

Proposed Additional Permitted Use [Recreational Facility (Indoor)] at Argyle Street, Maclean

Proposal Title : **Proposed Additional Permitted Use [Recreational Facility (Indoor)] at Argyle Street, Maclean**

Proposal Summary : **The proposal intends to permit with consent the use of 14 Argyle Street, Maclean for an indoor recreational facility (dance studio), by amending Schedule 1 of the Clarence Valley LEP 2011 to allow this use at the site as an Additional Permitted Use. The use is prohibited in the current R3 Medium Density Residential zone.**

PP Number : **PP_2013_CLARE_005_00** Dop File No : **13/06102**

Proposal Details

Date Planning Proposal Received :	02-Apr-2013	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 :	14 Argyle Street		
Suburb :	Maclean	City :	Maclean
		Postcode :	2463
Land Parcel :	Lot 31 DP 627		

DoP Planning Officer Contact Details

Contact Name : **Carlie Boyd**
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RPA Contact Details

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DoP Project Manager Contact Details

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

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

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MDP Number :	Date of Release :	
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :	Employment Land
No. of Lots : 1	No. of Dwellings (where relevant) :	0
Gross Floor Area : 310.00	No of Jobs Created :	2
The NSW Government Lobbyists Code of Conduct has been complied with : Yes		
If No, comment :	The Department of Planning 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 meeting between other Departmental officers and lobbyists concerning this proposal.	

Supporting notes

Internal Supporting Notes :

External Supporting Notes :

Adequacy Assessment**Statement of the objectives - s55(2)(a)**Is a statement of the objectives provided? **Yes**Comment : **The objective and intended outcomes of the planning proposal are adequately expressed for the proposed amendment to Clarence LEP 2011.****Explanation of provisions provided - s55(2)(b)**Is an explanation of provisions provided? **Yes**Comment : **The planning proposal provides a clear explanation of the intended provisions to achieve the objectives and intended outcomes.****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

- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**
- 5.1 Implementation of Regional Strategies**
- 6.1 Approval and Referral Requirements**
- 6.3 Site Specific Provisions**

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

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

d) Which SEPPs have the RPA identified?

SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)

SEPP No 55—Remediation of Land

SEPP No 64—Advertising and Signage

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 :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The mapping adequately shows the subject land. Changes to the LEP maps are not required, as the proposal only amends Schedule 1.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal has indicated a public exhibition period for community consultation of 28 days, which is considered appropriate. The Gateway will determine the timeframe required for exhibition. Community consultation will be in accordance with the Department's 'A Guide to Preparing an LEP'.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

The planning proposal satisfies the adequacy criteria by:

- 1. Providing appropriate objectives and intended outcomes;**
- 2. Providing a suitable explanation of the provisions proposed for the LEP to achieve the outcomes;**
- 3. Providing an adequate justification for the proposal;**
- 4. Outlining a proposed community consultation program;**
- 5. Providing a project timeline; and**
- 6. Completing the evaluation criteria for the delegation of plan making functions.**

A project timeline of 3-4 months is provided by Council. While the proposal is minor in nature, in view of the required community consultation program, 3 months is likely to be an insufficient timeframe. A 6 month timeframe for completion of the project from the Gateway Determination should be more than adequate.

Delegation of plan making functions is considered to be appropriate as this proposal involves a minor matter of local significance only.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Clarence Valley LEP 2011 commenced in December 2011.**

Assessment Criteria

Need for planning proposal :

The Planning Proposal is not the result of any strategic study. The proposal is, however, within the Maclean urban footprint and is not inconsistent with relevant local and regional planning strategies, including the Mid North Coast Regional Strategy and Council's Local Growth Management Strategy.

Alternative options to achieve the desired outcome were considered by Council. An option to amend the land use table for the R3 zone to include indoor recreational facilities as a permissible use was not supported because it could potentially create land use conflicts elsewhere in the R3 zone. Another option to rezone the land to a zone which permits indoor recreational facilities was not supported because it would greatly expand the potential uses permissible on the site, including uses that are not compatible with residential development. The alternative options are therefore not preferable as they may result in other negative outcomes such as land use incompatibilities either on the site or in other areas zoned R3.

