



Clarence Valley Council

Public Hearing Report
Reclassification of land at
Nymboida & Lawrence

Various Sites

March 2024

local  consulting

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1. Introduction

1.1 Purpose of this Report

The purpose of this report is to provide a record of the public hearing undertaken in association with the planning proposal to change the classification of land within the Clarence Valley local government area. This includes five parcels of land at Nymboida and Lawrence which are used by Clarence Valley Council (Council) in association with water supply.

This report has been prepared by Emma Broomfield, Director Learning + Engagement at Locale Consulting, who was the independent chair of the public hearing.

1.2 Background

Council is the owner of the five parcels of land which are currently classified as community under the *Local Government Act 1993*. This includes:

Site	Address	Lot & DP	Zoning
1	66 High Street, Lawrence	Lot 21 DP1269753	R2 Low Density Residential
2	1 Power Station Road, Nymboida	Lot 102 DP1277848	RU2 Rural Landsacpe
3	107 Glens Creek Road, Nymboida	Lots 7, 17 and 63 DP752836	RU2 Rural Landscape

Council has prepared a planning proposal in order to reclassify this land from community to operational. The details of the sites and the history of each are set out in detail in Section 2 of this report.

2. Subject land and planning proposal

2.1 Site 1

As shown in Figure 1 below, the first site is located at 66 High Street, Lawrence (Lot 21 DP1269753) and is contained within the red boundary. The site contains part of the Lawrence Water Tower.



Figure 1: Location of land to be reclassified
(source: planning proposal)

Council acquired the site from School Infrastructure NSW in 2021 in order to access the adjoining lot which also contains part of the Lawrence Water Tower.

At the time of acquisition, Council resolved that the land be classified as operational. However, it did not give public notice of its intent to do so. As such, the land was deemed to be community land.

The site is currently zoned R2 Low Density Residential under the Clarence Valley Council Local Environmental Plan 2011. The planning proposal also proposes to change the zoning of the site together with the adjoining land to SP2 Infrastructure so that Council can construct a rechlorination system without development consent under the State Environmental Planning Policy (Transport & Infrastructure) 2021.

2.2 Site 2

As shown in Figure 2, the second site is located at 1 Power Station Road, Nymboida (Lot 102 DP1277848) and is contained within the red boundary. The site contains the Nymboida Power Station building and associated infrastructure which is a locally listed heritage item. It also contains an open space area known as Gordon Gilmore Park and has a walking track along the old 'tail race' which has been historically maintained by the former Nymboida Canoe Centre (now Nymboida Camping and Canoeing).

