

ITEM 07.23.160 CLARENCE VALLEY COUNCIL LOCAL ENVIRONMENTAL PLAN 2011 - HOUSEKEEPING AMENDMENT 2023 - REZ2023/0001

Meeting	Council	26 September 2023
Directorate	Environment & Planning	
Prepared by	Strategic Planner, Jasmine Oakes	
Reviewed by	Director Environment & Planning, Adam Cameron	
Attachments	A. Planning Proposal REZ2023.0001 CVLEP Housekeeping Amendment 2023 (Separate Cover)	

SUMMARY

An annual review (Housekeeping) of the *Clarence Valley Local Environmental Plan 2011* (CVLEP) has been undertaken to update provisions, schedules, mapping layers and to ensure a clear and robust development assessment process (Planning Proposal REZ2023/0001).

This report seeks Council endorsement to submit Planning Proposal (REZ2023/0001) (**Attachment A**) to the Department of Planning and Environment (DPE) requesting a Gateway determination.

OFFICER RECOMMENDATION

That Council:

1. Endorse Planning Proposal REZ2023/0001 - *Clarence Valley Local Environmental Plan 2011* Housekeeping Amendment 2023 (**Attachment A**).
2. Delegate authority to the General Manager to:
 - (a) edit and finalise the planning proposal as required;
 - (b) execute all documentation associated with the local plan making functions;
 - (c) submit the planning proposal to the Department of Planning and Environment seeking a Gateway determination; and
 - (d) seek to be the local plan-making authority.
3. In the event that a Gateway determination is issued, publicly exhibit the planning proposal, in accordance with Gateway conditions, legislative requirements and Council's Community Participation Plan.
4. Endorse finalisation of Planning Proposal REZ2023/0001 subject to no submissions being received that require further consideration by Council.
5. Note that if submissions are received that require further consideration of Council, this matter will be reported to the next available Council meeting after submissions close.

LINKAGE TO OUR COMMUNITY PLAN

Theme Leadership

Objective We will have a strong, accountable and representative Government

KEY ISSUES

The Planning Proposal REZ2023/0001 contains 15 items or matters that, once adjusted, will ensure more efficient and effective implementation of the CVLEP. There is a range of proposed amendments which are summarised below in **Table 1**:

Table 1: Summary of proposed amendments	
Amendment No.	Summary
Amendment 1 (Zoning)	Everlasting Swamp National Park Rezone from RU2 Rural Landscape and C2 Environmental Conservation to C1 National Parks and Nature reserves (at the request of NPWS). This will result in an amendment to the LEP Zoning Map.
Amendment 2 (Zoning)	Balun Bindarray Bridge (New Grafton Bridge) and roads Rezone from W2 Recreational Waterways to SP2 Infrastructure.

Table 1: Summary of proposed amendments	
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	This will result in an amendment to the LEP Zoning Map.
Amendment 3 (Heritage)	Heritage Street Trees Mapping of existing heritage listed trees <i>Brachychiton</i> (Flame trees), <i>Ficus</i> (Fig Trees) and <i>Jacarandas</i> in all road reserves in Grafton existing heritage item I135 and South Grafton heritage item I943 . These are listed items but not currently mapped and have recently been mapped by Council's GIS section. Amendment to relevant CVLEP Heritage Maps.
Amendment 4 (Heritage)	Minnie Water Community Hall Correction of the property description for heritage item Minnie Water Community Hall heritage item I1029 to Lot 7307 DP 1153056 as the hall has been relocated on the site. This will result in an amendment to both the CVLEP Heritage Map and Schedule 5.
Amendment 5 (Heritage)	Iluka Obelisk Addition of a heritage item I1091 of the Iluka Obelisk. This will result in an amendment to both the CVLEP Heritage Map and Schedule 5.
Amendment 6 (Heritage)	Sandstone Culverts and Timber Deck, Old Glen Innes Road Addition of a heritage item I1092 of the historic sandstone culvert and timber deck discovered in road works. This will result in an amendment to both the CVLEP Heritage Map and Schedule 5.
Amendment 7 (Heritage)	Stone Kerb and guttering, McIntyres Lane Maclean Addition of a heritage item I1093 of the historic stone kerb and guttering. This will result in an amendment to both the CVLEP Heritage Map and Schedule 5.
Amendment 8 (Heritage)	90 Victoria Street, Grafton Addition of a heritage item I1095 dwelling by owner request. This will result in an amendment to both the CVLEP Heritage Map and Schedule 5.
Amendment 9 (Zoning)	Gibraltar Crescent Junction Hill - Koolkhan Zone boundary alteration to correct anomaly to align residential zone boundary with subdivision boundary. This will result in an amendment to the CVLEP Zoning Map.
Amendment 10 (Zoning)	Cameron Close, Glenreagh Boundary alteration to align residential zone boundary with subdivision boundary. This will result in an amendment to the CVLEP Zoning Map.
Amendment 11 (Zoning)	Hampton Road, Waterview Heights Realignment of zoning boundary to align residential zone boundary with subdivision boundary from C2 to R5. This will result in an amendment to the CVLEP Zoning Map.
Amendment 12 (Zoning)	Glenreagh Water Pump Station Rezoning RE1 to SP2 for Council water infrastructure. This will result in an amendment to the CVLEP Zoning Map.
Amendment 13 (Zoning)	425 Bent Street South Grafton

