

Clarence Valley LEP 2011 – Minimum Lot Size Standards at 425 Bent Street, South Grafton

Proposal Title : **Clarence Valley LEP 2011 – Minimum Lot Size Standards at 425 Bent Street, South Grafton**

Proposal Summary : **The proposal seeks to amend the Clarence Valley LEP 2011 by introducing a 1,500m2 and 1,800m2 minimum lot size standard into the LEP and applying these development standards to part of 425 Bent Street, South Grafton (Lot 400 DP 1153969).**

PP Number : **PP_2016_CLARE_003_00** Dop File No : **16/10222**

Proposal Details

Date Planning Proposal Received : **08-Aug-2016** 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 : **425 Bent Street**

Suburb : City : **South Grafton** Postcode : **2460**

Land Parcel : **Lot 400 DP 1153969**

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**

Regional / Sub Regional Strategy : **Mid North Coast Regional Strategy** Consistent with Strategy : **Yes**

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MDP Number :		Date of Release :	
Area of Release (Ha) : 0.00		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots : 0		No. of Dwellings (where relevant) :	16
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 :

Background & Site Description

The land forms part of the Grafton District Golf Course site. The land was previously used as part of the actual golf course. It is now disused and in 2011 was rezoned to facilitate large lot residential development (PP_2010_CLARE_007_00). No site specific studies or consultation with Government agencies were required as part of the site rezoning. A minimum lot size standard of 4,000m² was applied to the site under this rezoning.

The existing rural residential 'Fairway Estate', which adjoins the site comprises lots ranging from 2,000m² to +2hectares. The South Grafton urban area adjoins this existing rural residential estate to the north. There are residential allotments located within 500m of the site that comprise lot areas of less than 500m².

The site fronts Bent Street. This 5 kilometre roadway functions as a residential collector street, with residential properties fronting and accessing both sides of the roadway.

The proposal seeks to apply a 1,500m² and 1,800m² minimum lot size development standard to part of the subject land. This would facilitate the creation of up to 16 allotments on the R5 zoned portion of the Golf Course site, being 7 more allotments that were previously considered under PP_2010_CLARE_007_00.

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, which is to enable the subdivision of the site into smaller lot sizes than what is currently permitted under the LEP.

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

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

Comment : **The explanation of provisions explains that the intent of the proposal will be implemented through an amendment to the Clarence Valley LEP 2011, including an amendment to the 'Minimum Lot Size' maps.**

The proposal seeks to introduce the 1,500m² and 1,800m² minimum lot size development standards and apply these to part of No. 425 Bent Street, South Grafton.

This will require amendment to the LEP Lot Size Map – Sheet LSZ_008.

In accordance with the Department's Guidelines for LEP maps, a new standard can be inserted into the legend on one map sheet. The legend on the rest of the map sheets in the series will need to be re-ordered and updated progressively with future amending LEPs.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

3.1 Residential Zones

* May need the Director General's agreement

3.4 Integrating Land Use and Transport

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

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

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

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

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

An assessment of the applicable directions and SEPPs is provided within the 'Assessment' section of this planning team report.

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

If No, explain :

See the 'Assessment' section of this planning team report.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The Planning Proposal includes maps that identify the site, current and proposed minimum lot size standards. The site and proposed minimum lot size map are currently hand drawn. Revised / digital maps should be prepared prior to exhibition to assist the community with understanding the intended outcomes. This should be made a condition on the Gateway determination.**

Revised maps which comply with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' would need to be prepared for the making of the LEP.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The Planning Proposal indicates that community consultation will be undertaken and nominates a 14 day consultation timeframe.

In accordance with "A Guide to Preparing Local Environmental Plans", it is considered that the Planning Proposal is a low impact planning proposal as it is consistent with the pattern of surrounding lot sizes the strategic planning framework. The proposal does not reclassify land or present infrastructure servicing issues.