While the preferred approach of allowing an indoor recreational facility in a residential zone could potentially result in conflicts with neighbouring residents, Council argues that this is unlikely in this particular case due to the specific nature of the site, which is bound on three sides by roads and was not previously used for residential purposes but for bus storage and maintenance. This argument is considered to be reasonable. The nature of the existing building on site has also meant that it has been under-utilised in the past. The proposed use will be able to utilise the existing building on the site. Retaining the current R3 zoning also retains the option for medium density residential development in the future. The proposed change to the LEP is therefore considered to be the most appropriate means of achieving the desired outcome for the proposal.

The net community benefit of the proposal stems from the provision of an additional recreational facility in an appropriate location in the town centre, which will potentially bring social and economic benefits to the community.

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Consistency with strategic planning framework :

The proposal is consistent with all relevant local and regional planning strategies, including the Mid North Coast Regional Strategy and Council's Local Growth Management Strategy. Several SEPPs and S117 Directions are relevant to the proposal. The proposal is consistent with all relevant SEPPs and Directions, as outlined below:

SEPPs

SEPP 32 - Urban Consolidation (Redevelopment of Urban Land):

Section 6 of the SEPP requires Council and the Minister to consider whether urban land which is no longer needed or used for the purposes for which it is currently zoned or used, is suitable for redevelopment for multi-unit housing and related development, and whether action should be taken to make the land available for such redevelopment.

Council has considered this issue and argues that the proposed amendment allows for the retention of the R3 Medium Density Residential zoning and therefore retains the option to develop the land for multi-unit housing in the future. The proposal is therefore considered to be consistent with the SEPP.

SEPP 55 - Remediation of Land:

SEPP 55 requires consideration of contaminated land issues where land that may be contaminated is proposed to be rezoned. The planning proposal does not involve the rezoning of land, but the SEPP may still be relevant at the development application stage. A Preliminary Contaminated Land Assessment has, however, been undertaken for this planning proposal due to the past use of the site for bus storage and maintenance and the proposed change to recreational use. The assessment concluded that the site is suitable for the proposed use. The proposal is therefore considered to be consistent with the SEPP.

SEPP 64 - Advertising and Signage:

SEPP 64 applies because signage will be required as part of the development within a residential zone and heritage area. Consideration of this SEPP is required at the development application stage only, and it is considered that the proposal is capable of being consistent with the requirements of the SEPP.

SEPP 71 - Coastal Protection:

Clause 7 of SEPP 71 requires the consideration of matters listed under clause 8 of the SEPP where a planning proposal applies to land within the coastal zone. The subject land is within the coastal zone, as it is approximately 500m from the tidal Clarence River. The matters for consideration have been considered by Council in the planning proposal and it is considered that the proposed use of the site is not inconsistent with the SEPP objectives or matters for consideration. The proposal is therefore considered to be consistent with the aims and requirements of the SEPP.

Section 117 Directions

2.2 Coastal Protection:

This Direction applies as the land is located within the coastal zone. The proposal is consistent with the Direction, for the reasons outlined above in relation to SEPP 71.

2.3 Heritage Conservation:

This Direction applies to the proposal as land is within the Maclean Heritage Conservation Area. Although a change in use is proposed Council considers that there will be no likely impact to heritage values, as the proposed use does not propose to alter the appearance of the existing building. Heritage values will therefore not be compromised. The planning proposal does not include specific provisions that facilitate conservation of the area's heritage values. However, adequate provisions exist within the Clarence Valley LEP to ensure the matter is appropriately considered at the development application stage. The proposal is therefore consistent with the Direction.

3.1 Residential Zones:

This Direction applies as the proposal will affect land within an existing residential zone. Although the proposed new use is not residential in nature, it is considered that the

proposal does not discourage the provision of housing on the site, as the R3 Medium Density Residential zoning will be retained. The planning proposal is therefore not considered to be inconsistent with the Direction.

3.4 Integrating Land Use and Transport:

This Direction applies as the proposal alters a provision applying to urban land. The proposal is not inconsistent with the requirements of the Direction, as the site is within the town centre with easy access from a variety of transport modes, including walking. The proposal is therefore considered to be consistent with this Direction.

