

Clarence Valley LEP 2011 – Rezoning of 40 Fairway Drive, South Grafton to enable the development of 85 residential allotments and 26 rural residential allotments.

Proposal Title :	Clarence Valley LEP 2011 – Rezoning of 40 Fairway Drive, South Grafton to enable the development of 85 residential allotments and 26 rural residential allotments.		
Proposal Summary :	The planning proposal seeks to amend the provisions of Clarence Valley LEP 2011 that relate to Lot 37 DP 1104240, 40 Fairway Drive, South Grafton. The planning proposal will rezone part of Lot 37 from R5 Large Lot Residential to R1 General Residential and apply a nine (9) metre maximum building height to that part of the land being rezoned R1. The planning proposal will also remove the minimum lot size controls for the land proposed to be zoned R1 and reduce the minimum lot size for that part of the land retaining the R5 zone from 4000m2 to 2000m2.		
PP Number :	PP_2017_CLARE_001_00	Dop File No :	17/05255

Proposal Details

Date Planning Proposal Received :	03-Apr-2017	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 :	40 Fairway Drive		
Suburb :	South Grafton	City :	Postcode : 2460
Land Parcel :	Lot 37 DP 1104240		

DoP Planning Officer Contact Details

Contact Name :	Paul Garnett
Contact Number :	0266416607
Contact Email :	paul.garnett@planning.nsw.gov.au

RPA Contact Details

Contact Name :	Scott Lenton
Contact Number :	0266430234
Contact Email :	scott.lenton@planning.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :	Tamara Prentice
Contact Number :	0266416610
Contact Email :	tamara.prentice@planning.nsw.gov.au

Clarence Valley LEP 2011 – Rezoning of 40 Fairway Drive, South Grafton to enable the development of 85 residential allotments and 26 rural residential allotments.

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Mid North Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	20.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	111
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment : **The Department of Planning and Environment's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge.**

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

If Yes, comment : **The Northern Region office has not met any lobbyists in relation to this proposal, nor has the Region been advised of any meeting between other officers within the agency and lobbyists concerning this proposal.**

Supporting notes

Internal Supporting Notes :

External Supporting Notes :

Adequacy Assessment

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

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

Comment : **The Statement of objectives describes the intention of the planning proposal. The proposal intends to amend Clarence Valley LEP 2011 to facilitate the expansion of the R1 General Residential zone over the subject land while retaining an area of R5 Large Lot Residential zoned land to enable continued rural residential development though with a smaller minimum lot size (reduced from 4000m2 to 2000m2).**

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

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

Comment : **The explanation of provisions addresses the intended method of achieving the objectives of the planning proposal. The proposal intends to:**

- 1. amend the Land Zoning Map to rezone part of the subject land from R5 to R1;**
- 2. amend the Lot Size Map to reduce the MLS on that part of the land retaining the R5 zone from 4000m2 to 2000m2.**
- 3. amend the Height of Buildings Map to apply a 9m maximum building height to that**

Clarence Valley LEP 2011 – Rezoning of 40 Fairway Drive, South Grafton to enable the development of 85 residential allotments and 26 rural residential allotments.

part of the land proposed to be zoned R1.

The Explanation of Provisions does not clarify that the proposal will remove the minimum lot size (MLS) from that part of the land proposed to be zoned R1, consistent with other R1 zoned land in the local government area. It is recommended that the Gateway determination include a condition requiring the planning proposal be amended to clarify this before community consultation is undertaken.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.2 Mine Subsidence and Unstable Land

4.3 Flood Prone Land

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

6.3 Site Specific Provisions

5.10 Implementation of Regional Plans

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

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

d) Which SEPPs have the RPA identified?

