

Harwood Marine Industry Precinct Rezoning - Amendment to Clarence Valley LEP 2011

Proposal Title : Harwood Marine Industry Precinct Rezoning - Amendment to Clarence Valley LEP 2011

Proposal Summary : The planning proposal seeks to rezone Lots 1 – 4 DP 1155528, un-notified Crown Land and adjoining accreted land at Carey's Lane, Harwood, to enable the land to be developed as a marine industry precinct.

It is proposed that the subject land will be rezoned from RU1 Primary Production and W2 Recreational Waterways to IN4 Working Waterfront and W3 Working Waterways however the final zone configuration will be determined after consultation and investigations are completed.

The land adjoins the existing Harwood Island Slipway.

PP Number : PP_2013_CLARE_002_00 **Dop File No :** 12/20697

Proposal Details

Date Planning Proposal Received :	21-Dec-2012	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 : Careys Lane

Suburb : Harwood **City :** **Postcode :** 2463

Land Parcel : Lots 1, 2, 3 and 4 DP 1155528, un-notified Crown Reserve and adjoining accreted land

DoP Planning Officer Contact Details

Contact Name : Paul Garnett

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RPA Contact Details

Contact Name : David Morrison

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DoP Project Manager Contact Details

Contact Name : Jim Clark

Contact Number : 0266416604

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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
MDP Number :		Date of Release :	
Area of Release (Ha) :	52.00	Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	300
The NSW Government Lobbyists Code of Conduct has been complied with : Yes			
If No, comment :			

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

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **Clarence Valley Council has not requested delegation to make the plan in this instance.**

Adequacy Assessment

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

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

Comment : **The Statement of objectives adequately describes the intention of the planning proposal. The proposal seeks to amend the Clarence Valley LEP 2011 by rezoning the subject land to enable it to be developed for marine industry purposes.**

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

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

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

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

1.4 Oyster Aquaculture

- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.2 Mine Subsidence and Unstable Land
- 4.3 Flood Prone Land
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Is the Director General's agreement required? **Yes**

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

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land
SEPP No 71—Coastal Protection
SEPP (Infrastructure) 2007
SEPP (Rural Lands) 2008

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

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

If No, explain : **See the assessment section of his report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The RPA has provided maps which show the current zoning (page 5 of the planning proposal) and subject land and proposed zoning. The configuration of these zones may change following consultation and after any further investigation of the site.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The RPA proposes a 28 day consultation period. The proposal is not considered to be a low impact proposal since the proposal will result in a significant change in the zoning of the area and traffic issues will require further assessment. The planning proposal intends to directly contact key stakeholders including the owners of adjoining lands, the Harwood Sugar Mill and the Yaegl Local Aboriginal Land Council. This consultation period and approach is considered to be appropriate.**

An estimated Project Time Line for the planning proposal has been provided by the RPA as follows;

- 1. Gateway Determination – 31 January**
- 2. Technical studies – 30 April (have allowed three months)**
- 3. Agency Consultation 31 May (have allowed one month after completion of the roads strategy as that strategy would be helpful to that consultation)**
- 4. Community consultation – 3 June – 1 July (allowed 28 days with the benefit of Agency comments)**
- 5. Public hearing – not anticipated**
- 6. Consideration of submissions – 1 July – 19 July**

7. Consideration post-exhibition – 13 Aug (i.e. Council Meeting)

8. Resubmission to Department – 31 August

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 time line.
6. Advising that Council do not request delegation to make the plan in this instance.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

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

Assessment Criteria

Need for planning
proposal :

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

1. The Clarence Marine Precinct 2009 proposes a marine precinct that extends from Yamba to Grafton and includes marine industry uses.
2. The Clarence River Way Masterplan 2008 proposes the promotion and development of port facilities as part of a regional harbour network and maintenance of the Port as a deep water anchorage and working port. The Port of Yamba extends from the mouth of the Clarence River upstream to the Harwood Bridge and includes the river adjacent to the subject site. The Masterplan also advocates the expansion of shipbuilding and repair facilities and the development of a marine industry cluster.
3. The Clarence Valley Industrial Lands Strategy 2007 supports the expansion and clustering of marine businesses and identifies the Lower Clarence, close to existing industries as the preferred location.

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

The proposal to rezone the subject land and apply IN4 and W3 zones is the most appropriate means of achieving the intent of the planning proposal. The land uses permitted in the IN4 and W3 zones permit land uses related to maritime purposes and do not permit broader industrial developments. Therefore the IN4 and W3 zones will enable an appropriate level of control to ensure the land develops for a marine precinct as intended and not as a general industrial estate.

Net community benefit

The planning proposal identifies a net community benefit ensuing from the increased employment opportunities. It is estimated that 300 jobs will be created in new marine

industries on the site and the multiplier effect will positively affect the entire community.