Consultation with NSW Rural Fire Service should be made a requirement given that the proposal seeks to increase development potential on bushfire prone land.

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 :

The Planning Proposal satisfies the adequacy criteria by:

1. Providing appropriate objectives and intended outcomes;
2. Providing a suitable explanation of the proposed provisions;
3. Providing an adequate justification for the proposal;
4. Providing maps which suitably identify the site and intended outcomes;
5. Indicating that community consultation of the proposal will be undertaken; and
6. Providing a project timeframe which suggests completion by February 2017 (7 months).

Delegation

- Council has requested delegation to finalise the proposal and an evaluation checklist has been provided.
- The proposal is considered to be of local planning significance. It is recommended that an Authorisation to Exercise Delegation be issued to Council in this instance.

Timeline

- Council has indicated a 7 month timeline to finalise the plan.
- This timeline is based on a Council staff recommendation that additional studies be completed prior to the proposal progressing.
- The timeline provided by Council staff differs to the information provided under the Planning Proposal, given that the Planning Proposal does not make recommendations for additional studies.
- Considering the benchmark timeframes for making LEPs under the Department's guidelines and that the proposal is a spot rezoning, which will not require detailed supporting studies, a 6 month timeframe is considered sufficient.
- A condition should be included on the Gateway determination that the timeline be updated to reflect the requirements of the Gateway.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

The Clarence Valley LEP 2011 is a Principal LEP and came into effect in December 2011.
The Planning Proposal seeks to amend this planning instrument.

Assessment Criteria

Need for planning
proposal :

IS THE PLANNING PROPOSAL THE RESULT OF ANY STRATEGIC STUDY OR REPORT?

The proposed amendment to the minimum lot size standard to facilitate additional lots on the land is not a result of any recent strategic / housing study for the area.

Whilst the proposal seeks a variation to the intended development outcome for the site as discussed under Council's local growth strategy, the proposal is consistent with the Mid North Coast Regional Growth Strategy, which seeks to promote urban growth and supply within the Region's existing urban footprint. This matter is discussed in more detail below.

IS THE PLANNING PROPOSAL THE BEST MEANS OF ACHIEVING THE OBJECTIVES OR INTENDED OUTCOMES?

Amending the minimum lot size standard under the LEP will facilitate additional lots being created on the land.

The Clarence Valley LEP 2011 establishes the minimum lot sizes permitted in the R5 zone. The minimum lot size requirements for R5 zoned land throughout the LGA range between 4,000m² and 4 hectares. Council's DCP also notes that 4,000m² is the smallest lot size permitted in the R5 zone.

Minimum lot size requirements are not applied under the Clarence Valley LEP to the other residential zones. Subdivision in these residential zones is guided by Council's DCP.

The proposed application of the 1,500m² and 1,800m² minimum lot size standard to R5 zoned land is different to the current approach under Council's LEP (and DCP). Council staff were provided the opportunity to consider the suitability for applying an alternative zone as part of this proposal, to be consistent with the current strategic approach for lot sizes in residential zones. Council staff indicated that they have not undertaken any strategic review to consider an alternative zone or approach and are merely responding to a landowner request.

Whilst applying an alternative zone may be more consistent with the current LEP approach, permitting 1,500m² and 1,800m² lots within a R5 zone is not inconsistent with the R5 zone objectives or the Department's Practice Note regarding 'Standard Zones under the Standard Instrument (PN 11-002)'.

In particular, the Department's Practice Note states that the R5 zone 'is intended to cater for development that provides for residential housing in a rural setting, often adjacent to towns or metropolitan areas.... Lot sizes can be varied within the zone depending on the servicing availability and other factors such as topography, native vegetation characteristics and surrounding agricultural land uses'.

