

**Clarence Valley  
Council**

**Planning Proposal  
- 2 Short Street  
Maclean  
(REZ2021/0004)  
October 2021**

## Declaration

Document name: Planning Proposal – 2 Short Street Maclean (REZ2021/0004)

Document Author: Terry Dwyer

Occupation of document author: Strategic Planning Coordinator, Clarence Valley Council

Qualifications of document author: B. App Sci (Natural Resources), Assoc Dip (Env Plan), MPIA, CPP

Declaration: I, Terry Dwyer, declare that this Planning Proposal constitutes a planning proposal for the purposes of section 3.33 of the Environmental Planning and Assessment Act 1979 (the Act) and further declare that the document complies with the relevant provisions of the Environmental Planning and Assessment Act 1979 and the Department of Planning Industry and Environment's *A guide to preparing planning proposals* (December 2018).

Date: 27 October 2021 (vers. 3)

Document History and Version Control				
Version	Prepared by	Approved by	Date Approved	Brief Description
1.0	A Clark/T Dwyer	T Dwyer	22/09/21	Draft for submission to Planning Portal/Gateway
2.0	A Clark/T Dwyer	T Dwyer	06/10/21	Draft for submission to Planning Portal/Gateway, October 2021
3.0	A Clark/T Dwyer	T Dwyer	27/10/21	Draft for public exhibition/community consultation

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# 1. PRELIMINARY

## 1.1 Context

This planning proposal constitutes a document referred to in Section 3.33 of the Environmental Planning and Assessment Act 1979. It has been prepared in accordance with the Department of Planning Industry and Environment's "A guide to preparing planning proposals" (December 2018). A gateway determination under Section 3.34 (2) of the Act has been issued and is at Appendix 8.

## 1.2 Subject Land

This planning proposal applies to Lot 2 DP 366148, 2 Short Street, Maclean, as indicated in red on the location plan (Figure 1) below. Refer also to the formal site identification plan in Appendix 1.



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Date: 20040201

Drawn By: Alex Clark

Map Scale: 1:2257 at A4

Figure 1 – Location Plan

An aerial photo showing the land (red edged) is in figure 2 below.



Figure 2 – Aerial image

### 1.3 Current Zoning & Use

The land is currently zoned B2 Local Centre under *Clarence Valley Local Environmental Plan 2011* (CVLEP). The current zoning of the land is identified on the current land zoning map in Appendix 1. The land is owned by Clarence Valley Council.

The height of buildings on the land are currently limited by the CVLEP Height of Buildings Map – Sheet HOB\_011F to a maximum building height of 9m.

Lot 2 DP 366148 was formerly occupied by a residential dwelling house which was later converted to office space which until recently was occupied by a community service tenancy.

### 1.4 Background

The subject land zoning is B2 Local Centre and prohibits dwelling houses by virtue of residential accommodation, except for shop top housing. Council on 23 February 2021 resolved to amend the CVLEP to add an additional permitted use for the purpose of a dwelling house to the subject land being Lot 2 DP 366148, 2 Short Street, Maclean. A copy of the report considered by Council on 23 February 2021 is in Appendix 2. Prior to the CVLEP the land was zoned 3(a) Commercial under the *Maclean Local Environmental Plan 2001*.

## **2. PART 1 - OBJECTIVE OR INTENDED OUTCOME**

The objective/s or intended outcome/s of the planning proposal is to permit the land use of a dwelling house on Lot 2 DP 366148, 2 Short Street, Maclean.

## **3. PART 2 - EXPLANATION OF PROVISIONS**

The objective/s or intended outcome/s of the Proposal will be achieved by inserting into Schedule 1 Additional Permitted Uses the following:

8. Use of certain land at 2 Short Street, Maclean

- (1) This clause applies to land at 2 Short Street, Maclean, being Lot 2 DP 366148.
- (2) Development for the purpose of a dwelling house is permitted with development consent.

## **4. PART 3 - JUSTIFICATION**

### **4.1 Is the planning proposal a result of any strategic study or report?**

No, the planning proposal is not the result of any strategy or study.

It is more of a result of a Council resolution dated 23 February 2021 to amend the CVLEP to add an additional permitted use for the purpose of a dwelling house to the subject land being Lot 2 DP 366148, 2 Short Street, Maclean. In turn the Council resolution is based on a report considered by Council on 23 February 2021 following a transition of community service providers.

The report notes the subject land was formerly occupied by a residential dwelling house and was later converted to office space which until recently was occupied by a community service tenancy.

The report also notes:

- (i) Due to the current B2 Local Centre zoning under the CVLEP it is not possible to approve a dwelling house land use under the zoning provisions.
- (ii) Persons wanting to utilise the land for residential purposes would need to lodge a Development Application (DA) to convert the premise back to a dwelling house subject to amendment of the CVLEP.

The subject land is adjoining R2 Low Density Residential zoned land under the CVLEP and the amendment to allow a dwelling house on Lot 2 DP 366148 will have a minimal impact within the locality.

It is therefore necessary to lodge a planning proposal seeking to amend the CVLEP to add an additional permitted use for the purpose of a dwelling house on the subject land via Schedule 1 of the CVLEP.

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

Yes. A planning proposal supporting an additional permitted use for the purpose of a dwelling house is considered the best means of achieving the objectives or intended outcomes. This will provide more flexibility in the possible range of uses for the land and existing building.

The other main alternative is a planning proposal aiming to rezone the subject land from B2 Local Centre which currently prohibits a dwelling house by virtue of residential accommodation, except shop top housing. A residential zone under the CVLEP would be selected to enable consideration of a DA for a dwelling house. This would change the land uses from predominately business to residential and is not deemed the best means to achieve the objectives or intended outcomes with no current supporting strategic merit via studies or reports.

### **RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK**

#### **4.3 Applicable Regional Plan - Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?**

The *North Coast Regional Plan 2036* (NCRP 2036) released in March 2017 is the applicable regional plan. It is the NSW Government's strategy for guiding land use planning decisions for the North Coast region.

The Regional Plan comprises four goals, 25 directions and 80 actions. The goals articulate the intended outcome; the directions identify the broad issues or policy areas that need to be focused on; and the actions represent the steps needed to be taken or initiatives that need to be implemented to achieve the goals. Actions are either implemented as strategies or as initiatives.

The North Coast Delivery, Coordination and Monitoring Committee has been established to oversee implementation of the vision, goals and actions in the Regional Plan. In this regard the North Coast Regional Plan 2036 - Implementation Plan 2017-2019 has also been released to accompany the Regional Plan.

Accordingly, the proposal is consistent with the NCRP 2036. An assessment of the planning proposal's consistency against the regional plans goals, directions and actions is in Appendix 3 (consistency checklist).

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

The Clarence 2027 is Council's adopted community strategic plan. It is supported by Council's Delivery Program and Annual Operational Plan applicable at the time.

Other local strategies include:

- Delivery Program & 2021/22 Operational Plan \*
- Maclean Urban Catchment Local Growth Management Strategy 2011
- Clarence Valley Council Local Strategic Planning Statement 2020 \*
- 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

An assessment of the planning proposal against the relevant local strategies is at Appendix 4 (consistency checklist).

#### **4.5 Consistency with applicable state environmental planning policies**

The proposal is consistent with applicable state environmental planning policies (SEPPs).

Refer to the consistency checklist against these policies at Appendix 5.

#### **4.6 Consistency with applicable Ministerial Directions (s.9.1 Directions)**

The proposal is/is not consistent with applicable Section 9.1 Directions.

Refer to the consistency checklist against these Directions at Appendix 6.

### **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?**

No – unlikely. Future built development enabled by the planning proposal is unlikely to adversely affect critical habitat or threatened species, populations or ecological communities, or their habitats.

The site is highly disturbed and developed, containing one building formerly occupied as a dwelling house and more recently used as an office premise. The building is now vacant.

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

##### **4.8.1 Land Contamination**

The subject land contains an existing building, built for the purposes of a residential dwelling house prior to the introduction of an interim development order in 1969, as indicated in the aerial imagery dated 19 October 1958 from NSW Government Spatial Services Historical Imagery Viewer.

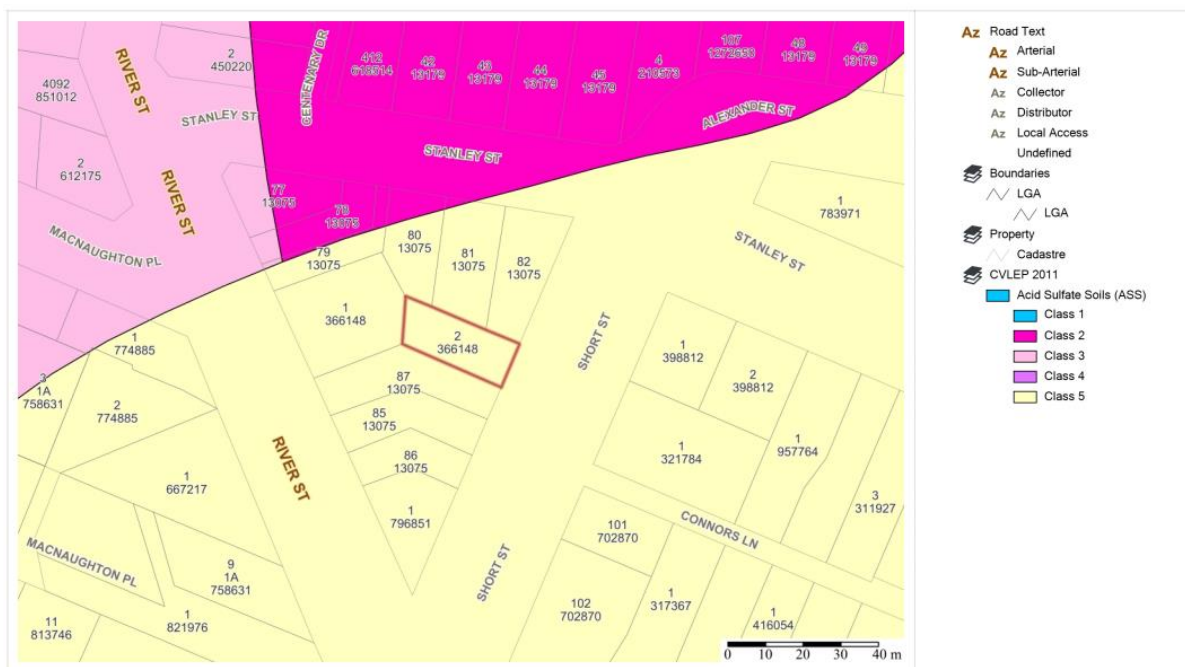


The current use of the land is for an existing building approved under DA2011/0608 for conversion of dwelling to commercial premises on 16 December 2011.

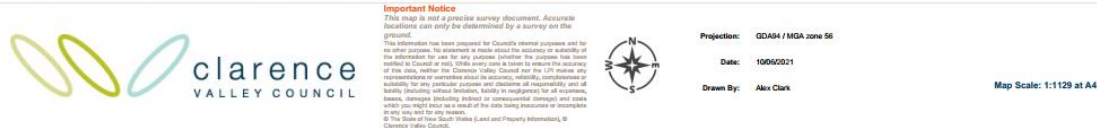
The subject land is unlikely to have been used for any potentially contaminating activities listed in Appendix 1 of Council's Contaminated Land Policy.

#### 4.8.2 Acid Sulfate Soils

The subject land is mapped as class 5 (100%) acid sulfate soils (ASS) as indicated by the map at Figure 3 below.



