

### Rezoning of land for residential subdivision on the northern side of Major Mitchell Drive, Gulmarrad

**Proposal Title :** Rezoning of land for residential subdivision on the northern side of Major Mitchell Drive, Gulmarrad

**Proposal Summary :** To rezone Lot 68, Lot 69, part Lot 71 DP 1156995 and Lot 1020 DP 1108597, Major Mitchell Drive, Gulmarrad (site area of 18.54ha) from R5 Large Lot Residential to a standard residential zone, R1 General Residential, under the provisions of the Clarence Valley LEP 2011. The current minimum lot size of 4000 sqm is also proposed to be removed to enable the land to be subdivided accordingly.

The subject land has development consent (granted in 2004) for a 43 rural residential lot subdivision. The consent has been commenced with the creation of four lots and road clearing.

The planning proposal is seeking to obtain a more sustainable residential density for the site. The applicant has estimated that between 172 and 190 residential lots may be accommodated on the land with a varying range of lot sizes and housing types. The land also has frontage to Sheehans Lane and Brolga Drive.

**PP Number :** PP\_2013\_CLARE\_001\_00      **Dop File No :** 12/20361

#### Proposal Details

|                                          |                      |                             |                                |
|------------------------------------------|----------------------|-----------------------------|--------------------------------|
| <b>Date Planning Proposal Received :</b> | <b>19-Dec-2012</b>   | <b>LGA covered :</b>        | <b>Clarence Valley</b>         |
| <b>Region :</b>                          | <b>Northern</b>      | <b>RPA :</b>                | <b>Clarence Valley Council</b> |
| <b>State Electorate :</b>                | <b>CLARENCE</b>      | <b>Section of the Act :</b> | <b>55 - Planning Proposal</b>  |
| <b>LEP Type :</b>                        | <b>Spot Rezoning</b> |                             |                                |

#### Location Details

|                      |                                                                       |               |                        |
|----------------------|-----------------------------------------------------------------------|---------------|------------------------|
| <b>Street :</b>      | <b>33 Major Mitchell Drive</b>                                        |               |                        |
| <b>Suburb :</b>      | <b>Gulmarrad</b>                                                      | <b>City :</b> | <b>Postcode : 2463</b> |
| <b>Land Parcel :</b> | <b>Lot 68, Lot 69, part Lot 71 DP 1156995 and Lot 1020 DP 1108597</b> |               |                        |

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### DoP Planning Officer Contact Details

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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 :                                                                | <b>N/A</b>                                   | Release Area Name :                                        | <b>N/A</b>         |
| Regional / Sub<br>Regional Strategy :                                          | <b>Mid North Coast Regional<br/>Strategy</b> | Consistent with Strategy :                                 | <b>Yes</b>         |
| MDP Number :                                                                   |                                              | Date of Release :                                          |                    |
| Area of Release (Ha)                                                           | <b>18.54</b>                                 | Type of Release (eg<br>Residential /<br>Employment land) : | <b>Residential</b> |
| No. of Lots :                                                                  | <b>180</b>                                   | No. of Dwellings<br>(where relevant) :                     | <b>0</b>           |
| Gross Floor Area :                                                             | <b>0</b>                                     | No of Jobs Created :                                       | <b>0</b>           |
| The NSW Government<br>Lobbyists Code of<br>Conduct has been<br>complied with : | <b>Yes</b>                                   |                                                            |                    |
| If No, comment :                                                               |                                              |                                                            |                    |

Have there been  
meetings or  
communications with  
registered lobbyists? :

**No**

If Yes, comment :

### Supporting notes

Internal Supporting  
Notes :

External Supporting  
Notes :

### Adequacy Assessment

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**Statement of the objectives - s55(2)(a)**

Is a statement of the objectives provided? **Yes**

Comment :

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

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

Comment :

**Justification - s55 (2)(c)**

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

b) S.117 directions identified by RPA :

**2.1 Environment Protection Zones**

**3.1 Residential Zones**

\* May need the Director General's agreement

**5.1 Implementation of Regional Strategies**

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

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

d) Which SEPPs have the RPA identified?

