



PLANNING PROPOSAL

RECLASSIFICATION OF COUNCIL LAND 2016-1

Prepared by: Clarence Valley Council

Declaration

Document name: Planning Proposal - Reclassification of Council Land 2016-1

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Declaration: I, Terry Dwyer, declare that this Planning Proposal constitutes a planning proposal for the purposes of section 55 of the Environmental Planning and Assessment Act 1979 (the Act) and further declare that the document complies with the relevant provisions of the Act and the Department of Planning and Environment's *A guide to preparing planning proposals* (October 2012).

Date: 6 July 2016

Document History and Version Control				
Version	Prepared by	Approved by	Date Approved	Brief Description
1.0	TD	DM	7/07/2016	Draft for submission to Planning Gateway

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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 (the Act or EP & A Act). It has been prepared in accordance with the Department of Planning and Environment's "A guide to preparing planning proposals" (October 2012).

1.2 Subject Land

This planning proposal applies to nine (9) Council owned public land parcels, as listed in the Table at Appendix 1. The location of these lands is shown on the *Location Plan - All Land Parcels* at Map 1, page 7.

1.3 Current Zoning & Use

The lands listed in the Table at Appendix 1 are deemed to be currently classified as community under the Local Government Act 1993 (LG Act). The current zoning and title/use of each individual land parcel is also provided in the Table at Appendix 1.

1.4 Background

A key strategy adopted by Council to assist with achieving long term financial sustainability for the organisation is the Depot, Office Accommodation and Land Rationalisation project which will reduce duplication and operating costs. This project has required a detailed assessment be undertaken of the status of a number of Council owned land parcels. That analysis has raised questions over the legality of resolutions of the former Maclean and Ulmarra Councils and the Lower Clarence County Council to classify their land holdings as per the requirements of Schedule 7, Clause 6 of the newly proclaimed LG Act during the Act's transitional period (1 July 1993 - 30 June 1994). Additionally, a number of land acquisitions since that time (by Clarence Valley, Copmanhurst and Ulmarra Councils and the Lower Clarence County Council/North Coast Water) have no apparent evidence of being accompanied by the required corresponding resolution to classify those lands as operational.

As a consequence, and to remove any legal ambiguity that all of those land parcels (207 in total identified) are taken to be classified as community land, it is intended to effectively "classify" those lands by reclassifying them as operational as originally intended. This formalises the clear intention of those Councils at the time upon which a number of subsequent actions have relied upon in good faith. The process of reclassification is to be facilitated by means of a planning proposal seeking to support an amendment to the Clarence Valley LEP 2011 (CVLEP 2011). This planning proposal deals with 9 of the 207 identified land parcels, comprising seven properties that are the subject of intended transaction or land swap. The remaining 198 properties are subject of a separate planning proposal.



As the reclassification of the lands in this planning proposal is not proposing to extinguish any public reserve status or change or extinguish any other interests in the lands it is Council's view that there is no need to obtain the Governor's approval under section 30 of the Local Government Act 1993.

The report considered by Council at its 17 May 2016 Ordinary Council meeting provides further background to this matter. Refer to copy of minuted report at Appendix 2.

2. PART 1 - OBJECTIVE OR INTENDED OUTCOME

The objective or intended outcome of the planning proposal is to reclassify from "community" to "operational" a range of Council owned public lands (listed and described in the Table at Appendix 1) that were originally intended to be classified as "operational".

Note: in essence the principal reason for and purpose of the planning proposal is to reaffirm the intention of public land reclassifications of a range of land parcels that were intended to be classified as operational by various Council resolutions as far back as 22 years ago.

