

Clarence Valley LEP 2011 – Rezone land at Jubilee Street Townsend to IN1 General Industrial

Proposal Title : **Clarence Valley LEP 2011 – Rezone land at Jubilee Street Townsend to IN1 General Industrial**

Proposal Summary : **The planning proposal seeks to amend Clarence Valley LEP 2011 by rezoning land at Jubilee Street, Townsend from RU2 Rural Landscape to IN1 General Industrial to enable the land to be developed for industrial purposes.**

PP Number : **PP_2015_CLARE_004_00** Dop File No : **15/10296**

Proposal Details

Date Planning Proposal Received : **30-Jun-2015** 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 : **119, 121 and 146 Jubilee Street**

Suburb : **Townsend** City : Postcode : **2463**

Land Parcel : **Lots 8 and 9 DP 810388 and Lot 10 DP 1136092**

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 : **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) :	6.80	Type of Release (eg Residential / Employment land) :	Employment Land
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

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 : **The whole of the subject land is identified as future employment land in the Mid North Coast Regional Strategy.**

The Maclean Urban Catchment Local Growth Management Strategy 2011 identifies the majority of the land as suitable for future industrial / employment generating development.

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 to rezone the land IN1 General Industrial to provide further opportunities for industrial and warehouse land uses and thereby encourage employment opportunities in the area.**

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 proposal seeks to amend the LEP by amending the Land Zoning Map to apply an IN1 General Industrial zone to the land. The proposal will also amend the Lot Size Map and Height of Buildings Map to apply a 1000sqm minimum lot size and 9m maximum building height.**

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
1.5 Rural Lands
4.1 Acid Sulfate Soils**

4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies
6.1 Approval and Referral Requirements
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 14—Coastal Wetlands
SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land

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 this report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The planning proposal contains maps which adequately show the site, and the proposed zoning map changes for the LEP amendment. Maps which show the proposed changes to the Lot Size Map and Height of Buildings Map should also be produced for public exhibition.

Maps which comply with the Standard Technical Requirements for LEP Maps will be required prior to the LEP amendment being finalised.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal describes the proposed rezoning as a low impact proposal. In accordance with "A Guide to Preparing Local Environmental Plans" (the 'Guide'), it is considered that the planning proposal is a low impact planning proposal as it is consistent with surrounding land use zones, and the strategic planning framework. The proposal does not reclassify land or present infrastructure servicing issues. The Guide also suggests written notification to the affected and adjoining land owners. It is therefore recommended that a community consultation period of 14 days is appropriate and affected and adjoining properties should be notified in writing.

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 :

Time Line

The planning proposal includes a project timeline which estimates the completion of the planning proposal in November 2015. To ensure the RPA has adequate time to complete further investigations, exhibition, and finalise reporting, map preparation and legal drafting it is recommended that a time frame of 9 months is appropriate.

Delegation.

Council has advised it is prepared to accept an Authorisation to exercise delegation for

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this proposal. An Evaluation Criteria For the Delegation of Plan Making Functions has been provided. It is considered the matter is of local significance and it is recommended that an Authorisation for the execution of delegation be issued to Clarence Valley Council for this planning proposal.

Overall Adequacy

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. Completing the evaluation criteria for the delegation of plan making functions.

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

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

Assessment Criteria

Need for planning
proposal :

The proposal results from identification of the land as suitable for future employment land uses in both the Mid North Coast Regional Strategy (MNCRS) and the Maclean Urban Catchment Local Growth Management Strategy 2011 (MUCLGMS). The MNCRS nominated the whole of the subject land for future employment land uses while the MUCLGMS identified constraints on Lot 10 and therefore identified only some of lot 10 as suitable for industrial / employment generating land uses. Further discussion on this matter is contained later in this report.

The proposal to rezone the land is the best means of achieving the intent of the planning proposal. The land is currently zoned RU2 Rural Landscape and industrial land uses are prohibited in this zone. Rezoning the land to IN1 General Industrial will enable it to be development for industrial/employment generating land uses consistent with the Strategic planning framework. The application of an IN1 General Industrial zone provides potential for a wide range of land uses and is consistent with the zoning of the adjoining Townsend Industrial Estate.