4.1 Acid Sulfate Soils:

This Direction applies as the site is identified as having a probability of containing acid sulfate soils. However, the planning proposal does not provide for an intensification in land use on the site that would disturb these soils. The proposal involves a change in use of the existing building on the site. The Clarence Valley LEP 2011 contains adequate provisions to ensure that the site is properly managed in relation to acid sulfate soils should more intensive development of the site be proposed in the future. The proposal is therefore considered to be consistent with this Direction.

4.3 Flood Prone Land:

This Direction applies as the proposal relates to land which is located partly within the probable maximum flood level. However, the site is within the developed urban area of Maclean and the proposal does not involve further development of the site. The Clarence Valley LEP contains adequate provisions relating to the development of flood prone land. The proposal is therefore considered to be consistent with this Direction.

5.1 Implementation of Regional Strategies:

The MNC Regional Strategy applies to the planning proposal. The subject site is located within the existing urban area of Maclean. The planning proposal is considered to be consistent with all relevant principles within the regional strategy and is therefore consistent with this Direction.

6.1 Approval and Referral Requirements:

This Direction applies to the proposal. The planning proposal is consistent with this Direction as it does not contain provisions requiring concurrence, consultation or referral of development applications to a Minister or public authority and does not identify development as designated development.

6.3 Site Specific Provisions:

This Direction applies as the planning proposal will amend the LEP to allow a particular development to be carried out. The proposal will allow the proposed land use on the land without imposing any development standards or requirements in addition to those already contained in the principal LEP. The planning proposal is therefore consistent with this Direction.

Environmental social
economic impacts :

The site is cleared and located within the town centre. There is no known critical habitat or threatened species, populations or ecological communities or their habitats which would be adversely affected by this proposal.

Although the site is affected by potential acid sulfate soils and is partly flood prone, these issues are not significant given the location of the land, the existing development on the land and the nature of the proposal.

A preliminary contaminated land assessment undertaken for the site concluded that the site was suitable for the use proposed.

While the land is within the Maclean Heritage Conservation Area, impacts to heritage values are considered to be unlikely, given the nature of the proposal.

The planning proposal will likely have minimal social and economic impact. While there is some potential for noise and traffic impact to neighbours arising from the proposed development, the impact is not considered to be significant given the location and specific

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characteristics of the site. Council considers that noise and traffic issues can be effectively dealt with at the development application stage. The proposal will likely have a net positive social outcome due to improved community access to an additional recreational activity.

The proposal potentially has economic benefits due to the job opportunities that will arise during fit-out and operation of the development and the flow-on effect within the local community as an increase in revenue to the local businesses and wider area.

There is adequate public infrastructure to support the planning proposal. The land is within walking distance of the Maclean CBD and public transport is available. The site is connected to all required utility services.

Assessment Process

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

Timeframe to make LEP : **3 Month** Delegation : **RPA**

Public Authority
Consultation - 56(2)(d)

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

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

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Council_meeting.pdf	Proposal	Yes
Evaluation_criteria_for_delegation.pdf	Proposal Covering Letter	No
Planning_Proposal.pdf	Proposal	Yes
Council_Cover_Letter.pdf	Proposal Covering Letter	Yes
Project_timeline.doc	Proposal	No
Jobs_estimate.pdf	Proposal	No

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Planning Team Recommendation

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

S.117 directions: **2.2 Coastal Protection**
 2.3 Heritage Conservation
 3.1 Residential Zones
 3.4 Integrating Land Use and Transport
 4.1 Acid Sulfate Soils
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Additional Information : **It is recommended that:**
 1. The planning proposal is supported;
 2. The planning proposal is to be exhibited for a period of 28 days;
 3. The planning proposal should be completed within 6 months;
 4. The Director General (or an officer of the Department nominated by the Director General) agree that the planning proposal is consistent with all relevant S117 directions; and
 5. An Authorisation to exercise delegation to make the plan be issued to the RPA for this planning proposal.

Supporting Reasons : **The planning proposal is consistent with all S117 Directions and SEPPs and is not inconsistent with Council's or the Department's strategic planning program.**

Signature:



Printed Name:

JIM CLARK

Date:

5 April 2013