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**Figure 3 – Acid sulfate soils map**

The Ministers section 9.1 Direction 4.1 Acid Sulfate Soils is relevant. This Direction states that:

*“...a relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Director General prior to undertaking community consultation in satisfaction of section 57 of the Act. (7)”*

Council has not considered an ASS study as per paragraph (5) of the Direction rendering the planning proposal technically inconsistent with this Direction. However, there is a case for justifiable inconsistency given the likely works associated with any future development on the site should be able to be readily addressed and managed via the development consent process and the ASS provisions in clause 7.1 of the CVLEP 2011.

Under LEP clause 7.1 any future development and construction that involves:

- Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

will require an acid sulfate soils management plan prepared in accordance with the ASS Manual to be lodged with a development application.

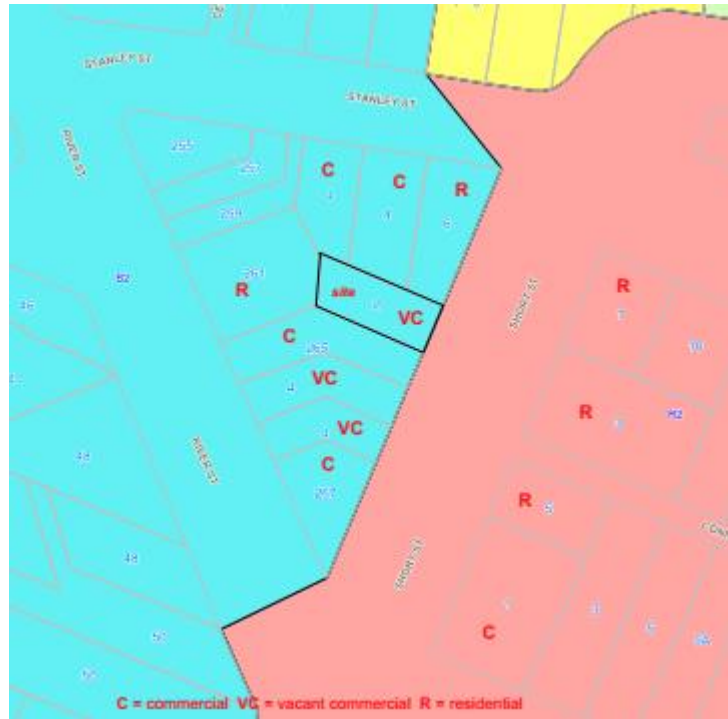
In addition to this, the inconsistency with Direction 4.1 can also be considered to be of minor significance.

#### 4.9 Relevant social and economic effects?

The immediate locality of the site particularly in Short Street is of a more residential character than a commercial character.

The table and map (Figure 4) below show the land use in the immediate vicinity including on those properties that immediately adjoin 2 Short Street.

Address	Land use/comment
4 Stanley Street	<ul style="list-style-type: none"> <li>Commercial – John Snape Motors and Johnnos Quality Cars.</li> <li>Zoned B2</li> </ul>
6 Stanley Street	<ul style="list-style-type: none"> <li>Residential (2 old residential flats)</li> <li>Zoned B2</li> </ul>
2 Short Street	<ul style="list-style-type: none"> <li>Currently vacant building recently occupied by community services provider office</li> <li>Originally a residence</li> <li>Zoned B2</li> </ul>
265 River Street	<ul style="list-style-type: none"> <li>Commercial - Maclean Medical Centre</li> <li>Site has frontage to River Street (primary) &amp; Short Street</li> <li>Zoned B2</li> </ul>
4 Short Street	<ul style="list-style-type: none"> <li>Currently vacant building recently occupied by community services provider office</li> <li>Originally a residence</li> <li>Zoned B2</li> <li>Part of site (Lot 86 DP 3075) is a heritage item (I273)</li> </ul>
267 River Street	<ul style="list-style-type: none"> <li>Commercial – Salvation Army Family Store</li> <li>Formerly the Old Baptist Church</li> <li>Zoned B2</li> <li>Heritage item I271</li> </ul>
261 River Street	<ul style="list-style-type: none"> <li>Residential</li> <li>Zoned B2</li> </ul>
1 Short Street	<ul style="list-style-type: none"> <li>Residential</li> <li>Has old approval for conversion of 2 residential flats to office suites</li> <li>Zoned R2</li> </ul>
3 Short Street	<ul style="list-style-type: none"> <li>Residential units</li> <li>Zoned R2</li> <li>Heritage item I272</li> </ul>
5 Short Street	<ul style="list-style-type: none"> <li>Residential (dwelling house)</li> <li>Zoned R2</li> <li>Heritage item I274</li> </ul>
1 Wharf Street	<ul style="list-style-type: none"> <li>Commercial - Office premises</li> <li>Old dwelling</li> <li>Zoned R2</li> <li>Heritage item I295</li> </ul>



**Figure 4 – land use in the locality**

The map indicates the residential properties with an “R”, commercial properties with a “C” and vacant commercial properties with a “VC”.

Four of the properties in Short Street are residential (either dwelling house or residential flats) whilst there is only 1 active commercial property located on the corner of Short Street and Wharf Street (1 Wharf Street). There are 2 vacant commercial properties in Short street (2 and 4 Short Street). Other properties in the vicinity are either in River Street or Stanley Street.

The future residential use of the dwelling on 2 Short Street should not come into conflict with the land uses in the immediate vicinity. It is of both a minor nature and scale and no adverse social impacts are expected. Similarly, no adverse economic impacts are expected due to the relatively minor nature and scale of the proposal. As the land will remain zoned B2 it will still be available for commercial development in the future.

Action 18.2 of the NCRP mandates the undertaking of Aboriginal cultural heritage assessments to inform the design of planning and development proposals so that impacts to Aboriginal cultural heritage are minimised and appropriate heritage management mechanisms are identified. Refer to Appendix 2.

The site is highly disturbed and developed and principally for this reason it is intended Aboriginal cultural heritage issues are addressed and assessed at the development application (DA) stage.

The land is within a heritage conservation area (HCA). A heritage item (I270) is located upon adjoining 265 River Street (Lot 87, DP 13075) and other heritage items are in close proximity to the subject land. Refer to extract from the Clarence Valley Local Environmental Plan 2011 Heritage Map – Sheet HER\_011FB at Figure 5 below.

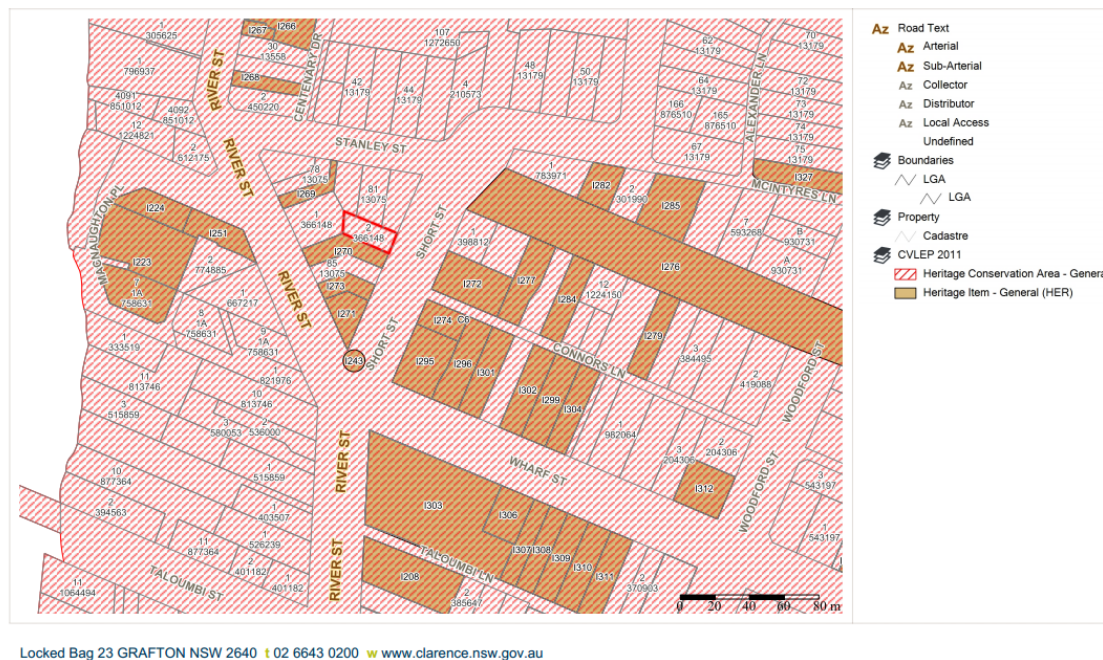


Figure 5 – Heritage map – CVLEP 2011

The statement of significance in the NSW State Heritage Register for 265 River Street, states the following:

*“This building is historically significant for its association with local government in the Maclean District. From 1907 to 1959, when Harwood Council was amalgamated with Maclean Municipal Council, this building was the Harwood Council Chambers. Following amalgamation new Chambers were built across River street. The building is in almost original condition and has retained many Federation features such as the tessellated tile entry porch, and Wunderlich pressed metal ceilings. The words “Harwood Council 1906” on the exterior show the purpose of the building and the date the first Council was elected. Built from local bricks it is associated with Page’s brickworks and makes a significant contribution to River Street.”*

It is considered that the scale and form of future development on the site can be designed and managed via the development assessment process so as not to adversely impact the values of the HCA, associated streetscape and adjoining heritage item. This is because the lot configuration and size combined with the topography i.e. “sloping away from the road” should ensure that future development is be able to be designed such that it should not unduly impose upon the heritage item nor dominate the streetscape.

## **STATE AND COMMONWEALTH INTERESTS**

### **a. Is there adequate public infrastructure for the planning proposal?**

There is considered to be adequate public infrastructure (water, sewer, electricity, telecommunications etc) available for the modest scale of future development that would be permitted under the additional permitted use of a dwelling house.

### **b. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

The views of any relevant State and Commonwealth public authorities have not been sought prior to the issue of a gateway determination.

A gateway determination dated 26 October 2021 has been issued and is at Appendix 8.

Refer also to Section 6. PART 5 - COMMUNITY CONSULTATION, below.

## 5. PART 4 - MAPPING

A site identification plan has been prepared to clearly indicate the land the subject of this planning proposal. This is located at Figure 1.

## 6. PART 5 - COMMUNITY CONSULTATION

It is considered that the proposal is a 'low impact' or 'other types of planning proposal' (*specify the type of impact*) for the purpose of community consultation under Section 6.5.2 of "A guide to preparing local environmental plans, December 2018".

However, it is intended that the planning proposal be exhibited for 28 days (*Note: depends on "impact" category*) in accordance with Section 6.5.2 of "A guide to preparing local environmental plans". It is also intended to provide written notification to adjoining landowners.

There are no State or Commonwealth authorities or other organisations that are considered as stakeholders that need to be consulted in this matter.

A public hearing is not considered necessary.

