

PLANNING PROPOSAL

**AMENDMENT TO CLARENCE VALLEY LOCAL
ENVIRONMENTAL PLAN 2011 – ADDITIONAL
CLAUSES: BOUNDARY ADJUSTMENT AND SPLIT
ZONE SUBDIVISION PROVISIONS**

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1. PRELIMINARY

1.1 Context

This planning proposal constitutes a document referred to in Section 55 of the Environmental Planning and Assessment Act 1979. It has been prepared and structured in accordance with the Department of Planning and Infrastructure's "*A guide to preparing planning proposals*" (October 2012). A gateway determination under Section 56 of the Act is requested.

1.2 Subject Land

This planning proposal applies to all relevant zoned land located in the Clarence Valley Local Government Area.

1.3 Current Zoning & Use

This planning proposal applies to all residential, business, industrial, rural and environmental zones in the Clarence Valley LEP 2011 as prescribed in the draft clauses.

1.4 Background

The Clarence Valley Local Environmental Plan 2011 (LEP) took effect on the 23 December 2011. This plan follows the format of the NSW Government Standard Instrument for LEPs. Through the introduction of the LEP, State Environmental Planning Policy No.1 Variations to Development Standards (SEPP No.1), which enabled a wide range of variations to development standards to be considered on merit, was repealed. Clause 4.6 of the LEP was included to replace the functions of the repealed SEPP No.1, however, not all the functions of the SEPP were carried over into that clause.

The present form of the LEP imposes significant limitations for subdivision in relation to boundary adjustments and the subdivision of land containing two or more zones (i.e. split zones) that create lots below the minimum lot size.

Boundary adjustment for lots below the minimum lot size

Since the introduction of the LEP Council has received a number of requests for the adjustment of boundaries between rural (RU1 Primary Production & RU2 Rural Landscape), environmental (E2 Environmental Conservation & E3 Environmental Management), and large lot residential (R5) zoned lots where one or more of the lots are below the minimum lot size specified for the land. In a number of cases there has been identified planning merit in that the adjusted lots would retain or enhance agricultural potential or environmental outcomes. The current provisions of the LEP do not allow for Council to consent to such applications regardless of the merit.

Some minor boundary adjustments are permitted under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) as exempt development. However, amendments to that SEPP in early 2014 specified that boundary adjustment involving lots below the minimum lot size could only result in an increase in area of the undersized lots. If a boundary adjustment is undertaken between two or more lots that are all below the minimum



lot size, it is impossible for all lots to increase in area. As a result, boundary adjustments between undersized lots could no longer be exempt development under the Codes SEPP.

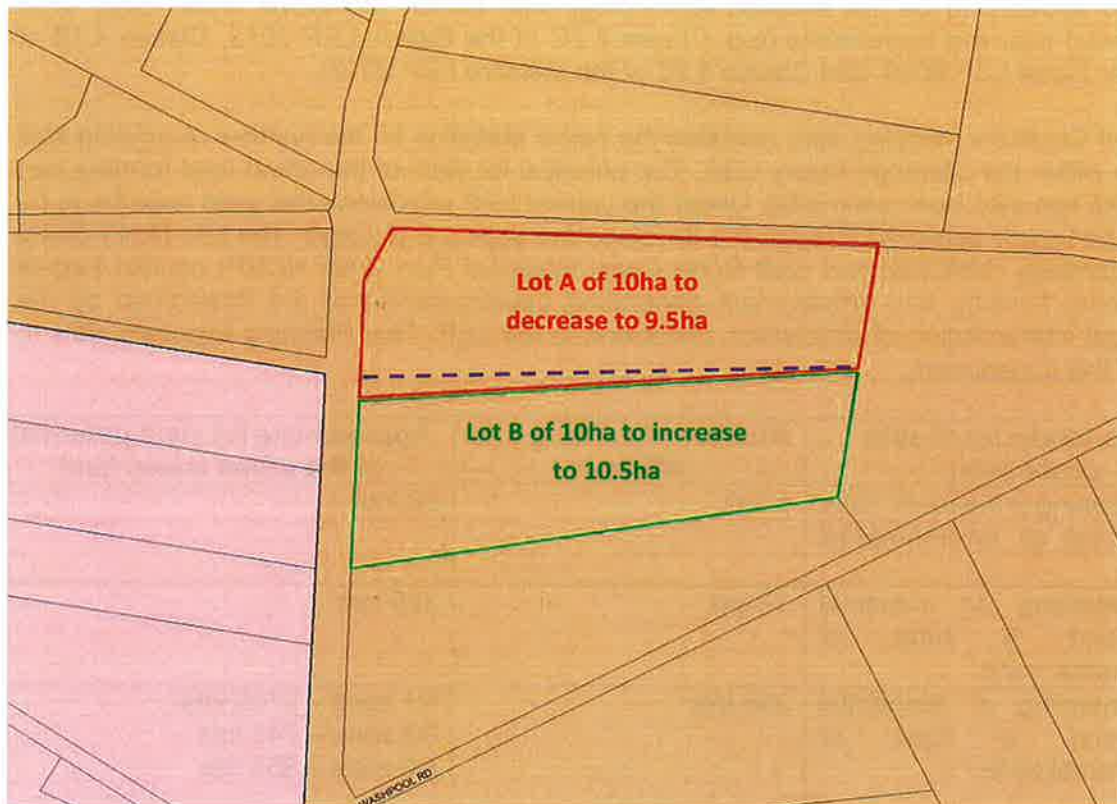
As such, currently there is no ability under any State or Local plans to allow the consideration of proposals for boundary adjustment between existing lots below the minimum lot size. Amendments to the LEP are considered necessary to enable such boundary adjustments to be permitted where appropriate, and subject to development consent being granted. With any amendments, it is considered that where such lots have a dwelling eligibility prior to the adjustment that eligibility should be retained. Notwithstanding that, no additional dwelling entitlements should be created through boundary adjustments involving lots below the minimum lot size. Any existing agricultural or environmental values of the land should also be retained in conjunction with the resulting subdivision.

An example is provided below of a boundary adjustment involving two rural lots below the minimum lot size. The boundary adjustment is not currently permissible under the LEP or Codes SEPP. The proposed provisions will enable the development to be permissible subject to consideration of a Development Application.

Example boundary adjustment for rural land at Clarence

Site information:

Lot	Existing lot area	Zone	Minimum lot size required	Proposed lot area
A	10ha	RU2 Rural Landscape	40ha	9.5ha
B	10ha	RU2 Rural Landscape	40ha	10.5ha



KEY:

- **Red solid line** = lot A existing boundaries
- **Green solid line** = lot B existing boundaries
- **Purple dashed line** = proposed boundary adjustment

NOTES

- Each lot has a dwelling entitlement as a dwelling house is erected on each lot.
- In the event that one or both allotments were vacant then they would retain their existing dwelling entitlement and associated conditions. In this case that entitlement would lapse if a DA for a dwelling-house is not lodged with Council by 23 December 2021.

Subdivision of certain split zoned lots

Council has also received several enquiries relating to the subdivision of land in urban zones (all residential, business & industrial zones), where the lot also includes a component of rural or environmental land that does not meet the identified minimum lot size for the relevant part of the subject land. The current LEP provisions do not enable subdivision of the urban zoned part of the lot to occur, as the specified minimum lot size for the residue lot containing the rural or environmental land cannot be met.

The issue arises from more than one minimum lot size applying to the land under the LEP, which typically correlates to the split zoning of the land, although the two are not directly linked. The term split zoned lots has been adopted through this Planning Proposal for practicality reasons and it also appears to be the adopted terminology with similar provisions under other local environmental planning instruments (e.g. Clause 4.2C of the Ballina LEP 2012, Clause 4.1B of the Greater Taree LEP 2010, and Clause 4.2E of the Lismore LEP 2012).

A search of Council's mapping data revealed the below statistics on the number of existing split zoned lots within the Clarence Valley LGA. The potential lot yield of the urban land forming part of those lots has also been estimated. Under the current LEP provisions this yield appears to be unable to be legally achieved through the development approval process. The Mid North Coast Regional Strategy (MNCRS) and draft North Coast Regional Plan (draft NCRP) contain targets for residential housing and employment generating development that are threatened by the current legal interpretation of subdivision provisions in the LEP. This Planning Proposal aims to overcome this impediment.

Zones (make up of split zoned lots)	Number of existing lots affected	Approximate lot yield potential of the urban zoned land
Lots containing a business zone and a rural or environmental zone	5 lots	50 lots
Lots containing an industrial zone and a rural or environmental zone	17 lots	225 lots
Lots containing a residential zone and a rural or environmental zone	256 lots	R1 zone – 2700 lots R2 zone – 745 lots R5 zone – 853 lots Total residential = 4300 lots

Several options have been considered in regards to the intended outcome sought for such provisions. The preferred outcome is to enable the subdivision of the split zone lots to allow the rural or environmental land to be excised into a single residue parcel, albeit below the minimum lot size, where it can be demonstrated that the rural or environmental land can support a dwelling house, freeing up the urban land so that it can be developed. It is considered reasonable to enable the creation of an undersized residue lot containing all of the rural or environmental zone land and to permit a dwelling house to be erected on that lot, if demonstrated to be suitable, for the following reasons:

- The subject lots are typically located on the urban fringe, and as such, the residue lot is likely to already have, or could be, serviced in accordance with relevant development standards and controls. Hence, there would be less likelihood of

unreasonable demands on existing services or infrastructure. Existing services can be sustainably utilised to support additional housing on the urban fringe.