The planning proposal identifies a net community benefit arising from the development of relatively unconstrained land adjoining an existing industrial estate to provide suitable land for employment opportunities that are needed in the local area.

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Consistency with strategic planning framework :

Mid North Coast Regional Strategy (MNCRS).

The proposal to rezone the subject land IN1 General Industrial is consistent with the MNCRS. The subject land is located within the town and village growth boundary for Townsend and is mapped as proposed employment land on the Growth Area Map for Clarence Valley. The land will contribute to the need for an additional 23ha of industrial land, identified in the MNCRS, as necessary for the Clarence sub-region.

Consistency with Council's Local Strategies.

Maclean Urban Catchment Local Growth Management Strategy 2011 (MUCLGMS)

The proposal is generally consistent with the MUCLGMS. This strategy identified lots 8 and 9 as being unconstrained and suitable for industrial development. However this strategy identified only part of Lot 10 as being suitable for future industrial development. The remainder of Lot 10 was excluded because of the presence of native vegetation over the southern half of the lot.

The Strategy stated that with a more detailed ecological assessment it may be possible to reduce the separation buffer between the existing vegetation and the proposed industrial zoned land. This would enable a larger area of land to be zoned industrial.

The proposal notes that the majority of this native vegetation on Lot 10 has since been cleared. The report prepared by Council staff intended to rezone only that part of Lot 10 which had been cleared of native vegetation. The remainder would retain an RU2 Rural Landscape zone. Council resolved to zone the whole of Lot 10 IN1 General Industrial. Given the characteristics of the native vegetation on Lot 10, the adjoining land uses and its continuity with other vegetation in the vicinity, it is considered that an IN1 zone is appropriate for the whole of Lot 10. Further discussion on the ecological investigations for this site is contained later in this report.

The MUCLGMS states that there is identified demand for industrial zoned land in the short to medium term and therefore there is no need to stage the release of industrial land at Townsend.

The MUCLGMS also states that the land should not be zoned without a binding commitment to providing necessary infrastructure, namely sewage treatment upgrades and local road capacity. This matter is not currently addressed in the planning proposal. It is noted however that Council supports the proposal and has encouraged it through an expression of interest process. It is considered that these local infrastructure issues can be adequately addressed by Council during the processing of the planning proposal and/or at development application stage.

SEPPs

The proposal is not inconsistent with any State environmental planning policies (SEPPs). The following SEPPs are relevant to the proposal SEPP 44, SEPP 55, SEPP (Rural Lands) 2008

SEPP 55 Remediation of Land. The planning proposal is supported by a Preliminary Contamination Assessment which concluded that there is a low likelihood of contamination on the site and no remedial measures are considered necessary. The site is considered to be suitable for an IN1 General Industrial zone.

SEPP 44 Koala Habitat Protection. The Flora and fauna assessment identified that the native vegetation remaining on Lot 10 is considered to be potential koala habitat under SEPP44. The flora and fauna assessment concludes that the vegetation is not considered to be core koala habitat and therefore the rezoning of the land as proposed is unlikely to have an impact on koalas. SEPP 44 encourages councils to apply an environmental protection zone to core koala habitat however the SEPP does not suggest the same requirement for potential koala habitat. The assessment notes that further investigations will be required at development application stage and mitigation measures to prevent adverse impact on the vegetation can be applied at this time.

S117 Directions.

The following S117 directions are applicable to the proposal, 1.1 Business and Industrial Zones 1.2 Rural Zones, 1.5, Rural Lands, 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 2.4 Recreational Vehicle Areas, 3.2 Caravan Parks and Manufactured Home Estates, 3.3 Home Occupations, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils, 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies, 6.1 Approval and Referral Requirements, 6.2 Reserving Land for Public Purposes, and 6.3 Site Specific Provisions.

Of the above s117 Directions the proposal is considered to be inconsistent with Directions 1.2, 2.1, 4.1, and 4.4.

