



IRF23/2446

Gateway determination report – PP-2023-1860

Planning proposal to reclassify and rezone land for
water infrastructure in Nymboida and Lawrence

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 - Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal August 2023

1 Planning proposal

1.1 Overview

Table 2 - Planning proposal details

LGA	Clarence Valley
PPA	Clarence Valley Council
NAME	Planning proposal to reclassify and rezone land for water infrastructure in Nymboida and Lawrence
NUMBER	PP-2023-1860
LEP TO BE AMENDED	Clarence Valley Local Environmental Plan 2011
ADDRESS	66 High Street, Lawrence 1 Power Station Road, Nymboida 107 Glens Creek Road, Nymboida
DESCRIPTION	Lot 21 DP 1269753 and Lot 1 DP 567494 Lot 102 DP 1277848 Lots 7, 17 and 63 DP 752836
RECEIVED	4/09/2023
FILE NO.	IRF23/2446
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- reclassify certain land being Lot 21 DP1269753, Lot 102 DP1277848 and Lots 7, 17 and 63 DP752836 from community to operational land to better reflect the nature of the land and to enable council to effectively manage the land and infrastructure under its ownership; and
- rezone lot 21 DP 1269753 and Lot 1 DP 567494 from R2 Low Density Residential to SP2 Infrastructure to allow its ongoing adaptation and use for water infrastructure.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Clarence Valley LEP 2011 to reclassify 5 Council owned parcels from community land to operational land by inserting the lots into Part 1 of Schedule 4 Classification and reclassification of public land. No changes to interests of the lands are proposed.

The following sites are proposed to be reclassified to operational land:

- Lot 21 DP1269753 located at 66 High Street, Lawrence;
- Lot 102 DP1277848 located at 1 Power Station Road, Nymboida; and
- Lots 7, 17 and 63 DP752836 located at 107 Glens Creek Road, Nymboida.

The proposal also seeks to zone the following two parcels from R2 Low Density Residential to SP2 Infrastructure:

- Lot 21 DP1269753 and Lot 1 DP567494 at 66 High Street, Lawrence.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

Site 1: Lawrence Water Tower - Lot 21 DP 1269753 and Lot 1 DP 567494 located at 66 High Street, Lawrence.

Lot 1 DP 567494 contains existing water supply infrastructure, is zoned R2 Low Density Residential and is classified as operational.

Lot 21 DP 1269753 was purchased by council in 2021 and provides access to the existing water supply infrastructure. Council intends on constructing a chlorination system on the site which is currently zoned R2 Low Density Residential and is classified as community land.

The site is adjacent to Lawrence Public School and low-density residential housing within the small township of Lawrence. The site and surrounding area are mapped with a 9m Height of Buildings map, but not identified on the Floor Space Ratio or Lot Size map. No change to these maps is proposed.

The site is not mapped as bushfire or flood prone land.



Figure 1: Site 1 (Clarence Valley Planning Proposal)

Site 2: Nymboida Hydro Power Station - Lot 102 DP 1277848 located at 1 Power Station Road, Nymboida

The site contains the Nymboida Power Station complex listed as heritage item I334 in CVLEP 2011. Lot 102 DP 1277848 was purchased by council from Essential Energy in November 2021 to secure water infrastructure and water extraction licences essential for the security of the drinking water supply in the Clarence Valley and Coffs Harbour regions allowing continued extraction to Shannon Creek Dam, for town water supply purposes and enabling ongoing management and maintenance of the heritage items.

The land is burdened by several easements including, right of carriageway, water pipeline, overhead and underground powerlines and access.

It is proposed to reclassify the site from community land to operational land. The site is zoned RU2 Rural Landscape and surrounded by rural and heavily forested properties.

Lot 101 DP1277848 which is surrounded by the land is owned by Essential Energy and is not included within this proposal.