## 7. PART 6 - PROJECT TIMELINE

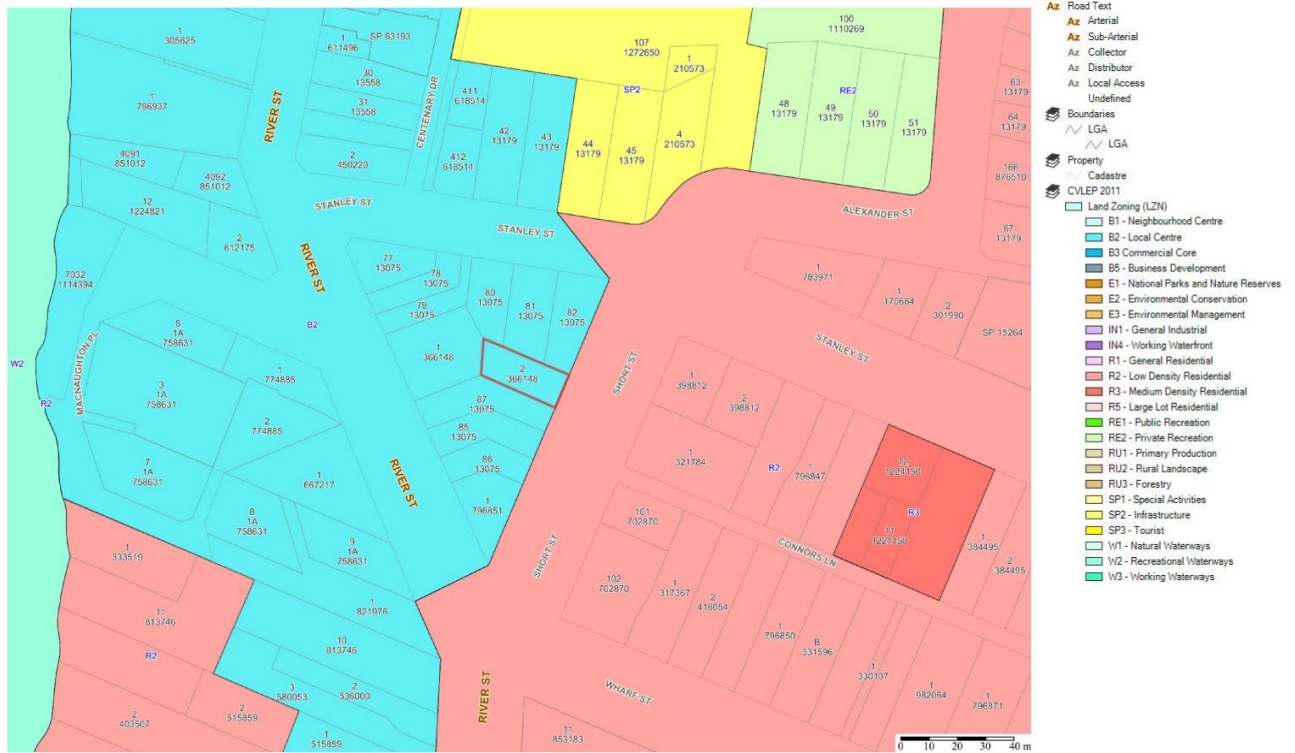
An estimated timeline for this project is 6 months from the issue of a Gateway determination. The table below provides some estimated timeframes or dates for specific milestones.

Specific milestone	Milestone timeframe or date
Date submitted to Planning Gateway (NSW Planning Portal)	7 October 2021
Gateway determination	26 October 2021
Public exhibition including period	November 2021 – 28 days as specified by gateway determination
Timeframe for the consideration of the proposal post exhibition	February 2022 (Ordinary Council meeting)
Date of submission to the Dept. Planning and Environment to finalise the LEP (if not delegated to Council)	February/March 2022



## APPENDIX 1: Mapping

- Existing land zoning map



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Map Scale: 1:1129 at A3 Landscape



## **APPENDIX 2: Report considered by Council 23 February 2021**

ITEM	6a.21.003	PROPOSED SALE OF NUMBERS 2 AND 4 SHORT STREET, MACLEAN
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Meeting	Council	23 February 2021
Directorate	Corporate & Governance	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	Nil	

**SUMMARY**

This report presents to Council a proposal for the necessary approvals to be obtained prior to sale to enable both 2 and 4 Short Street, Maclean to be either sold as, or used as, residences.

**OFFICER RECOMMENDATION**

That Council:

1. Authorise a planning proposal to be prepared and lodged to the Planning Gateway seeking an amendment to the Clarence Valley LEP 2011 to add an additional permitted use for the purpose of dwelling house to Lot 2 DP366148, 2 Short Street, Maclean;
2. Delegate authority to the General Manager to engage a consultant to prepare and lodge a development application on Council's behalf for the conversion of the premise on Lot 85 and 86 DP13075, being 4 Short Street, Maclean, to a dwelling house by utilising Clause 5.10(10) of the Clarence Valley LEP;
3. Allocate \$20,000 from the Strategic Building Reserve (RA 10520) to FP995005 Council Property Management to fund the DA and associated consultant costs; and
4. Delegate authority to the General Manager to execute documentation associated with the preparation and processing of the planning proposal and development application, including necessary reports from consultants.

**COUNCIL RESOLUTION – 6a.21.003**

**Simmons/Lysaught**

**That Council:**

1. Authorise a planning proposal to be prepared and lodged to the Planning Gateway seeking an amendment to the Clarence Valley LEP 2011 to add an additional permitted use for the purpose of dwelling house to Lot 2 DP366148, 2 Short Street, Maclean;
2. Delegate authority to the General Manager to engage a consultant to prepare and lodge a development application on Council's behalf for the conversion of the premise on Lot 85 and 86 DP13075, being 4 Short Street, Maclean, to a dwelling house by utilising Clause 5.10(10) of the Clarence Valley LEP;
3. Allocate \$20,000 from the Strategic Building Reserve (RA 10520) to FP995005 Council Property Management to fund the DA and associated consultant costs; and
4. Delegate authority to the General Manager to execute documentation associated with the preparation and processing of the planning proposal and development application, including necessary reports from consultants.

**Voting recorded as follows:**

**For:** Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

**Against:** Nil

**CARRIED**

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

**BACKGROUND**

At its meeting on 15 December 2020, Item 6c.20.197, Council resolved as follows:

*That Council*

1. *Note the update on transition of Clarence Care and Support to Wesley Mission, provided in this report.*
2. *Delegate authority to the General Manager to engage an agent to sell of Lot 2 DP366148 and Lots 85-86 DP13075 at current market value.*
3. *Delegate authority to the General Manager to receive a report from staff on receipt of offers in accordance with the confidential attachment A.*
4. *Delegate authority to the General Manager to sign all documentation relating to the sale by public auction of Lot 2 DP366148 and Lots 85-86 DP13075.*

An EOI for an agent has been completed and LJ Hooker Maclean was successful and appointed as the agent.

**KEY ISSUES**

Both of these properties at 2 and 4 Short Street, Maclean were formerly occupied by residential dwelling houses and were later converted to office space which remains as the current use. Both are occupied by a tenant providing a community service function. The current leases expire on 30 June 2021.

The real estate agent has advised that the greatest demand in the current property market is for residential. Whilst the current commercial market is slowly growing it is not at the same level of the current residential market. The agent has been engaged to get the best value for the properties for Council and the public, and therefore they recommend seeking the necessary consent or local planning arrangement to enable the properties to be either sold as, or used as, residences.

Both properties are zoned B2 Local Centre under the Clarence Valley Local Environmental Plan 2011 (CVLEP). Due to the current B2 zoning it is not possible to approve a dwelling house use under the zoning provisions. Notwithstanding that, the property at 4 Short Street is listed as a heritage item under Schedule 5 of the CVLEP and hence, there is potential to utilise the heritage incentives provisions, ie clause 5.10(10), of the CVLEP to seek development consent for a use that would otherwise not be permitted under the Plan. The property at 2 Short Street does not have the benefit of being heritage listed and having the opportunity to utilise clause 5.10(10), hence, it is therefore necessary to lodge a planning proposal seeking to amend the CVLEP to add an additional permitted use for the purpose of a dwelling house on the subject land via Schedule 1 of the CVLEP.

Any approval to a DA for 4 Short Street and amendment to the CVLEP for 2 Short Street as suggested would open the market to prospective commercial and residential buyers. Persons wanting to utilise 2 Short Street for residential purposes would need to lodge a DA to convert the premise back to a dwelling house post amendment to the CVLEP.

The timeframe to execute and finalise each planning process will vary. A development application (DA) to convert the use of premises at 4 Short Street would be expected to be relatively straight forward post-lodgement with a processing time of 1-2 months. In order to assess a DA using clause 5.10(10) it would be necessary for a conservation management document to be prepared and for the conditions of any development consent to require implementation of the management recommendations. This document would need to be prepared by a heritage consultant. The planning proposal would take in the order of 8-10 months to process post-lodgement. The proposal documentation would typically require supplementary assessment of the potential for land contamination, especially given the conversion to a more sensitive, residential use. The potential for land contamination also require assessment for any DA and, hence, it would be prudent and efficient to obtain a preliminary contamination assessment prepared by a suitably qualified consultant for both properties and have that documentation submitted with the applications.

**COUNCIL IMPLICATIONS****Budget/Financial**

Quotes are currently being sought for a consultant to prepare and lodge the development application (DA) for 4 Short Street. Preparation of the conservation management document by a planning consultant would be expected to cost in the order of \$4,000. The planning proposal for 2 Short Street will be administered internally by the Strategic Planning team using recurrent staff resources. A contamination assessment for both properties would be expected to cost in the order of \$8-10,000. The costs to prepare and process these applications is expected to be less than the expected return Council would gain if the properties were sold to a residential buyer. In addition, approval of the proposed planning applications offers greater confidence that

an appropriate sale price will be achieved in a timely manner and these benefits further justify the expenses associated with the recommended planning processes.

It is recommended that Council allocate \$20,000 from the Strategic Building Reserve (RA 10520) to FP995005 Council Property Management to fund the DA and associated consultant costs for the planning consultant and the contamination assessment. These costs would be returned to the Strategic Building Reserve following the property sales.

**Asset Management**

The properties and improvements thereon are current Council assets and contribute to maintenance and depreciation costs. Sale of the properties will remove these from Council's asset management responsibilities.

**Policy or Regulation**

*Environmental Planning and Assessment Act 1979*

*Environmental Planning and Assessment Regulation 2000*

*Clarence Valley Local Environmental Plan 2011*

**Consultation**

Consultation has been undertaken with the real estate agent, Council's Planning staff and members of the Executive team.

**Legal and Risk Management**

Both properties are classified as operational land and therefore can be sold by Council. DAs and planning proposals can be subject to appeal through either the Land and Environment Court or the NSW Department of Planning, Industry and Environment. It is appropriate that the applications are supported by necessary professional reports in respect of heritage management and potential for land contamination affecting the proposed residential uses. These reports reduce the risk of legal challenge and delay in assessment of the applications.

**Climate Change**

No change to the existing built infrastructure is proposed other than a change of use. Such re-use of existing built assets, rather than demolition and rebuilding, is a more sustainable action and consistent with measures to reduce carbon emissions and climate change effects.