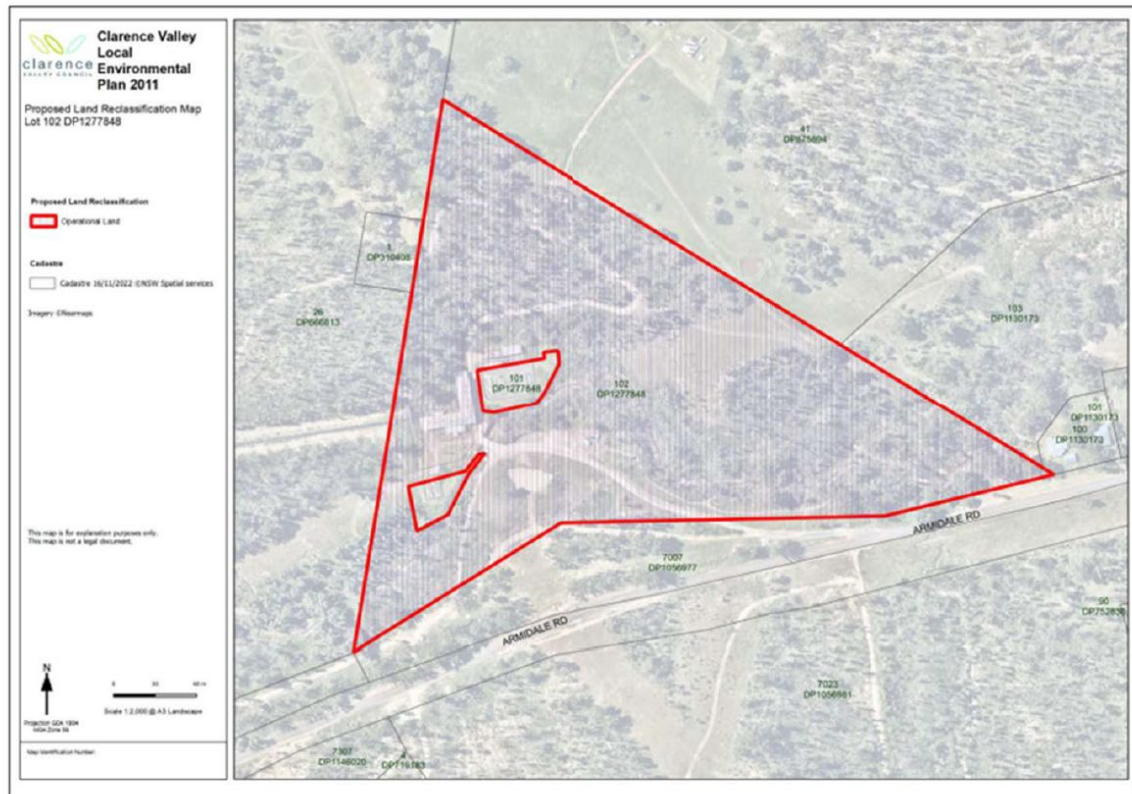


Figure 2: Location of land to be reclassified
(source: planning proposal)

Council acquired the site from Essential Energy in 2021 to secure water infrastructure and extraction licences essential for the security of drinking water supply in the Clarence Valley and Coffs Harbour regions and to enable ongoing management and maintenance of the heritage items.

At the time of acquisition, Council did not classify the land as operational within three months as required by the *Local Government Act 1993*. As such, the land was deemed to be community land.

The zoning of the site will not change.

2.3 Site 3

As shown in Figure 3, the third site is located at 107 Glen Creeks Road, Nymboida (Lots 7, 17 and 63 DP752836) and is contained within the red boundary. The site provides access to the Nymboida Weir which is a locally listed heritage item.