The planning proposal also acknowledges that the use of the land for marine industries will preclude its use for agriculture. The site currently only contributes 0.16% of the cane harvest processed at the Harwood Sugar Mill which would not be a significant loss to the sugar industry.

Consistency with
strategic planning
framework :

Mid North Coast Regional Strategy (MNCRS).

The subject land is not located within an agreed growth area identified in the MNCRS, nor does the Strategy specifically identify the land as future employment lands, however an action of the strategy states;

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

To this end the department has prepared a Draft Marine Based Industry Policy – Far North Coast and Mid North Coast NSW which is due to be exhibited in January 2013. The policy sets locational criteria for consideration of where marine industry land uses may occur outside of the growth areas. These criteria exclude marine based industry on, among other land, land containing habitats of threatened species, populations or ecological communities; seagrass, saltmarsh and mangrove areas.

The subject land appears to satisfy these criteria. However the planning proposal identifies the possibility of native wetland vegetation on the site and mangroves along the river foreshore. The extent and significance of this vegetation and its habitat potential, should be addressed as part of the planning proposal to confirm which areas of the site are suitable for the intended industrial zones.

SEPPs

The planning proposal identifies SEPP 55 – Remediation of Land, SEPP 71- Coastal Protection, SEPP (Infrastructure) 2007 and SEPP (Rural Lands) 2008 as being relevant to the planning proposal.

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

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

There are no other inconsistencies with State environmental planning policies.

S117 Directions.

The following S117 directions are applicable to the proposal, 1.1 Business and Industrial Zones, 1.2 Rural Zones, 1.3 Mining Petroleum Production and Extractive Industries, 1.4 Oyster Aquaculture, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.2 Coastal Protection, 2.3 Heritage Conservation, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils, 4.2 Mine Subsidence and Unstable Land, 4.3 Flood Prone Land, 5.1 Implementation of Regional Strategies, 6.1 Approval and Referral Requirements, 6.2 Reserving Land for Public Purposes, 6.3 Site Specific Provisions and 6.3 Site Specific Provisions.

Of the above s117 Directions the proposal is inconsistent with Directions 1.2, 4.1, 4.3.

Direction 1.2 Rural Zones is relevant to the proposal. The Direction states that a planning proposal shall not rezone land from a rural zone to a residential, business or industrial zone. The planning proposal aims to rezone the subject land from RU1 Primary Production and W2 Recreational Waterway to IN4 Working Waterfront and W3 Working Waterway.

The Direction provides that a planning proposal may be inconsistent with the direction if the inconsistency is justified by a strategy, a study, or is of minor significance. The MNCRS identifies the need for marine industry precincts and provides for the development of criteria for their consideration. It appears that, subject to further investigation of the vegetation on the site, the proposal to rezone the subject land is consistent with the draft criteria for Marine Based Industries. It is therefore considered that the inconsistency with the direction is justified in accordance with the terms of the direction.

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

The draft plan proposes to rezone land from RU1 Primary Production and W2 Recreational Waterway to IN4 Working Waterfront and W3 Working Waterway. The land is mapped as containing class 2 and 3 acid sulfate soils. The proposal may be inconsistent with the direction if it is justified by a study or is of minor significance. The planning proposal states that soil investigations have been conducted for the site and identified potential acid sulphate soils below 1m in depth. No actual acid sulphate soils were identified on the site. The proposal concludes that the potential acid sulfate soils are unlikely to be disturbed by future development which will require filling of the land, and in any case the management of acid sulphate soils can be controlled through the development application process. The inconsistency of the proposal with the direction is therefore considered to be justified in accordance with the terms of the direction.

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

The draft plan proposes to rezone land below the 1 in 100 year flood level to enable development of a marine industry precinct. The direction states that the proposal may be inconsistent with the direction if the proposal is consistent with a floodplain management plan or the inconsistencies are of minor significance. The planning proposal includes a flooding and stormwater assessment which concludes that the filling of the site to create building pads and raise internal road levels will enable development to occur without being restricted by flooding and also without having an adverse impact on the flood affectation of the surrounding area. The inconsistency of the proposal with the direction is therefore considered to be justified in accordance with the terms of the direction.

The proposal is otherwise consistent with S117 Directions.

Environmental social
economic impacts :

The majority of the subject land is cleared rural land used for sugar cane production and cattle grazing. The planning proposal identifies two remnant patches of native vegetation on Lot 1 DP 1155528 which make up approximately 4ha in area. The proposal also identifies stands of mangroves and casuarina along the river foreshore. The proposal states that this land will not be directly impacted by marine industries and therefore may act as a buffer for the houses to the west.