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Prepared by	Kylee Baker, Property Coordinator
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### APPENDIX 3: NORTH COAST REGIONAL PLAN 2036 CONSISTENCY CHECKLIST

NORTH COAST REGIONAL PLAN 2036 GOALS, DIRECTIONS & ACTIONS	CONSISTENCY	COMMENTS
<b>Goal 1 - The most stunning environment in NSW</b> <b>Direction 1 - Deliver environmentally sustainable growth</b>		
<u>Action 1.1</u> - Focus future urban development to mapped urban growth areas.	Yes	Consistent. The land is within an urban growth area. Therefore any new development on the land will be within an urban growth area.
<u>Action 1.2</u> - Review areas identified as 'under investigation' within urban growth areas to identify and map sites of potentially high environmental value.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<u>Action 1.3</u> - Identify residential, commercial or industrial uses in urban growth areas by developing local growth management strategies endorsed by the Department of Planning and Environment.	Yes	Consistent although Council has not yet developed a local growth management strategy.
<u>Action 1.4</u> - Prepare land release criteria to assess appropriate locations for future residential, commercial and industrial uses.	Yes	Consistent. The planning proposal to enable a dwelling house as an additional permitted use is for land adjacent to a residential zone and is therefore considered appropriate.
<b>Goal 1 - The most stunning environment in NSW</b> <b>Direction 2 - Enhance biodiversity, coastal and aquatic habitats, and water catchments</b>		
<u>Action 2.1</u> - Focus development to areas of least biodiversity sensitivity in the region and implement the 'avoid, minimise, offset' hierarchy to biodiversity, including areas of high environmental value.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<u>Action 2.2</u> - Ensure local plans manage marine environments, water catchment areas and groundwater sources to avoid potential development impacts.	Yes	Consistent. It is expected that any potential impacts on marine environments and groundwater sources can be adequately managed via the development assessment process.
<b>Goal 1 - The most stunning environment in NSW</b> <b>Direction 3 - Manage natural hazards and climate change</b>		
<u>Action 3.1</u> - Reduce the risk from natural hazards, including the projected effects of climate change, by identifying, avoiding and managing vulnerable areas and hazards.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<u>Action 3.2</u> - Review and update floodplain risk, bushfire and coastal	Yes	Consistent although this action is not

<b>NORTH COAST REGIONAL PLAN 2036 GOALS, DIRECTIONS &amp; ACTIONS</b>	<b>CONSISTENCY</b>	<b>COMMENTS</b>
management mapping to manage risk, particularly where urban growth is being investigated.		directly relevant to the planning proposal.
<u>Action 3.3</u> - Incorporate new knowledge on regional climate projections and related cumulative impacts in local plans for new urban development.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<b>Goal 1 - The most stunning environment in NSW</b>		
<b>Direction 4 - Promote renewable energy opportunities</b>		
<u>Action 4.1</u> - Diversify the energy sector by identifying renewable energy resource precincts and infrastructure corridors with access to the electricity network.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<u>Action 4.2</u> - Enable appropriate smaller-scale renewable energy projects using bio-waste, solar, wind, small-scale hydro, geothermal or other innovative storage technologies.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<u>Action 4.3</u> - Promote appropriate smaller and community-scale renewable energy projects.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<b>Goal 2 - A thriving, interconnected economy</b>		
<b>Direction 5 - Strengthen communities of interest and cross-regional relationships</b>		
<u>Action 5.1</u> - Collaborate on regional and intra-regional housing and employment land delivery, and industry development.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<u>Action 5.2</u> - Integrate cross-border land use planning between NSW and South East Queensland, and remove barriers to economic, housing and jobs growth.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<u>Action 5.3</u> - Encourage ongoing cooperation and land use planning between the City of Gold Coast and Tweed Shire Council.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<u>Action 5.4</u> - Prepare a regional economic development strategy that drives economic growth opportunities by identifying key enabling infrastructure and other policy interventions to unlock growth.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<b>Goal 2 - A thriving, interconnected economy</b>		
<b>Direction 6 - Develop successful centres of employment</b>		
<u>Action 6.1</u> - Facilitate economic activity around industry anchors such as health, education and airport facilities by considering new infrastructure needs and introducing planning controls that encourage clusters of related activity.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<u>Action 6.3</u> - Promote knowledge industries by applying flexible planning controls, providing business park development opportunities and identifying opportunities for start-up industries.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<u>Action 6.3</u> - Reinforce centres through local growth management strategies and local environmental plans as primary mixed-use locations	Yes	Consistent although Council has not yet developed a local growth management

NORTH COAST REGIONAL PLAN 2036 GOALS, DIRECTIONS & ACTIONS	CONSISTENCY	COMMENTS
for commerce, housing, tourism, social activity and regional services.		strategy.
<u>Action 6.4</u> - Focus retail and commercial activities in existing centres and develop place-making focused planning strategies for centres.	Yes	Consistent. The land will have a additional permitted use and will not impact future potential for commercial use of the site.
<u>Action 6.5</u> - Promote and enable an appropriate mix of land uses and prevent the encroachment of sensitive uses on employment land through local planning controls.	Yes	Consistent. The land will have a additional permitted use and will not impact future potential for commercial use of the site.
<u>Action 6.6</u> - Deliver an adequate supply of employment land through local growth management strategies and local environmental plans to support jobs growth.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<u>Action 6.7</u> - Ensure employment land delivery is maintained through an annual North Coast Housing and Land Monitor.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<b>Goal 2 - A thriving, interconnected economy</b> <b>Direction 7 - Coordinate the growth of regional cities</b>		
<u>Action 7.1</u> - Prepare action plans for regional cities that: <ul style="list-style-type: none"> <li>▪ ensure planning provisions promote employment growth and greater housing diversity;</li> <li>▪ promote new job opportunities that complement existing employment nodes around existing education, health and airport precincts;</li> <li>▪ identify infrastructure constraints and public domain improvements that can make areas more attractive for investment; and</li> <li>▪ deliver infrastructure and coordinate the most appropriate staging and sequencing of development.</li> </ul>	Yes	Consistent although this action is not directly relevant to the planning proposal.
<b>Goal 2 - A thriving, interconnected economy</b> <b>Direction 8 - Promote the growth of tourism</b>		
<u>Action 8.1</u> - Facilitate appropriate large-scale tourism developments in prime tourism development areas such as Tweed Heads, Tweed Coast, Ballina, Byron Bay, Coffs Harbour and Port Macquarie.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<u>Action 8.2</u> - Facilitate tourism and visitor accommodation and supporting land uses in coastal and rural hinterland locations through local growth management strategies and local environmental plans.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<u>Action 8.3</u> - Prepare destination management plans or other tourism focused strategies that: <ul style="list-style-type: none"> <li>▪ identify culturally appropriate Aboriginal tourism opportunities;</li> <li>▪ encourage tourism development in natural areas that support conservation outcomes; and</li> <li>▪ strategically plan for a growing international tourism market.</li> </ul>	Yes	Consistent although this action is not directly relevant to the planning proposal.

NORTH COAST REGIONAL PLAN 2036 GOALS, DIRECTIONS & ACTIONS	CONSISTENCY	COMMENTS
Action 8.4 - Promote opportunities to expand visitation to regionally significant nature-based tourism places, such as Ellenborough Falls, Dorrigo National Park, Wollumbin–Mount Warning National Park, Iluka Nature Reserve and Yuraygir Coastal Walk.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 8.5 - Preserve the region's existing tourist and visitor accommodation by directing permanent residential accommodation away from tourism developments, except where it is ancillary to existing tourism developments or part of an area otherwise identified for urban expansion in an endorsed local growth management strategy.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<b>Goal 2 - A thriving, interconnected economy</b> <b>Direction 9: Strengthen regionally significant transport corridors</b>		
Action 9.1 - Enhance the competitive value of the region by encouraging business and employment activities that leverage major inter-regional transport connections, such as the Pacific Highway, to South East Queensland and the Hunter.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 9.2 - Identify buffer and mitigation measures to minimise the impact of development on regionally significant transport infrastructure including regional and state road network and rail corridors.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 9.3 - Ensure the effective management of the State and regional road network by: <ul style="list-style-type: none"> <li>▪ preventing development directly adjoining the Pacific Highway;</li> <li>▪ preventing additional direct 'at grade' access to motorway-class sections of the Pacific Highway;</li> <li>▪ locating highway service centres on the Pacific Highway at Chinderah, Ballina, Maclean, Woolgoolga, Nambucca Heads, Kempsey and Port Macquarie, approved by the Department of Planning and Environment and Roads and Maritime Services; and</li> <li>▪ identifying strategic sites for major road freight transport facilities.</li> </ul>	Yes	Consistent although this action is not directly relevant to the planning proposal.
<b>Goal 2 - A thriving, interconnected economy</b> <b>Direction 10 - Facilitate air, rail and public transport infrastructure</b>		
Action 10.1 - Deliver airport precinct plans for Ballina–Byron, Lismore, Coffs Harbour and Port Macquarie that capitalise on opportunities to diversify and maximise the potential of value-adding industries close to airports.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 10.2 - Consider airport-related employment opportunities and precincts that can capitalise on the expansion proposed around Gold Coast Airport.	Yes	Consistent although this action is not directly relevant to the planning proposal.



NORTH COAST REGIONAL PLAN 2036 GOALS, DIRECTIONS & ACTIONS	CONSISTENCY	COMMENTS
Action 10.3 - Protect the North Coast Rail Line and high-speed rail corridor to ensure network opportunities are not sterilised by incompatible land uses or land fragmentation.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 10.4 - Provide public transport where the size of the urban area has the potential to generate sufficient demand.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 10.5 - Deliver a safe and efficient transport network to serve future release areas.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<b>Goal 2 - A thriving, interconnected economy</b> <b>Direction 11: Protect and enhance productive agricultural lands</b>		
Action 11.1 - Enable the growth of the agricultural sector by directing urban and rural residential development away from important farmland and identifying locations to support existing and small-lot primary production, such as horticulture in Coffs Harbour.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 11.2 - Deliver a consistent management approach to important farmland across the region by updating the Northern Rivers Farmland Protection Project (2005) and Mid North Coast Farmland Mapping Project (2008).	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 11.3 - Identify and protect intensive agriculture clusters in local plans to avoid land use conflicts, particularly with residential and rural residential expansion.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 11.4 - Encourage niche commercial, tourist and recreation activities that complement and promote a stronger agricultural sector, and build the sector's capacity to adapt to changing circumstances.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 11.5 - Address sector-specific considerations for agricultural industries through local plans.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<b>Goal 2 - A thriving, interconnected economy</b> <b>Direction 12 - Grow agribusiness across the region</b>		
Action 12.1 - Promote the expansion of food and fibre production, agrichemicals, farm machinery, wholesale and distribution, freight and logistics, and processing through flexible planning provisions in local growth management strategies and local environmental plans.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 12.2 - Encourage the co-location of intensive primary industries, such as feedlots and compatible processing activities.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 12.3 - Examine options for agribusiness to leverage proximity from the Gold Coast and Brisbane West Wellcamp airports.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 12.4 - Facilitate investment in the agricultural supply chain by protecting assets, including freight and logistics facilities, from land use	Yes	Consistent although this action is not directly relevant to the planning proposal.

