

Clarence Valley LEP 2011 – Housekeeping Amendments 2016.

Proposal Title : **Clarence Valley LEP 2011 – Housekeeping Amendments 2016.**

Proposal Summary : **The planning proposal seeks to make 27 amendments to the Clarence Valley LEP 2011 to resolve a number of anomalies in maps and the written instrument. The amendments include:**

- **mapping amendments to the Land Zoning, Lot Size, Height of Building and Heritage maps to correct errors and anomalies;**
- **amendments to Schedule 5 Environmental Heritage to correct inaccuracies in the listing of heritage items; and**
- **An amendment to the wording in clause 7.1 Acid Sulfate Soils.**

PP Number : **PP_2016_CLARE_006_00** Dop File No : **16/12815**

Proposal Details

Date Planning Proposal Received :	22-Sep-2016	LGA covered :	Clarence Valley
Region :	Northern	RPA :	Clarence Valley Council
State Electorate :	CLARENCE	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street :
 Suburb : City : Postcode :
 Land Parcel : **The proposal applies to numerous land parcels in the Clarence Valley local government area (LGA)**

DoP Planning Officer Contact Details

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RPA 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
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 :

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 adequately describes the intention of the planning proposal. The proposal intends to amend Clarence Valley LEP 2011 to:**

- **Amend the Land Zoning Map, Lot Size Map, Height of Buildings Map and Heritage Map to rectify errors and anomalies arising from the geographical information system or caused by shifts in cadastral data, or the demolition/removal of heritage items;**
- **Amend Schedule 5 of the LEP to rectify anomalies in the listing of heritage items as a result of demolition/removal of the items, changes in land descriptions, duplication of listings, or missing listings; and**
- **Amend clause 7.1 Acid Sulfate Soils to clarify consent requirement for minor works and make the clause consistent with the model clause used in later LEPs in the region.**

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. Details of the proposed changes to the maps and**

written instrument for each amendment are provided in Appendix 3 of the planning proposal.

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

1.1 Business and Industrial Zones

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

1.5 Rural Lands

2.1 Environment Protection Zones

2.2 Coastal Protection

2.3 Heritage Conservation

3.1 Residential Zones

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

6.2 Reserving Land for Public Purposes

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 14—Coastal Wetlands

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP No 71—Coastal Protection

SEPP (Exempt and Complying Development Codes) 2008

SEPP (Infrastructure) 2007

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

SEPP (Rural Lands) 2008

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 and explain the proposed changes to the respective LEP maps for each proposed amendment. These maps are adequate for exhibition purposes. 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 nominates a community consultation period of 28 days.

In accordance with "A Guide to Preparing Local Environmental Plans" (the 'Guide'), it is considered that the proposal is a low impact proposal and that a 14 day community consultation period is adequate. The proposal corrects minor anomalies and is therefore consistent with the pattern of development or existing use for each site. The proposal does not raise any infrastructure servicing issues and the inconsistencies with the strategic planning framework are of minor significance. A 14 day consultation period is

considered to be appropriate however this does not preclude Council from conducting a longer community consultation period.

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 includes a project timeline which estimates the completion of the planning proposal in six (6) months concluding in April 2017. To ensure the RPA has adequate time to complete the community consultation, reporting and legal drafting, it is recommended that a time frame of 9 months is appropriate.

Delegation.

The RPA has indicated that it is prepared to accept delegation for this planning proposal. As the matters are considered to be of local significance, it is recommended that an authorisation to exercise 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 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 been prepared as a result of a periodic review of the Clarence Valley LEP 2011 (CVLEP) which has identified a number of minor errors and anomalies in the written LEP and the associated maps.

The planning proposal seeks to make 27 amendments to the CVLEP these consist of:

- mapping amendments to the Land Zoning, Lot Size, Height of Building and Heritage maps to correct errors and anomalies;
- amendments to Schedule 5 Environmental Heritage to correct inaccuracies in the listing of heritage items; and
- An amendment to the wording in clause 7.1 Acid Sulfate Soils.

The proposed amendments are detailed in Appendix 3 of the planning proposal and a summary of each amendment is provided below.

1. Minimum Lot Size Mapping anomaly Fortis Drive, The Pinnacles – This amendment will correct the Lot Size Map for 5 lots of land at The Pinnacles where the 40 hectare

minimum lot size (MLS) does not correspond with the cadastre boundary leaving a sliver of land at the rear of the subject lots without a minimum lot size. This amendment will correct a mapping anomaly and is considered to be appropriate.