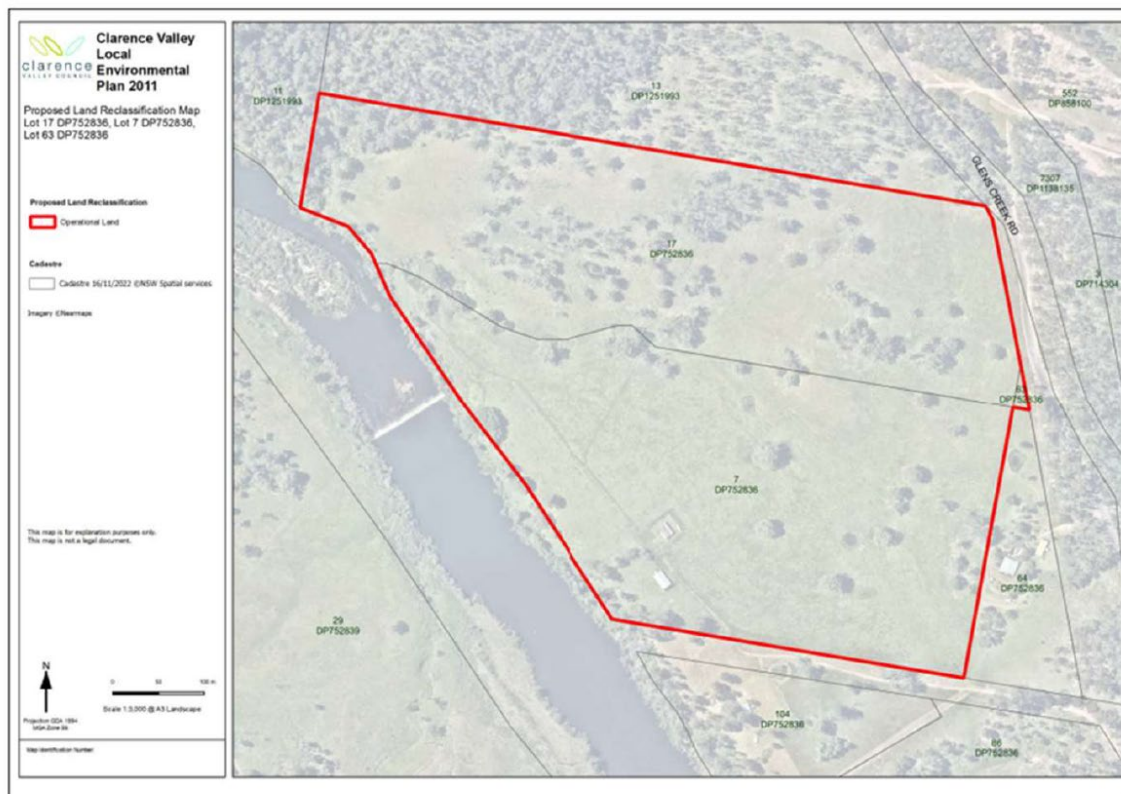


Figure 3: Location of land to be reclassified
(source: planning proposal)

Council acquired the site from a private landowner in 2020 in order to:

- provide a buffer
- protect the integrity of the drinking water supply
- ensure legal access for the management of the infrastructure.

Before the acquisition, Council resolved to classify the land as operational. However, it did not give public notice of its intent to do so. As such, the land was deemed to be community land.

The zoning of the site will not change.

2.4 Planning proposal and exhibition process

On 27 September 2023, a delegate of the NSW Minister for Planning issued a gateway determination to Council for the planning proposal to proceed to the next step. The planning proposal was on public exhibition for feedback from 13 October 2023 to 10 November 2023. No submissions were received.

3. Public hearing format and process

3.1 Overview

As the planning proposal includes the reclassification of public land from community to operational, a public hearing was held under the *Local Government Act 1993*. This was independently Chaired and facilitated by Emma Broomfield of Locale Consulting.

The public hearing was held Wednesday, 21 February 2024 from 5.50pm to 6.30pm at the Council's Chambers. Council gave notice of the public hearing on its website and by direct notification.

3.2 Council staff and councillors present

The following Council staff were present at the hearing:

- Jasmine Oakes, Strategic Planner
- Dr Danny Parkin, Acting Co-ordinator Strategic Planning
- Greg Masiah, Manager Technical Services

No Councillors were present at the hearing.

3.3 Registration of speakers

Residents were asked to register to speak in advance of the hearing by contacting Council. One resident registered to attend and speak at the hearing.

3.4 Hearing format

The format of the public hearing was as follows:

- Welcome and introduction by the Chair including an explanation of the land classification system under the *Local Government Act 1993*
- Overview of the context of the land to be reclassified
- Overview of the planning proposal
- Oral submissions by registered speakers
- Overview of next steps by the Chair
- Questions
- Close of hearing

The hearing process was Chaired by Emma Broomfield using a presentation as provided in Appendix A.

One person attended the hearing and made an oral submission. A summary of the submission is set out in section 3.5.

3.5 Submissions

Lyle Gilmore owns a property at 352 Armidale Road, Nymbodia which adjoins site 2 (the Nymbodia Power Station site) with a frontage of about 50 metres.

He spoke in his personal capacity as a resident. He is also a member of the Canoe Centre which is next to site 2. He noted that the land owned by the Nymbodia Canoe Centre used to be owned by Essential Energy.

Lyle made a submission about site 2 as follows:

- The 'tail race' from the Power Station runs from the site through to the Canoe Centre. This is also known as Goolang Creek.
- The area is a tourist destination for white water rafting which has not operated since 2013.
- There is a track on the Power Station site which is maintained by the Canoe Centre and Lyle.
- Lyle also maintains Gordon Gilmore park. This park is named after his father. Lyle regularly mows and maintains the park, travelling from his home in Forster to do so.
- He does not object to the land being reclassified to operational but would like public access to be maintained in the future. He asked whether Council intends to build a fence around the site in the future.
- This year the Power Station will be 100 years old, with the anniversary being 25 November 2024.
- The Power Station has heritage value and he would like to see this being accessed for tourism in the future (e.g. tours). He is also concerned about the ongoing maintenance of the building and does not want it to deteriorate given its significance.
- Lyle noted that in MidCoast Council they have a volunteer program where residents can register and be covered by Council's public liability insurance. Lyle regularly mows an area near his house in Forster under this program. He has suggested this idea previously to the General Manager, Laura Black and would like to Council to consider whether it could create a similar program in the Clarence Valley so that he can continue to maintain the Park and walking track.
- Whilst he was a member of the Canoe Centre, he did not want to burden them with obligations or responsibilities for maintaining the park and walking track as they have had a declining membership over recent years.