- The rural land will remain in one parcel adjoining urban land, as such, the subdivision will not result in dispersed rural settlement or fragmentation of rural land.
- It would enable optimal development of the urban land.
- In some cases, the rural or environmental land may provide an equally sufficient, or even more suitable, building area than land in the urban zone.
- There may already be a dwelling house constructed on the rural or environmental part of the lot.

Other Council's have introduced similar provisions into their LEP, however, their provisions generally require every single residue lot to be made up of a parcel of urban land as well as all the rural or environmental land. Under their provisions, there have been no restrictions applied as to where a dwelling house could be erected on the residue lot, meaning a dwelling house could still be erected on the rural or environmental land and not the urban land, which would then result in the urban land potentially left undeveloped. This situation could be considered contrary to some of Council's strategic plans, which focus on optimising the development potential of existing urban land.

In saying that however, there are cases where the residue lot should be required to contain a portion of the urban zone land that can be developed for its intended purpose (residential, business, or industrial), particularly if it has been determined that the rural or environmental land is not suitable to support a dwelling house. Without this requirement a residue lot with limited potential use could be created. A dwelling house may not be considered suitable where there is an unacceptable land use conflict, significant environmental value, natural hazards, lack of suitable services or dwellings are prohibited in the zone (e.g. E2 zones). For example, there may be significant land use conflicts identified for a split zoned lot containing a mix of rural and industrial land, and in that case there would be benefit in the residue lot also containing land in the industrial zone and not granting a dwelling entitlement to the rural land. The suitability of the rural or environmental land for a dwelling house would be assessed at the time of a Development Application.

The new provisions should be flexible to enable both scenarios to be considered on merit in regards to the requirements for the creation of the residue lot.

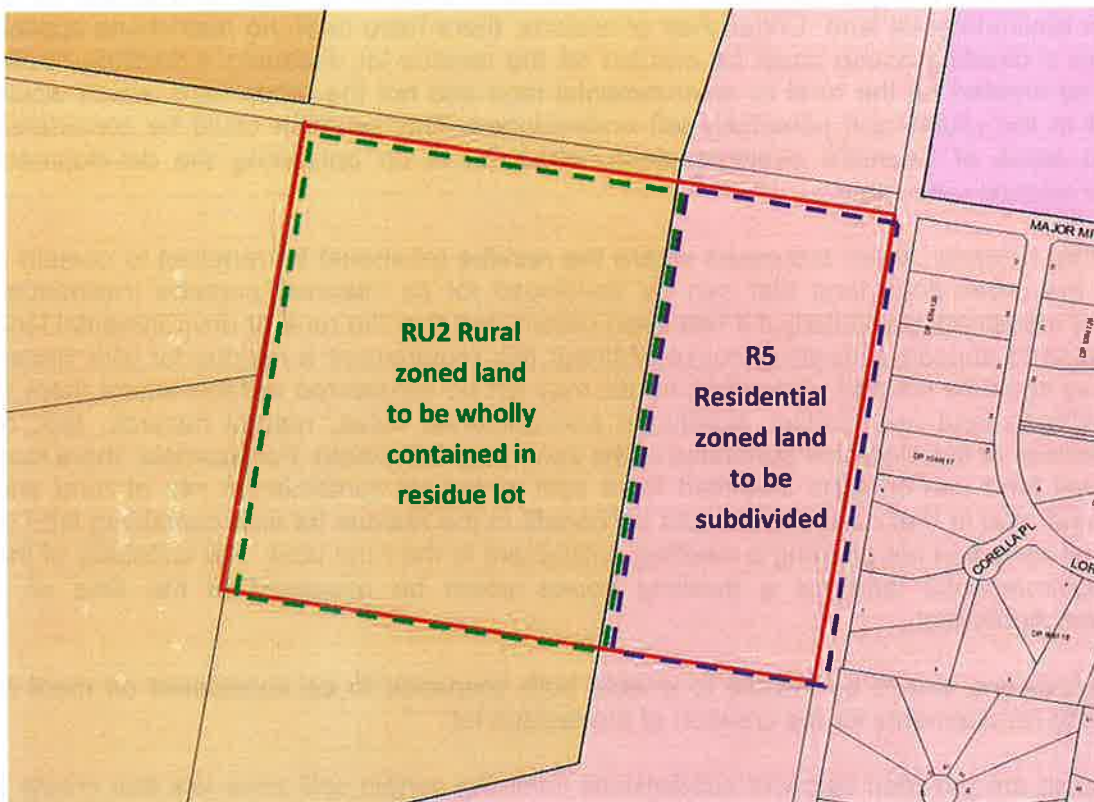
Two examples are provided below of subdivisions involving certain split zone lots that create a residue lot that is below the minimum lot size for the rural and environmental land. The subdivisions are not currently permissible under the LEP. The proposed provisions will enable the developments to be permissible subject to considered of Development Applications.

Several Councils, including most North Coast Councils, have been successful in inserting similar clauses for boundary adjustments and split zone subdivisions into their LEP's to enable Development Applications to be considered in the above, or similar, circumstances.

Example 1 split zone subdivision for a parcel of land at Gulmarrad

Site information:

Zone	Approximate area of land in relevant zone	Minimum lot size required	Potential lot yield
Part R5 Large Lot Residential	7.5ha	4000m ²	18 lots
Part RU2 Rural Landscape	13.2ha	40ha	None



KEY:

- Red solid line = lot boundaries
- Purple dashed line = extent of R5 zoned land within the lot
- Green dashed line = extent of RU2 zoned land within the lot

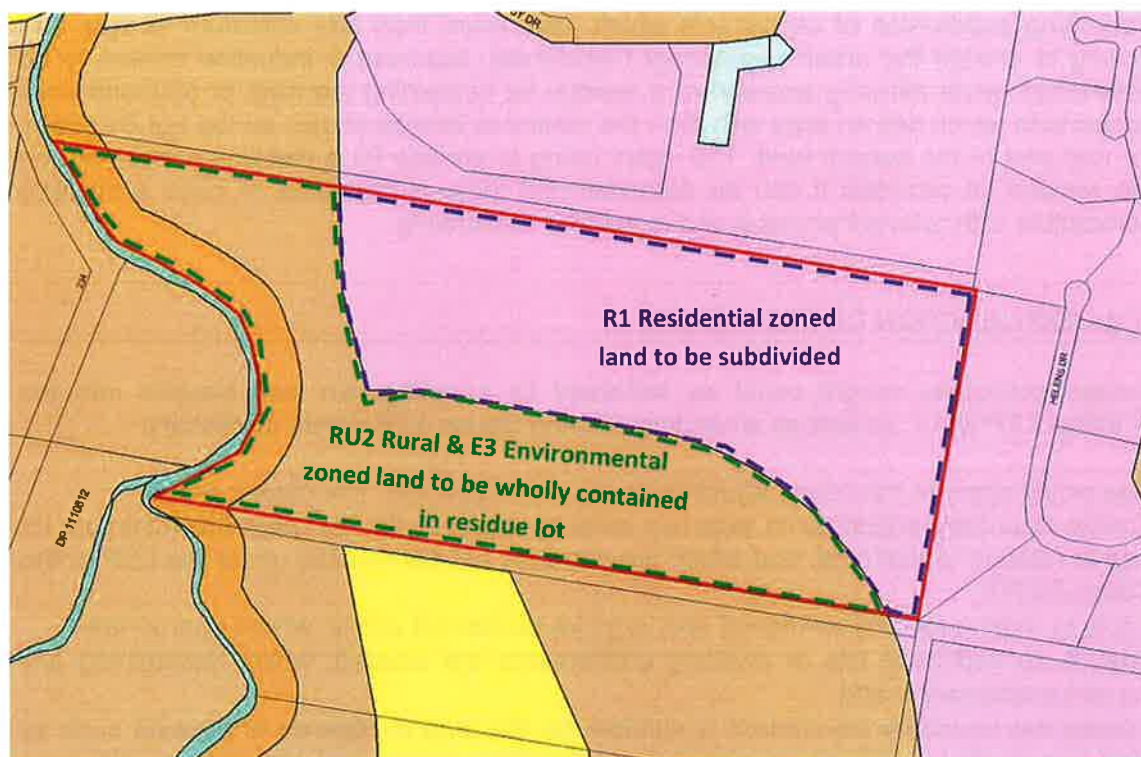
NOTES:

- The R5 part of the lot could be subdivided and be separated from the RU2 part subject to consideration of constraints, relevant policy and legislation.
- The RU2 part of the lot could be granted dwelling entitlement provided there was a site suitable for construction of a dwelling-house and associated servicing. If inadequate site, due to flood hazard or biodiversity impacts for example, then part of the R5 land with a suitable house site would need to be attached to the RU2 land.