**N/A**

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

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

- 1) S117 Direction 2.1 Environmental Protection - Council has indicated that given the limited area 3.4ha proposed for an environmental reserve it can be included within the residential zoning. This is not an acceptable arrangement and contrary to the S117 direction Council will need to designate the area for environmental protection through consultation with the Office of Environment and Heritage.**
- 2) S117 Direction 3.1 Residential Zones - efficient use of existing infrastructure and services, the subject land and adjoining residential land to the north are not currently serviced. Council will need to obtain appropriate agreements from the landowner to ensure the longer term upgrades for infrastructure, including local roads and services are guaranteed as part of the servicing strategy for the Gulmarrad growth/urban release area.**
- 3) S117 Direction 5.1 Implementation of Regional Strategies - The Mid North Coast Regional Strategy requires urban development to be directed away from areas of known or likely conservation importance. Where development, including new land release, impacts on biodiversity the Strategy requires a design to minimise impacts or provide offsets by protecting and enhancing the long term viability of priority vegetation and habitat corridors, as well as rehabilitating degraded priority areas. The proposal is inconsistent with this required outcome and as discussed in S117 Direction 2.1 above Council will need to consult with the Office of Environment and Heritage to provide a satisfactory resolution for this matter.**

**Mapping Provided - s55(2)(d)**

Is mapping provided? **Yes**

Comment :

**Mapping is provided, however, there needs to be a set of maps included with exhibition material showing the proposed amendments to the Clarence Valley LEP 2011 for clarity.**

**Community consultation - s55(2)(e)**

Has community consultation been proposed? **Yes**

Comment :

**Council has proposed an exhibition period of 28 days.**

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**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 :

**Proposal Assessment**

**Principal LEP:**

Due Date :

Comments in relation to Principal LEP : **Principal LEP - Clarence Valley LEP 2011 was made 23 December 2011**

**Assessment Criteria**

Need for planning proposal : **The subject land is located approximately 5 kilometres south east of the township of Maclean and 14 kilometres south west of Yamba. It is not affected by the NSW Coastal Policy.**

**The reason for this planning proposal is to enable an increase in the residential subdivision density of the land. It currently has approval for a 43 lot rural residential subdivision, this consent has been commenced. This proposal, through a rezoning of the land from R5 Large Lot Residential to R1 General Residential will increase the lot yield to approximately 180 lots.**

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Consistency with strategic planning framework :

The Mid North Coast Regional Strategy (MNCRS) was published in March 2009 and includes the Clarence Valley LGA. The primary purpose of the MNCRS is to ensure adequate land is available for housing and employment needs in the Mid North Coast over the next 25 years. The Clarence Valley is expected to accommodate an additional 7100 dwellings within this time-frame. Part of this target is expected to be met by the Maclean urban catchment.

While the MNCRS did not specify how the identified dwelling targets would be apportioned across the Clarence Valley, growth area maps were included to assist council's to define land available for investigation. The subject land falls within the Growth Area Map - Clarence North although it had a number of constraints.

The township of Maclean has no potential for greenfield land release, however, the large rural residential precinct of Gulmarrad (population of approximately 1000) in close proximity and does have capacity for urban growth. Council's analysis in relation to this growth indicated that approximately 700 dwellings would be required at Gulmarrad to meet residential supply and demand figures. This growth could only be achieved by clearing the vegetation on the subject land.

As discussed previously, the MNCRS supports the maintenance and enhancement of the Region's biodiversity. However, Council considers the current zoning of the subject land for rural residential development at around two dwellings per hectare inefficient both in terms of infrastructure provision and sustainable settlement. While further refinement to the planning proposal is required to achieve a more acceptable biodiversity outcome, Council's arguments in relation to sustainability are supported.

Maclean Urban Catchment Local Growth Management Strategy (LGMS) was approved in November 2011. Preparation of the Maclean Urban Catchment LGMS was a requirement of the Director General (22 September 2008) in response to a proposed LEP amendment for residential development on the adjoining site to the north. Council was required (in summary) to prepare a structure plan for the Townsend/Gulmarrad/James Creek area that shows how the entire area will be structured in terms of settlement pattern, commercial hierarchy and servicing. This provides the detailed planning assessment required as a basis for decision making within the growth area.