In response, Council staff noted that:

- It is unlikely that a fence would be erected by Council to prevent public access.
- There are a number of options to maintain public access to the site in the future including enabling Lyle or the Canoe Centre to continue maintenance of the track and park. This includes:
 1. A lease or licence
 2. Section 355 committee arrangement
 3. Volunteer arrangement
- Council is currently maintaining the Power Station building so it won't deteriorate.
- Council has no plans for the long-term management of the site yet, but this should be addressed moving forward.

Lyle made a submission about site 3 as follows:

- When the land next to the Nymboida Weir was acquired, it was a great opportunity for public access to the river.
- There are no public access points to the river in Nymboida and it would be good if there was in the future.

Council staff noted that:

- Unfettered public access to the Weir and river area is not possible due to the risk to the water security and supply, in particular the risk of terrorist attacks.
- Council will be developing a management plan for the future use of this site that includes investigating options such as repairing the vandalised cottage and leasing it to a caretaker or building a solar farm. No cattle would be allowed on the site due to impacts on water supply quality.

4. Conclusion & next steps

In conclusion, the public hearing and public exhibition process have revealed no reason as to why the reclassification should not proceed.

However, the hearing process has identified that there is a need to resolve the future use of the Power Station site, in particular public access and the maintenance of the walking track and Gordon Gilmore Park.

In accordance with legislative requirements, Council must make a copy of this report available to the community as part of its decision-making on whether to proceed with the reclassification.

Appendix A: Public hearing presentation

Public hearing



21 February 2024
5.30pm – 6.15pm



Reclassification of public land
Five parcels of land at Nymboida & Lawrence

REZ2023/0002
Planning proposal: PP-2023-1860

1

Welcome and introduction

2

Chair & facilitator



Emma Broomfield

3

Hearing outline



- Reason for hearing
- Purpose of hearing
- Classification of public land
- Context
- Planning proposal
- Submissions
- Next steps

4

Reason



Where Council proposes to reclassify public land, it has a **statutory obligation** to arrange a public hearing before making a decision

Section 29(1) of the Local Government Act 1993

5

Purpose



The hearing is an **independent process** to hear and capture any community views about the proposed reclassification.

This helps inform Council's decision.

6

Classification of public land

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Public land



All land in or under the control of Council is called 'public land'. It must be classified as either:

Community

Operational

The controls that apply to 'community' land are different to those for 'operational' land.

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Community

This is set aside for community use (e.g. parks & sportsgrounds). Its development and use is subject to **strict controls**:

- It cannot be sold
- It must have a plan of management
- There are restrictions on leasing and licensing

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Operational

This serves a commercial or operational function (e.g. offices, works depot, car park, sewage pump station, drainage reserves).

It has **no special restrictions** other than those that may ordinarily apply to any parcel of land.

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Process



A **planning proposal** is a legal mechanism local councils use to reclassify land.

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The sites

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Site #1

- Lot 21
DP 1269753
- 66 High Street,
Lawrence
- Zoned R2 Low
Density Residential



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Site #1

The site contains the Lawrence Water Tower.

Council purchased this land from School Infrastructure NSW for the purpose of access to the adjoining lot which contains the Lawrence Water Tower.

Council did not give public notice of its intent to classify the land as operational.



22 September 2020

Council resolved to acquire the land by compulsory acquisition & that it be classified as operational



