.6m in the east near School Road and 0.75m in the west. Flood velocities are generally low across the site (less than 0.25m/s)
- Under a potential future climate which accounts for sea level rise and increased rainfall intensity, the peak 100 year ARI flood level increases by up to 0.63m at the eastern end of the site and by up to 0.54m across the area of the proposed fill platform.
- The proposed finished floor levels are to be at elevations of 3.25m AHD being sufficient to be above the 100 year ARI event including climate change allowances.

Corresponding flood depths range between 1.6m in the east near School Road and 0.75m in the west where ground elevations are higher. Flood velocities are generally low across the site (less than 0.25m/s)

The assessment concluded that no notable hydraulic peak level impacts are predicted as a result of filling the site to the extent shown in supplied concept plans.

#### Comment

It is considered that the flood impact has been adequately assessed. However the development application should carefully assess drainage from the future development to ensure that adjoining properties and the local road system is not adversely impacted by the ultimate development in terms of both water quantity and quality.

See also other issues below.

#### **Other issues - biodiversity**

Council's Environment officer reports that:

*"An inspection for terrestrial ecological attributes, on Lot 2 DP598769, was undertaken on the 21<sup>st</sup> of May 2014. The site is prime agricultural land zoned RU1 producing sugar for the local Harwood sugar mill.*

*A history of intensive agriculture over the entire site presents Lot 2 as a prime agriculturally used Lot. No significant ecological values were observed on the land. The total use of the land is for intensive agricultural cultivated for sugar cane. Riparian areas are cleared and in poor condition showing signs of erosion. Vegetation in drainage areas are predominately introduced weeds and grasses.*

*No Threatened Species habitat or threatened vegetation communities occupy Lot 2 DP598769 Palmers Island Yamba.*

*Clarence River fisheries habitat exists adjacent to the site. The value of fish habitat adjacent to the site is not well known or surveyed. Possible impacts include industrial activities causing vibrating noise, foreign sediment runoff, propeller gouging of benthic habitat and dredging affecting fisheries habitat adjacent to the site".*

Refer to Internal consultation below for specific recommendations made by Council's Environment officer.

#### Comment

Part of the ultimate development will feature a "short canal" as is it has been described to facilitate the transfer of vessels from the deep water frontage to the workshop facilities. Little or no detail on such a facility has been provided other than a cursory two sentence description in the introduction of the Planning Proposal document; and the depiction of a "wet dock" on a possible future site layout and predicted site usage contained in Appendix A of the Flood Impact Assessment (BMT WBM P/L February 2014) which forms Appendix C of the Planning Proposal.

Given that this will involve an incision into the riverbank below existing natural ground level and the waterline a further assessment of the impact upon critical habitat of fish or marine vegetation, or threatened species, populations or ecological communities of fish or marine vegetation (sections 5A and 5C of the EP & A Act 1979) will be required at least at the DA stage.

However if a public authority deems it necessary as part of the consultation process for the Planning Proposal, such assessment may be required at an earlier stage than a DA.

#### **Other issues – riverbank erosion threat**

The site is located in an area of the Clarence River that is subject to riverbank erosion. This is evidenced by the placement of rock protection along much of the land/water interface in this reach of the river including much of the shoreline of lot 2. Disturbing the riverbank to construct a canal to facilitate the transfer of

vessels from the deep water frontage to the workshop facilities has the potential to impact upon stability of the riverbank in the locality. There must be some assurance that:

- Both riverbank stability and the existing rock protection works will not be compromised by the construction and longer term functioning of this facility;
- The asset maintenance liability of Council or the NSW Government is not worsened as a result of this proposal.

The Planning Proposal only briefly acknowledges (Section 3, p.20) that *“river behaviour and bank stability would need to be addressed in detail with any specific proposal for the site”*. A preliminary assessment should be provided to determine if a facility of this kind at this location can be designed and constructed so as to ensure ongoing stability of the riverbank and not increase the maintenance liability of rock protection assets. It also needs to acknowledge that this component of the future development has a complex regulatory and approval framework being integrated development as a minimum and possibly designated development involving multiple agency approvals.