Example 2 split zone subdivision for a parcel of land at Clarenza

Site information:

Zone	Approximate area of land in relevant zone	Minimum lot size required	Potential lot yield
Part R1 General Residential	19.6ha	None	235 lots (@ 12 lots/ha)
Part RU2 Rural Landscape	15ha	40ha	None
E3 Environmental Management	2.7ha	40ha	None



KEY:

- Red solid line = lot boundaries
- Purple dashed line = extent of R1 zoned land within the lot
- Green dashed line = extent of RU2 (brown colour) & E3 (orange colour) zoned land within the lot

NOTES:

- The R1 part of the lot could be subdivided and be separated from the RU2 and E3 part subject to consideration of constraints, relevant policy and legislation.
- The RU2/E3 part of the lot could be granted dwelling entitlement provided there was a site suitable for construction of a dwelling-house and associated servicing. If inadequate site, due to flood hazard, access and/or sewerage treatment plant buffer for example, then part of the R2 land with a suitable house site would need to be attached to the RU2/E3 land.

2. PART 1 - OBJECTIVE OR INTENDED OUTCOME

The objective of this planning proposal is to provide greater flexibility in relation to the subdivision of land by:

1. Permitting boundary adjustment subdivision where one or more allotments involved do not meet the minimum lot size specified for the subdivision of land, subject to the application not leading to the creation of any additional lots or dwelling eligibilities, whilst retaining any existing entitlements, and only where the adjustment does not adversely impact on the ability to achieve the objectives of the relevant zones or create land use conflicts; and
2. Permitting subdivision of certain lots which have more than one minimum lot size and zoning to enable the urban component (residential, business & industrial zones) to be developed, while allowing excision of a residue lot containing the rural or environmental zoned land which has an area less than the minimum lot size shown on the Lot Size Map for that part of the subject land. The intent being to provide for a dwelling entitlement on the residue lot provided it can be demonstrated there is capability to build a dwelling compatible with relevant physical and legislative constraints.

3. PART 2 - EXPLANATION OF PROVISIONS

The proposed outcomes sought could be achieved by inserting two new clauses into the Clarence Valley LEP 2011, as well as amending existing clause 4.2B where necessary.

One clause would apply to boundary adjustments of undersized lots. The clause should:

- Enable boundary adjustments between existing lots that do not meet the minimum lot size in relation to that land, and which are currently not permissible under the LEP or the Codes SEPP;
- Apply to most rural, environmental and large lot residential zones, where appropriate;
- Ensure no additional lots or dwelling entitlements are created, whilst maintaining any current entitlements; and
- Ensure the boundary adjustment is suitable for the land in regards to aspects such as land use conflicts, agricultural viability, conservation values and compliance with zone objectives.

Clause 4.2B 'Erection of dwelling houses and dual occupancies (attached) on land in certain rural, residential and environmental protection zones' of the LEP will need to be amended to ensure that any lot involved in a boundary adjustment retains any dwelling entitlement it had prior to the boundary adjustment. The sunset clause provisions under clause 4.2B(4) should still apply to that lot, if applicable. No additional dwelling entitlements should be created.

The second clause would apply subdivision of land with certain split zones. The clause should:

- Enable subdivision of certain split zoned lots containing land in an urban zone (residential, business or industrial zone), as well as land in a rural or environmental zone where the rural or environmental zoned land is below the minimum lot size for the land;

- Enable the rural or environmental zone land to be excised from the urban land, so that it is contained within a single residue lot that is below the minimum lot size specified, providing that lot is suitable to have a dwelling house erected on it;
- In cases where the residue rural or environmental land is not suitable to support a dwelling, require the residue lot to also contain land in an urban zone that could be used for its intended purpose (i.e. residential, business or industrial) and a dwelling house would not be permitted on the rural or environmental zone land;
- Enable the orderly development / subdivision of the remaining urban land.

This clause will not apply to all lots with split zones or multiple minimum lot sizes.

Clause 4.2B will also need to be amended to enable the erection of a dwelling house and dual occupancies on the undersized residue lot created under the new subdivision clause for lots in certain split zones where it has been demonstrated the lot can support a dwelling house. The sunset clause provisions under clause 4.2B(4) is not to apply to that undersized residue lot.

The following draft clauses / amendments are proposed.

1. New clause - Clause XXXX Boundary adjustments between lots in certain rural, residential and environment protection zones

- (1) The objective of this clause is to facilitate boundary adjustments between lots where one or more existing lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land but the objectives of the relevant zone can be achieved.
- (2) This clause applies to land in any of the following zones:
 - (a) Zone RU1 Primary Production,
 - (b) Zone RU2 Rural Landscape,
 - (c) Zone R5 Large Lot Residential,
 - (d) Zone E2 Environmental Conservation,
 - (e) Zone E3 Environmental Management.
- (3) Despite clause 4.1(3), development consent may be granted to the subdivision of two or more adjoining lots, being land to which this clause applies, if the subdivision will not result in any of the following:
 - (a) an increase in the number of lots, or
 - (b) an increase in the number of dwellings on, or dwellings that may be erected on, any of the lots.
- (4) In deciding whether to grant development consent for the subdivision of land under this clause, the consent authority is satisfied that:
 - (a) the potential for land use conflicts between existing and approved uses on the land, and on adjoining land, is not unreasonably increased,
 - (b) the agricultural viability of any land in Zone RU1 Primary Production or Zone RU2 Rural Landscape is not unreasonably affected, and
 - (c) the conservation values of any land in Zone E2 Environmental Conservation or Zone E3 Environmental Management is not compromised.

2. New clause - Clause XXXX Exceptions to minimum subdivision lot sizes for certain split zones

- (1) The objectives of this clause are as follows:
 - (a) to provide for the subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1,
 - (b) to ensure that the subdivision occurs in a manner that promotes suitable land uses and development.
- (2) This clause applies to each lot (an **original lot**) that contains:
 - (a) land in a residential, business or industrial zone, and
 - (b) land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone E2 Environmental Conservation and/or Zone E3 Environmental Management.
- (3) Despite clause 4.1, development consent may be granted to subdivide an original lot to create other lots (the **resulting lots**) if:
 - (a) one of the resulting lots will contain:
 - (i) all of the land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone E2 Environmental Conservation or Zone E3 Environmental Management that was in the original lot, or
 - (ii) land in a residential, business or industrial zone that has an area that is not less than the minimum lot size shown on the Lot Size Map in relation to that land, as well as all of the land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone E2 Environmental Conservation or Zone E3 Environmental Management that was in the original lot,
 - (b) each of the other resulting lots will contain land that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land.
- (4) A lot can only be created under sub clause 3(a)(i) if the consent authority is satisfied the lot is suitable for the erection of a dwelling house.

3. Amended clause - Clause 4.2B Erection of dwelling houses and dual occupancies (attached) on land in certain rural, residential and environmental protection zones

- (1) *The objectives of this clause are as follows:*
 - (a) *to minimise unplanned rural residential development,*
 - (b) *to enable the replacement of lawfully erected dwelling houses and dual occupancies (attached) in rural, residential and environmental protection zones,*
 - (c) *to control rural residential density affected by historical subdivision patterns in Zone R5 Large Lot Residential.*
- (2) *This clause applies to land in the following zones:*
 - (a) *Zone RU1 Primary Production,*
 - (b) *Zone RU2 Rural Landscape,*
 - (c) *Zone RU3 Forestry,*
 - (d) *Zone R5 Large Lot Residential,*
 - (e) *Zone E3 Environmental Management.*

- (3) Development consent must not be granted for the erection of a dwelling house or dual occupancy (attached) on land to which this clause applies, and on which no dwelling house or dual occupancy (attached) has been erected, unless the land is:
- (a) a lot that is at least the minimum lot size specified for that land by the [Lot Size Map](#), or
 - (b) a lot created before this Plan commenced and on which the erection of a dwelling house or dual occupancy (attached) was permissible immediately before that commencement, or
 - (c) a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house or dual occupancy (attached) would have been permissible if the plan of subdivision had been registered before that commencement, or
 - (d) an existing holding, **or**
 - (e) **a lot created under clause XXXX (3)(a)(i), or** (i.e. new clause no. 2 above)
 - (f) **a lot created from a boundary adjustment and on which the erection of a dwelling house or dual occupancy was permissible immediately before the boundaries were adjusted.**

Note. A dwelling cannot be erected on a lot created under clause 9 of [State Environmental Planning Policy \(Rural Lands\) 2008](#) or clause 4.2.

- (4) Land ceases to be a lot referred to in subclause (3) (b), (c) or (f), or a holding referred to in subclause (3) (d), if an application for development consent referred to in subclause (3) is not made in relation to that land before the date 10 years after the commencement of this Plan.
- (5) Despite subclause (3), development consent may be granted for the erection of a dwelling house or dual occupancy (attached) on land to which this clause applies if:
- (a) there is a lawfully erected dwelling house or dual occupancy (attached) on the land and the dwelling house or dual occupancy (attached) to be erected is intended only to replace the existing dwelling house or dual occupancy (attached), or
 - (b) the land would have been a lot or a holding referred to in subclause (3) had it not been affected by:
 - (i) a minor realignment of its boundaries that did not create an additional lot, or
 - (ii) a subdivision creating or widening a public road or public reserve or for another public purpose.

