

Clarence Valley LEP 2011 – Reclassification of Council Land (2016-1)

Proposal Title : **Clarence Valley LEP 2011 – Reclassification of Council Land (2016-1)**

Proposal Summary : **The planning proposal seeks to reclassify nine (9) parcels of Council owned land to 'operational' status to rectify errors in the previous reclassification processes**

PP Number : **PP_2016_CLARE_002_00**

Dop File No : **16/08302**

Proposal Details

Date Planning
Proposal Received : **11-Jul-2016**

LGA covered : **Clarence Valley**

Region : **Northern**

RPA : **Clarence Valley Council**

State Electorate : **CLARENCE**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Reclassification**

Location Details

Street : **11 Schwinghammer Street**

Suburb : **South Grafton**

City :

Postcode : **2460**

Land Parcel : **Lots 163 and 274 DP 751385**

Street : **1 McNaughton Place**

Suburb : **Maclean**

City :

Postcode : **2463**

Land Parcel : **Lot 408 DP 751388 and Lot 1 DP 612175**

Street : **Lilypool Road**

Suburb : **South Grafton**

City :

Postcode : **2460**

Land Parcel : **Lot 7 DP 114051**

Street : **7-9 Centenary Drive**

Suburb : **Maclean**

City :

Postcode : **2463**

Land Parcel : **Part Lot 103 DP 1189229**

Street : **6, 8, 10, Crowther Drive**

Suburb : **Junction Hill**

City :

Postcode : **2460**

Land Parcel : **Lots 505, 506, 507 DP 1151839**

DoP Planning Officer Contact Details

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RPA Contact Details

Contact Name : **Terry Dwyer**
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 Contact Email : **terry.dwyer@clarence.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :
 Contact Number :
 Contact Email :

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) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

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

If No, comment : **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 : **The proposal seeks to reaffirm the classification of the land parcels which were intended
 to be classified as operational land as far back as 22 years ago. An analysis of the status of
 the subject land classifications has revealed that there is doubt over the legality of the
 resolutions of the councils that resulted in the classification of the land. Therefore to avoid
 any legal ambiguity Council has prepared the planning proposal to reclassify the land to
 operational under the Clarence Valley LEP 2011.**

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 reclassify the subject land from community to operational. The principle reason for the planning proposal is to reaffirm the classification of these parcels of public land as operational as intended by the original resolutions of Council which occurred up to 22 years ago.**

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

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

Comment : **The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal. The proposal intends to amend Schedule 4 of the Clarence Valley LEP 2011 to include the subject land in the appropriate table to ensure it is classified as operational land.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

- 1.1 Business and Industrial Zones**
- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
- 3.5 Development Near Licensed Aerodromes**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**
- 5.1 Implementation of Regional Strategies**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**
- 6.3 Site Specific Provisions**

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

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

d) Which SEPPs have the RPA identified?

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

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

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

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The planning proposal contains maps which adequately show the subject land. The proposal will also require an amendment to the Land Reclassification (Part Lots) Map to include part of Lot 103 DP 1189229 to clearly identify the land being reclassified. A draft map of the Land Reclassification (Part Lots) Map has been prepared and is included in the planning proposal. This is adequate for exhibition purposes. A map which complies 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 nominates a community consultation period of 28 days.**

In accordance with "A Guide to Preparing Local Environmental Plans" (the 'Guide'), it is considered that a 28 day consultation period is appropriate as the planning proposal relates to the reclassification of land.

A public hearing will also need to be held in accordance with the requirements of Section 29 of the Local Government Act 1993

Additional Director General's requirements

Are there any additional Director General's requirements? **Yes**

If Yes, reasons : **The Department's Practice Note PN 09-003 'Classification and reclassification of public land through a local environmental plan' is relevant to the planning proposal. The planning proposal is consistent with the practice note in that it contains the information required.**

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : **Time Line**

The planning proposal includes a project timeline which estimates the completion of the planning proposal in six (6) months concluding in December 2016. To ensure the RPA has adequate time to complete the community consultation, public hearing, reporting and legal drafting, it is recommended that a time frame of 9 months is provided.

Delegation.

The RPA has not requested an Authorisation to exercise delegation for this proposal as the land is public land and Council wish to avoid any perceived conflict of interest. It is recommended that an Authorisation for the execution of delegation not 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 a project time line**
- 6. Completing the evaluation criteria for the delegation of plan making functions.**

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Clarence Valley LEP 2011 is in force. This planning proposal seeks an amendment to the Clarence Valley LEP 2011.**

Assessment Criteria

Need for planning proposal :

The planning proposal is not the result of any specific strategy or study. The planning proposal has arisen as a result of Council's investigations into the status of the classification of certain land parcels. An analysis of the status of the subject land classifications has revealed that there is doubt over the legality of the council resolutions that has resulted in the land defaulting inadvertently from the intended 'operational' to 'community' status. The proposal is needed to rectify these errors.