NORTH COAST REGIONAL PLAN 2036 GOALS, DIRECTIONS & ACTIONS	CONSISTENCY	COMMENTS
conflicts arising from the encroachment of incompatible land uses.		
<b>Goal 2 - A thriving, interconnected economy</b> <b>Direction 13 - Sustainably manage natural resources</b>		
Action 13.1 - Enable the development of the region's natural, mineral and forestry resources by directing to suitable locations land uses such as residential development that are sensitive to impacts from noise, dust and light interference.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 13.2 - Plan for the ongoing productive use of lands with regionally significant construction material resources in locations with established infrastructure and resource accessibility.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<b>Goal 3 - Vibrant and engaged communities</b> <b>Direction 14 - Provide great places to live and work</b>		
Action 14.1 - Prepare precinct plans in growth areas, such as Kingscliff, or centres bypassed by the Pacific Highway, such as Woodburn and Grafton, to guide development and establish appropriate land use zoning, development standards and developer contributions.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 14.2 - Deliver precinct plans that are consistent with the Precinct Plan Guidelines (Appendix C).	Yes	Consistent although this action is not directly relevant to the planning proposal.
<b>Goal 3 - Vibrant and engaged communities</b> <b>Direction 15 - Develop healthy, safe, socially engaged and well-connected communities</b>		
Action 15.1 - Deliver best-practice guidelines for planning, designing and developing healthy built environments that respond to the ageing demographic and subtropical climate.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 15.2 - Facilitate more recreational walking and cycling paths and expand inter-regional and intra-regional walking and cycling links, including the NSW Coastline Cycleway.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 15.3 - Implement actions and invest in boating infrastructure priorities identified in regional boating plans to improve boating safety, boat storage and waterway access.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 15.4 - Create socially inclusive communities by establishing social infrastructure benchmarks, minimum standards and social impact assessment frameworks within local planning.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 15.5 - Deliver crime prevention through environmental design outcomes through urban design processes.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<b>Goal 3 - Vibrant and engaged communities</b> <b>Direction 16 - Collaborate and partner with Aboriginal communities</b>		
Action 16.1 - Develop partnerships with Aboriginal communities to facilitate	Yes	Consistent although this action is not

NORTH COAST REGIONAL PLAN 2036 GOALS, DIRECTIONS & ACTIONS	CONSISTENCY	COMMENTS
engagement during the planning process, including the development of engagement protocols.		directly relevant to the planning proposal.
Action 16.2 - Ensure Aboriginal communities are engaged throughout the preparation of local growth management strategies and local environmental plans.	Yes	Consistent. This proposal is of minor nature and scale and is considered unlikely to impact the interests of Aboriginal communities to the extent that would warrant targeted consultation or engagement.
<b>Goal 3 - Vibrant and engaged communities</b> <b>Direction 17: Increase the economic self-determination of Aboriginal communities</b>		
Action 17.1 - Deliver opportunities to increase the economic independence of Aboriginal communities through training, employment and tourism.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 17.2 - Foster closer cooperation with Local Aboriginal Land Councils to identify the unique potential and assets of the North Coast communities.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 17.3 - Identify priority sites with economic development potential that Local Aboriginal Land Councils may wish to consider for further investigation.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<b>Goal 3 - Vibrant and engaged communities</b> <b>Direction 18 - Respect and protect the North Coast's Aboriginal heritage</b>		
Action 18.1 - Ensure Aboriginal objects and places are protected, managed and respected in accordance with legislative requirements and the wishes of local Aboriginal communities.	Yes	Consistent. The planning proposal will ensure that any Aboriginal objects that occur or likely to occur will be managed to ensure their protection as part of any new development.
Action 18.2 - Undertake Aboriginal cultural heritage assessments to inform the design of planning and development proposals so that impacts to Aboriginal cultural heritage are minimised and appropriate heritage management mechanisms are identified.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 18.3 - Develop local heritage studies in consultation with the local Aboriginal community, and adopt appropriate measures in planning strategies and local plans to protect Aboriginal heritage.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 18.4 - Prepare maps to identify sites of Aboriginal heritage in 'investigation' areas, where culturally appropriate, to inform planning strategies and local plans to protect Aboriginal heritage.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<b>Goal 3 - Vibrant and engaged communities</b> <b>Direction 19 - Protect historic heritage</b>		

NORTH COAST REGIONAL PLAN 2036 GOALS, DIRECTIONS & ACTIONS	CONSISTENCY	COMMENTS
Action 19.1 - Ensure best-practice guidelines are considered such as the Australia International Council on Monuments and Sites (ICOMOS) Charter for Places of Cultural Significance and the NSW Heritage Manual when assessing heritage significance.	Yes	Consistent. Refer also section 4.9 of the planning proposal document
Action 19.2 - Prepare, review and update heritage studies in consultation with the wider community to identify and protect historic heritage items, and include appropriate local planning controls.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 19.3 - Deliver the adaptive or sympathetic use of heritage items and assets.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<b>Goal 3 - Vibrant and engaged communities</b> <b>Direction 20 - Maintain the region's distinctive built character</b>		
Action 20.1 - Deliver new high-quality development that protects the distinct character of the North Coast, consistent with the North Coast Urban Design Guidelines (2009)	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 20.2 - Review the North Coast Urban Design Guidelines (2009).	Yes	Consistent although this action is not directly relevant to the planning proposal.
<b>Goal 3 - Vibrant and engaged communities</b> <b>Direction 21 - Coordinate local infrastructure delivery</b>		
Action 21.1 - Undertake detailed infrastructure service planning to support proposals for new major release areas.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 21.2 - Maximise the cost-effective and efficient use of infrastructure by directing development towards existing infrastructure or promoting the co-location of new infrastructure.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<b>Goal 4 - Great housing choice and lifestyle options</b> <b>Direction 22 - Deliver greater housing supply</b>		
Action 22.1 - Deliver an appropriate supply of residential land within local growth management strategies and local plans to meet the region's projected housing needs.	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 22.2 - Facilitate housing and accommodation options for temporary residents by: <ul style="list-style-type: none"> <li>preparing planning guidelines for seasonal and itinerant workers accommodation to inform the location and design of future facilities; and</li> <li>working with councils to consider opportunities to permit such facilities through local environmental plans.</li> </ul>	Yes	Consistent although this action is not directly relevant to the planning proposal.
Action 22.3 - Monitor the supply of residential land and housing through the North Coast Housing and Land Monitor.	Yes	Consistent although this action is not directly relevant to the planning proposal.

NORTH COAST REGIONAL PLAN 2036 GOALS, DIRECTIONS & ACTIONS	CONSISTENCY	COMMENTS
<b>Goal 4 - Great housing choice and lifestyle options</b> <b>Direction 23 - Increase housing diversity and choice</b>		
<u>Action 23.1</u> - Encourage housing diversity by delivering 40 per cent of new housing in the form of dual occupancies, apartments, townhouses, villas or dwellings on lots less than 400 square metres, by 2036.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<u>Action 23.1</u> - Develop local growth management strategies to respond to changing housing needs, including household and demographic changes, and support initiatives to increase ageing in place.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<b>Goal 4 - Great housing choice and lifestyle options</b> <b>Direction 24: Deliver well-planned rural residential housing areas</b>		
<u>Action 24.1</u> - Facilitate the delivery of well-planned rural residential housing areas by: <ul style="list-style-type: none"> <li>▪ identifying new rural residential areas in a local growth management strategy or rural residential land release strategy endorsed by the Department of Planning and Environment; and</li> <li>▪ ensure that such proposals are consistent with the Settlement Planning Guidelines: Mid and Far North Coast Regional Strategies (2007) or land release criteria (once finalised).</li> </ul>	Yes	Consistent although this action is not directly relevant to the planning proposal.
<u>Action 24.2</u> - Enable sustainable use of the region's sensitive coastal strip by ensuring new rural residential areas are located outside the coastal strip, unless already identified in a local growth management strategy or rural residential land release strategy endorsed by the Department of Planning and Environment.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<b>Goal 4 - Great housing choice and lifestyle options</b> <b>Direction 25 - Deliver more opportunities for affordable housing</b>		
<u>Action 25.1</u> - Deliver more opportunities for affordable housing by incorporating policies and tools into local growth management strategies and local planning controls that will enable a greater variety of housing types and incentivize private investment in affordable housing.	Yes	Consistent although this action is not directly relevant to the planning proposal.
<u>Action 25.2</u> - Prepare guidelines for local housing strategies that will provide guidance on planning for local affordable housing needs.	Yes	Consistent although this action is not directly relevant to the planning proposal.

## APPENDIX 4: COUNCILS LOCAL STRATEGY AND STRATEGIC PLAN/S CONSISTENCY CHECKLIST

Strategy/Strategic Plan	Relevant component/statement of consistency
The Clarence 2027	<p>The themes and objectives of the Community Plan most relevant to the planning proposal are:</p> <p>Theme – Society Objective 1.1 – To have proud and inviting communities <u>Comment</u> The future use of the land and building in this location should complement the achievement of this objective.</p> <p>The planning proposal will complement and is consistent with the following strategies and actions under the current Delivery Program and Operational Plan.</p>
Council's Delivery Program and Operational Plan	<p>The proposal is relevant to the following objectives and strategies.</p> <p>Objective 1.1 – We will have proud and inviting communities Strategy 1.1.1 – Encourage vibrant and welcoming towns and villages</p>
Clarence Valley Council Local Strategic Planning Statement 2020 (LSPS)	<p>The proposal has the potential to complement the following LSPS priorities which could be considered to be of some relevance:</p> <p>Priority 1 - Take a proactive place making approach to create great places to live, work and play, suitable to our climate, culture and social aspirations Priority 3 - Plan for a growing population and provide safe, resilient and sustainable places for communities to grow Priority 4 – Provide housing choice to meet community needs, including social and affordable housing Priority 6 - Preserve and enhance the local character and heritage of our diverse places and communities</p> <p>There are no particular actions under these priorities that are relevant or impacted.</p> <p>The proposal should not prevent the implementation of the following LSPS priorities which could be considered to be of some relevance:</p> <p>Priority 11 Strengthen the local economy and provide opportunities for quality local employment Priority 12 Consolidate the role of Grafton as a traditional economic centre and plan for vitality of Maclean, Yamba and other centres</p> <p>There are no particular actions under these priorities that are relevant or impacted.</p>
Maclean Urban Catchment Local Growth Management Strategy 2011	Not relevant. This strategy is only applicable to the urban growth areas of Townsend, Gulmarrad and James Creek.
South Grafton Heights Precinct Strategy	Not relevant. The planning proposal has no direct relevance to this strategy and vice versa.
Clarence Valley Settlement Strategy	The CVSS is broadly relevant to this proposal. The planning proposal is considered broadly consistent with the strategy including its settlement hierarchy, objectives, principles as well as the specific area strategy for Maclean – Townsend.
Lower Clarence Retail Strategy (May 2007)	The scale proposed the proposal is neither explicitly consistent nor inconsistent with the LCRS.
Yamba Retail/Commercial Strategy (May 2002)	Not relevant. The planning proposal has no direct relevance to this strategy and vice versa.

<b>Strategy/Strategic Plan</b>	<b>Relevant component/statement of consistency</b>
Clarence Valley Economic Development Strategic Plan	Although this plan has some relevance it appears that the planning proposal does not exhibit any explicit inconsistency with it. More appropriately the proposal can be regarded as not antipathetic to the plan and its strategies.
Clarence Valley Industrial Lands Strategy	Not relevant. The planning proposal has no direct relevance to this strategy and vice versa.
Clarence Valley Affordable Housing Strategy	Not relevant. The planning proposal has no direct relevance to this strategy and vice versa.
Clarence River Way Masterplan 2009	Not relevant. The land does not play a role in this masterplan.
Clarence Valley Open Spaces Strategic Plan 2012	Not relevant. The land does not play a role in this strategic plan.