An area of land zoned E2 Environmental Protection is located immediately to the north east of the subject land. It is possible that some of the foreshore vegetation and the native vegetation on Lot 1 may have similar characteristics to this E2 zoned land. An assessment of the type, quality and significance of the vegetation on the subject land should be conducted to determine whether it would be more appropriate to retain a rural zone or apply an environmental protection zone to this land especially since the proposal suggests it will not be directly developed for marine industries.

The development of the site for marine industries will have impacts on the surrounding properties in relation to noise, traffic and amenity. These matters should be able to be adequately addressed at development application stage.

The planning proposal identifies two Native Title Claims over the Clarence River. It is not expected that a change in zoning over the land will impact on the intent of the claims. The planning proposal states that consultation with the Local Aboriginal land Council will be conducted and this is supported.

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The planning proposal has given consideration to the economic impacts of the proposal. The proposal estimates that a further 300 jobs will be created in the long term which will have a positive multiplier effect on the local community.

Assessment Process

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

Timeframe to make LEP : **12 Month** Delegation : **DG**

Public Authority **Office of Environment and Heritage**
 Consultation - 56(2)(d) **NSW Department of Primary Industries - Fishing and Aquaculture**
Transport for NSW - Roads and Maritime Services

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

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

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

Flora

Fauna

Other - provide details below

If Other, provide reasons :

A Road Access Strategy

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 cover letter Harwood Marine Industry Precinct PP.pdf	Proposal Covering Letter	Yes
Council Minutes and report Harwood Marine Industry Precinct PP.pdf	Determination Document	Yes
Harwood Marine PP - submitted by GHD.pdf	Proposal	Yes
Harwood Marine PP - GHD Flood Assessment.pdf	Study	Yes
Harwood Marine PP - Traffic - GHD_2642_Final_30Oct2012.pdf	Study	Yes
Site_Identification_Map for Harwood Marine Industry Precinct CVLEP Amendment_No6.pdf	Map	Yes
Draft zoning map showing proposed zoning of the Harwood Marine Industry Precinct site.pdf	Map	Yes

Planning Team Recommendation

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

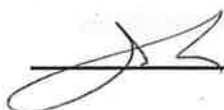
- S.117 directions:
- 1.1 Business and Industrial Zones**
 - 1.2 Rural Zones**
 - 1.3 Mining, Petroleum Production and Extractive Industries**
 - 1.4 Oyster Aquaculture**
 - 1.5 Rural Lands**
 - 2.1 Environment Protection Zones**
 - 2.2 Coastal Protection**
 - 2.3 Heritage Conservation**
 - 3.4 Integrating Land Use and Transport**
 - 4.1 Acid Sulfate Soils**
 - 4.2 Mine Subsidence and Unstable Land**
 - 4.3 Flood Prone Land**
 - 5.1 Implementation of Regional Strategies**
 - 6.1 Approval and Referral Requirements**
 - 6.2 Reserving Land for Public Purposes**
 - 6.3 Site Specific Provisions**

- Additional Information :
- It is recommended that;
- 1. The planning proposal should proceed as a 'routine' planning proposal.**
 - 2. That the following studies are completed and included with the material to be placed on exhibition with the planning proposal;**
 - a. An assessment of the type, quality and significance of the native vegetation and its habitat potential on the subject land, including the accreted foreshore, to determine whether the proposed industrial zone is appropriate or whether it warrants the retention of a rural zone or the application of an environmental protection zone over these parts of the land.**
 - b. A road access strategy to address future vehicular access issues to the site.**
 - 3. The material to be placed on exhibition is to be forwarded to the Regional Director, Northern Region of the Department of Planning and Infrastructure for review under Section 57(2) of the Act prior to exhibition.**
 - 4. The planning proposal is to be completed within 12 months.**
 - 5. That a community consultation period of 28 days is necessary.**
 - 6. That the RPA consult with the following State Agencies**
 - a. Roads and Maritime Services in relation to road access and maritime issues**
 - b. NSW Office of Environment and Heritage**
 - c. Department of Primary Industries – Fisheries and Aquaculture**
 - 7. It is recommended that a delegate of the Director General agree that the inconsistencies of the proposal with S117 Directions 1.2, 4.1 and 4.3 are justified in accordance with the provisions of the direction.**

- Supporting Reasons :
- The reasons for the recommendation are as follows;
- 1. The development of a marine industry precinct on the Clarence River is supported by local and regional strategies.**
 - 2. The site is adjacent to an existing slipway with appropriate deep water access and is therefore consistent with the locational criteria of the Draft Marine Based Industry Policy.**
 - 3. The proposal is consistent with the broad strategic planning framework for the site however further investigation of specific site constraints and potential development impacts are necessary.**

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Signature: _____



Printed Name: _____

JIM CLARK

Date: _____

10 January 2013