- (6) In this clause:

existing holding means land that:

- (a) was a holding on the relevant date, and
- (b) is a holding at the time the application for development consent referred to in subclause (3) is lodged,
whether or not there has been a change in the ownership of the holding since the relevant date, and includes any other land adjoining that land acquired by the owner since the relevant date.

holding means all adjoining land, even if separated by a road or railway, held by the same person or persons.

relevant date means:

- (a) in the case of land to which the *Copmanhurst Local Environmental Plan 1990* applied immediately before the commencement of this Plan—4 June 1971, or
- (b) in the case of land to which the *Ulmarra Local Environmental Plan 1992* applied immediately before the commencement of this Plan—5 September 1969, or
- (c) in the case of land to which the *Richmond River Local Environmental Plan 1992* applied immediately before the commencement of this Plan—18 February 1970.

Note. The owner in whose ownership all the land is at the time the application is lodged need not be the same person as the owner in whose ownership all the land was on the stated date.

4. PART 3 - JUSTIFICATION

Section A – Need for the Planning Proposal

4.1 Is the Proposal a result of any strategic study or report?

Boundary adjustments

No, the proposal to permit boundary adjustments results from practical issues which have arisen due to lack of flexibility in the provisions contained in the Standard Instrument – Principal Local Environmental Plan. Prior to implementation of the Standard Instrument, Council traditionally permitted the adjustment of boundaries between rural and environmental zoned lots to facilitate improved layouts with increased potential agricultural productivity and environmental outcomes. Previously, provisions existed to vary minimum lot sizes under the State Environmental Planning Policy No.1 – Development Standards (SEPP 1), however, that instrument was repealed by the Clarence Valley LEP 2011.

Furthermore, boundary adjustments between two undersized lots cannot currently be undertaken as exempt development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP).

Split zone subdivision

Yes, this clause is essential to enable the development of residential, business and industrial zoned land identified as growth areas in Council's adopted Mid North Coast Regional Strategy (MNCRS). Currently some of this urban zoned land marked for growth can not be optimally developed as the resultant residue lot would not be able to meet its adopted minimum lot size. This constrains growth in housing and employment generating development in the Clarence Valley. The amendments to allow the subdivision of certain split zoned land will contribute to achieving the housing and employment goals identified in the MNCRS.

4.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. Amending the LEP is the best means of achieving the objectives of this Planning Proposal. The only other option would be for each proposal to be subject to a Planning Proposal to amend

the minimum lot size applying to the land. The second option would be very time consuming and expensive and would create a barrier to bona-fide and beneficial projects.

There is provision under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 for minor boundary adjustments that can be undertaken as exempt development. Not all boundary adjustments involving lots below the minimum lot size can meet the exempt provisions. The LEP clause can be applied to proposals that do not meet the exempt provisions and can hence, be subject to a Development Application.

Section B – Relationship to Strategic Planning Framework

4.3 Applicable Regional Strategy – Mid North Coast Regional Strategy

The Mid North Coast Regional Strategy (MNCRS, March 2009) is the relevant regional strategy. The purpose of the Planning Proposal is to introduce flexibility by enabling subdivision of certain split zoned lots and thus removing potential barriers which may otherwise prevent existing development potential in residential, business and industrial zones being achieved. The Planning Proposal is not inconsistent with the objectives and actions of the MNCRS, and will result in amendments to the CVLEP that will contribute to growth in housing and employment sectors to better achieve goals in the MNCRS, in particular providing the legal ability for urban zoned land to be subdivided where it is part of an allotment containing land in a rural or environmental zone below their respective minimum lot sizes.

The Regional Strategy states that a local environmental plan will include provisions to limit dwellings in rural and environmental zones and the Planning Proposal is not considered to be inconsistent in that regard. While the Planning Proposal intends to amend the LEP to allow the creation of rural or environmental zoned lots below the minimum lot size, only residue lots that are suitable of supporting a dwelling house will be permitted. The Regional Strategy also specifies that the spread of urban development is to be contained and development should efficiently utilise existing services and infrastructure. The amendments are consistent with these actions of the Plan as the parcels of land where the residue may obtain a dwelling entitlement are often located on the urban fringe where existing services are available (or will be made available).

The Regional Strategy also includes actions that are relevant to risk reduction for new development in hazard prone areas. The suitability of the land for the subdivision and the suitability of the residue lot for the construction of a dwelling house are to be assessed as part of the Development Application for the subdivision. The application will need to satisfactorily address, and demonstrate compliance with, relevant development standards and controls, including but not limited to those relating to bushfire and flooding risks.

The Planning Proposal does not result in a change of any land zones, and will enable optimal development of existing urban zoned land, whilst prioritising the agricultural and environmental values of the land, subject to consideration of a Development Application.

Refer to Appendix 2 for a detailed assessment of proposals compliance against strategy sectors, outcomes and actions.



The draft North Coast Regional Plan (draft NCRP) has been publically exhibited and is essentially consistent with the MNCRS. Hence, there is no apparent inconsistency between this planning proposal and the draft NCRP.

4.4 Consistency with Council's local strategies and other local strategic plans

It is considered that this proposal has no adverse impact on any of Council's local strategies.

Refer to Appendix 3 for an assessment against relevant Council strategies.

4.5 Consistency with applicable State Environmental Planning Policies

This proposal is not site specific and hence, the majority of the SEPP's are not relevant to this Planning Proposal. The one SEPP relevant to this proposal is the State Environmental Planning Policy (Rural Lands) 2008.

The Rural Lands SEPP seeks to protect rural lands and the economic activities that are currently carried out on them or could potentially occur in the future. The provisions proposed by the Planning Proposal are considered to be generally consistent with the Rural Lands SEPP.

Boundary adjustments

The amendments do not lead to land fragmentation or land use conflicts and do not create any additional dwelling opportunities beyond those that already exist. The objectives of the SEPP are maintained by the required considerations inherent in this clause.

Split zone subdivision

The split zone subdivision provisions will result in the creation of undersized rural lots with the ability to construct a dwelling house, where demonstrated capable of supporting a dwelling. The rural land will be wholly contained in a single residue lot, and as located on the urban fringe is likely to be able to be adequately serviced. The provisions are not considered to contribute to disperse rural settlement or fragmentation of rural land, which are key principles in the Rural Lands SEPP.

Compliance with the objectives of this SEPP would not be compromised. Any Development Application lodged under the amendments proposed will be assessed in accordance with the provisions of the SEPP (Rural Lands), where applicable.

Refer to Appendix 4 for a SEPP assessment and compliance table. There is no inconsistency with any SEPP.

4.6 Consistency with applicable Ministerial Directions (s.117 Directions)

The planning proposal is consistent with applicable section 117 Ministerial Directions. Refer to Appendix 5 for Section 117 Ministerial Directions assessment and compliance table.

Section C – Environmental, social and economic impact

4.7 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

It is considered unlikely that the proposal will have an adverse impact upon critical habitat or threatened species, population or ecological communities, or their habitats. Detailed assessment of these effects (if any) will occur when a Development Application is submitted for a specific site.

4.8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

There are no direct negative or adverse environmental effects as a result of the Planning Proposal. Any possible environmental issues will be addressed as part of the Development Application process including the imposition of conditions to require management of potential impacts, if required.

4.9 Relevant social and economic effects?

Boundary adjustments

The ability to rationalise property boundaries in rural areas to achieve desired outcomes, whilst preserving the ability to achieve the objectives of the agricultural zones, is not considered to have significant social or economic impacts.

Split zones subdivisions

The proposed clause will work to enable land already identified for higher development purposes (residential, business or industrial zones) to be excised from the connected rural or environmental land. The current provisions prevent the development of this land due to unintended inflexibility in the minimum lot size criteria for land in rural or environmental zones on the same land / lot as the urban zoned land. The amendment will facilitate the provision of additional housing and employment opportunities, as identified in the regional strategic plans.

Section D – State and Commonwealth interests

4.10 Is there adequate public infrastructure for the planning proposal?

The Planning Proposal does not impact on the need for public infrastructure.

4.11 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The views of relevant public authorities have not been sought at this early stage as a gateway determination has not yet been issued.

The proposed agency/stakeholder consultation will be confirmed with any Gateway determination issued. The outcomes of the consultation will be reported back to Council following community consultation/public exhibition.

Refer also to Section 6 Community Consultation below.

5. MAPPING

No maps are affected by this planning proposal.

6. COMMUNITY CONSULTATION

Council will undertake community consultation following the issue of a Gateway Determination that, in Council's opinion, contains reasonable and standard conditions. For the purposes of public notification, Council considers that the planning proposal is low impact in accordance with the Department of Planning and Environment's "*A guide to preparing local environmental plans*". However, notwithstanding that, a twenty eight (28) day public exhibition period is deemed appropriate.

Notification of the exhibited planning proposal will include:

- Placement of an advertisement in a newspaper circulating within the area affected by the planning proposal
- Notification on Council's website
- Display at Council's Grafton and Maclean offices

A public hearing is not considered necessary in this instance.

7. PROJECT TIMELINE

An estimated timeline for this project is 9 months from the issue of a Gateway determination, providing such determination does not impose conditions that are onerous to satisfy.