## APPENDIX 5: STATE ENVIRONMENTAL PLANNING POLICY CONSISTENCY CHECKLIST

Name of SEPP	Relevant/applicable?	Comment/statement of consistency
<i>The following State Environmental Planning Policies (SEPPs) are current and whilst not all may be applicable to the Clarence Valley LGA they are all being acknowledged and some are considered in more detail where relevant.</i>		
State Environmental Planning Policy No 19 - Bushland in Urban Areas	No	N/A
State Environmental Planning Policy No 21 - Caravan Parks	No	N/A
State Environmental Planning Policy No 33 - Hazardous and Offensive Development	No	N/A
State Environmental Planning Policy No 36 - Manufactured Home Estates	No	N/A
State Environmental Planning Policy No 47 - Moore Park Showground	No	N/A
State Environmental Planning Policy No 50 - Canal Estate Development	No	N/A
State Environmental Planning Policy No 55 - Remediation of Land	No	N/A – no longer applicable as clause 6 Contamination and remediation to be considered in zoning or rezoning proposal was repealed on 17 April 2020. Refer to section 9.1 Direction 2.6 Remediation of Contaminated Land in Appendix 6 below.
State Environmental Planning Policy No 64 - Advertising and Signage	No	N/A
State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development	No	N/A
State Environmental Planning Policy No 70 - Affordable Housing (Revised Schemes)	No	N/A
State Environmental Planning Policy (Aboriginal Land) 2019	No	<i>Note – the Land Application Map accompanying SEPP (Aboriginal Land) 2019 should be checked to determine if the planning proposal affects any land on that map and therefore if it is affected by this SEPP.</i>
State Environmental Planning Policy (Activation Precincts) 2020	No	N/A - The planning proposal does not affect any land that is Identified as being within an Activation Precinct under this Policy.
State Environmental Planning Policy (Affordable Rental Housing) 2009	No	N/A
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	No	N/A
State Environmental Planning Policy (Coastal Management) 2018	No	The land is within the coastal zone, as defined under the Coastal Management Act 2016 and is affected by the provisions of this SEPP. However, the SEPP is not relevant to be considered as part of a planning proposal and proposed change to an environmental planning instrument. The SEPP is for consideration of matters requiring development consent only.
State Environmental Planning Policy	No	N/A



<b>Name of SEPP</b>	<b>Relevant/applicable?</b>	<b>Comment/statement of consistency</b>
(Concurrences and Consents) 2018		
State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017	No	N/A
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	No	N/A
State Environmental Planning Policy (Gosford City Centre) 2018	No	N/A
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	No	N/A
State Environmental Planning Policy (Infrastructure) 2007	No	N/A
State Environmental Planning Policy (Koala Habitat Protection) 2020	No	N/A
State Environmental Planning Policy (Kosciuszko National Park - Alpine Resorts) 2007	No	N/A
State Environmental Planning Policy (Kurnell Peninsula) 1989	No	N/A
State Environmental Planning Policy (Major Infrastructure Corridors) 2020	No	N/A
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	No	N/A
State Environmental Planning Policy (Penrith Lakes Scheme) 1989	No	N/A
State Environmental Planning Policy (Primary Production and Rural Development) 2019	No	N/A
State Environmental Planning Policy (State and Regional Development) 2011	No	N/A
State Environmental Planning Policy (State Significant Precincts) 2005	No	N/A
State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011	No	N/A
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	No	N/A
State Environmental Planning Policy (Three Ports) 2013	No	N/A
State Environmental Planning Policy (Urban Renewal) 2010	No	N/A
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes	Consistent.
State Environmental Planning Policy (Western Sydney Aerotropolis) 2020	No	N/A
State Environmental Planning Policy (Western Sydney Employment Area) 2009	No	N/A
State Environmental Planning Policy (Western Sydney Parklands) 2009	No	N/A

## APPENDIX 6: SECTION 9.1 DIRECTION CONSISTENCY CHECKLIST

SECTION 9.1 DIRECTION	CONSISTENCY	COMMENTS
<b>1. EMPLOYMENT AND RESOURCES</b>		
1.1 Business and Industrial Zones	Consistent	<p>The direction is applicable as the land is within an existing business zone. The planning proposal proposes to retain the B2 zoning and to permit a dwelling house as an additional permitted use.</p> <p>The immediate neighbourhood is an equal mixture of commercial and residential. The site is not located on River Street which is the main street of the Maclean Town Centre. Further, the site has an area of 374m<sup>2</sup> which represents a minor proportion (0.29%) of the 12.91 ha of B2 zoned land in Maclean. From this perspective the planning proposal results in a relatively minor reduction of <i>“total potential floor space area for employment uses and related public services in business zones”</i> and is therefore inconsistent with section 9.1 Direction 1.1 Business Zones. The inconsistency is considered to be minor and justifiable in the circumstances for the following reasons:</p> <ol style="list-style-type: none"> <li>1. as the quantum of loss is small</li> <li>2. any future use of the land/building as a dwelling is unlikely to cause a land use conflict situation</li> <li>3. the zoning of land will still remain B2 and therefore be available for commercial and business-related uses.</li> </ol>
1.2 Rural Zones	Not applicable	This direction is not applicable as the land is not within an existing or proposed rural zone.
1.3 Mining, Petroleum Production and Extractive industries	Consistent	<p>The planning proposal will not:</p> <ol style="list-style-type: none"> <li>(i) prohibit mining of coal or other minerals, production of petroleum, or winning or obtaining extractive materials, or</li> <li>(ii) restrict the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.</li> </ol>
1.4 Oyster Aquaculture	Consistent	The land is not nor does it affect a Priority Oyster Aquaculture Areas in terms of this direction.
1.5 Rural Lands	Not applicable	This direction is not applicable as the land is not within an existing or proposed rural or environment protection zone.
<b>2. ENVIRONMENT AND HERITAGE</b>		
2.1 Environmental protection Zones	Not applicable	The direction is not applicable as the land is not an environmentally sensitive area or within an

SECTION 9.1 DIRECTION	CONSISTENCY	COMMENTS
		environment protection zone.
2.2 Coastal management	Consistent	<p>The land is within the coastal zone, as defined under the Coastal Management Act 2016 and is affected by the provisions of <i>State Environmental Planning Policy (Coastal Management) 2018</i>. Therefore, this Direction is relevant for consideration.</p> <p>The proposed additional permitted use of a dwelling house by the planning proposal may facilitate increased development or more intensive land-use on the land, however, in comparison the existing business zone land use table allows other more intensive land-use than existing. Consequently, the planning proposal will have a minor impact.</p> <p>Furthermore, the land is NOT:</p> <ul style="list-style-type: none"> <li>• within a coastal vulnerability area identified by the SEPP (Coastal Management) 2018 – Direction 2.2 (5) (a);</li> <li>• identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment – Direction 2.2 (5) (b).</li> </ul> <p>Accordingly, the planning proposal is consistent with this direction.</p>
2.3 Heritage Conservation	Consistent	The land is within a heritage conservation area. The proposal will facilitate the use of the existing building for the purposes of a dwelling and therefore will not compromise the heritage conservation area or any heritage items in the immediate vicinity.
2.4 Recreation Vehicle Areas	Not applicable	The proposal does not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983).
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable	This direction does not apply to the Clarence Valley Council area.
2.6 Remediation of Contaminated Land	Consistent	A preliminary investigation of the land has been carried out (see Appendix 7) and has concluded that that the subject land is unlikely to have been used for any potentially contaminating activities in Table 1 to the contaminated land planning guidelines; and that Council can be satisfied that the land is suitable for residential purposes.
<b>3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT</b>		
3.1 Residential Zones	Not applicable.	<p>Although the land is not within an existing or proposed residential zone this Direction is applicable in the sense that it will permit a dwelling house as an additional permitted use.</p> <p>The objectives of this Direction will not be compromised for the following reasons:</p>

SECTION 9.1 DIRECTION	CONSISTENCY	COMMENTS
		<ol style="list-style-type: none"> <li>1. The proposal will meet existing and future housing needs by permitting a dwelling house as an additional permitted use – objective 1(a)</li> <li>2. The site is located near the edge of the Maclean Town Centre and takes advantage of the full range of urban services – objective 1 (b)</li> <li>3. the future residential development on the land will be minor in scale and will have no impact on the environment and resource lands – objective 1 (c)</li> </ol> <p>Further, the future use of the land/building as a dwelling house will complement the residential uses on the other side of Short Street without compromising other commercial uses within the immediate vicinity. The proposal is therefore considered to be consistent with this direction.</p>
3.2 Caravan Parks and Manufactured Home Estates	Not applicable.	This direction is not applicable in this instance as it is not intending to introduce provisions in relation to caravan parks or manufactured home estates (MHEs).
3.3 Home Occupations	Not applicable.	<i>Revoked 9 November 2020</i>
3.4 Integrated Land Use and Transport	Consistent.	<p>The planning proposal supports the additional permitted use of a dwelling house in a location not inconsistent with the objectives of this Direction.</p> <p>Furthermore, the location of the proposed additional permitted use is generally consistent with the aims, objectives and principles of:</p> <ul style="list-style-type: none"> <li>(a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and</li> <li>(b) The Right Place for Business and Services – Planning Policy (DUAP 2001).</li> </ul> <p>Therefore, the planning proposal is consistent with paragraph (4) of Direction 3.4.</p>
3.5 Development Near Regulated Airports and Defence Airfields	Not applicable.	The planning proposal is not intending to create, alter or remove a zone or provision relating to land near a regulated airport which includes a defence airfield. Furthermore, the land is not near a regulated airport including a defence airfield.
3.6 Shooting Ranges	Not applicable.	The planning proposal is not intending to affect, create, alter or remove a zone or provision relating to land adjacent to and/or adjoining an existing shooting range.
3.7 Reduction in non-hosted short term rental accommodation period	Not applicable	The Direction applies to the Byron Shire Council only.
<b>4. HAZARD AND RISK</b>		
4.1 Acid Sulfate Soils	Inconsistent.	The land is mapped as class 5 (100%) acid sulfate soils (ASS). The planning proposal is strictly inconsistent with this Direction as Council as the relevant planning authority has not yet considered an acid sulfate soils study as per paragraph (5) of

SECTION 9.1 DIRECTION	CONSISTENCY	COMMENTS
		<p>the Direction.</p> <p>The inconsistency can be justified in the circumstances for reasons that include:</p> <ul style="list-style-type: none"> <li>(i) the type of works associated with any future development on the site should be able to be readily addressed and managed via the development consent process and the ASS provisions in clause 7.1 of the CVLEP 2011.</li> <li>(ii) the inconsistency is of minor significance.</li> </ul>
4.2 Mine Subsidence and Unstable land	Not applicable.	The land is not within a mine subsidence district nor identified as unstable in terms of this Direction.
4.3 Flood Prone Land	Not applicable.	The land is not mapped as subject to flooding on Council's system.
4.4 Planning for Bushfire Protection	Not applicable.	The land is not mapped as bushfire prone land on Council's bushfire prone land map.
<b>5. REGIONAL PLANNING</b>		
5.1 Implementation of Regional Strategies	Not applicable.	No longer applicable as the Mid North Coast Regional Strategy has now been replaced by the North Coast Regional Plan 2036. Refer to Direction 5.10 below.
5.2 Sydney Drinking Water Catchments	Not applicable.	This Direction does not apply to the Clarence Valley Council area.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable.	This Direction does not apply to the Clarence Valley Council area.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable.	The land is not in the vicinity of the former or current alignment of the Pacific Highway/ Motorway.
5.5 Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	Not applicable.	<i>Revoked 18 June 2010</i>
5.6 Sydney to Canberra Corridor	Not applicable.	<i>Revoked 10 July 2008 - See amended Direction 5.1</i>
5.7 Central Coast	Not applicable.	<i>Revoked 10 July 2008 - See amended Direction 5.1</i>
5.8 Second Sydney Airport: Badgerys Creek	Not applicable.	This Direction does not apply to the Clarence Valley Council area.
5.9 North West Rail Link Corridor Strategy	Not applicable.	This Direction does not apply to the Clarence Valley Council area.
5.10 Implementation of Regional Plans	Consistent.	<p>The applicable regional plan is the North Coast Regional Plan 2036.</p> <p>The NCRP 2036 has very few if any actions (or goals or directions) relevant to this planning proposal. Subsequently, the planning proposal does not impact nor is inconsistent with any action (or goal or direction) within the NCRP 2036. Accordingly, the proposal is consistent with the NCRP 2036. A detailed assessment of the planning proposal against the NCRP 2036 actions is in Appendix 3.</p>
5.11 Development of Aboriginal Land Council land	Not applicable.	This Direction does not apply to the Clarence Valley Council area.