16 July 2021

Notice of acquisition in the Government Gazette



14 September 2021

Certificate of title issued



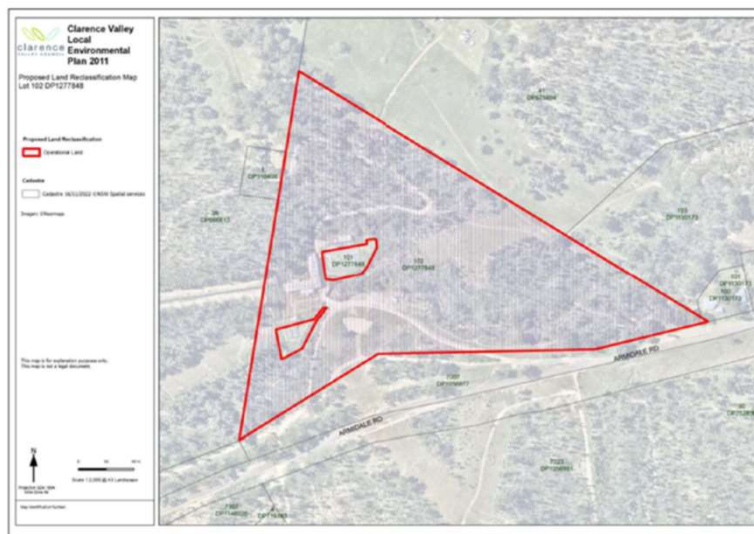
22 August 2023

Council resolved to change zoning

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Site #2

- Lot 102
DP1277848
- 1 Power Station Rd,
Nymboida
- Zoned RU2 Rural
Landscape



Note: Lot 101 DP1277848 is owned by Essential Energy and not subject to reclassification

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Site #2

This site contains the Nymboida Power Station complex which is heritage listed.

Council purchased this land from Essential Energy to secure water infrastructure and extraction licences essential for the security of drinking water supply in the Clarence Valley and Coffs Harbour regions and to enable ongoing management and maintenance of the heritage items.

Council did not classify the land as operational within three months of its acquisition.

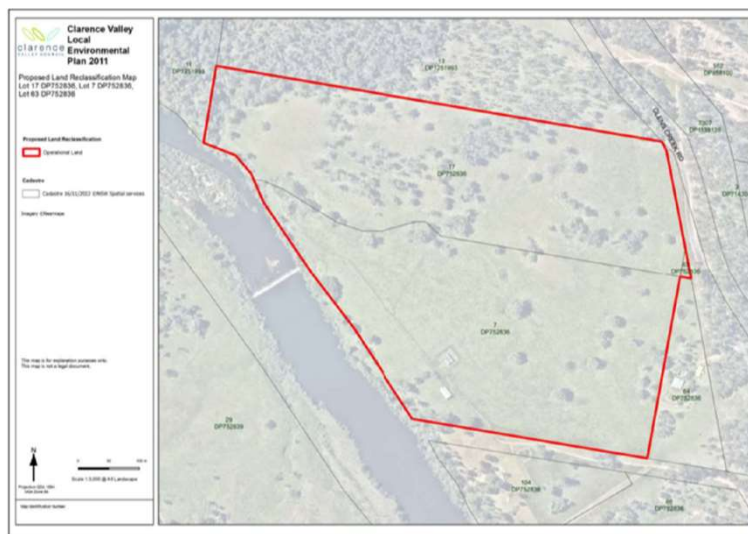
»»» **5 November 2021**
Certificate of title issued

»»» **22 August 2023**
Council resolved to reclassify the land as operational

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Site #3

- Lots 7, 17 and 63
DP752836
- 107 Glens Creek Rd,
Nymboida
- Zoned RU2 Rural
Landscape



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Site #3

The site provides access to the Nymboida Weir which is a heritage item.

Council purchased the land to provide a buffer and to protect the integrity of the drinking water supply and ensure legal access for the management of the infrastructure.

Council did not give public notice of its intent to classify the land as operational.



25 February 2020

Council resolved to classify the land as operational on finalisation of the purchase



28 May 2020

Certificate of title issued

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Planning proposal

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Reason for reclassification

Site #1

To give effect to Council's previous intent to classify the land as operational so the land and water infrastructure can be effectively managed for operational purposes.

Site #2

To enable the land and water infrastructure to be effectively managed for operational purposes including easements which burden the land.

Site #3

To give effect to Council's previous intent to classify the land as operational in order to manage public access, maintaining water quality and security and provide legal access.

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Zoning controls

The planning proposal also aims to change the zoning of site #1 and the adjoining land (Lot 1 DP567494) from R2 Low Density Residential to SP2 Infrastructure.

This is to allow for the construction of rechlorination system without development consent.

The zoning of sites #2 and #3 will not change.



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Oral submissions

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Guidelines



5 minutes
per speaker

- State your interest in the proposal and where you live in relation to the site
- State whether you are speaking in a personal capacity or as a representative of a broader group or person
- Confirm if you have already made a written submission on the planning proposal
- If you agree with a previous speaker on a point, please state this rather than repeat the same point
- Refrain from making offensive, threatening or defamatory comments

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Next steps

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Next steps



Written report on hearing

Council will:

- make the report available to the public
- assess the submissions
- make a decision whether to proceed

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