The introduction of the Local Government Act 1993 (the 'LG Act') changed the way that public land was managed and used. All Council owned land is to be classified as either community or operational under the LG Act. The transitional provisions of the LG Act required council owned land to be classified as either community or operational within 12 months of the introduction of the LG Act. If land was not classified as operational within this time its classification defaulted to community land. Council has identified some anomalies in the Council resolutions which classified the subject land as operational. Council sought legal advice which confirmed that there was a risk that the operational classification of the land was invalid and recommended that the land be reclassified as operational.

Therefore to avoid any legal ambiguity Council has prepared the planning proposal to reclassify the land from community to operational under the Clarence Valley LEP 2011.

SURPLUS DEPOTS AND OFFICES

Council has a number of depot and office sites as a result of the amalgamation of five councils and two county councils in 2004. As part of its 'Fit for the Future' submission Council prepared a Depot and Office Rationalisation plan which proposes the sale of surplus depot sites and office buildings and the consolidation of these land uses in central locations to reduce duplication and operating costs. Council has proposed the construction of a new central depot in Grafton and is reviewing office accommodation arrangements.

Council's Buildings Asset Management Plan and the Depot and Office Accommodation Rationalisation Project identified the following subject land as being surplus to Council's needs:

- Lots 163 and 274 DP 751385, being 11 Schwinghammer Street, South Grafton which is a Council depot site;
- Lot 408 DP 751388 and Lot 1 DP 612175 being 1 McNaughton Place, Maclean which is an office building formerly used by North Coast Water and Clarence Valley Council; and
- Lot 7 DP 114051, Lilypool Road, South Grafton which is the former Clarence Valley Weeds Authority depot.

The depot sites at Schwinghammer Street and Lilypool Road are zoned IN1 General Industrial, the office building lots at McNaughton Place are zoned B2 Local Centre.

VACANT RESIDENTIAL LAND

The vacant residential land at Crowther Street, Junction Hill, being Lots 505 to 507 DP 1151839, are the remaining unsold lots from a subdivision of Council owned land initiated by the former Copmanhurst Shire Council. The majority of the subdivision has been sold and developed for low density residential development.

LAND AT CENTENARY DRIVE MACLEAN

The other parcel of land to be reclassified is part of Lot 103 DP 1189229, being 7-9 Centenary Drive, Maclean. This land contains a public carpark, part of the public swimming pool site and an area of Cameron Park. This area of land is zoned part SP2 Infrastructure (carpark) and part B2 Local Centre.

Part of this land is the subject of a land swap with other privately owned land in the vicinity of the site. The land swap will facilitate the reconfiguration of an already approved supermarket development. The development application for the supermarket (DA2015/0037) was approved by the Northern Joint Regional Planning Panel on 4

December 2015. The land swap required to facilitate the approved supermarket design will result in an increase in the size of Cameron Park by 430m², an improved car parking layout and additional car parking spaces. This land was rezoned as part of Amendment 21 to the Clarence Valley LEP 2011 which was published on 2 October 2015. Details of the land swap are included in the minutes of the Council meeting of 21 July 2015 which are included in Appendix 10 of the planning proposal.

Given the community interest in the development application for the supermarket at Centenary Drive, it is considered that the information relating to the reclassification of this land should include an aerial photograph overlayed by the area to be reclassified so as to clearly show the impact of the reclassification to the community.

The planning proposal contains written statements for each of the land parcels addressing the information required by Attachment 2 to the Department's Practice Note PN09-003.

Council has advised that no interests in the land are being changed.

The proposal seeks only to apply the intended classification of the land as operational and the only mechanism with which to achieve this is through an amendment to the LEP. Since no planning controls for the land are changing it is considered that there is no planning impediment to the proposal proceeding. The proposal to amend the LEP to list the land in Schedule 4 as operational land is the only means of achieving the intent of the proposal.

Consistency with strategic planning framework :

Mid North Coast Regional Strategy (MNCRS).

The proposal to reclassify the various land parcels is not inconsistent with the provisions of the MNCRS. The MNCRS does not contain provisions relating specifically to the reclassification of land. The proposal is not rezoning any of the proposed lots which will retain their current land uses or be redeveloped for similar land uses in accordance with the zone once they are sold.

Draft North Coast Regional Plan

The proposal is not inconsistent with the Draft North Coast Regional Plan (the 'Draft RP'). The Draft RP does not contain provisions relating specifically to the reclassification of land. The proposal is not rezoning any of the proposed lots which will retain their current land uses or be redeveloped for similar land uses in accordance with the zone once they are sold.