APPENDIX 1: MID NORTH COAST REGIONAL STRATEGY COMPLIANCE

MID NORTH COAST REGIONAL STRATEGY OUTCOMES/ACTIONS	COMPLIANCE	COMMENTS
Strategy sector - Settlement and housing		
Outcomes		
Actions – Urban settlement 1. Local growth management strategies, local environmental plans and other statutory planning controls will align with the Regional Strategy's settlement network (as shown on the growth area maps) to contain the spread of urban development, efficiently utilise existing services and infrastructure, and protect areas of high conservation value.	Complies	Complies - the proposed split zone clause will enable flexibility in the potential subdivision and development of existing residential, industrial and business growth areas. The provisions will assist in containing urban growth to existing urban zones whilst achieving housing targets for the Clarence Valley LGA.
Actions – Urban settlement 2. Councils will plan for a range of housing types of appropriate density, location and suitability that are capable of adapting and responding to the ageing of the population.	Complies	Complies – the split zoned provisions will enable urban areas to be developed to optimal levels. The residential land can subsequently be used for the provision of a variety of housing types and contribute to achievement of housing targets for the Clarence Valley LGA in the MNCRS.
Actions – Urban settlement 3. Councils will consider a range of affordable housing strategies, including forms of low cost housing, suitable zonings and development controls to improve housing affordability and choice. These strategies must be consistent with relevant State policies.	Complies	Complies - though strategy sector is not relevant.
Actions – Urban settlement 4. Where development or rezoning increases the need for State infrastructure, the Minister for Planning may require a contribution to the provision of the infrastructure having regard to the State Infrastructure Strategy and equity considerations.	Complies	Complies - though strategy sector is not relevant.
Actions – Urban settlement 5. Local environmental plans cannot use the 'Transition zone' to identify land for future urban investigation.	Complies	Complies - though strategy sector is not relevant.
Actions – Urban settlement 6. Local environmental plans will maintain interurban	Complies	Complies - though strategy sector is not relevant.

MID NORTH COAST REGIONAL STRATEGY OUTCOMES/ACTIONS	COMPLIANCE	COMMENTS
<i>breaks between existing and new settlements.</i>		
Actions – Urban settlement		
7. Greenfield sites outside the growth areas contained in local growth management strategies may be developed, subject to satisfying the Sustainability Criteria in Appendix 1. This provision does not apply in the Coastal Area as shown on the Strategy map.	Complies	Complies - though strategy sector is not relevant.
Actions – Rural residential development		
1. Future rural residential land will only be zoned for release if it is in accordance with a local growth management strategy agreed to between council and the Department of Planning and consistent with the principles of the Settlement Planning Guidelines.	Complies	Complies - though strategy sector is not relevant.
Actions – Rural residential development		
2. No new rural residential development will be permitted within the Coastal Area, other than development already zoned or in an approved current or future local growth management strategy (or rural residential land release strategy).	Complies	Complies - though strategy sector is not relevant.
Actions – Rural residential development		
3. Planning for rural residential land must be integrated with the supply of infrastructure and transport.	Complies	Complies - though strategy sector is not relevant.
Actions – Subdivision, houses and other uses in rural zones		
1. Councils will maintain appropriate subdivision standards for rural zones consistent with the principles of the State Environmental Planning Policy (Rural Lands) 2008.	Complies	Complies – the boundary adjustment provisions proposed will not create additional lots or dwelling opportunities for rural zoned land. The split zone provisions will allow the creation of an undersized rural lot on the urban fringe if it is suitable to support a dwelling house. The flexibility created by the proposed clauses will enable sustainable development that may have beneficial outcomes for the management of rural lands. The objectives of the SEPP are maintained by the considerations inherent in the clauses. No dispersed rural settlement or land fragmentation is likely to result from development approved under the proposed provisions.
Actions – Subdivision, houses and other uses in rural zones		
2. Local environmental plans will include minimum subdivision standards for rural and environment	Complies	Complies – the clauses are proposed to create flexibility for existing lots already below the minimum lot size to enable boundary adjustments / subdivisions that have merit for management of agricultural land or excise of residential,

MID NORTH COAST REGIONAL STRATEGY OUTCOMES/ACTIONS	COMPLIANCE	COMMENTS
<i>protection zones.</i>		business or industrial land attached to rural or environmental zoned land. The intent of the clauses is to ensure the land is suitable for the development and that the objectives of the zone are maintained.
Actions – Subdivision, houses and other uses in rural zones 3. <i>Local environmental plans will include provisions to limit dwellings in rural and environmental zones.</i>	Complies	Complies - The Planning Proposal intends to amend the LEP to allow the creation of rural or environmental zoned lots below the minimum lot size, only if the residue lots are suitable of supporting a dwelling house will be permitted. These lots are generally on the urban fringe and have access to existing services, so are likely suitable to support a dwelling. Limitations are proposed to require an urban zoned component to be attached to the rural or environmental residue lot where the rural or environmental zone is not suitable to support a dwelling house. This could include where there is an unacceptable land use conflict, significant environmental values, natural hazards, lack of suitable services or dwellings are prohibited in the zone (e.g. E2 zones).
Actions – Subdivision, houses and other uses in rural zones 4. <i>New caravan parks and manufactured home estates where there is any potential for permanent accommodation to occur, generally should be located in urban areas.</i>	Complies	Complies - though strategy sector is not relevant.
Actions – Subdivision, houses and other uses in rural zones 5. <i>Local environmental plans generally should locate major health and education facilities in urban areas.</i>	Complies	Complies - though strategy sector is not relevant.
Strategy sector - Settlement character and design		
Outcomes		
Actions 1. <i>Councils will prepare desired character statements for their localities, having regard for the Department's North Coast urban design guidelines (2009). Provisions should be included in development control plans to ensure that new development enhances the desired character and is based on the 'neighbourhood</i>	Complies	Complies - though strategy sector is not relevant.

MID NORTH COAST REGIONAL STRATEGY OUTCOMES/ACTIONS	COMPLIANCE	COMMENTS
planning principles' listed below as well as the following: • New buildings will be designed to maximise adaptability for changing demographic trends and alternative future uses. • New development will be designed to respond to the subtropical and temperate climate of the Region through best practice energy efficient design, landscaping and materials. • Land use and transport planning will be integrated to minimise the need to travel, and to encourage energy and resource efficiency. • New development will be designed to reflect and enhance the natural, cultural, visual and built character and values of the local and regional landscape.		
2. New and changing urban areas will provide access to natural features such as coastal foreshore and riparian lands, consistent with the maintenance of ecological values.	Complies	Complies - though specific action is not relevant.
3. New and changing settlement areas will incorporate open space that is accessible to the public and which provides opportunities for recreation, nature conservation, social interaction, and visual enhancement and amenity.	Complies	Complies - though specific action is not relevant.
4. Commercial centres in villages will be multifunctional, mixed-use areas (including residential) catering for diverse community needs.	Complies	Complies - though specific action is not relevant.
5. Coffs Harbour, Port Macquarie-Hastings, Greater Taree and Clarence Valley councils will be encouraged to review the building height limits in the central business areas of Coffs Harbour, Port Macquarie, Taree and Grafton respectively with a view to increasing heights (and therefore development densities) where consistent with heritage and other local considerations.	Complies	Complies - though specific action is not relevant.

MID NORTH COAST REGIONAL STRATEGY OUTCOMES/ACTIONS	COMPLIANCE	COMMENTS
6. Local environmental plans will set building heights in urban areas. Height limits should reflect the landscape character, function and hierarchy of the future settlement and visual and cultural amenity of its location.	Complies	Complies - though specific action is not relevant.
7. Local environmental plans for areas subject to the NSW Government Coastal Policy will incorporate provisions to achieve the outcomes of the Coastal Policy with respect to overshadowing. Generally, development on urban land in Coffs Harbour, Port Macquarie or Forster-Tuncurry will not result in the beach or adjoining open space being overshadowed before 3.00 p.m. midwinter (standard time) or 6.30 p.m. midsummer (daylight savings time). For other beaches or waterfront open space in the Region, development will generally not result in overshadowing before 4.00 p.m. (midwinter) or 7.00 p.m. midsummer (daylight saving time).	Complies	Complies - though specific action is not relevant.
8. Local environmental plans, development control plans (and subsequent land release development) will be consistent with the Settlement planning guidelines: Mid and Far North Coast regional strategies (NSW Department of Planning 2007) North Coast urban design guidelines (NSW Department of Planning 2009) and the NSW Government's Coastal design guidelines for NSW (Coastal Council of NSW 2003) as applicable.	Complies	Complies - adequate development controls are already in place in "Clarence Valley Council Development Control Plans 2011". The need for amended DCP provisions will be routinely monitored and reviewed by Council staff as part of the implementation of any amendments arising from this Planning Proposal.
9. Local environmental plans, development control plans, bike plans and pedestrian access and mobility plans will provide for an accessible and integrated network of walking and cycling routes for safe and convenient travel to local destinations and between key land uses within urban places.	Complies	Complies - though specific action is not relevant.
Strategy sector - Economic development and employment growth		
Outcomes		
Actions - Employment in centres	Complies	Complies – the split zone subdivision provisions will enable