2. **Zoning of 353 Majors Point Rd, Hernani** – The land is predominantly in the Armidale Regional LGA however a small area of land is in the Clarence Valley LGA. This small area of land is not currently zoned and does not have a MLS applied to it. The portion of the lot in the Armidale Regional LGA is zoned RU1 Primary Production and has a 200 hectare MLS. It is proposed to apply an RU1 Primary Production zone and a 200ha MLS to that part of the land in Clarence Valley LGA consistent with that part of the land in Armidale LGA. This amendment is necessary to zone the land and apply an appropriate MLS and is considered to be appropriate.

3. **Zoning of land at Pacific Parade Yamba** – The River Street road reserve and part of the adjoining land is zoned SP3 Tourist. The private land is developed with residential units and is predominantly zoned R2 and R3. The amendment will remove the SP3 zone over this land and apply an R2 and R3 zone consistent with the remainder of the private land and the road reserve. This amendment will reflect existing land uses and is considered to be appropriate.

4. **Heritage Mapping 34 Bent St, South Grafton** – heritage item I869 is located partly on lot 3 and partly on lot 4. Lot 3 has not been mapped as a heritage item and this needs to be rectified. A corresponding change to the entry in Schedule 5 is also proposed to reflect this. This amendment is necessary to accurately identify all the land on which the heritage item is located and is considered to be appropriate.

5. **Heritage Mapping 36 Bacon St, Grafton** – The land which originally contained heritage item I472 has since been subdivided and Lot 12 no longer contains the heritage listed dwelling. Lot 12 contains a new dwelling with no heritage significance and therefore should be removed from the heritage map and the property description for item I472 changed. This amendment is considered to be appropriate.

6. **Mapping Anomaly Tyson St, Sth Grafton** – The majority of the land is zoned Industrial with relevant MLS and building height controls, however a thin sliver of land along the western boundary is zoned rural and has rural MLS and building height controls. This rural zoning is an error. This amendment will align the zoning, MLS and maximum building height with the property's cadastral boundary. This amendment is considered to be appropriate.

7. **Mapping Error Ocean Street Yamba** – The majority of the site is zoned SP3 Tourist and is developed with a residential flat building. A strip of land along the northern boundary of the site is zoned RE1 Public Recreation. This is an error as the land is privately owned and partly developed with the residential flat building. The amendment will correct the zoning and the Height of Buildings Map and is considered to be appropriate.

8. **Mapping Anomaly 797 Yamba Road, Palmers Island** – The land is zoned partly RU1 Primary Production and partly W2 Recreational Waterways. The boundary of the W2 and RU1 zones do not correspond to the river bank and this proposed amendment will realign the zone boundary in its correct position along the river bank and apply an RU1 zone to part of the land which has accreted and is no longer a waterway. A corresponding change to the Lot Size Map will also be necessary. This amendment will correct an error in the mapping of the land and is considered to be appropriate.

9. **Heritage Mapping Alice Street Grafton** – the dwelling and curtilage which constitutes item I451 is located on three lots however only 1 of the lots is mapped as being of heritage significance. The proposed amendments will include the other two lots in the mapping of the heritage item and therefore accurately describe the land on which the heritage item exists. A corresponding change to the listing in Schedule 5 of the LEP is also proposed.

This amendment is considered to be appropriate. The proposal seeks to map only part of one of the lots (Lot 1 DP 124245) however the Department's mapping standards dictate that if a heritage item is located on a lot then the entire lot is to be mapped unless the lot is a large rural lot and the item is on a small portion of this lot. The Gateway should be conditioned to reflect this.

10. **Heritage Mapping of Hammonds Cottage Woody Head** – Hammonds Cottage is an item of local heritage significance however was originally incorrectly mapped in the CVLEP. The item was removed from Schedule 5 of the LEP in Amendment 7 to the CVLEP. This proposed amendment will correctly map the land on which Hammonds Cottage is located and add the item to Schedule 5. Again the mapping of the land on the heritage map will need to apply to the entirety of Lot 3. This amendment is considered to be appropriate.