SEPP No 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 :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The planning proposal contains maps which adequately show the subject land and the current and proposed zones. The Planning proposal does not include maps which clearly indicate that the MLS is intended to be removed from the land proposed to be zoned R1. Council notes that the planning proposal will need to be amended prior to community consultation to include maps which clearly and accurately show the proposed zone changes and the changes to the planning controls for the land. It is considered that the Gateway determination should include a condition requiring amendment of the planning proposal prior to community consultation to include improved maps. Maps which comply with the Standard Technical Requirements for SI LEP Maps will need to be prepared before the LEP is made.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal states that the proposal is considered to be a low impact planning proposal and a 14 day consultation period is appropriate.

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

Clarence Valley LEP 2011 – Rezoning of 40 Fairway Drive, South Grafton to enable the development of 85 residential allotments and 26 rural residential allotments.

consistent with the strategic planning framework and the surrounding land zoning pattern. The proposal does not reclassify land. The Guide also suggests written notification to the affected and adjoining land owners. It is therefore considered that a community consultation period of 14 days is appropriate and affected and adjoining properties should be notified in writing. However there is no impediment to Council conducting a longer community consultation.

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 does not include a project time line. The Council report that accompanied the planning proposal indicates that due to the uncertainty around the time required to resolve the potential site contamination issues with the site it is not possible to estimate a time frame for completion of the planning proposal, though it also indicates that such a planning proposal could be completed within 6 months after community consultation has been completed. However the Council's covering letter to the planning proposal indicates that a nine (9) month time frame is considered to be reasonable. To ensure the RPA has adequate time to resolve the issues with the potential site contamination investigations and complete community consultation, reporting, and legal drafting, it is recommended that a time frame of 12 months is appropriate.

It is recommended that the Gateway determination contain a condition requiring a time line be included in the planning proposal.

Delegation.

The RPA has indicated that it is prepared to accept any plan making delegations should an Authorisation to exercise delegation for this proposal be issued. An Evaluation Criteria For the Delegation of Plan Making Functions has been provided. The proposal is considered to be of local planning significance since it is consistent with the strategic planning framework for the site. It is recommended that an Authorisation for the exercise of delegation be issued to the RPA in this instance.

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 an overall time frame for completion of the planning proposal.
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 is in force. This planning proposal seeks an amendment to the Clarence Valley LEP 2011.

Assessment Criteria

Need for planning proposal :

The proposal is the result of the study “South Grafton Heights Precinct – A Strategy for the Future” this is discussed in detail later in this report.

The land is approximately 20 hectares in size and is currently zoned R5 Large Lot Residential. The land is cleared of significant native vegetation, being maintained as grazing land. The land is bounded to the north and northeast by existing low density residential development, zoned R1, to the east and south by existing rural residential development, zoned R5, and to the west by rural land on the western side of Rushforth Road, zoned RU2. The subject land contains a single dwelling house and associated structures.

The proponent initiated the rezoning of the subject land with Council in late 2010. Due to deficiencies in the proposal documentation and supporting information the matter was not progressed by Council and the proponent deferred further action until late 2014. A planning proposal was submitted to Council in mid 2015 however further information was necessary in relation to potential land contamination and the location of the proposed zone boundary. This information and the revised planning proposal was provided in January 2017.

The planning proposal includes a subdivision concept plan for the site which indicates that the proposal will enable the creation of 85 residential lots, 26 rural residential lots and a public reserve of approximately 1.7 hectares.

Consistent with other R1 zoned land in the local government area (LGA) the planning proposal intends to apply a 9m maximum building height to the land proposed to be zoned R1. No maximum building height is proposed for the land zoned R5. This is consistent with other R5 zoned land in the LGA.

The proposal also seeks an amendment to the minimum lot size map to change the minimum lot size for the land retaining the R5 zone from 4000m² to 2000m². This approach is considered to be appropriate for the following reasons:

1. the change in lot size will provide an alternate housing choice of lots which are larger than traditional low density residential but not as large as other rural residential lots in the vicinity; and,
2. the proposed higher density rural residential development will make more efficient use of existing infrastructure in the area (sewerage, water, roads, community and open space facilities).