Figure 2: Site 2 (Clarence Valley Planning Proposal)

Site 3: Land adjoining Nymboida Weir - Lots 7, 17 and 63 DP752836 located at 107 Glens Creek Road, Nymboida

Lot 7 DP752836 adjoins the Nymboida weir which also forms part of heritage item I334. The weir pool is still used to provide a drinking water source for the communities of the Clarence Valley and Coffs Harbour LGAs.

Lots 7, 17 and 63 DP752836 were purchased by council in May 2020 to provide a buffer to and protect the integrity of the drinking water supply and ensure legal access for operational management of infrastructure. The site is zoned RU2 Rural Landscape. It is proposed to classify these lots to operational land.

Site 3 is located approximately 1.5km west of site 2 and is similarly surrounded by densely vegetated rural properties and adjoins the Nymboida River.



Figure 3: Site 3 (Clarence Valley Planning Proposal)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Land Zoning map, which are suitable for community consultation.

No changes to minimum lot size, height of buildings or floor space ratio is proposed. As the reclassifications apply to entire lots only, no maps for the reclassifications are required.

LEP Practice note PN 10-001 Zoning for infrastructure in LEPs states the type of infrastructure should be annotated on the map. In this case an annotation of 'water supply system' should apply. It is recommended a condition is included within the Gateway determination for the planning proposal to reflect the water supply system annotation.



Figure 4: Current zoning map



Figure 5: Proposed zoning map

1.6 Background

All sites subject to this proposal are in council ownership and supported by a council resolution to classify the land as operational.

2 Need for the planning proposal

The planning proposal is required to zone land SP2 Infrastructure and reclassify land from community land to operational.

The proposal is not a result of a particular strategy or study. Classifying the lots as operational land will allow council to restrict public access to maintain drinking water quality and enable efficient and effective operation of council water supply infrastructure.

Zoning of Lot 21 DP1269753 and Lot 1 DP567494 from R2 Low Density Residential to SP2 Infrastructure will allow chlorination system infrastructure to be constructed on the land parcels under Division 24 Water Supply Systems of the Transport & Infrastructure SEPP.

The proposal will better reflect the nature and use of the land for water infrastructure, allow the land to be used more easily for that purpose, and provide the operational classification that Council meant to adopt when acquiring the land.

3 Strategic assessment

3.1 Regional Plan

The North Coast Regional Plan 2041 provides the overarching strategic direction for land use and development across the North Coast region with a focus on liveability, resilience, economic growth, environmental protection, and planning for sustainable communities.

The proposal is not inconsistent with the North Coast Regional Plan 2041.

3.2 Local

The proposal seeks to support and maintain Council's drinking water supply infrastructure.

The proposal states that it is consistent with the following local plans and endorsed strategies

- Clarence Valley Local Strategic Planning Statement
- The Clarence 2032
- Council's Delivery Program and Operational Plan
- Maclean Urban Catchment Local Growth Management Strategy 2011

3.3 Section 9.1 Ministerial Directions

The planning proposal's is considered to be consistent with all applicable section 9.1 directions except those discussed below:

Table 3 - 9.1 Ministerial Direction assessment

Directions	Consistent	Reasons for Consistency or Inconsistency
4.3 Planning for Bushfire Protection	Unresolved	Sites 2 and 3 are mapped as bushfire prone land. Direction 4.3 requires consultation from NSW RFS on planning proposals that affect bushfire prone land. Until consultation with RFS is undertaken consistency with this direction remains unresolved.

3.4 State environmental planning policies (SEPPs)

The planning proposal is not inconsistent with any State Environmental Planning Policies.

4 Site-specific assessment

4.1 Environmental

The reclassification of land is considered primarily administrative in nature and does not facilitate any particular development. No adverse environmental impacts are likely.