Direction 1.2 Rural Zones is applicable to the proposal. The direction provides that a proposal shall not rezone land from rural to industrial. The proposal seeks to rezone the subject land from RU2 Rural Landscape to IN1 General Industrial. The direction provides that a proposal may be inconsistent with the direction if the inconsistency is justified by a strategy. The subject land is identified for future employment land uses in the Mid North Coast Regional Strategy and the Maclean Urban Catchment Local Growth Management Strategy 2011. Therefore the inconsistency of the proposal with the direction is considered to be justified in accordance with the terms of the direction.

Direction 2.1 Environmental Protection Zones is relevant to the proposal. The direction requires that a planning proposal must include provisions which facilitate the protection and conservation of environmentally sensitive areas and must not reduce the environmental protection standards that apply to the land.

The proposal is inconsistent with this direction as it proposes to apply an IN1 General Industrial zone to the land, part of which contains native vegetation which the Flora and Fauna Assessment has identified as potential koala habitat. The flora and fauna assessment recommends protection of this land by imposing a 25m buffer between future development and the existing native vegetation. The Assessment concludes that if this buffer is in place the rezoning of the land is unlikely to have an adverse impact on locally occurring threatened species.

This area of land is only 0.18ha in size, is of poor ecological value, is not contiguous with the native vegetation on the adjoining land, and measures to protect the vegetation can be imposed at development application stage. It is considered that an environmental protection zone is not necessary for this area of native vegetation. It is noted that SEPP 44 Koala Habitat Protection suggests the use of environmental protection zones for core koala habitat and not for potential koala habitat. The Flora and Fauna Assessment states that the land is not core koala habitat. It is therefore considered that the inconsistency of the proposal with the direction is of minor significance and is justified in accordance with the terms of the direction.

Direction 4.1 Acid Sulfate Soils is relevant to the proposal. The direction provides that a planning proposal must not propose an intensification of land uses on land containing acid sulfate soils. The subject land is identified as class 5 acid sulfate soil on the Clarence Valley LEP 2011 Acid Sulfate Soils map. This is the lowest risk acid sulfate soils. Provisions exist within Clarence Valley LEP 2011 to address the potential impact on acid sulfate soils at development application stage. It is therefore considered that the inconsistency of the proposal with the direction is of minor significance and has been justified in accordance with the terms of the direction.

Direction 4.4 Planning for Bushfire Protection is relevant to the proposal. Part of the subject land is bush fire prone. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a gateway determination has been issued and prior to public exhibition. Until this consultation has occurred the consistency of the proposal with the direction remains unresolved.

The proposal is otherwise consistent with S117 Directions.

Environmental social
economic impacts :

Ecological Impacts.

The southern half of Lot 10 was not included as future industrial land in the MUCLGMS because of the presence of native vegetation and the need to provide for a separation buffer to this vegetation. The majority of this vegetation has since been cleared for bushfire protection reasons. Only 0.18 hectares of vegetation remains on Lot 10.

The Flora and Fauna Assessment states that the ecological value of the native vegetation remaining on Lot 10 is considered to be relatively poor. The remaining vegetation does not include any threatened flora species, populations or endangered ecological communities. However the Flora and Fauna Assessment identified the land as potential koala habitat and recommends protecting this existing vegetation from further disturbance by implementing a 25m setback to future industrial development and infrastructure. This will also provide a degree of protection to the vegetation on lots adjoining Lot 10 to the south east.

The report prepared by Council staff had intended to retain a RU2 Rural Landscape zone over the existing vegetation on lot 10. Council resolved to zone the entirety of Lot 10 IN1 General Industrial.

It is considered that a rural or environmental protection zone is not necessary to protect the existing vegetation on Lot 10 for the following reasons:

1. The area of existing native vegetation is only 0.18 hectares and adjoins existing industrial land uses.
2. The Flora and Fauna Assessment states that the ecological value of this area of native vegetation is considered to be relatively poor
3. The area of native vegetation is not contiguous with the native vegetation on the land to the east or south as it is separated by asset protection zones.
4. The land to the south of Lot 10 contains some native vegetation however this has been significantly disturbed by the use of the land as a Council stockpile area. This land is zoned SP2 Cemetery and will be used as the extension to the lawn cemetery.
5. Appropriate controls can be applied to protect the vegetation at development application stage if necessary.