<b>SECTION 9.1 DIRECTION</b>	<b>CONSISTENCY</b>	<b>COMMENTS</b>
<b>6. LOCAL PLAN MAKING</b>		
6.1 Approval and Referral Requirements	Not applicable.	The planning proposal is not proposing to do any of the matters specified in paragraph (4) of the Direction.
6.2 Reserving Land for Public Purposes	Not applicable.	The planning proposal is not proposing to create, alter or reduce existing zonings or reservations of land for public purposes.
6.3 Site Specific Provisions	Consistent	The Planning Proposal will allow the dwelling house use to be considered on its merits on the subject site. Therefore, allowing further flexibility within the business zone without removing allowable business uses by adding an additional permitted use. There are no additional provisions included in the Planning Proposal.
<b>7. METROPOLITAN PLANNING</b>		
7.1 Implementation of a Plan for Growing Sydney	Not applicable.	This Direction does not apply to the Clarence Valley Council area.
7.2 Implementation of Greater Macarthur Land Release Investigation	Not applicable.	This Direction does not apply to the Clarence Valley Council area.
7.3 Parramatta Road Corridor Urban Transformation Strategy	Not applicable.	This Direction does not apply to the Clarence Valley Council area.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable.	This Direction does not apply to the Clarence Valley Council area.
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.	This Direction does not apply to the Clarence Valley Council area.
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.	This Direction does not apply to the Clarence Valley Council area.
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable.	This Direction does not apply to the Clarence Valley Council area.
7.8 Implementation of Western Sydney Aerotropolis Plan	Not applicable.	This Direction does not apply to the Clarence Valley Council area.
7.9 Implementation of Bayside West Precincts 2036 Plan	Not applicable.	This Direction does not apply to the Clarence Valley Council area.
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable.	This Direction does not apply to the Clarence Valley Council area.
7.11 Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable.	This Direction does not apply to the Clarence Valley Council area.
7.12 Implementation of Greater Macarthur 2040	Not applicable.	This Direction does not apply to the Clarence Valley Council area.
7.13 Implementation of the Pyrmont Peninsula Place	Not applicable.	This Direction does not apply to the Clarence Valley Council area.

SECTION 9.1 DIRECTION	CONSISTENCY	COMMENTS
Strategy		

## **APPENDIX 7: Preliminary Site Investigation – 2 Short Street, Maclean**

The Minister's section 9.1 Direction 2.6 Remediation of Contaminated Land is relevant in this instance.

Paragraph (2) of this Direction states that:

*“(2) This direction applies to:*

*(a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997,*

*(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*

*(c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land:*

*(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*

*(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge”).*

Paragraphs (4) and (5) of the Direction states that:

*“(4) A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any land specified in paragraph (2) if the inclusion of the land in that zone would permit a change of use of the land, unless:*

*(a) the planning proposal authority has considered whether the land is contaminated, and*

*(b) if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and*

*(c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning proposal authority is satisfied that the land will be so remediated before the land is used for that purpose.*

*In order to satisfy itself as to paragraph (4)(c), the planning proposal authority may need to include certain provisions in the local environmental plan.*

*(5) Before including any land specified in paragraph (2) in a particular zone, the planning proposal authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines”.*

### **Comment**

Paragraph 2 (b) of the Direction is not applicable as there is no evidence to suggest that any of the activities listed in Table 1 to the contaminated land planning guidelines have been carried out on the land.

However, paragraph 2 (c) is relevant and the assessment below is provided to satisfy paragraphs (4) and (5) of the Direction.

### **Assessment**

The subject land contains an existing building, built for the purposes of a residential dwelling house prior to the introduction of an interim development order in 1969, as indicated in the aerial imagery dated 19 October 1958 from NSW Government Spatial Services Historical Imagery Viewer.



The current use of the land is for an existing building approved under DA2011/0608 for Convert dwelling to commercial premises on 16 December 2011. Prior to this approval development consent was granted for a verandah under DA2005/3161 approved 11 May 2005, and consent was granted for a carport under DA2003/0533 approved 24 September 2003. Refer to extracts of plans further below.

The subject land is unlikely to have been used for any potentially contaminating activities listed in Table 1 to the contaminated land planning guidelines (and Appendix 1 of Council's Contaminated Land Policy).

The historical aerial imagery below is of Maclean with a red marker indicating the road fronting the subject land, which contains an existing dwelling house. The aerial imagery is dated 19 October 1958 from the NSW Government Spatial Services Historical Imagery Viewer.

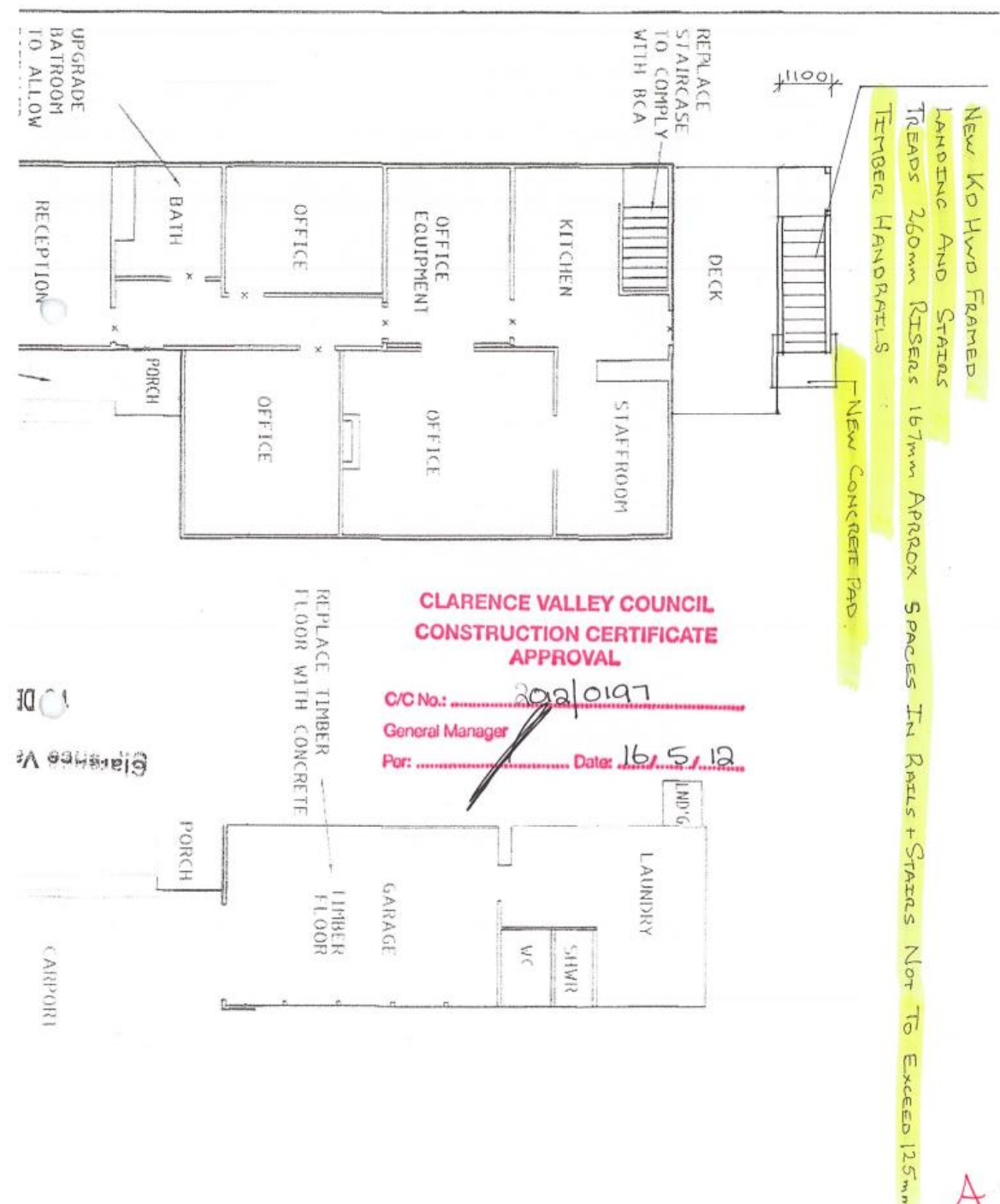
### Conclusion

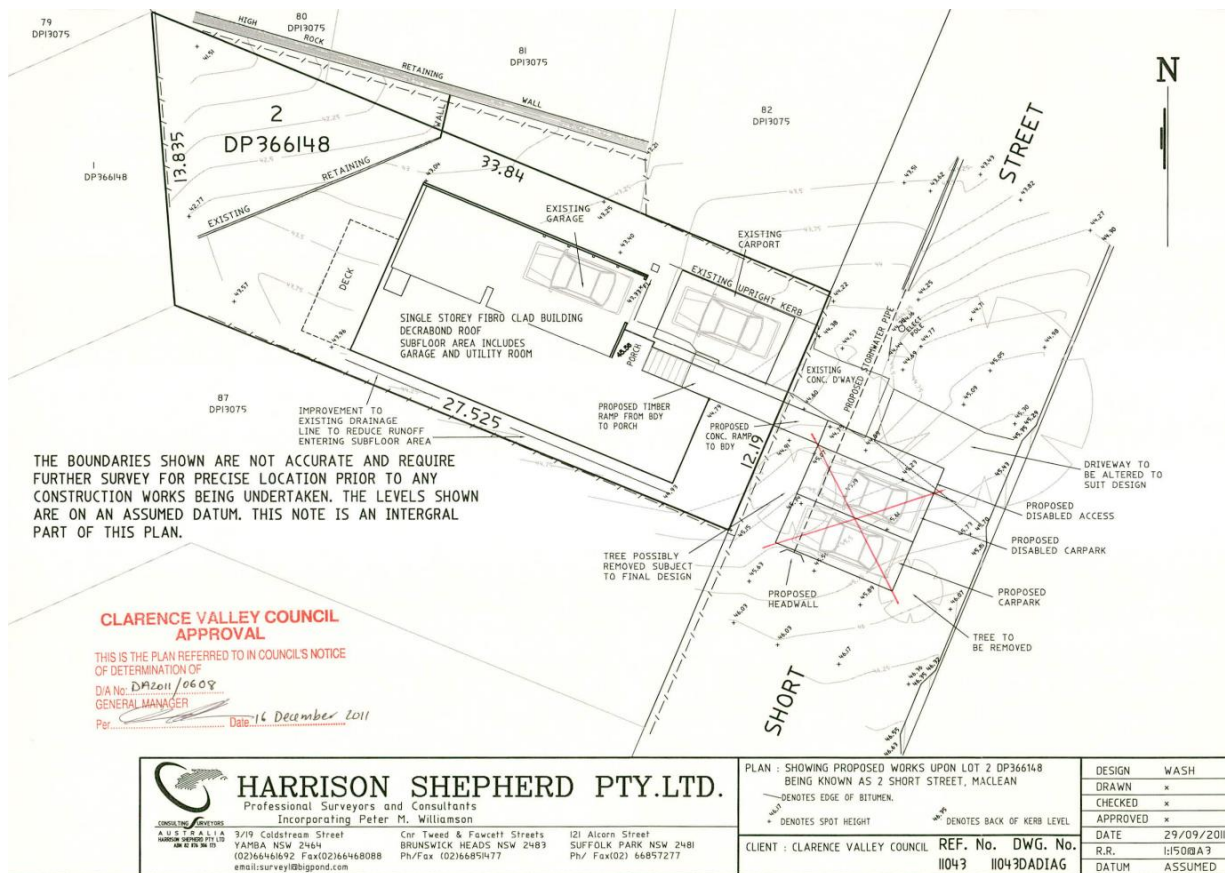
Whilst the proposal does not propose to rezone the land to residential it does aim to permit the use of the land/building for residential purposes. The above assessment has suggested that the subject land is unlikely to have been used for any potentially contaminating activities in Table 1 to the contaminated land planning guidelines.