The proposal also seeks to zone Lot 21 DP 1269753 and Lot 1 DP567494 located at 66 High Street, Lawrence from R2 Low Density Residential to SP2 Infrastructure. Lot 1 contains water supply infrastructure while Lot 21 adjoins and provides access to this infrastructure. Zoning the lots SP2 Infrastructure reflects the current and likely future uses and will enable council to better maintain and provide additional water infrastructure under State Environmental Planning Policy (Transport and Infrastructure) 2021. The site is void of any high value vegetation and the rezoning is not likely to result in any adverse environmental impacts.

4.2 Social and economic

The reclassification and rezoning are considered to have a net positive social and economic impact by enabling Council to efficiently maintain drinking water supply for the community. The subject sites were purchased by Council with this intent and are not considered to be public reserves or public open space.

The proposal states that it does not seek to extinguish any public reserve status or change or extinguish any other interests in the lands and the Governor's approval under section 30 of the *Local Government Act 1993* is not required. The proposal is supported by certificate of titles and an assessment of Practice Note 16-001 Classification and reclassification of public land through a local environmental plan.

4.3 Reclassification Principles and Public Open Space

The following table provides an assessment of the reclassification principles and public open space impacts associated with the proposal.

Table 4 - Social and economic impact assessment

Principles	Reasons for Consistency or Inconsistency
How can public land deliver a benefit?	Maintaining councils water supply infrastructure provides a benefit to the local community. This provides water security to a growing population.
How public land contributes to public & open space	All land parcels to be reclassified to operational land under this planning proposal were purchased to ensure operational management and security of Councils water supply and associated infrastructure. None of the land parcels have been provided as public open space nor are dedicated as a public reserve.

4.4 Infrastructure

The proposal supports the ongoing maintenance and construction of water supply infrastructure. The proposal does not create any new development demand.

LEP Practice note PN 10-001 provides guidance on zoning infrastructure in council LEPs. State Environmental Planning Policy (Transport and Infrastructure) 2021 allows for the development of

water storage facilities on behalf of a public authority without consent in prescribed zones including RU2 Rural Landscape and SP2 Infrastructure. R2 Low Density Residential is not a prescribed zone and therefore rezoning site 1 to SP2 infrastructure will allow for the application of the Transport and Infrastructure SEPP and is consistent with the practice note.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The Department's LEP Practice Note PN 16-001 Classification and reclassification of public land through a local environmental plan requires a consultation period of 28 calendar days.

The exhibition period proposed is consistent with the practice note and considered appropriate, and forms the conditions of the Gateway determination.

A public hearing will also be required to be held in accordance with section 29(1) of the Local Government Act 1993. This must occur after the exhibition has ended and at least 21 days public notice is to be given before the hearing. This allows the person chairing the hearing sufficient time to consider written submissions and all issues raised. This is specified in the Gateway determination.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- NSW Rural Fire Service

6 Timeframe

Council proposes a 6 month time frame to complete the LEP. This is considered appropriate.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal does not seek to remove a public reserve status or interest in the land, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The proposal is not inconsistent with the local and regional strategic planning policies
- The proposal supports the continued maintenance and operation of Council water supply infrastructure
- The proposal will provide a positive social and economic outcome with no adverse environmental impacts

9 Recommendation

It is recommended the delegate of the Secretary:

- Note that the consistency with section 9.1 Direction 4.3 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. The planning proposal is to be updated to:
 - note the annotation for the proposed zoning of 66 High Street, Lawrence is SP2 Infrastructure (water supply system).
2. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.
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. Council must, however, hold a public hearing when reclassifying public land from community to operational in accordance with the requirements of the Local Government Act 1993. A period of at least 21 days after the exhibition period has ended is to be given before the hearing.
5. Council must ensure that all relevant obligations in relation to the reclassification of public land through an LEP are undertaken in accordance with the LEP Making Guidelines, Practice Note PN16-001 Classification and reclassification of public land through a local environmental plan and Practice Note No. 1 (Revised) May 2000 – Public Land Management.

Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority.

The timeframe for the LEP to be completed is to be 6 months from the date of the Gateway determination.



(Signature)

25/9/23

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26/9/2023

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