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	Adjustment of boundary between Golf Course and residential subdivision from R5 to RE2. This will result in an amendment to the CVLEP Zoning Map.
Amendment 14 (LEP development control amendment)	<p>Amending the 100m separation distance requirement for secondary dwellings and Dual Occupancies in Rural Zones Deletion of Clause 4.2D(c) for dual occupancies (detached) – and Clause 5.5(b) which will delete the requirement for dual occupancies and secondary dwellings to be within 100 metres of each other.</p> <p>This proposed amendment is to provide more flexibility in locating a secondary dwelling or dual occupancy on rural land in the most optimal position on the land, particularly where environmental hazards and constraints may impact ability to meet this clause. Note that Clause 4.2D(c) and 5.5(b) subclauses are optional clauses from the Standard Instrument—Principal Local Environmental Plan and the proposed change is not opposed by DPE.</p>
Amendment 15 (LEP land use table amendment)	<p>Deletion of “crematoria” as prohibited development in the E4 General Industrial Land Use Table, to allow development for the purpose of “crematoria” to be permitted with consent within this land use zone.</p> <p>In certain circumstances crematoria may be compatible with other land uses within the E4 zone and surrounding environment. This approach would be consistent with adjoining LGAs (For example Coffs Harbour, Richmond Valley and Byron Shire LEPs do not prohibit crematoria in the E4 zone). Further controls within Councils DCPs will be added in due course to ensure development that is sympathetic to the surrounding environment.</p>

A full description and justification of each proposed CVLEP amendment is included at Appendix 1 of the planning proposal (**Attachment A**).

BACKGROUND

Through administration and implementation of the CVLEP, including development assessment and checking of planning certificates, errors and updates are identified by Council officers and customers. Periodic action to rectify these identified amendments is undertaken, as outlined in Council’s Operational Plan. This is generally undertaken annually.

COUNCIL IMPLICATIONS

Budget/Financial

Preparation of the planning proposal and administration of the CVLEP amendment process are accommodated within the existing recurrent budget for Council’s Strategic Planning team.

Asset Management

The proposed amendments at Items 3, 4, 5, 6, 7 & 12 relate to land, and assets thereon, owned or managed by Council. The proposed amendments are expected to improve the efficient management of those assets.

Policy and Regulation

Clarence Valley Local Environmental Plan 2011
Environmental Planning and Assessment Act 1979
Clarence Valley Community Participation Plan 2021

Consultation

The list of proposed amendments above, has been compiled as a result of Council staff identifying the need to amend components of the CVLEP. Staff in the Development Services, Strategic Planning and Property teams at Council have been the main contributors to the list.

The planning proposal will be submitted to the DPE requesting a Gateway determination. The Gateway determination, if issued, will detail the NSW public authorities that need to be consulted, such as Heritage NSW and Crown Lands, and the public exhibition requirements.

If the Gateway determination is silent on these matters, Council will publicly exhibit the planning proposal and associated documentation on Council's 'On Exhibition' webpage and 'Noticeboard' for a minimum of 28 days in accordance with Schedule 1 of the *Environmental Planning and Assessment Act 1979* and Council's Community Participation Plan.

It is intended to write to the owners of land affected by the amendments to advise and invite comment on the proposed changes, with the exception of the changes to Clause 4.2D and 5.5 (b) given the number of rural properties in the Clarence Valley.

Legal and Risk Management

The proposed amendments are individually minor matters that present a low legal risk to Council in terms of the amendment process. The existence of anomalies in the CVLEP is deemed to present a higher, although still minor, legal risk for Council. It is considered prudent to periodically make improvements and correct errors and anomalies, as envisaged by Council's Delivery Program, and reduce the overall level of risk for Council and improve the function of the CVLEP for all users.

Climate Change

Nil impacts or implications are envisaged.