MID NORTH COAST REGIONAL STRATEGY OUTCOMES/ACTIONS	COMPLIANCE	COMMENTS
1. Local environmental plans (and other planning provisions) will facilitate employment growth in the major regional centres and major towns, as well as facilitate appropriate local jobs in towns and villages and recognise appropriate home-based employment opportunities. Actions - Employment in centres 2. In preparing local environmental plans councils will liaise with water and energy providers and make provision for any regional gas, water or electricity infrastructure corridors that may be required.		some business and industrial land to be freed up allowing employment generating development to be undertaken. The current subdivision limitations under the LEP create barriers to such development.
Actions - Employment in centres 3. The opportunities and development potentials of commercial centres will be explored by councils and identified in local growth management strategies, local environmental plans and development control plans. Councils will identify opportunities for bulky goods style retailing in accessible locations in or near commercial centres and restrict this form of retailing in industrial zones as set out in the NSW Government policy The right place for business and services.	Complies	Complies - though specific action is not relevant.
Actions - Employment in centres 4. Planning for commercial uses is to be integrated with transport, public domain and infrastructure opportunities.	Complies	Complies - though specific action is not relevant.
Actions - Employment in centres 5. Highway service centres may be located beside the Pacific Highway at Maclean (at one of the Maclean interchanges), Woolgoolga (at one of the Woolgoolga interchanges), Kempsey (at the southern interchange), Port Macquarie (on the eastern side of the Pacific Highway at the interchange with the Oxley Highway) and Taree (at the Old Bar Road interchange). In the future, additional highway service centres could be located at Nambucca Heads (at the northern interchange) and Port Macquarie (on the western side of the Pacific Highway at the Oxley	Complies	Complies - though specific action is not relevant.

MID NORTH COAST REGIONAL STRATEGY OUTCOMES/ACTIONS	COMPLIANCE	COMMENTS
Highway interchange), subject to review of need by the Roads and Traffic Authority at a five year review of the Strategy. No other zonings to permit new out-of-town commercial development will occur along the Pacific Highway. This includes any industrial zones that could permit commercial uses such as bulky goods premises. Actions - Employment lands 1. Local environmental plans will ensure that sufficient lands which are zoned industrial and business and currently vacant are protected to accommodate the new jobs required for each local government area until 2031.		
Actions - Employment lands 2. The Department of Planning will work with councils to ensure that appropriate opportunities for employment lands, as identified in the Strategy's growth area maps, are brought on stream via local growth management strategies and local environmental plans.	Complies	Complies - the planning proposal is neither directly adding to nor detracting from any land currently industrial and business. However, the split zone provisions will enable some affected industrial and business zones to be subdivide and developed to their optimal potential. The proposed amendments require assessment of land capability and sustainability for a dwelling. Careful assessment is needed when a split zoned lots residue adjoins business or industrial zoning to ensure potential for development of employment lands is not unreasonably reduced. Complies - though specific action is not relevant.
Actions - Employment lands 3. 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 of Planning will work with the Department of Environment and Climate Change and other relevant State government agencies on suitable locational criteria to assist in guiding any future development opportunities.	Complies	Complies - though specific action is not relevant.
Actions - Employment lands 4. In consultation with councils, industry, business and other stakeholders, the Mid North Coast Regional	Complies	Complies - though specific action is not relevant.

MID NORTH COAST REGIONAL STRATEGY OUTCOMES/ACTIONS	COMPLIANCE	COMMENTS
Development Board will implement its Regional Economic Profile (2008) to encourage/facilitate industry and employment growth and investment opportunities. It will particularly focus on those innovative, high-skill and high-wage industries that have the greatest potential to develop in the Region. The Northern Rivers Regional Industry and Economic Plan will also be used to provide economic guidance to the Clarence Valley.		
Actions - Tourism development 1. Councils will plan strategically for tourism development in an agreed local growth management strategy. Planning for tourist facilities and tourism development will adopt the following principles: • Acknowledgement of and consistency with the North Coast Regional Tourism Plan 2004-2007 (or latest version) and Northern Rivers Regional Tourism Plan 2003-2006 (or latest version). • A range of tourism experiences and forms of tourist accommodation will be provided for in urban areas, including 'bed and breakfast'. • No tourism development should be located near the Pacific Highway, except within towns. • Local environmental plans will locate large scale tourism development in prime tourism development areas unless other proposed locations are consistent with an approved local growth management strategy. • Local environmental plans will prevent permanent residential accommodation in tourism development, except where it is ancillary to existing tourism development or part of an area otherwise identified for urban expansion in an approved local growth management strategy.	Complies	Complies - though specific action is not relevant.
Actions - Monitoring 1. The Department of Planning will incorporate an employment land component into the Mid North Coast	Complies	Complies - though specific action is not relevant.

MID NORTH COAST REGIONAL STRATEGY OUTCOMES/ACTIONS		COMPLIANCE	COMMENTS
<i>Housing and Land Monitor to ensure an ongoing supply of industrial land.</i>			
Strategy sector - Environment and natural resources			
Outcomes			
Actions – Preparation of local environmental plans			
1. <i>Local environmental plans will protect and zone land with high environmental, vegetation, habitat, riparian, aquatic, coastal or corridor values for environmental protection.</i>		Complies	Complies – the proposed clauses do not result in a change of zoning and will ensure ongoing protection of existing environmental zones.
Actions – Preparation of local environmental plans			
2. <i>Local environmental plans will zone regionally significant farmland to protect agricultural values.</i>		Complies	Complies - the proposed clauses do not result in a change of zoning and will ensure ongoing protection of regionally significant agricultural land.
Actions – Preparation of local environmental plans			
3. <i>Local environmental plans will identify and zone land of landscape value (including scenic and cultural landscapes) to protect those values.</i>		Complies	Complies - the proposed clauses do not result in a change of zoning and will ensure ongoing protection of existing environmental zones.
Actions – Preparation of local environmental plans			
4. <i>Local environmental plans will protect land identified as having extractive resources of regional significance and their haulage routes (see Appendix 3 and Ministerial section 117 Direction No. 1.3).</i>		Complies	Complies - though specific action is not relevant.
Actions – Preparation of local environmental plans			
5. <i>Subdivision and dwelling standards in local environmental plans will reflect the Rural Lands SEPP, the Regional Strategy and the objectives of the relevant zones.</i>		Complies	Complies - the boundary adjustment provisions proposed will not create additional lots or dwelling opportunities for rural zoned land. The split zone provisions will allow the creation of an undersized rural lot on the urban fringe if it is suitable to support a dwelling house. The flexibility created by the proposed clauses will enable sustainable development that may have beneficial outcomes for the management of rural lands. The objectives of the SEPP and the zone are maintained by the considerations inherent in the clauses.
Actions – Preparation of local environmental plans			
6. <i>New development adjoining or adjacent to farmland, extractive resources, waterways, wetlands and areas with high value biodiversity will incorporate buffers to avoid land use conflict.</i>		Complies	Complies - the boundary adjustment clause has been proposed to require Council to consider the impact / compatibility of the development on the existing surrounding land use. No unreasonable land use conflicts are considered to result from the proposal.
Actions – Biodiversity		Complies	Complies - though specific action is not relevant.

MID NORTH COAST REGIONAL STRATEGY OUTCOMES/ACTIONS	COMPLIANCE	COMMENTS
1. The Department of Environment and Climate Change will prepare a Regional Conservation Plan to guide local councils and State and Commonwealth governments in achieving conservation outcomes.		
Actions – Biodiversity 2. Local environmental plans will include provisions to encourage habitat and corridor establishment in future zoning of land with environmental and rural values.	Complies	Complies - though specific action is not relevant.
Actions – Farmland mapping 1. Regionally significant farmland will not be available for future urban or rural residential rezoning other than in the limited circumstances as permitted by the Mid North Coast Farmland Mapping Project Final Recommendations Report (2008).	Complies	Complies - though specific action is not relevant.
Actions – Farmland mapping 2. Mapped farmland will be protected from the impacts of new neighbouring development through conflict risk assessment and buffers, consistent with the Mid North Coast Farmland Mapping Project and the Rural Lands State Environmental Planning Policy.	Complies	Complies - though specific action is not relevant.
Actions – Farmland mapping 3. The Department of Primary Industries and the Department of Planning will work with councils to complete a review of land suitable for predominantly frost-free coastal horticulture, to protect the identified land.	Complies	Complies - though specific action is not relevant.
Actions – Natural resource management 1. Local environmental plans will include provisions on land fronting watercourses to limit the creation of additional water rights.	Complies	Complies - though specific action is not relevant.
Actions – Natural resource management 2. Local environmental plans will include provisions to protect the water quality in town water supply catchments, other waterways and significant groundwater reserves.	Complies	Complies - though specific action is not relevant.
Actions – Natural resource management 3. Councils will work with the Northern Rivers and	Complies	Complies - though specific action is not relevant.