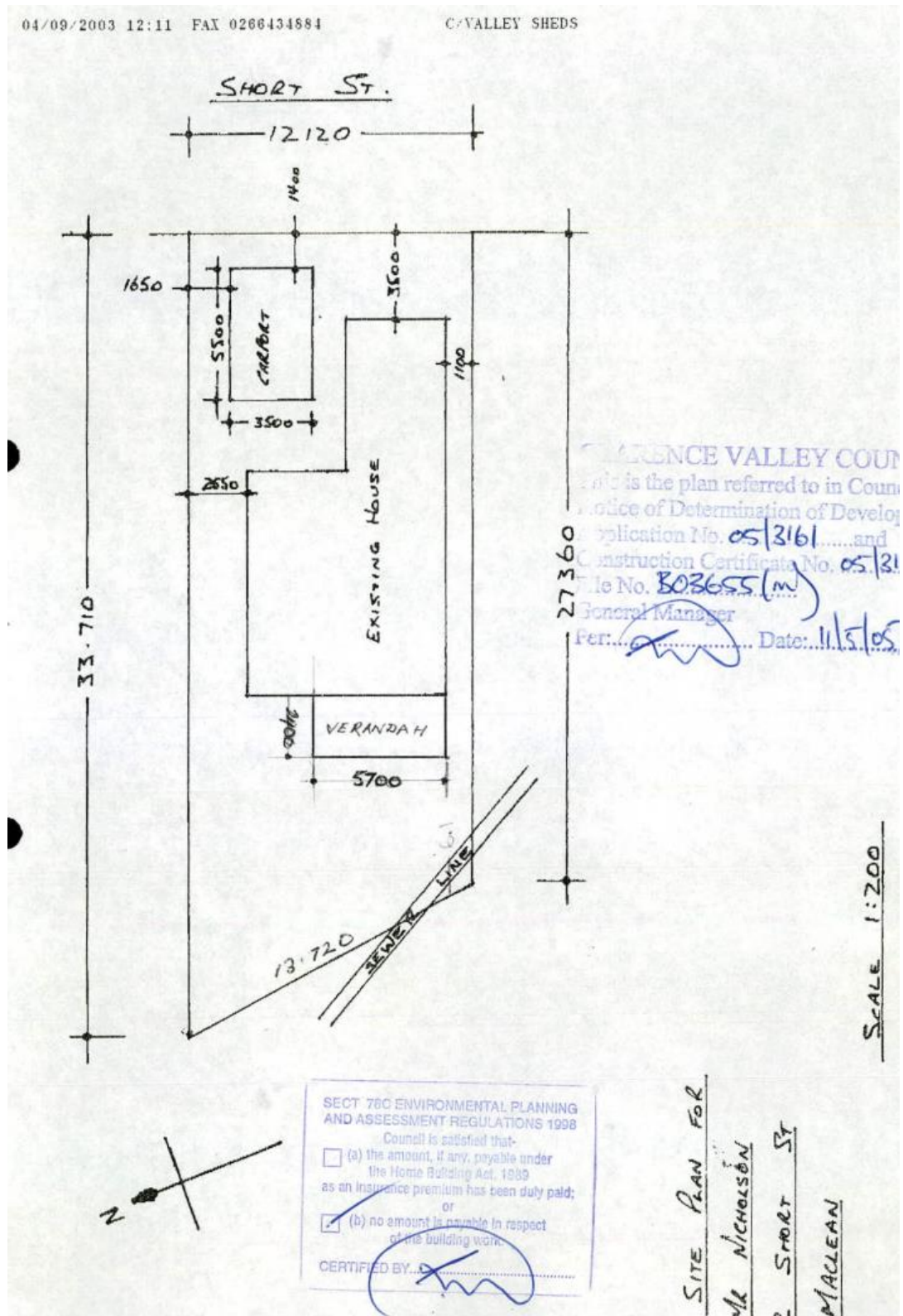
DA2011/0608 to Convert dwelling to commercial premises approved 16 December 2011 (below)



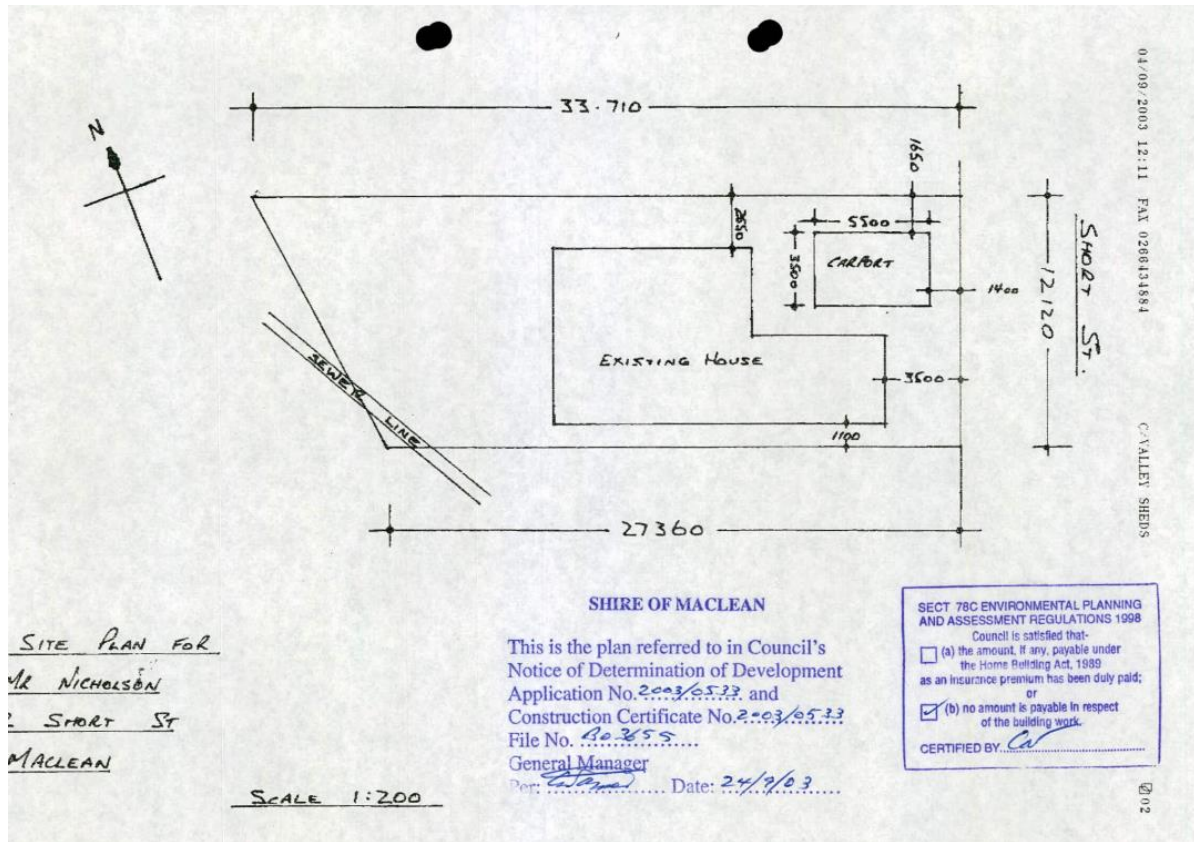




DA2005/3161 for a Verandah approved 11 May 2005 (below)



DA2003/0533 for a Carport approved 24 September 2003 (below)



Council records indicate a Building Application under BA61/62 was received 20 June 1962 for a Mast for T.V. Fittings & Reception. This was for the existing dwelling on the subject land (below)

**BUILDING APPLICATION**

Local Government Act 1919 (Ordinances 71).

Date 20/6/62 No. 6462

THE CLERK, **MUNICIPALITY** of **MACLEAN**.  
**SHIRE**

Sir,—

I, the undersigned, hereby make application for the approval of the Council to plans and specifications (two copies supplied herewith) of a building which I propose to erect and complete within twelve months from date of approval.

Particulars are as follow:—

Class of Building MAST for T.V. Fittings & Reception.

Here state whether detached, semi-detached, dwelling, flats, shop and dwelling, garage, stable, additions, or as the case may be.

State whether new or second-hand materials are to be used NEW

DP 13075 Location of Building.

Portion Pts 4 Lot 83/84 Section 10000 Street SHORT Estate

Town or locality MACLEAN. Area Frontage 40' 0" Depth 90' 3"

NAME OF OWNER Donald DAY Address Short Street, MACLEAN.

NAME OF BUILDER F.J.A. RICHARDSON & Co Address 45 VICTORIA ST GARETON.

## **APPENDIX 8: Gateway determination**





Mr Ashely Lindsay  
General Manager  
Clarence Valley Council  
PO Box 216  
GRAFTON NSW 2460

Via email: [council@clarence.nsw.gov.au](mailto:council@clarence.nsw.gov.au)  
[terry.dwyer@clarence.nsw.gov.au](mailto:terry.dwyer@clarence.nsw.gov.au)

Dear Mr Lindsay

**Planning proposal PP-2021-6069 to amend Clarence Valley Local Environmental Plan 2011**

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to schedule a dwelling house as an additional permitted use at 2 Short Street, Maclean (Lot 2 DP 366148).

As delegate of the Minister for Planning and Public Spaces, I have now determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistencies with section 9.1 Direction/s 1.1 Business and Industrial Zones and 4.1 Acid Sulfate Soils are justified in accordance with the terms of the Direction. No further approval is required in relation to these Directions.

I have considered the nature of Council's planning proposal and have conditioned the Gateway for Council to be authorised as the local plan-making authority.

The amending local environmental plan (LEP) is to be finalised within six months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office six weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning, Industry and Environment.

The state government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any enquiries about this matter, I have arranged for Ms Ella Wilkinson to assist you. Ms Wilkinson can be contacted on 9995 5665.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J. Gray', written over a light gray rectangular background.

26/10/2022

**Jeremy Gray**  
**Director, Northern Region**  
**Local and Regional Planning**

Encl: Gateway determination  
Authorised plan-making reporting template

## Gateway Determination

***Planning proposal (Department Ref: PP-2021-6069): to schedule a dwelling house as an additional permitted use at 2 Short Street, Maclean (Lot 2 DP 366148)***

I, the Director, Northern Region at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Clarence Valley Local Environmental Plan (LEP) 2011 to schedule a dwelling house as an additional permitted use at 2 Short Street, Maclean (Lot 2 DP 366148) should proceed subject to the following conditions:

1. Amend the planning proposal to identify in the Explanation of Provisions that the proposed local clause will be included under Schedule 1 Additional permitted uses of the Clarence Valley LEP 2011.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
  - (b) the planning proposal 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 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).
3. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
  - Yaegl Local Aboriginal Land Council

Each public authority/organisation 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.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(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 planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:

- (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
  - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
  - (c) there are no outstanding written objections from public authorities.
6. The time frame for completing the LEP is to be **6 months** following the date of the Gateway determination.

Dated 26 day of October 2021.



**Jeremy Gray**  
**Director, Northern Region**  
**Local and Regional Planning**  
**Department of Planning, Industry and**  
**Environment**

**Delegate of the Minister for Planning**  
**and Public Spaces**