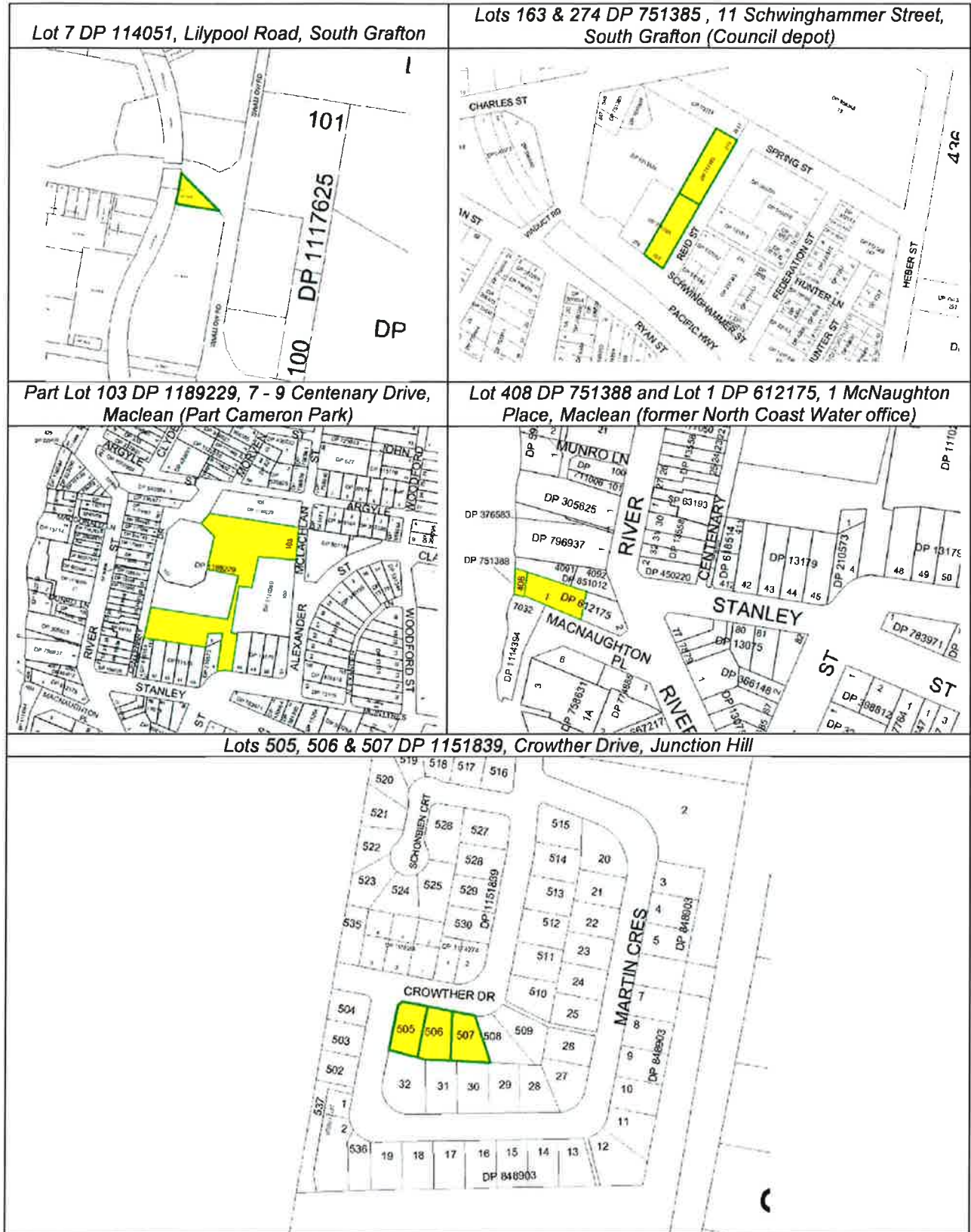
3. PART 2 - EXPLANATION OF PROVISIONS

The objectives or intended outcomes of the Proposal will be achieved by amending Schedule 4 of Clarence Valley Local Environmental Plan 2011 so as to include:

1. the lands listed below (also listed in the Table at Appendix 1 to this document) in *Part 1 Land classified, or reclassified, as operational land - no interests changed*:
 - (a) Lots 163 & 274 DP 751385 , 11 Schwinghammer Street, South Grafton (Council depot site);
 - (b) Lot 408 DP 751388 and Lot 1 DP 612175, 1 Macnaughton Place, Maclean (former North Coast Water and CVC office);
 - (c) Lot 7 DP 114051, Lilypool Road, South Grafton (former Clarence Valley Weeds Authority Depot);
 - (d) Part Lot 103 DP 1189229, 7 - 9 Centenary Drive Maclean (Part Cameron Park), being that part of Lot 103 identified as operational land on the Land Reclassification (Part Lots) Map;
 - (e) Lot 505 DP 1151839, 6 Crowther Drive, Junction Hill;
 - (f) Lot 506 DP 1151839, 8 Crowther Drive, Junction Hill; and
 - (g) Lot 507 DP 1151839, 10 Crowther Drive, Junction Hill.

The location of the 9 land parcels to be reclassified shown on the *Location Plan - All Land Parcels* at Map 1, page 7.

A copy of the map referred to in 1 (d) above is at Appendix 3.



Map 1 - Location Plan - all land parcels

4. PART 3 - JUSTIFICATION

Section A – Need for the planning proposal

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

The planning proposal is not the result of any specific strategy or study. However, the need for the planning proposal has arisen from the findings of Council's asset and land rationalisation process as well as recent legal advice confirming anomalies in the procedures and processes adopted by the former Councils and their compliance with the requirements of the LG Act in regards to the classification of land vested in or under its control. The planning proposal follows the remedial actions recommended by the legal advice.

Council's Buildings Asset Management Plan and Depot and Office Accommodation Rationalisation project also provides the strategic context for the reclassification of the following land as operational:

- Lots 163 and 274 DP 751385, 11 Schwinghammer Street, South Grafton
- Lot 7 DP 114051, Lilypool Road, South Grafton
- Lot 408 DP 751388 & Lot 1 DP 612175, 1 Macnaughton Place, Maclean.

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

Yes. The planning proposal follows the remedial actions recommended by the legal advice sought and obtained by Council. There is no other way to rectify the situation or to achieve the objectives or intended outcomes.

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 applicable regional strategy.

The MNCRS provides for outcomes and actions in relation to a number of strategy "sectors", as follows:

- settlement and housing
- settlement character and design
- Economic development and employment growth
- Environment and natural resources
- Natural hazards
- Cultural heritage



- Water and energy resources
- Regional transport

The strategy has very few if any outcomes or actions that are of relevance to a planning proposal of this nature. Conversely the planning proposal does not impact nor is inconsistent with any outcome or action contained within the Strategy. Accordingly, the proposal is considered to be consistent with the MNCRS. An assessment of the planning proposal against the regional strategy "sectors" and their outcomes and actions is at Appendix 4.

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

The following is a list Council local strategies that are usually considered when preparing and assessing planning proposals:

- Our Community Plan 2015 - 2024*
- Council's 2014 - 2017 Delivery Program and 2015 - 2016 Operational Plan*
- Maclean Urban Catchment Local Growth Management Strategy 2011
- South Grafton Heights Precinct Strategy
- Clarence Valley Settlement Strategy
- Lower Clarence Retail Strategy (May 2007)
- Yamba Retail/Commercial Strategy (May 2002)
- Clarence Valley Economic Development Strategic Plan
- Clarence Valley Industrial Lands Strategy
- Clarence Valley Affordable Housing Strategy
- Clarence Valley Council Biodiversity Management Strategy 2010
- Clarence River Way Masterplan 2009
- Clarence Valley Open Spaces Strategic Plan 2012*

However only those marked * are considered to have any direct relevance to a planning proposal that seeks to reclassify lands from community to operational. An assessment of the planning proposal against the relevant local strategies is at Appendix 5.

Council's Community Strategic Plan is Our Community Plan 2014 - 2025 (Community Plan). The intended outcomes and objectives of the planning proposal are broadly relevant to some of the Community Plan's themes (and some objectives) including society, infrastructure and Our leadership. Refer to Appendix 5.