MID NORTH COAST REGIONAL STRATEGY OUTCOMES/ACTIONS		COMPLIANCE	COMMENTS
Hunter-Central Rivers catchment management authorities to ensure that the aims and objectives of catchment action plans are considered in the future management and planning of local council areas.			
Strategy sector - Natural hazards			
Outcomes			
Actions			
1. In order to manage risk associated with climate change, councils will undertake flood investigations over lands with the potential to be affected by sea level rise and inundation to ensure that risks to public and private assets are minimised.		Complies	Complies - though specific action is not relevant. Subject to site specific assessment as part of Development Application process.
2. Local environmental plans will make provision for adequate setbacks in areas of coastal erosion risk and ocean based inundation in accordance with coastal zone management plans.		Complies	Complies - though specific action is not relevant.
3. Until the above plans and investigations are complete, councils will not zone land or approve new development or redevelopment in potential hazard areas, unless assessed within a risk assessment framework adopted by the council.		Complies	Complies - though specific action is not relevant
4. Zoning of land for future development within the catchments of coastal lakes (as defined in Schedule 1 of State Environmental Planning Policy No. 71 – Coastal Protection) must consider a coastal lake sustainability assessment if one has been prepared.		Complies	Complies - though specific action is not relevant.
5. Local environmental plans will zone areas subject to high hazard to reflect the limitations of the land.		Complies	Complies - though specific action is not relevant.
Strategy sector - Cultural heritage			
Outcomes			
Actions			
1. Councils are to ensure that cultural and community values that are important to Aboriginal communities are considered and resolved in the future planning and management of the local government area.		Complies	Complies - though specific action is not relevant. Subject to site specific assessment as part of Development Application process.
2. The Department of Planning and councils will review		Complies	Complies - though specific action is not relevant.

MID NORTH COAST REGIONAL STRATEGY OUTCOMES/ACTIONS		COMPLIANCE	COMMENTS
the scope and quality of the existing statutory lists of heritage items and ensure that all places of significance are included in the heritage schedules of local environmental plans.			
3. The cultural heritage values of major regional centres and major towns that will be the focus of urban renewal projects will be reviewed, with the aim of protecting cultural heritage.		Complies	Complies - though specific action is not relevant.
Strategy sector - Water and energy resources			
Outcomes			
Actions			
1. Local environmental plans will recognise and protect regional water supply catchments and systems through appropriate planning provisions.		Complies	Complies - though specific action is not relevant.
2. In preparing local environmental plans councils will liaise with water and energy providers and make provision for any regional water, electricity and gas infrastructure corridors that may be required.		Complies	Complies - though specific action is not relevant.
3. Councils or water supply authorities will complete integrated water cycle management plans for their local areas.		Complies	Complies - though specific action is not relevant.
4. The Department of Water and Energy and local water authorities will prepare a Regional Water Plan to ensure long term regional water efficiencies and improved drought security.		Complies	Complies - though specific action is not relevant.
5. All future development is to apply water sensitive urban design principles and meet stormwater management targets that support environmental values of the catchments.		Complies	Complies. Subject to site specific assessment as part of Development Application process.
6. Suitable locally generated and/or renewable energy projects such as wind, solar, bio-waste and wave power will be supported.		Complies	Complies - though specific action is not relevant.
Strategy sector - Regional transport			
Outcomes			
Actions			
1. Local environmental plans will provide for a		Complies	Complies - though specific action is not relevant.

MID NORTH COAST REGIONAL STRATEGY OUTCOMES/ACTIONS	COMPLIANCE	COMMENTS
<i>passenger interchange in the four major regional centres, the major towns and the towns that are well connected to pedestrian and cycle ways.</i>		
2. <i>Local environmental plans will recognise and protect the regional transport network through appropriate planning provisions.</i>	Complies	Complies - though specific action is not relevant.
3. <i>New development will be located to ensure that ribbon/strip development along major roads does not occur and that it does not impact on the safety and efficiency of arterial roads.</i>	Complies	Complies - though specific action is not relevant.
4. <i>Planning and construction of the Pacific Highway upgrades through the Region will continue to completion.</i>	Complies	Complies - though specific action is not relevant.

APPENDIX 2: COUNCILS LOCAL STRATEGY AND STRATEGIC PLAN CHECKLIST

Strategy/Strategic Plan	Comment/relevant component
Clarence Valley Community Plan 2015 - 2024	The proposal is relevant to the following Community Plan themes and objectives: Theme – 3. Our Economy Objective – 3.1 We will have an attractive environment for business, tourism and industry Strategy – 3.1.5 Identify tools to simplify development processes and encourage quality commercial and residential development.
Council's 2014 - 2017 Delivery Program and 2015-2016 Operational Plan	The 2014-2017 Delivery Program and 2015-2016 Operational Plan seek to implement the 10 year Clarence Valley Community Plan
Clarence Valley Settlement Strategy	Rural Settlements should – - Protect the resource base and natural areas - Maximise resource efficiency and minimising environmental and social impact - Create and maintain a high level of liveability and safety Rural Residential Settlements should - - Maximise access to goods, services and opportunities, and reducing the need to travel Urban Settlement should – - Protect the resource base and natural areas - Maximise access to goods, services and opportunities, and reducing the need to travel - Maximise resource efficiency and minimising environmental and social impact - Create and maintain a high level of liveability and safety

APPENDIX 3: STATE ENVIRONMENTAL PLANNING POLICY CHECKLIST

Name of SEPP	Relevant?	Comment/statement of consistency
<i>The following State Environmental Planning Policies (SEPPs) are current and are applicable to the Clarence Valley LGA and are required to be considered whether applicable or not in a particular circumstance.</i>		
State Environmental Planning Policy No 1 - Development Standards	No	N/A
State Environmental Planning Policy No 14 - Coastal Wetlands	Complies	This Planning Proposal is not site specific. Any subdivision of land subject to SEPP 14 is to be assessed at the Development Application stage.
State Environmental Planning Policy No 15 - Rural Landsharing Communities	No	N/A
State Environmental Planning Policy No 19 - Bushland in Urban Areas	No	N/A
State Environmental Planning Policy No 21 - Caravan Parks	No	N/A
State Environmental Planning Policy No 26 - Littoral Rainforests	No	This Planning Proposal is not site specific. Any subdivision of land subject to SEPP 26 is to be assessed at the Development Application stage.
State Environmental Planning Policy No 29 - Western Sydney Recreation Area	No	N/A
State Environmental Planning Policy No 30 - Intensive Agriculture	No	N/A
State Environmental Planning Policy No 32 - Urban Consolidation (Redevelopment of Urban Land)	No	N/A
State Environmental Planning Policy No 33 - Hazardous and Offensive Development	No	N/A
State Environmental Planning Policy No 36 - Manufactured Home Estates	No	N/A
State Environmental Planning Policy No 39 - Spit Island Bird Habitat	No	N/A
State Environmental Planning Policy No 44 - Koala Habitat Protection	Complies	This Planning Proposal is not site specific. Any subdivision of land subject to SEPP 44 is to be assessed at the Development Application stage.
State Environmental Planning Policy No 47 - Moore Park Showground	No	N/A
State Environmental Planning Policy No 50 - Canal Estate Development	No	N/A
State Environmental Planning Policy No 52 - Farm Dams and Other Works in Land and Water Management Plan Areas	No	N/A
State Environmental Planning Policy No 55 - Remediation of Land	Complies	This Planning Proposal is not site specific. Any subdivision of land subject to SEPP 55 is to be assessed at the Development Application stage.
State Environmental Planning Policy No 59 - Central Western Sydney Regional Open Space and Residential	No	N/A

Name of SEPP	Relevant?	Comment/statement of consistency
State Environmental Planning Policy No 62 - Sustainable Aquaculture	No	N/A
State Environmental Planning Policy No 64 - Advertising and Signage	No	N/A
State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development	No	N/A
State Environmental Planning Policy No 70 - Affordable Housing (Revised Schemes)	No	N/A
State Environmental Planning Policy No 71 - Coastal Protection	Complies	This Planning Proposal is not site specific. Any subdivision of land subject to SEPP 71 is to be assessed at the Development Application stage.
State Environmental Planning Policy (Affordable Rental Housing) 2009	No	N/A
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	No	N/A
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	No	N/A
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	No	N/A
State Environmental Planning Policy (Infrastructure) 2007	No	N/A
State Environmental Planning Policy (Kosciuszko National Park - Alpine Resorts) 2007	No	N/A
State Environmental Planning Policy (Kurnell Peninsula) 1989	No	N/A
State Environmental Planning Policy (Major Development) 2005	No	N/A
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	No	N/A
State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007	No	N/A
State Environmental Planning Policy (Penrith Lakes Scheme) 1989	No	N/A
State Environmental Planning Policy (Rural Lands) 2008	Complies	The amendments do not lead to rural land fragmentation, dispersed rural settlement or land use conflicts. The objectives of the Rural Lands SEPP are maintained by the required considerations inherent in the clauses.
State Environmental Planning Policy (SEPP 53 Transitional Provisions) 2011	No	N/A
State Environmental Planning Policy (State and Regional Development) 2011	No	N/A
State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011	No	N/A
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	No	N/A

Name of SEPP	Relevant?	Comment/statement of consistency
State Environmental Planning Policy (Three Ports) 2013	No	N/A
State Environmental Planning Policy (Urban Renewal) 2010	No	N/A
State Environmental Planning Policy (Western Sydney Employment Area) 2009	No	N/A
State Environmental Planning Policy (Western Sydney Parklands) 2009	No	N/A