While the reduced rural residential lot size proposed by the planning proposal will not be as efficient as adopting a low density residential lot size such as 450m², it is consistent with the strategic planning for the area and reflects the steeper sloping gradient of the R5 portion of the site. The retention of a rural residential portion of the land will also provide an area of transition between low density residential to the east of the site and the rural land to the west.

The proposal to rezone the land and amend the minimum lot size is the best means of achieving the intent of the proposal which is to enable the development of the land in a manner suited to its constraints and established strategic planning framework.

Clarence Valley LEP 2011 – Rezoning of 40 Fairway Drive, South Grafton to enable the development of 85 residential allotments and 26 rural residential allotments.

Consistency with strategic planning framework :

NORTH COAST REGIONAL PLAN 2036

The planning proposal does not include discussion regarding the consistency with the North Coast Regional Plan 2036 as the proposal was endorsed by Council the day before the Regional Plan was released. It is recommended that the planning proposal be amended to remove the discussion relating to the Mid North Coast Regional Strategy (MNCRS) and be replaced with discussion on consistency with the North Coast Regional Plan 2036 (NCRP). As can be seen from the discussion below, the proposal is not considered to be inconsistent with the NCRP and therefore it is not considered necessary to amend the planning proposal before a Gateway determination is issued however amendment of the planning proposal should occur prior to community consultation. It is recommended that the Gateway be conditioned to this effect.

The entire land was identified as proposed future urban release area in the MNCRS. The land is also located within the urban growth area for South Grafton as defined by the NCRP.

The proposal is not inconsistent with the actions in the NCRP. The actions most relevant to the planning proposal are as follows.

Action 1.1 of the NCRP states:

Focus future urban development to mapped urban growth areas.

The planning proposal achieves this as the land to be rezoned is located within the mapped urban growth area.

Action 18.2 of the NCRP states:

Undertake Aboriginal cultural heritage assessments to inform the design of planning and development proposals so that impacts to Aboriginal cultural heritage are minimised and appropriate heritage management mechanisms are identified.

While the planning proposal does not include an Aboriginal cultural heritage assessment the proponent has consulted with the Local Aboriginal Land Council and no objection to the proposal was raised. The land has been significantly disturbed and historically used for cattle grazing and residential purposes. The land is also currently zoned for rural residential purposes.

Action 21.2 of the NCRP states:

Maximise the cost-effective and efficient use of infrastructure by directing development towards existing infrastructure or promoting the co-location of new infrastructure.

The planning proposal achieves this action as the land is intended to be fully serviced with reticulated sewerage and water infrastructure and power and telecommunications. These services exist in the vicinity of the subject land and can be augmented to accommodate the future subdivision of the land. The Grafton/South Grafton area has existing schools, hospitals, etc to cater for the rezoning of the subject land which is likely to yield an additional 111 lots.

Action 22.1 of the NCRP states:

Deliver an appropriate supply of residential land within local growth management strategies and local plans to meet the region's projected housing needs.

The planning proposal contributes to this action by rezoning part of the land to enable low density residential subdivision while reducing the MLS for the R5 zoned land. By reducing the MLS from 4000m² to 2000m² the planning proposal will facilitate a greater lot yield and provide a variation of lot sizes to cater for the housing demands in the area. The reduced rural residential lot size will also enable a greater lot density while maintaining a transition between the rural lands to the west and the low density residential land to the east.

Consistency with Council's Local Strategies.

Clarence Valley LEP 2011 – Rezoning of 40 Fairway Drive, South Grafton to enable the development of 85 residential allotments and 26 rural residential allotments.

SOUTH GRAFTON HEIGHTS PRECINCT- A Strategy for the future. (SGHPS)

The SGHPS provides finer grain detail for the future urban development of South Grafton to complement the Clarence Valley Settlement Strategy.