The planning proposal is broadly consistent with the plan.

4.5 Consistency with applicable state environmental planning policies

The proposal is consistent with applicable state environmental planning policies (SEPPs). A more detailed assessment of the proposals relevance and consistency with SEPPs is at Appendix 6.

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

The proposal is consistent with applicable Section 117 Directions. A more detailed assessment of the proposals relevance and consistency with these Directions is at Appendix 7.

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 unlikely that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of this proposal. This is due to:

- only the classification of the identified land under the Local Government Act 1993 being changed; and
- the planning proposal not proposing to rezone any land or facilitating the carrying of a particular development.

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

The proposed change in classification of the identified lands is unlikely to result in any environmental impacts. The planning proposal is not intending to rezone any land or facilitate the carrying of a particular development.

4.9 Relevant social and economic effects?

An investigation of the social and economic effects of the planning proposal is not considered necessary given the nature of the proposal. There are unlikely to be any social and economic effects arising from the reclassification of the specified public lands to operational.

Section D - State and Commonwealth interests

4.10 Is there adequate public infrastructure for the planning proposal?

Yes. The planning proposal is not expected to adversely impact any public infrastructure either specifically or generally. It has the potential to lead to better asset and infrastructure management outcomes overall. There are no expected impacts on any State or Commonwealth infrastructure.

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

A gateway determination has not yet been issued but will be sought. There has been no consultation with State and Commonwealth public authorities to date. Refer also to Section 6. PART 5 - COMMUNITY CONSULTATION, below.

5. PART 4 - MAPPING

The location of the 9 land parcels to be reclassified shown on the *Location Plan - All Land Parcels* at Map 1, page 7.

One of the resultant outcomes of the planning proposal is an amendment to the *Clarence Valley Local Environmental Plan 2011 Land Reclassification (Part Lots) Map*. This is required in respect of the proposed reclassification of Part Lot 103 DP 1189229, 7 - 9 Centenary Drive, Maclean (part Cameron Park) from community to operational so that it is made clear which part of lot 103 is being reclassified. A draft map has been produced for the purposes of public exhibition - refer to Appendix 3.

The other lands proposed to be reclassified are whole lots and therefore do not need to be mapped on the "Land Reclassification (Part Lots) Map". How these lands are dealt with is described in Section 3. Part 2 - Explanation of Provisions, above.

6. PART 5 - COMMUNITY CONSULTATION

As the planning proposal involves the reclassification of public land it is intended that it be exhibited for 28 days in accordance with Section 5.5.2 of "*A guide to preparing local environmental plans*". However given that the proposal is to reaffirm the clear intent of the Council (including former Councils) in regard to the identified lands and their classification under the LG Act it is not considered necessary to consult with any State and Commonwealth authority, unless a Gateway determination specifies to the contrary.

The planning proposal will also be exhibited in accordance with Dept. of Planning & Environment's *Practice Note PN 09 - 003 - Classification and reclassification of public land through a local environmental plan* a copy of which is included in Appendix 8. A written statement addressing the exhibition requirements for planning proposals or draft LEPs to reclassify public land including details of Council's interests is at Appendix 9.

In accordance with section 29 of the LG Act a public hearing will be conducted under section 57 of the EP & A Act following the exhibition of the planning proposal. Separate public notice of the public hearing will be given after the conclusion of the public exhibition period.

7. PART 6 - PROJECT TIMELINE

A preliminary timeline for the estimated milestones and ultimate completion of the project is provided in the table below.

Estimated completion date	Milestone
7 July 2016	Referral of Planning Proposal to Gateway
28 July 2016	Receipt of Gateway determination
5 August - 5 September 2016	Public Exhibition of Planning Proposal
9 - 30 September 2016	Notification of public hearing
4 October 2016	Public hearing
15 November 2016	Ordinary Council Meeting - consider report on submissions & public hearing
22 November 2016	Referral to Dept. Planning and Environment with request to arrange making of final plan
23 December 2016	Notification of LEP Amendment