The site is located within 500m of the existing South Grafton urban area and has access to reticulated services. The Fairway Estate, which this site adjoins, is a rural residential setting and comprises a mixture of lot sizes, ranging from 2,000m² to 2.5 hectares. The land is generally flat and development of the site will not impact agricultural practices. Considering the above, the retention of the R5 zone and application of the 1,500m² and 1,800m² minimum lot size standard would be consistent with the Department's guidelines.

Council could consider amending its DCP to reflect this LEP amendment.

Consistency with strategic planning framework :

MID NORTH COAST REGIONAL STRATEGY (FNCRS)

The site is mapped with the 'growth area boundary' and part of the existing urban footprint under the Mid North Coast Regional Growth Strategy. It adjoins the Fairway Estate, which under the Strategy, is a proposed 'urban area'.

The proposal is consistent with this Strategy, promoting housing supply within the existing urban footprint.

DRAFT NORTH COAST REGIONAL PLAN

The Draft North Coast Regional Plan was publicly exhibited for 3 months, which concluded on 2 June 2016. Once adopted this Plan will replace the FNCRS and will guide strategic planning across the North Coast over the next 20 years.

The Draft Plan includes a range of actions for considering LEP amendments. The key actions specific to this proposal relate to: identifying and protecting areas of high environmental values; focusing growth to the least sensitive and constrained areas; and providing sufficient housing supply.

Of particular note, the Draft Plan includes requirements for containing growth to agreed growth areas.

The proposal is consistent with the actions of the Draft Plan given that it will permit new housing opportunity on land identified within the urban growth area.

SOUTH GRAFTON HEIGHTS PRECINCT STRATEGY

The site has been identified under the South Grafton Heights Precinct Strategy as rural residential land. This site was included in this local growth Strategy in 2011 when the land was initially rezoned for rural residential purposes.

The local growth strategy discusses the importance for establishing a mixture of lot sizes in the South Grafton precinct. It does however specifically mention that a minimum lot frontage of 40m to Bent Street should be established for any future lot on the site. Whilst the proposal will permit smaller lot frontages, it will contribute to establishing housing supply within this growth precinct. The actual design and layout of any future lot can be reviewed at DA stage.

STATE ENVIRONMENTAL PLANNING POLICIES

The proposal is consistent with the provisions of all applicable SEPPs relevant to the site. Comments are provided below regarding key relevant SEPPs for the proposed rezoning.

SEPP 44

- A flora and fauna assessment has been included with the proposal that states that a site specific plan of management is not considered to be required.
- It is noted that a site specific plan of management was not required for the land when it was rezoned in 2011. Referral to OEH was also not required in 2011.
- Whilst the proposal will facilitate additional development on the land, the actual design, layout and tree removal requirements will not be known until DA stage.
- Given this, it is considered appropriate to not require a site specific plan of management with this proposal or referral to OEH.

SEPP 55 – Remediation of Land

- This SEPP requires a RPA to appropriately consider the potential for contamination prior to rezoning land.
- It is noted that the Council or Gateway determination did not require a contamination assessment when the land was rezoned in 2011 for large lot residential purposes.
- The Planning Proposal lists potential contaminants that may have been used on the land, given that it has historically been used as a Golf Course. The proposal notes that

remediation, if required, would ensure the site is suitable for residential use.

- Whilst the proposal will facilitate additional development on the land, no further testing is considered necessary at this stage. Site contamination could be investigated further at detailed design stage.

SECTION 117 DIRECTIONS

The following 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, 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies, 6.1 Approval and Referral Requirements and 6.2 Reserving Land for Public Purposes

Consistency with the Direction 4.4 is currently unresolved:

- The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued. Until this consultation has occurred the consistency of the proposal with the Direction remains unresolved.
- It is noted that the former proposal over the land which rezoned the site to R5, was not required to be referred to the RFS. The Director General's delegate at the time determined that the inconsistency was minor and not warranting referral.
- Considering the terms of the Direction however, it is considered suitable that the proposal be referred to the RFS for comment.
- A preliminary bushfire assessment has been prepared to confirm that rural residential development with lot sizes proposed under this proposal can achieve the requirements of Planning for Bushfire Protection. This study will assist consultation with the RFS.