The proposal is generally consistent with the SGHPS. The SGHPS identifies the northern and eastern portions of the subject land as urban residential which is generally consistent with the proposed area of R1 zoned land in the planning proposal. The SGHPS also indicates that the western portion of the subject land is to be retained for rural residential purposes.

SEPPs

The proposal lists the State environmental planning policies (SEPPs) applicable to the land. Many SEPPs apply to the subject land and the proposal is not inconsistent with these SEPPS.

SEPP 55 Remediation of Land

The subject land is located adjacent to a decommissioned cattle tick dip site and was previously used for grazing purposes. A former airstrip was located along the eastern ridgeline. Council has required investigations into the potential contamination of the site. A preliminary site contamination assessment report has been prepared for the site. The potential site contamination investigation analysed ten (10) soil samples from across the site and concluded that the land meets the requirements for a 'Residential A' site as specified in the National Environmental Protection Measure 2013 Guideline on Investigation Levels for Soil and Groundwater.

Council has raised concerns that the potential site contamination investigations are insufficient and that further investigations across the site are required. Council requested further investigations be undertaken however the proponent has refused. Council has agreed for the planning proposal to progress on the condition that the proponent provide a statement from an EPA accredited site auditor, or further site sampling and testing be carried out.

Council's reasons for this requirement, detailed in the Council report that accompanied the planning proposal are considered to be reasonable and it is recommended that the Gateway determination include a condition to require either further site analysis or confirmation of the suitability of the existing investigations by an EPA accredited site auditor.

The proposal is consistent with other State environmental planning policies.

S117 Directions.

The following S117 directions are applicable to the proposal, 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 2.4 Recreational Vehicle Areas, 3.1 Residential zones, 3.2 Caravan Parks and Manufactured Home Estates, 3.3 Home Occupations, 3.4 Integrating Land Use and Transport, 3.5 Development Near Licenced Aerodromes, 5.1 Implementation of Regional Strategies, 5.10 Implementation of Regional Plans, 6.1 Approval and Referral Requirements, 6.2 Reserving Land for Public Purposes, and 6.3 Site Specific Provisions.

The proposal is not considered to be inconsistent with the provisions of any of the relevant S117 directions.

Environmental social
economic impacts :

The proposal is not expected to have an adverse impact on critical habitat or threatened species, populations or ecological communities or their habitats. The land currently constitutes cleared grazing land and contains no significant native vegetation. The land is currently zoned for rural residential purposes and contains an existing dwelling and associated outbuildings. Council is satisfied that there is no need for further flora and fauna investigations for the proposed rezoning of the site.

The planning proposal contains advice confirming that the land has been inspected by a site officer of the Grafton Ngerrie Local Aboriginal Land Council (LALC) in December 2009. The LALC confirmed that it is unlikely that the proposal would affect any significant known Aboriginal cultural heritage or artefacts and raised no objection to the proposal.

Clarence Valley LEP 2011 – Rezoning of 40 Fairway Drive, South Grafton to enable the development of 85 residential allotments and 26 rural residential allotments.

The land is not flood prone and a small part of the subject land in the north of the site is mapped as Class 5 acid sulfate soils. Class 5 mapped land does not contain acid sulfate soils, instead development on class 5 land which may reduce the water table on class 1-4 land must be considered. The proposed residential subdivision is not likely to result in development that reduces the water table in neighbouring class 1-4 land.

The land is not mapped as being bushfire prone. The site has access to both Rushforth Road and Fairway Drive. The planning proposal indicates that future traffic impacts can be addressed through the upgrade of the existing road network.

The northern most part of the subject land is located approximately 1.5km from the South Grafton Aerodrome runway and is partially separated from the Aerodrome by existing low density residential development in the Spotted Gum Close estate.

There has previously been a number of issues with the interface of Kangaroos and residents in this area. The South Grafton locality has a large number of kangaroos. For this reason the South Grafton Heights Precinct recommended preparation of a management plan for Kangaroos. It is recommended that consultation be undertaken with NPWS to ensure this issue is addressed in proceeding with this proposal.