APPENDIX 4: SECTION 117 DIRECTION CHECKLIST

SECTION 117 DIRECTION	CONSISTENCY	COMMENTS
1. EMPLOYMENT AND RESOURCES		
1.1 Business and Industrial Zones	Consistent	The proposal enables additional provisions for the sustainable development of business and industrial zoned land forming part of a split zoned lot. The intent is not to compromise development potential of employment lands.
1.2 Rural Zones	Consistent	The proposal will not change the zoning of any rural land. The agricultural production value of rural land is protected. The amendments will not result in rural land fragmentation, dispersed rural settlement or land use conflicts.
1.3 Mining, Petroleum Production and Extractive Industries	Consistent	The planning proposal will not prohibit or restrict the mining or future expansions of State or regionally significant coal, other minerals, petroleum and extractive materials
1.3 Oyster Aquaculture	Consistent	Priority Oyster Aquaculture Areas (POAA) exists in the Clarence River, Sandon River and Wooli Wooli River. In the Sandon River and Wooli Wooli River most land adjacent to the POAA is zoned within National Parks. Some land is zoned residential which will not create an increase in potential impacts. In the Clarence River land adjacent to POAA is a mix of residential and environmental zonings. The proposal will not increase the potential impact on POAA.
1.5 Rural Lands	Consistent	The proposal is not inconsistent with the Rural Planning and Subdivision principles as set out in the SEPP (Rural Lands). The planning proposal does not intend to impact the use of agricultural land or create land use conflicts.
2. ENVIRONMENT AND HERITAGE		
2.1 Environmental protection Zones	Consistent	The planning proposal will not alter any environmental protection zones. No additional lots within the environmental zones will result from the provisions.
2.2 Coastal protection	Consistent	The NSW Coastal Policy and Coastal Design Guidelines are considered during the assessment of development applications under clause 5.5 of the Clarence Valley LEP.
2.3 Heritage Conservation	Consistent	The planning proposal does not seek to change those provisions or alter how they apply to any future development applications.
2.4 Recreation Vehicle Areas	Not applicable	Direction not applicable in this instance.
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	Consistent	The proposal enables additional provisions for the sustainable development of residential

SECTION 117 DIRECTION	CONSISTENCY	COMMENTS
		zoned land forming part of a split zoned lot.
3.2 Caravan Parks and Manufactured Home Estates	Not applicable	Direction not applicable in this instance.
3.3 Home Occupations	Not applicable	Direction not applicable in this instance.
3.4 Integrated Land Use and Transport	Not applicable	Direction not applicable in this instance.
3.5 Development Near Licensed Aerodromes	Not applicable	Direction not applicable in this instance.
3.6 Shooting Ranges	Not applicable	Direction not applicable in this instance.
4. HAZARD AND RISK		
4.1 Acid Sulfate Soils	Consistent	The planning proposal may result in additional development on land affected by acid sulfate soils. Acid sulfate soils will be taken into account during the development application process in accordance with clause 7.1 of the Clarence Valley LEP.
4.2 Mine Subsidence and Unstable land	Not applicable	Direction not applicable in this instance.
4.3 Flood Prone Land	Consistent	This planning proposal will not rezone flood prone land. Development proposed on flood prone land will be assessed as a part of the development assessment process in accordance with clause 7.3 and 7.4 of the Clarence Valley LEP. The Clarence Valley LEP is consistent with the <i>Floodplain Development Manual 2005</i> .
4.4 Planning for Bushfire Protection	Consistent	This planning proposal will affect bush fire prone land. Proposed subdivision of bush fire prone land will be assessed during the development assessment process (integrated) to ensure compliance with the NSW RFS <i>Planning for Bushfire Protection 2006</i> .
5. REGIONAL PLANNING		
5.1 Implementation of Regional Strategies	Consistent	The planning proposal is consistent with the Mid North Coast Regional Strategy (MNCRS). Refer to separate assessment of planning proposal against MNCRS outcomes and actions.
5.2 Sydney Drinking Water Catchments	Not applicable.	Direction not applicable in this instance.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable.	Direction not applicable in this instance.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable.	Direction not applicable in this instance.

SECTION 117 DIRECTION	CONSISTENCY	COMMENTS
5.5 Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	Not applicable.	<i>Revoked 18 June 2010</i>
5.6 Sydney to Canberra Corridor	Not applicable.	<i>Revoked 10 July 2008 - See amended Direction 5.1</i>
5.7 Central Coast	Not applicable.	<i>Revoked 10 July 2008 - See amended Direction 5.1</i>
5.8 Second Sydney Airport: Badgerys Creek	Not applicable.	Direction not applicable in this instance.
6. LOCAL PLAN MAKING		
6.1 Approval and Referral Requirements	Consistent	The planning proposal is not intending to introduce concurrence, consultation or referral requirements, nor does identify development as designated development.
6.2 Reserving Land for Public Purposes	Not applicable.	Direction not applicable in this instance.
6.3 Site Specific Provisions	Not applicable.	Direction not applicable in this instance.
7. METROPOLITAN PLANNING		
7.1 Implementation of the Metropolitan Plan for Sydney 2036	Not applicable.	Direction not applicable in this instance.

INFORMATION CHECKLIST

Attachment 1

> STEP 1: REQUIRED FOR ALL PROPOSALS

(under s55(a) – (e) of the EP&A Act)

- Objectives and intended outcome
- Mapping (including current and proposed zones)
- Community consultation (agencies to be consulted)
- Explanation of provisions
- Justification and process for implementation (including compliance assessment against relevant section 117 direction/s)

> STEP 2: MATTERS - CONSIDERED ON A CASE BY CASE BASIS

(Depending on complexity of planning proposal and nature of issues)

PLANNING MATTERS OR ISSUES	To be considered	N/A	PLANNING MATTERS OR ISSUES	To be considered	N/A
Strategic Planning Context			Urban Design Considerations		
• Demonstrated consistency with relevant Regional Strategy	☒	☐	• Existing site plan (buildings vegetation, roads, etc)	☐	☒
• Demonstrated consistency with relevant sub-regional strategy	☒	☐	• Building mass/block diagram study (changes in building height and FSR)	☐	☒
• Demonstrated consistency with or support for the outcomes and actions of relevant DG endorsed local strategy	☒	☐	• Lighting impact	☐	☒
• Demonstrated consistency with Threshold Sustainability Criteria	☐	☒	• Development yield analysis (potential yield of lots, houses, employment generation)	☒	☐
Site Description/Context			Economic Considerations		
• Aerial photographs	☐	☒	• Economic impact assessment	☐	☒
• Site photos/photomontage	☐	☒	• Retail centres hierarchy	☐	☒
Traffic and Transport Considerations			• Employment land	☒	☐
• Local traffic and transport	☐	☒	Social and Cultural Considerations		
• TMAP	☐	☒	• Heritage impact	☐	☒
• Public transport	☐	☒	• Aboriginal archaeology	☐	☒
• Cycle and pedestrian movement	☐	☒	• Open space management	☐	☒
Environmental Considerations			• European archaeology	☐	☒
• Bushfire hazard	☒	☐	• Social and cultural impacts	☐	☒
• Acid Sulphate Soil	☒	☐	• Stakeholder engagement	☒	☐
• Noise impact	☒	☐	Infrastructure Considerations		
• Flora and/or fauna	☒	☐	• Infrastructure servicing and potential funding arrangements	☐	☒
• Soil stability, erosion, sediment, landslip assessment, and subsidence	☒	☐	Miscellaneous/Additional Considerations		
• Water quality	☐	☒	List any additional studies - land use conflict		
• Stormwater management	☐	☒			
• Flooding	☒	☐			
• Land/site contamination (SEPP55)	☒	☐			
• Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining)	☐	☒			
• Sea level rise	☐	☒			

ATTACHMENT 4 – EVALUATION CRITERIA FOR THE DELEGATION OF PLAN MAKING FUNCTIONS

Checklist for the review of a request for delegation of plan making functions to councils

Local Government Area: Clarence Valley Council

Name of draft LEP: Clarence Valley Local Environmental Plan (Amendment No ?)
(Amendment to CVLEP 2011 Boundary Adjustment and Split Zone
Subdivision Provisions - REZ2016/0007)

Address of Land (if applicable): Various throughout LGA

Intent of draft LEP: To enable, with development consent, boundary adjustments involving lots currently below the minimum lot size specified for the land, and subdivision of certain split zoned land to create a residue lot that is below minimum lot size specified for the land, that cannot currently be subdivided under the Clarence Valley LEP 2011.

Additional Supporting Points/Information: Copy of the minuted officer report (including attachments being the Planning Proposal) considered by Council at its 9 August 2016 Ordinary Council meeting.

Evaluation criteria for the issuing of an Authorisation	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
(Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)				
Is the planning proposal consistent with the Standard Instrument Order 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?		✓		
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?		✓		
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?		✓		
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		✓		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		✓		

Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?		✓		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		✓		
Is the planning proposal proposed to rectify an anomaly in a classification?		✓		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		✓		
Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?		✓		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		✓		
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?		✓		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		✓		
Spot Rezonings	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?		✓		
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?		✓		
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?		✓		
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		✓		

Does the planning proposal create an exception to a mapped development standard?		✓		
Section 73A matters				
Does the proposed instrument a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? (NOTE – the Minister (or Delegate) will need to form an Opinion under section 73(A(1)(c) of the Act in order for a matter in this category to proceed).		✓		

NOTES

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.