The proposal is otherwise consistent with all other relevant Directions.

Environmental social
economic impacts :

The proposal will provide increased housing opportunity on land that is within an existing urban footprint and close to existing services.

No site specific studies were required to support the residential zoning of the site in 2011. The subject proposal, which seeks to reduce the allowable lot sizes on the land, will allow up to 16 new allotments being established. This is 7 additional lots then currently permitted under the LEP. This increase in lot yield is not considered significant to require site studies to be completed prior to detailed designs being prepared. The actual impacts associated with any future subdivision would need to be reviewed in detail at DA stage.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
Timeframe to make LEP :	6 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	NSW Rural Fire Service		
Is Public Hearing by the PAC required?	No		
(2)(a) Should the matter proceed ?	Yes		
If no, provide reasons :			

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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
Cover Letter.pdf	Proposal Covering Letter	Yes
2016-08-01 Planning Proposal.pdf	Proposal	Yes
2016-08-01 Grafton Golf Club 2016 PP Attach 1- information checklist July 2016.pdf	Proposal	Yes
2016-08-01 Grafton Golf Club 2016 PP - Attach 4 - Evaluation criteria for delegation of plan making functions July 2016.pdf	Proposal	Yes
2016-08-01 Project time line.pdf	Proposal	Yes
2016-08-01 Ordinary Council Meeting.pdf	Proposal	Yes
2016-08-08 Email From Council - Additional Info for PP.pdf	Proposal	No

Planning Team Recommendation

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

S.117 directions: **3.1 Residential Zones**
 3.4 Integrating Land Use and Transport
 4.4 Planning for Bushfire Protection
 5.1 Implementation of Regional Strategies

Additional Information : **It is RECOMMENDED that the Director Regions, Northern, as delegate of the Minister for Planning, determine under section 56(2) of the EP&A Act that an amendment to the Clarence Valley Local Environmental Plan 2011 to apply alternative minimum lot size standards at 425 Bent Street, South Grafton (Lot 400 DP 1153969) proceed subject to the following conditions:**

1. Prior to community consultation the planning proposal is to be amended as follows:
(a) to include digitally prepared maps that show the site, location and current and proposed lot size controls.
(b) to update the project timeline to reflect the requirements of the Gateway determination and include this within Part 6 of the planning proposal.

2. Consultation is required with the NSW Rural Fire Service prior to public exhibition under section 56(2)(d) of the Act, to comply with the requirements of S117 Directions 4.4 Planning for Bushfire Protection:

The NSW Rural Fire Service is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:

(a) the planning proposal must be made publicly available for a minimum of 14 days; and

(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Planning & Environment 2013).

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

5. The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.

6. Delegation to finalise the Plan should be issued to Council.

SECTION 117 DIRECTIONS

It is recommended that:

(a) Consultation is required in relation to s117 Direction 4.4 Planning for Bushfire Protection.

(b) The Secretary's delegate can be satisfied that the Planning Proposal is consistent with all other relevant s117 Directions.

Supporting Reasons :

The reasons for the above recommendations for the Planning Proposal are as follows:

1. The planning proposal is considered a 'routine' planning proposal.
2. Applying new lot size standards to the site is consistent with the strategic planning framework for the site.
3. The inconsistencies with the s117 Directions are justified by the proposal's consistency with the Regional Strategy.
4. Consistency with s117 Direction 4.4 Planning for Bushfire Protection is currently unresolved until consultation is undertaken.
5. The proposal is otherwise consistent with all relevant local and regional planning strategies, s117 Directions and SEPPs.
6. The recommended conditions to the Gateway are required to provide adequate consultation, accountability and progression.

Signature:

Trentice

Printed Name:

Tamara Trentice

Date:

10/8/16