#### **Other issues – local amenity**

The Proposal entails new industrial infrastructure in an area which has no such use and is dominated by rural activities. Such development, with its associated traffic and noise impacts will change the amenity and character of the area. Whilst the site is remote from the Village of Palmers Island, and while these impacts can to some extent be managed through development controls, it does represent a change in local amenity. This needs to be balanced against the other positive aspects of the Proposal. The public exhibition process will provide an opportunity to gauge the community views on this aspect.

#### **Other issues – economic impact**

The Proposal will have an economic benefit on the local economy. Based on the potential employment figures provided by the proponent (100 F/T), Council's local impact model suggests that the Proposal, when fully developed, will potentially represent a direct and indirect annual increase to the Clarence Valley's gross regional product (GRP) of about \$11M and \$21M p.a. respectively, or about a 1.1% growth in GRP. These benefits need to be balanced against local amenity impacts and the possible loss of opportunity of not delivering a co-located marine cluster.

#### **Conclusion**

The matter is considered to have broad strategic consistency and relevance despite the fact that it is not a site that is located or clustered adjacent or proximate to existing marine industrial enterprise or infrastructure as the draft Marine Based Industry Policy would encourage. This clustering concept may prove to be more of an ideal or aspiration as both the Harwood Marine proposal and the current Proposal are current enterprises each seeking to expand their business onto larger sites to also attract and accommodate (i.e. co-locate) complementary marine – related business and industries. It accepted that it is not possible for YWE to expand its current site on the scale it is contemplating in Yamba thus accounting for its selection of a larger waterfront site relatively close to Yamba.

It will be incumbent upon the proponent for the YWE proposal to demonstrate in a future development application that the development can be designed and sited in such a way so as to not have adverse impact upon neighbouring land uses, residents, the aquatic and terrestrial environment, riverbank stability and road network. However not all matters or issues should be deferred to the DA stage and it is considered that potential impact of the canal facility upon riverbank erosion/stability and rock protection assets is one such issue. A preliminary assessment of such issue, as outlined above, should be undertaken and submitted prior to any public exhibition of the Planning Proposal.

It is considered that the Planning Proposal otherwise has merit and is of sufficient standard to support it proceeding to the next stage i.e. request a Gateway Determination from Department of Planning and Environment.

This is a proposal which Council's delegate can exercise plan making delegations, subject of course to the Gateway Determination. Council should indicate to the Department that it is prepared to accept plan making delegations should the Department issue such delegation in this instance.

Should Council be initially supportive of the Planning Proposal the next step is to refer the Planning Proposal to the Department requesting the issue of a Gateway Determination that gives permission to exhibit the matter. That process will also determine the Gateway's further agency consultation and any further detailed investigation/documentation requirements as well as whether or not the Plan making process will be delegated to Council.

**Issues requiring more detailed assessment as part of any future development application/s**

Certain issues have already been identified that any future development application/s for this Proposal should more fully address at that stage. These include:

1. Noise - noise impact assessment prepared in accordance with the NSW Industrial Noise Policy (NSW EPA, 2000) and Noise Guide for Local Government (NSW EPA, 2000).
2. Air quality – potential air quality impacts.
3. Acid sulfate soils - acid sulfate soil management issues depending upon the scope and scale of proposed future structures and construction activities.
4. Site drainage and water quality management
5. A further assessment of the impact upon critical habitat of fish or marine vegetation, or threatened species, populations or ecological communities of fish or marine vegetation (Sections 5A and 5C of the EP & A Act 1979) as discussed in Other issues - Biodiversity above; this would need to include a survey of marine benthic fauna and fisheries habitat in the Clarence River adjacent to the Proposal as outlined in the Environment officer's recommendations.

No specific resolution should be made at this stage to require the proponent to address these matters at the DA stage. This can be done at a later stage following exhibition and consultation in the event that other issues are identified as a result of the exhibition/consultation process.

Other issues include:

1. Potential impact of the canal facility upon riverbank erosion/stability and rock protection assets - a preliminary assessment of such issue, as outlined above, should be undertaken and submitted prior to any public exhibition of the Planning Proposal.
2. Nature and scope of additional approvals required.
3. Matters identified by Council's Development Engineer.

**COUNCIL IMPLICATIONS**

**Budget/Financial**

The Applicant has paid the Council adopted rezoning application fee which is expected to cover the reasonable costs associated with dealing with this matter excluding the cost of any additional studies or other documentary requests that may be specified in any Gateway determination.