11. **Mapping Woombah / Mororo Cadastral Shift** – the land zoning, lot size, building height and heritage maps in the Woombah / Mororo area do not align with cadastral property boundaries. Council has advised that the original planning controls in the Maclean LEP 2001 did align with property boundaries and the anomalies are not intentional and have likely arisen as a result of using a new cadastre prior to the making of the CVLEP. The proposed amendment will realign the planning controls to the boundaries of the properties and correct the anomalies. This amendment is considered to be appropriate.

12. **Mapping Brooms Head Cadastral Shift** – Similar to the previous item the same cadastral shift has resulted in mapping anomalies in the Brooms Head area. Again this proposed amendment is considered to be appropriate.

13. **Heritage Mapping Woolli St Norfolk Island Pine Trees** – the Norfolk Island Pine trees in the road reserve at Woolli St, Yamba are listed as being of heritage significance and are mapped as heritage item I423. The mapping of the trees on the Heritage Map incorrectly encroaches on the private properties adjoining the road reserve. The proposed amendment will rectify this encroachment by removing the heritage mapping from the private properties and therefore is considered to be appropriate.

14. **Heritage 93 Victoria St Grafton** – Item I820 identified a dwelling of heritage significance at 93 Victoria St Grafton, this dwelling has since been demolished however the Heritage Map and Schedule 5 has not been updated. The proposed amendment will remove item I820 from Schedule 5 and the Heritage Map and therefore correct the misdescription of the site as containing a heritage item. The proposed amendment is considered to be appropriate.

15. **Heritage Schedule Copmanhurst School** – the site at 11-13 Prescott Street Copmanhurst contained a school, teacher's residence and saddlery. The teacher's residence has been relocated to a nearby residential property and the listing for the school site in Schedule 5 needs to be updated to reflect the fact that the teacher's residence is no longer part of the heritage significance of the school site. This amendment will correct the description of the heritage item in Schedule 5 and therefore is considered to be appropriate.

16. **Heritage 107 Bacon St Grafton** – This land originally contained a heritage listed dwelling which has since been demolished. The land is still identified as containing a heritage item in both Schedule 5 and on the Heritage Map. The proposed LEP amendment will remove the mapping and heritage listing from the land now the dwelling no longer exists. This amendment is considered to be appropriate.

17. **Heritage items on Brooms Head Reserve** – Brooms Head Reserve contains two items of heritage significance being pine trees and Brooms Head Hall. The property description for these items in Schedule 5 is incorrect as it utilises Council's property identification number instead of the legal Lot and DP. The address for the Brooms Head Hall is also incorrect. The proposed amendment will correct the description and address of the subject land and therefore is considered to be appropriate.

18. Heritage Ashby Dry Dock – the Ashby Dry Dock is listed as heritage item I10 in Schedule 5 of the CVLEP. In April 2016 the National Trust advised Council that the Dry Dock occupies additional land to that listed in Schedule 5 and mapped on the Heritage Map. The proposed LEP amendment will correct the listing and mapping for item I10 to include this additional land and therefore is considered to be appropriate.

19. Heritage Koolkhan Power Station – the Koolkhan Power Station was listed as a heritage item in the CVLEP however the power station was demolished in 2015. The site no longer contains any buildings of heritage significance. The proposed amendment will remove the listing and mapping of the power station from the CVLEP and is considered to be appropriate.

20. Heritage 12 New Street South Grafton – the site contained a heritage listed factory door which has since been removed. The site no longer contains any item of heritage significance. The proposed amendment will remove the listing and mapping of the land from the CVLEP. This amendment is considered to be appropriate.

21. Heritage 55 Spring St South Grafton – the site contained a heritage listed building containing shops and residential flats which has since been demolished after extensive fire damage in 2015. The site no longer contains any item of heritage significance. The proposed amendment will remove the listing and mapping of the land from the CVLEP. This amendment is considered to be appropriate.

22. Heritage 232 Mary St Grafton – the site contained a heritage listed dwelling which has since been demolished in 2011. The site no longer contains any item of heritage significance. The proposed amendment will remove the listing and mapping of the land from the CVLEP. This amendment is considered to be appropriate.

23. Heritage Angourie Headland – the site contains four (4) separate items of heritage significance which duplicate many of the heritage attributes of the National Surfing Reserve. The listings for these items in Schedule 5 contain duplication of heritage attributes and inaccurate property descriptions and the mapping does not identify all of the land described in the Schedule. The proposed amendment will consolidate the items into a single heritage item and correct the inaccuracies in the listing and the mapping and therefore is considered to be appropriate. In this instance it is appropriate for only part of the subject land to be mapped since it is a large parcel of land which includes the adjoining National Park. This is consistent with the Department's guidelines.