The LGMS recognised the biodiversity values of the subject land and endeavoured to balance competing environmental, social and economic factors by proposing to increase the future development yield to provide for sufficient "critical mass" to allow for the development of a community.

Council considers that development for residential use is a better planning outcome than rural residential development. Council's position is supported by the intent of the MNCRS and Council's Maclean Urban Catchment LGMS to consolidate Gulmarrad into a more cohesive community as part of greater-Maclean. This approach is supported.

Environmental social economic impacts :

Environmental - clearing has already begun on the subject land. As the land contains old growth forest, the former DECCW, in its submission to the Council regarding the draft LGMS objected to the inclusion of this land on the basis that it was vegetated with high-value habitat and this would be cleared if it was to be used for residential development. DECCW also requested that offset planting be required for the remainder of the land which has already been cleared.

Council has responded that the entire area has current consents for rural residential subdivision and as such can be cleared. Also, the area is now isolated from other vegetated land and is no longer part of a corridor.

However, in view of the Office of Environment and Heritage objection, further work is required on this aspect.

Social - Council has supported a pattern of higher density development for this area in the LGMS to create a sense of community for Gulmarrad.

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Economic - the urban development of the land will minimise the immediate and long term costs of infrastructure and service provision.

### Assessment Process

|                                            |                                                                                                                                                                                                                                                                                                                                                                            |                                 |         |
|--------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|---------|
| Proposal type :                            | Precinct                                                                                                                                                                                                                                                                                                                                                                   | Community Consultation Period : | 28 Days |
| Timeframe to make LEP :                    | 12 Month                                                                                                                                                                                                                                                                                                                                                                   | Delegation :                    | DG      |
| Public Authority Consultation - 56(2)(d) : | <b>Essential Energy</b><br><b>NSW Aboriginal Land Council</b><br><b>Department of Education and Communities</b><br><b>Office of Environment and Heritage</b><br><b>Transport for NSW</b><br><b>Office of Environment and Heritage - NSW National Parks and Wildlife Service</b><br><b>NSW Rural Fire Service</b><br><b>Transport for NSW - Roads and Maritime Services</b> |                                 |         |

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

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

If no, provide reasons : **Council has provided a project timeline for the Planning Proposal of six months.**

**The Planning Proposal has some connectivity to adjoining land to the north that required a similar rezoning and that together form a considerable part of the Gulmarrad growth area.**

**The LEP for the adjoining land to the north took over three years to be made. While part of this time involved the preparation of the Maclean Urban Catchment Local Growth Management Strategy (LGMS) it is considered that the timeline suggested by Council may be optimistic.**

**Council will have to provide further information and carry out negotiations as a result of this assessment, which will take additional time. It is recommended that a twelve month time-frame is more appropriate for the Planning Proposal.**

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

If Yes, reasons :

Identify any additional studies, if required. :

**Other - provide details below**

If Other, provide reasons :

**Infrastructure Provisions - The Maclean Urban Catchment LGMS states for Gulmarrad that "the land cannot be rezoned without a binding commitment in place to provide necessary infrastructure, particularly sewage treatment and transport infrastructure, water supply and local road capacity." However, there is no indication within the proposal as to how this will be achieved. Council will need to obtain appropriate agreements from the landowner to ensure that contributions for infrastructure upgrades, including for local roads (which may already be at maximum capacity) and services are guaranteed as part of the servicing strategy for the Gulmarrad growth area.**

**Road Access - Adequate flood free access arrangements to and from the local road network to will need to be considered, including the stormwater issues (road overtopping) at Major Mitchell Drive to ensure safe evacuation can be achieved for the proposed residents during flood events.**

**Biodiversity Outcomes - the planning proposal has included a conceptual urban layout that provides for 3.4 hectares of retained forest and a 20m wide corridor along the northern and western boundaries of the site. It is not clear what zone may be being considered for this vegetated land. Council has raised the issue that given the**

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proposed rezoning will intensify development and that Native vegetation will be cleared contrary to Council's adopted Biodiversity Management Plan and the Mid North Coast Regional Strategy there should be meaningful offset or ameliorative solutions as part of the proposal. Council has advised that there needs to be provision for connectivity through the development and that the current corridor proposed is not sustainable. The Council has suggested widening the corridors and integrating them with the adjoining rezoning layout. The planning proposal will therefore need to provide a more acceptable biodiversity outcome that is more integrated with adjoining land to the north and provides acceptable buffers to separate the vegetation from the residential blocks. These vegetated areas will also need an appropriate zone.