Agency Consultation.

The planning proposal does not indicate what consultation with State agencies is proposed. It is considered that Council should consult with the following State agencies and organisations:

1. NSW Environment Protection Authority, and
2. Office of Environment and Heritage - NPWS

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
Timeframe to make LEP :	12 months	Delegation :	RPA
Public Authority Consultation - s56(2)(d) :	Other		

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 :

Review of potential land contamination report

Identify any internal consultations, if required :

No internal consultation required

Clarence Valley LEP 2011 – Rezoning of 40 Fairway Drive, South Grafton to enable the development of 85 residential allotments and 26 rural residential allotments.

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 Gateway Referral March 2017.pdf	Proposal Covering Letter	Yes
March 2017 - Clarence Valley Council Report & Resolution.pdf	Proposal Covering Letter	Yes
Planning Proposal- revised2017.pdf	Proposal	Yes

Planning Team Recommendation

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

- S.117 directions:
- 2.1 Environment Protection Zones**
 - 2.3 Heritage Conservation**
 - 3.1 Residential Zones**
 - 3.3 Home Occupations**
 - 3.4 Integrating Land Use and Transport**
 - 4.1 Acid Sulfate Soils**
 - 4.2 Mine Subsidence and Unstable Land**
 - 4.3 Flood Prone Land**
 - 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**
 - 6.3 Site Specific Provisions**
 - 5.10 Implementation of Regional Plans**

- Additional Information :
- It is recommended that the planning proposal should proceed subject to the following;**
- 1. The planning proposal proceed as a 'routine' planning proposal.**
 - 2. Prior to community consultation the planning proposal is to be amended as follows:**
 - a. the 'Explanation of Provisions' is to clearly indicate that the land proposed to be zoned R1 will not have a MLS applied to it;**
 - b. the planning proposal is to include maps which show the existing and proposed zones, minimum lot size, and maximum building height. The maps should clearly indicate that the land proposed to be zoned R1 will not have a minimum lot size applying to it;**
 - c. a time line for completion of the planning proposal is to be included;**
 - d. the discussion on consistency with the MNCRS is to be deleted and replaced with discussion on the consistency with the North Coast Regional Plan 2036; and**
 - e. the reference to "1(c)" zoned land on page 7 of the planning proposal is to be updated to reflect the Standard Instrument LEP zone used in the Clarence Valley LEP 2011.**
 - 3. Prior to community consultation further investigation of the potential for contamination of the site is to be undertaken and included with the documentation for community consultation. These additional investigations are to include either:**
 - a. A site auditor statement from a NSW Environmental Protection Authority accredited site auditor confirming that the existing Phase 1 Site Contamination Assessment Report dated 9 June 2016 is adequate; or**
 - b. A revised report including any necessary additional sampling and analysis that is consistent with the requirements of the Contaminated Land Planning Guidelines specified in State Environmental Planning Policy 55 - Remediation of Land and has been prepared to the satisfaction of Council.**
 - 4. A community consultation period of 14 days is necessary.**

Clarence Valley LEP 2011 – Rezoning of 40 Fairway Drive, South Grafton to enable the development of 85 residential allotments and 26 rural residential allotments.

5. The planning proposal is to be completed within 12 months.

6. The RPA is to consult with the following State agencies and organisations;

- a. NSW Environment Protection Authority, and
- b. Office of Environment and Heritage - NPWS.

7. A written authorisation to exercise delegation be issued to Clarence Valley Council.

Supporting Reasons :

The reasons for the recommendation are as follows;

1. The proposal will enable the development of approximately 110 new residential lots in the South Grafton area.
2. The site is relatively unconstrained and has be identified for residential and rural residential purposes in the strategic planning framework.

Signature:

T. Prentice

Printed Name:

Tommy Prentice

Date:

7/4/17