24. Heritage The Tin Bridge, Federation Street, South Grafton. The Heritage Map has the wrong item label number for this heritage item. The proposed amendment will correct the error in the label number and therefore is considered to be appropriate.

25. Heritage Railway Viaduct, Ryan Street, South Grafton – This heritage item is not shown on the Heritage Map and the property description in Schedule 5 is incorrect. The proposed amendment will correct the errors in the Schedule and map the item on the Heritage Map and is therefore considered to be appropriate.

26. Heritage Grafton City Railway Station – the site contains refreshment room furniture which was listed on the State Heritage Register. The furniture has been removed from the station and the State Heritage register was amended to remove the item in August 2013. The CVLEP still lists the item in Schedule 5. The proposed amendment will remove the item from Schedule 5 and the item label from the Heritage Map. The refreshment room building will continue to be listed as a heritage item. The proposed amendment is considered to be appropriate.

27. Acid Sulfate Soils Clause - Clause 7.1 of the CVLEP provides controls for development on land subject to acid sulfate soils. Clause 7.1 is based on the model clause included in

the majority of Standard Instrument LEPs however the version in the CVLEP has a minor difference to the model clause adopted by other LEPs in the region from 2012 onwards. Clause 7.1 (6) currently provides that development consent is not required for works that involve the disturbance of less than 1 tonne of soil OR works that are not likely to lower the water table. This effectively means that an unlimited scale of earthworks could be undertaken without consent if they are not likely to disturb the water table. The disturbance of acid sulfate soils can cause acid runoff if not properly managed and this could result from extensive earthworks even if the works do not result in the lowering of the water table. Clause 7.1(6) in LEPs made after 2012 provides that consent is not required for earthworks which involve the disturbance of less than 1 tonne of soil AND are not likely to lower the water table. It is noted that the model clause on the Department's website contains the same "or" provisions as the current Clause 7.1 in the CVLEP, however this is considered to be out of date. The amended provision is considered to be more appropriate as it places a limit on the scale of earthworks that can be conducted on land subject to acid sulfate soils. The proposed amendment will change the clause to limit the extent of earth works that can be undertaken without consent to less than 1 tonne. This is considered to be appropriate.

The proposal to amend the LEP and maps as discussed above is the only means of achieving the intent of the proposal.

Consistency with strategic planning framework :

Mid North Coast Regional Strategy (MNCRS).

The proposed amendments to the CVLEP are not inconsistent with the provisions of the MNCRS. The proposed amendments correct minor mapping and heritage listing anomalies and do not result in significant impacts on the development potential of the subject lands or significant land releases or changes in policy which are considered to be inconsistent with matters of regional environmental planning.

Draft North Coast Regional Plan

The proposal is not inconsistent with the Draft North Coast Regional Plan (the 'Draft RP'). The proposed amendments are administrative in nature and are not inconsistent with any of the directions or actions of the Draft RP.

Consistency with Council's Local Strategies.

The proposal is not inconsistent with Council's local strategies.

SEPPs

The lands which are affected by the planning proposal are subject to numerous SEPPs. The proposal is not inconsistent with any of the SEPPs.

SEPP 14 Coastal Wetlands - the mapping amendments to correct the cadastral shift at Woombah and Brooms Head will affect land mapped as SEPP 14 wetland. Since the proposed amendment is intended to correct the zoning that applies to these lands and will not result in a significant increase in the development potential of these lands, the proposal is not considered to be inconsistent with SEPP 14. The controls relating to development proposals for this land under SEPP 14 will continue to apply.

SEPP 44 Koala Habitat Protection – the mapping amendments to correct the cadastral shift at Woombah/Mororo will affect land which is subject to the draft comprehensive koala plan of management and will affect land containing potential koala habitat. Since the proposed amendment is intended to correct the zoning that applies to these lands and will not result in a significant increase in the development potential of these lands, the proposal is not considered to be inconsistent with SEPP 44. The controls relating to development proposals for this land under SEPP 44 will continue to apply.

SEPP 55 Remediation of Land - the proposed mapping amendments will not result in significant increases in the development potential of the subject land and in most cases impact land which is already developed. It is not considered necessary for a preliminary contamination assessment to be undertaken on the land for any of the proposed amendments. Any investigation of potential contamination that may arise from further development proposals on the subject land can be addressed at development application stage.