Pacific Highway Realignment - Consultation with RMS will need to particularly address the noise implications for this proposal as a result of the Tyndale to Maclean Alternative Route adopted August 2011 (Pacific Highway Upgrade) While the re-alignment has brought the proposed Pacific Highway route closer to the subject land, the distance between is now approximately 1.5 kilometres and may not be an issue, this matter however has not been considered by the applicant or Council.

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 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-----------|
| Clarence Valley Council_17-12-2012 00_00_00_PP - Lot 68 69 & Part 71 DP 1156995 Lot 1020 DP 1108597 Major Mitchell Drive Gulmarrad - s56_.pdf            | Proposal Covering Letter | Yes       |
| Clarence Valley Council_19-12-2012 00_00_00_Lot 68 69 & pt 71 DP 1156995 & Lot 1020 DP 1108597 Major Mitchell Dr Gulmarrad - additional information_.pdf | Proposal Covering Letter | Yes       |
| Gulmarrad Planning Proposal - 9 Oct 2012.pdf                                                                                                             | Proposal                 | Yes       |
| COMBINED COMMITTEE COUNCIL MEETING MINUTES 11 DECEMBER 2012.pdf                                                                                          | Proposal Covering Letter | Yes       |
| Council Letter 04012013 Timeline.pdf                                                                                                                     | Proposal Covering Letter | No        |

### Planning Team Recommendation

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

S.117 directions:      **2.1 Environment Protection Zones**  
                                 **3.1 Residential Zones**  
                                 **5.1 Implementation of Regional Strategies**

Additional Information :      **It is recommended that:**  
                                 **1) The planning proposal be supported subject to conditions outlined below;**  
                                 **2) The planning proposal be exhibited for a period of 28 days;**  
                                 **3) The planning proposal should be completed within 12 months;**  
                                 **4) The Director General (or an officer nominated by the Director General) agree that the inconsistencies with s117 Directions 2.1, 3.1 and 5.1 will be considered once the following Gateway conditions are met.**

**Gateway conditions:**

**1) Council will need to obtain appropriate agreements from the landowner to ensure the longer term upgrades for infrastructure, including local roads and services are guaranteed as part of the servicing strategy for the Gulmarrad growth/urban release area.**

**2) Adequate flood free, safe, evacuation routes to and from the local road network will need to be identified. This will include addressing the stormwater issues (road**

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overtopping) at Major Mitchell Drive to ensure the proposed residents have access to adjoining towns during flood events.

3) Provide an acceptable biodiversity outcome for the subject land (through negotiations with Office of Environment and Heritage (OE&H)) there should be meaningful offset or ameliorative solutions as part of the proposal. In addition the provision of a sustainable corridor connectivity through the development that is integrated with adjoining land to the north. It is also likely to include the provision of acceptable buffers to separate the vegetation from the residential blocks. Where appropriate these vegetated areas will also need to be designated an environmental zone to provide adequate protection.

4) Consultation with Roads and Maritime will need to include the noise implications for this proposal as a result of the Tyndale to Maclean Alternative Route adopted August 2011 (Pacific Highway Upgrade). The re-alignment has brought the proposed Pacific Highway route closer to the subject land. The distance between is now approximately 1.5 kilometres and while this may not be an issue, it has not been the subject of any consideration by the applicant or Council.

5) A set of LEP maps showing the proposed amendments to the Clarence Valley LEP 2011 should be included with exhibition material to provide the visual outcome of the objectives of the Planning Proposal.

Delegation to Council - Council has provided a positive response to questions listed for evaluation in regards to the issuing of an Authorisation for Delegation. However, there may be an objection to the Planning Proposal. If Council is unable to resolve objections, delegation should not be used.

Supporting Reasons :

The reason for the conditions to the Gateway determination is to provide adequate protection, where appropriate, for the issues outlined above.

Signature:



Printed Name:

JIM CLARK

Date:

10 January 2013