An IN1 General Industrial zone is therefore considered to be appropriate for the entire area of Lot 10.

Noise

A noise assessment was conducted to determine whether there would be an adverse impact on neighbouring residences from future industrial developments on the subject land. The report concluded that the rezoning of the subject land will not have an adverse acoustic impact on the neighbouring properties providing:

1. A noise attenuation buffer of between 27 and 46m (subject to operating hours) from the subject site to the adjoining residences is imposed unless individual noise attenuation features are installed;
2. Vehicular access is restricted to Paperback Road for Lots 8 and 9
3. Appropriate noise mitigation and management controls are installed at individual industrial operations as a requirement of future development consents.

Given that the potential noise impact from industrial development depends on the type of industrial land use, the distance from the residences, the quality of noise mitigation measure installed and the hours of operation it is appropriate that the whole of the land is zoned IN1 General Industrial and the potential for noise impacts be addressed at development application stage.

Social Impacts

The proposal will have a positive social benefit by providing additional land for employment generating purposes in a suitable location close to existing residential areas of Maclean and Townsend and near the future residential release areas for Gulmarrad and James Creek. The subject land adjoins the existing Townsend industrial estate and has been identified in the strategic planning framework as being suitable for future industrial development.

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Assessment Process

Proposal type : **Routine** Community Consultation Period : **14 Days**

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **Office of Environment and Heritage
NSW Rural Fire Service
Transport for NSW**

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

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

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

Other - provide details below

If Other, provide reasons :

It is considered likely that Council will require traffic and sewerage servicing studies to support the proposal but these are not considered to be necessary to support the planning proposal at the present stage.

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Council Cover Letter for Planning Proposal - Jubilee Street Townsend.pdf	Proposal Covering Letter	Yes
Planning proposal - Jubilee Street Townsend.pdf	Proposal	Yes
Annexure C - Flora and Fauna Assessment -Planning proposal - Jubilee Street Townsend.pdf	Study	Yes
Annexure D - Preliminary Contamination Assessment - Planning proposal - Jubilee Street Townsend.pdf	Study	Yes
Annexure E - Geotech Site Inspection - Planning proposal - Jubilee Street Townsend.pdf	Study	Yes
Annexure F - Noise Impact Assessment -Planning proposal - Jubilee Street Townsend.pdf	Study	Yes
Annexure G - Bushfire Prone Land Map - Planning proposal - Jubilee Street Townsend.pdf	Study	Yes

Planning Team Recommendation

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

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S.117 directions:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.5 Rural Lands
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements
- 6.3 Site Specific Provisions

Additional Information :

It is recommended that;

1. The planning proposal should proceed as a 'routine' planning proposal.
2. Prior to community consultation maps which show the proposed changes to the Lots Size and Height of Buildings maps in the Clarence Valley LEP 2011 are to be prepared and placed on exhibition with the planning proposal.
3. A community consultation period of 14 days is necessary.
4. Council consult with NSW Office of Environment and Heritage and the NSW Roads and Maritime Services.
5. Council consult with the Commissioner of the NSW Rural Fire Services in accordance with S117 Direction 4.4 Planning for Bushfire Protection
6. A delegate of the Secretary agree that inconsistencies of the proposal with S117 Directions 1.2, 2.1 and 4.1 are justified in accordance with the terms of the directions.
7. The planning proposal is to be completed within 9 months.
8. A written authorisation to exercise delegation be issued to Clarence Valley Council for this planning proposal.

Supporting Reasons :

The reasons for the recommendation are as follows;

1. The proposal will provide addition employment lands for the Clarence Valley in a location which adjoins an existing industrial estate, is relatively unconstrained and is close to residential growth areas of Gulmarrad, James Creek, Townsend and Maclean.
2. The proposal to rezone the subject land for industrial purposes is consistent with the Mid North Coast Regional Strategy and Council's local growth management strategy.
3. The inconsistencies of the proposal with the S117 directions are of minor significance or are justified in accordance with the terms of the directions.

Signature:



Printed Name:

Craig Diss

Date:

10 July 2015