Codes SEPP – The removal of some of the subject properties from Schedule 5 of the CVLEP will enable certain exempt and complying development on these sites. The land is however only being removed from Schedule 5 because it no longer contains an item of heritage significance and therefore the proposed change is appropriate. Similarly the addition of items to Schedule 5 will exclude certain exempt and complying development from the land however this is considered to be appropriate given the heritage significance of the site. Additionally the only site being added to Schedule 5 is located on public land being a National Park and therefore exempt and complying development is already restricted on this land.

SEPP Rural Lands – The proposal is not inconsistent with the Rural Planning Principles or Rural Subdivision Principles in the SEPP. The proposed amendments take into consideration the importance and constraints of rural land and correct the planning controls applying to these lands to ensure the planning controls are appropriate. The proposed amendments also do not enable fragmentation of agricultural lands or lead to an increase in development potential or potential land use conflict.

S117 Directions.

The following S117 directions are applicable to the proposal, 1.1 Business and Industrial

Zones, 1.2 Rural Zones, 1.3 Mining, Petroleum Production and Extractive Industries, 1.4 Oyster Aquaculture, 1.5 Rural Lands, 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, 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, and 6.3 Site Specific Provisions.

The proposal is considered to be inconsistent with directions 1.2, 2.1, 3.1, 4.1, 4.3 and 4.4.

Direction 1.2 Rural Zones is relevant to the planning proposal. The direction provides that rural land should not be rezoned to residential, commercial or industrial unless justified by a study or is of minor significance. Proposed amendments 6, 11, 12, intend to rectify mapping anomalies which due to discrepancies between the cadastre and the zone mapping have resulted in thin slivers or small portions of some of the land incorrectly being zoned rural or environmental protection. The planning proposal seeks to rectify these errors and in doing so will zone some land from rural or environmental protection to an urban use. This amendment will reflect the historical or current uses of the land. The inconsistency with the direction is considered to be of minor significance and therefore justified in accordance with the terms of the direction.

Direction 1.5 Rural Land is relevant to the planning proposal. The direction provides that when a planning proposal changes the existing minimum lot size for land in a rural or environmental protection zone it must be consistent with the Rural Subdivision Principles in SEPP Rural Lands (2008). Proposed amendments 1, 2, 6, 8, 11, 12, in the planning proposal all make minor changes to the mapping to correct anomalies in the lot sizes applying to the subject land. These anomalies occur because the MLS does not align with the property boundaries or the land did not have a MLS. The proposal is considered to be consistent with the rural subdivision principles in the SEPP as previously discussed and therefore consistent with the direction.

Direction 2.1 Environmental Protection zones is relevant to the planning proposal. The direction provides that a planning proposal must not reduce the environmental protection standards that apply to the land. Proposed amendments 11 and 12, intend to rectify mapping anomalies which due to discrepancies between the cadastre and the zone mapping have resulted in thin slivers or small portions of some of the land incorrectly being zoned environmental protection. The planning proposal seeks to rectify these errors and in doing so will zone some land from environmental protection to an urban use and will thereby reduce the environmental protection standards over the land. This amendment will reflect the historical or current uses of the land. The inconsistency with the direction is considered to be of minor significance and therefore justified in accordance with the terms of the direction.

Direction 3.1 Residential Zones is relevant to the planning proposal. The direction provides that a planning proposal must not contain provisions which reduce the permissible residential density of the land. Proposed amendment 3 will rezone a small area of land from SP3 Tourist to R2 Low Density Residential. The R2 zone permits a lesser residential density than the SP3 zone however the subject land is a thin sliver of land and is already developed for residential purposes. This rezoning will not affect the permissible residential density of the entire site.

Similarly, the proposed changes to the zoning in items 11 and 12 to correct the cadastral shift at Woombah/Mororo and Brooms Head will remove residential zones from some land, thereby reducing the permissible residential density of the land. This is considered to be of minor significance as the change in zoning to remove the residential zone will correct an obvious error and the majority of the affected land is not suitable for residential purposes.

These zoning changes will be considered to be of minor significance and therefore justified in accordance with the terms of the direction.

Direction 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land are applicable to the planning proposal. The directions provide that a planning proposal should not rezone or permit an increase in development potential of land subject to flooding or acid sulfate soils. While some of the proposed amendments will change the zoning over part of certain land or change the development potential in order to rectify minor mapping anomalies, these changes will not result in a significant increase in the development potential of the land and therefore are considered to be of minor significance.