**Policy or Regulation**

Environmental Planning and Assessment Act 1979 – including relevant State environmental planning policies and Minister's Section 117 Directions made under the Act.

**Consultation**

Public or other external stakeholder consultation has not occurred and will occur following the issue of any Gateway Determination. The following consultation strategy is recommended at the formal consultation/public exhibition stage following the issue of a Gateway Determination:

| <i>Consultation element</i>                         | <i>Detail</i>                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Referral to the following public authorities</i> | <ul style="list-style-type: none"> <li>• Roads and Maritime Services (RMS)</li> <li>• Department of Primary Industries (DPI) – Fisheries NSW</li> <li>• Office of Environment &amp; Heritage (OEH)</li> <li>• DPI – Agriculture NSW</li> </ul>                                                                                                                                         |
| <i>Neighbour/landholder notification</i>            | <p>Written notification to:</p> <ul style="list-style-type: none"> <li>• all immediately adjoining land owners</li> <li>• property owners along the route (i.e. School Road) from the proposed entrance on School Road through to the Yamba Road intersection</li> <li>• property owners within 500m of the northern, southern and eastern property boundaries of the land.</li> </ul> |
| <i>Advertising</i>                                  | Placement of an advertisement in a newspaper that circulates in the area (Daily Examiner and Clarence Review) affected by the Planning Proposal                                                                                                                                                                                                                                        |
| <i>Exhibition and consultation period</i>           | 28 days                                                                                                                                                                                                                                                                                                                                                                                |

Internal consultation has been undertaken with the following comments/recommendations made:

Council's Environment Officer (Ecology) recommends:

*"When considering a change of land use the following recommendations and conditions should apply:*

- 1. A survey of marine benthic fauna and fisheries habitat in the Clarence River adjacent to the Proposal should be finalised to 150m from the Riparian area. This survey should aim to understand the health and possible impacts to the benthic and fisheries habitat likely to occur from the Proposal, discharge material ship movements and dredging for wharves.*
- 2. Large boat or ship propulsion may affect fisheries habitat and ecology. Compatibility of the proposed activity with fisheries ecology is not addressed sufficiently to determine ecological impacts.*
- 3. Restoration and re-establishment of Riparian areas should occur in areas not planned for industry and activity use.*
- 4. Landscaping around industrial use areas should include native floodplain species to improve wildlife corridors and wildlife habitat in the area. These plantings should be grouped and connective with Riparian areas also giving visual buffering on a flat landscape.*
- 5. Sediment control and drainage areas should include soft options using vegetation consisting of native wetland species to filter runoff in a series of sediment swales before entering the Clarence River affecting marine ecology".*

Note: refer also to comments made by Council's Environment Officer in Other issues – Biodiversity, above.

Council's Development Engineer has provided comments which include the following:

Roads/traffic - See comments under Access, Transport & Traffic in ISSUES above.

Flooding & Drainage - The flood assessment report prepared by BMT WBM is acceptable.

Water Reticulation - Prior to the issue of a Construction Certificate a detailed Water Reticulation Management Plan must be submitted for assessment and approval by Council. This shall include consideration/assessment of the existing system to ensure sufficient flows are available for the proposed development including fire fighting flows. Any upgrade to the existing water servicing for the property will be subject to the costs outlined in Council's list of fees and charges in accordance with the requirements of Council's Water Cycle Branch.



Power & Telecommunications Servicing - A requirement of development consent will be that comments and requirements of the relevant authorities for the proposed development must be sought and any upgrade works necessary undertaken by the developer.

Other comments:

1. All engineering design and construction is to be in accordance with Council's DCP, NRDC and AS2890.
2. Council's Environmental Officers should provide comment on sewer effluent servicing and disposal for the site.

**Legal and Risk Management**

The matter is being assessed in accordance with the framework set out in the Environmental Planning and Assessment Act 1979 and accompanying guidelines including *"A guide to preparing planning proposals"* (October 2012).

|                               |                                                                                |
|-------------------------------|--------------------------------------------------------------------------------|
| Prepared by staff member:     | Terry Dwyer/David Morrison                                                     |
| Approved/Reviewed by Manager: | David Morrison                                                                 |
| Section:                      | Strategic & Economic Planning                                                  |
| Attachment:                   | "Planning Proposal Lot 2 DP2598769, School Road, Palmers Island"<br>(May 2014) |