Consistency with Council's Local Strategies.

The proposal is generally consistent with Council's local strategies. The proposal does not display any significant inconsistency with the Clarence Valley Open Spaces Strategic Plan 2012. The majority of the subject land is developed for operational purposes and therefore its reclassification will not result in a significant increase or decrease in the amount of open space available for use by the community.

SEPPs

The proposed amendment to Schedule 4 of the Clarence Valley LEP 2011 to reclassify the various land parcels is not inconsistent with any State environmental planning policy.

S117 Directions.

The following S117 directions are applicable to the proposal, 1.1 Business and Industrial Zones, 2.1 Environmental Protection Zones, 2.2 Coastal Protection 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 Licensed Aerodromes; 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land, 5.1 Implementation of Regional Strategies, 6.1 Approval and Referral Requirements, 6.2 Reserving Land for Public Purposes, and 6.3 Site Specific Provisions.

The planning proposal seeks to reclassify numerous parcels of land which have various zones including R2 Low Density Residential, IN1 General Industrial, B2 Local Centre and SP2 Infrastructure. The planning proposal does not identify any inconsistencies with the S117 directions as the proposed reclassification will not alter the zoning, density or development potential of these land parcels.

Direction 6.2 Reserving land for public purposes is relevant to the planning proposal. The Direction states that a planning proposal should not alter or reduce zonings or reservations of land for public purposes without the approval of the relevant public authority and the Secretary of the Department.

The proposal seeks to reclassify nine lots of Council owned land however Council has advised in the planning proposal that none of this land is a public reserve as defined by the Local Government Act 1993. None of the land is zoned RE1 Public Recreation. Part of Lot 103 contains Cameron Park which constitutes an area of open space at the rear of the Maclean CBD. Part of Lot 103 being reclassified is subject to a land swap with nearby privately owned land in order to facilitate the development of a supermarket as previously discussed. The proposed land swap will see the area of Cameron Park increased by approximately 430m². This land was rezoned as part of Amendment 21 to the Clarence Valley LEP 2011 (published 2 October 2015) and as a result the alteration of the zoning of this land was agreed to by the delegate of the Secretary when the Gateway Determination was issued on 31 March 2015. It is considered that no further agreement is required to the reclassification of this part of Lot 103 as the reclassification will facilitate the land swap and the increase in size of Cameron Park.

It is considered that the proposal is not inconsistent with any other s117 direction.

Clarence Valley LEP 2011 – Reclassification of Council Land (2016-1)

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 proposal seeks only to reclassify the subject land to operational. The land is all currently developed for urban purposes and the proposal will not result in a change to the permitted land uses on the sites.

The proposal is not expected to have a net economic and social impact for the community. The reclassification of the land will enable it to be sold by Council or used in a land swap.

Agency Consultation.

The planning proposal indicates that Council does not consider it necessary to consult with any State agencies. It is agreed that no agency consultation is considered to be necessary for this planning proposal.

Assessment Process

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

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

Public Authority
Consultation - 56(2)(d)
:

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. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Council cover letter Reclassification Planning Proposal.pdf	Proposal Covering Letter	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Additional Information : It is recommended that 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 information relating to the reclassification of part of Lot 103 DP 1189229 is to include an aerial photograph, a zoning map and a concept plan for the supermarket, each overlayed with the area to be reclassified so as to clearly indicate the existing and proposed land uses on the land proposed to be reclassified;
 - b. The comments relating to S117 Direction 4.4 Planning for Bushfire Protection are to be corrected to clarify that none of the subject land is bush fire prone land;
 - c. Appendix 5 is to be updated to include consideration of the Clarence Valley Open Spaces Strategic Plan 2012 as listed in section 4.4 of the planning proposal.
3. A community consultation period of 28 days is necessary.
4. A public hearing is required to be held into the reclassification of the various land parcels from community to operational in accordance with the requirements of section 29 of the Local Government Act 1993.
5. The planning proposal is to be completed within 9 months.
6. A written authorisation to exercise delegation not be issued to Clarence Valley Council.

Supporting Reasons : The reasons for the recommendation are as follows;

1. The proposed amendment will rectify anomalies in the classification of Council owned land.
2. The reclassification will enable the proposed dealing in the land to be undertaken in accordance with Council's resolutions.
3. The proposal does not result in a decrease in the amount of open space community land.
4. The proposal is consistent with the strategic planning framework and the inconsistencies are considered to be of minor significance.

Signature:



Printed Name:

Craig Diss

Date:

21 July 2016