The proposed change to the acid sulfate soils clause will restrict the extent of earthworks that can be undertaken without consent and therefore will ensure that any potential impact can be adequately addressed at development application stage.

It is considered that the inconsistencies of the proposal with these directions are of minor significance and are justified in accordance with the terms of the directions.

Direction 4.4 Planning for Bushfire Protection is relevant to the proposal. Some of the land subject to the proposed amendments is bush fire prone. 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.

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.

Amendment 7 of the proposal seeks to rezone a narrow portion of private land from RE1 to SP3. The RE1 zoning of the land is incorrect as it is in private ownership and developed for a residential flat building. The Council's approval to the rezoning is implicit in the planning proposal which proposes the removal of the RE1 zone. It is considered that the Secretary's delegate can agree to the proposed rezoning of the land from RE1 Public Recreation to SP3 Tourist.

Amendment 12 will alter the boundary of the RE1 zoned land at Brooms Head to rectify the cadastral shift that has occurred in the mapping. This is an obvious error in the mapping and will not have a significant impact on the use of the public zoned land. The Council's approval to the change in zoning is implicit in the planning proposal. It is considered that the Secretary's delegate can agree to the proposed changes in the zoning of the RE1 Public Recreation land.

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

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 rectify mapping anomalies and errors to reflect existing land uses. Any impact arising from future development of the subject land in accordance with the planning controls applying to the land can be addressed at development application stage.

The proposed amendments are not expected to have a net detrimental economic or social impact on the community. The benefit of the proposal is that it will rectify errors and anomalies in the CVLEP and therefore provide a consistent and accurate planning instrument for the community which will provide greater certainty of the controls applying to the land.

Assessment Process

Proposal type : **Routine** Community Consultation **14 Days**
Period :

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

Public Authority **Office of Environment and Heritage**
Consultation - 56(2)(d) **Department of Trade and Investment**
NSW Rural Fire Service
Transport for NSW - Roads and Maritime Services
Adjoining LGAs

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
2016-09-22 Council Cover letter Request for Gateway determination.pdf	Proposal Covering Letter	Yes
Planning Proposal - CVLEP Housekeeping Amendments 2016 (version 1).pdf	Proposal	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**
- 1.2 Rural Zones**
- 1.3 Mining, Petroleum Production and Extractive Industries**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 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
6.2 Reserving Land for Public Purposes

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 proposed map changes for Amendment ID Map 9 and Map 10 to apply heritage mapping is to apply to the entirety of the subject lots in accordance with the Standard Technical Requirements for Spatial Datasets and Maps (Department of Planning and Environment 2015);
3. A community consultation period of 14 days is necessary.
4. Council is to consult with the following State Agencies or organisations:
 - a. Armidale Regional Council in relation to the land at Majors Point Road, Hernani;
 - b. Department of Industry – Lands in relation to the proposed LEP amendments applying to Crown land;
 - c. The NSW Office of Environment and Heritage in relation to the heritage listing of Hammonds Cottage at Woody Head;
 - d. The NSW Rural Fire Service in relation to S117 Direction 4.4; and
 - e. The NSW Roads and Maritime Services in relation to the expansion of the heritage listing at the Ashby Dry Dock.
5. The planning proposal is to be completed within 9 months.
6. A written authorisation to exercise delegation be issued to Clarence Valley Council.
7. The Secretary's delegate agree that the inconsistencies of the planning proposal with S117 Directions 1.2 Rural Zones, 2.1 Environmental Protection Zones, 3.1 Residential Zones, 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land are justified in accordance with the terms of the directions.
8. In accordance with S117 Direction 6.2, the Secretary's delegate agree to the proposed changes to the RE1 Public Recreation zoning of land at Ocean Street Yamba (item 7) and Brooms Head (item 12).

Supporting Reasons :

The reasons for the recommendation are as follows;

1. The proposed amendment will rectify anomalies and errors in the Clarence Valley LEP 2011 and will therefore improve the function, content and consistency of the LEP providing an accurate and consistent planning instrument for the use of the community.
2. The proposal is generally consistent with the strategic planning framework and the inconsistencies are considered to be of minor significance.

Signature:

 Acting Team Leader

Printed Name:

Luke Blandford

Date:

29/9/2016

