

**Clarence Valley Council
Planning Proposal
reclassification
and rezoning of
land consisting of
Water
Infrastructure
located Nymboida
and Lawrence
(REZ2023/0002)
August 2023**

Declaration

Document name: Planning Proposal reclassification and rezoning of land consisting of Water Infrastructure located Nymboida and Lawrence (REZ2023/0002)

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Qualifications of document authors: Dip App Sci / B Urban & Regional Planning; M Env & LG Law

Declaration: I, Stephen Timms, 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 Act and the Department of Planning and Environment's *Local Environmental Plan Making Guideline* (August 2023).

Date: 7 August 2023

Document History and Version Control

Version	Prepared by	Approved by	Date approved	Brief Description
1.0	Jasmine Oakes	Stephen Timms	7 August 2023	Draft to be presented at Ordinary Council meeting on 22 August 2023

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PRELIMINARY

1.1. Context

This document is a planning proposal that aims to support the reclassification of five (5) public land parcels from community to operational land.

It also intends to change the land use zoning of two (2) land parcels consisting of water infrastructure and access at Lawrence under the *Clarence Valley Local Environmental Plan 2011* (CVLEP).

This planning proposal aims to reclassify the following land parcels from “community” to “operational” land:

- Lot 21 DP1269753 (previously part lot 2 DP567494) located at 66 High Street, Lawrence, consisting water supply infrastructure (Figure 1);
- Lot 102 DP1277848 located at 1 Power Station Road, Nymboida, consisting water supply infrastructure and access (Figure 2); and
- Lots 7, 17 and 63 DP752836 located at 107 Glens Creek Road, Nymboida, adjoining the weir pool (Figure 3)

This planning proposal also aims to amend the CVLEP Land Zoning Map from R2 Low Density Residential to SP2 Infrastructure (water supply system) for the following land parcels:

- Lot 21 DP1269753 and Lot 1 DP567494 located at 66 High Street, Lawrence, consisting water supply infrastructure and access (Figure 4).



Figure 1: Lot 21 DP1269753

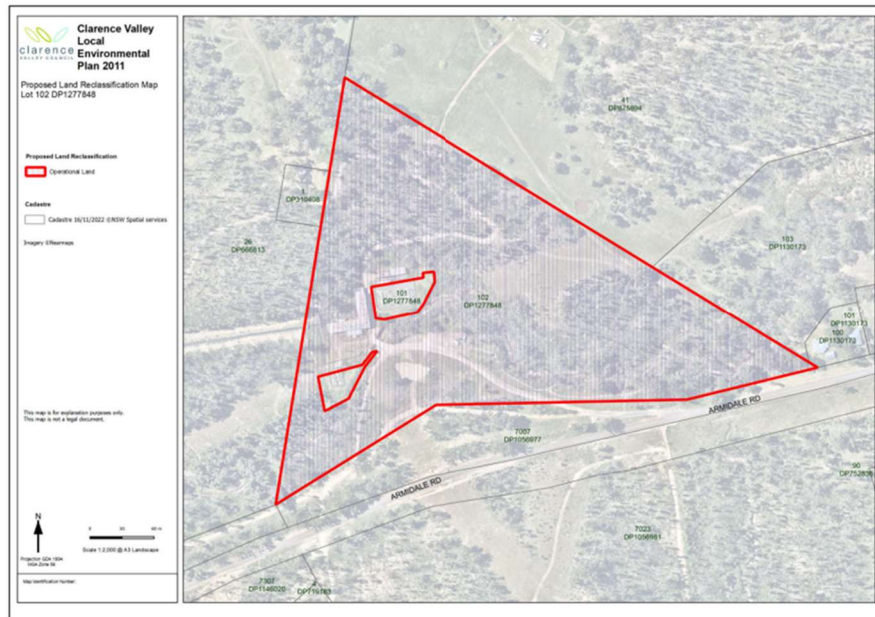


Figure 2: Lot 102 DP1277848

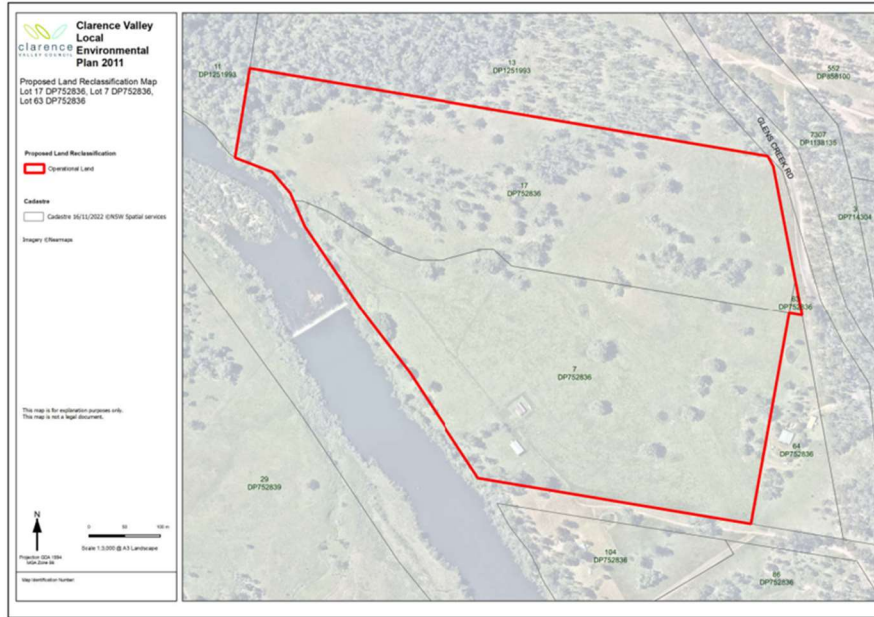


Figure 3: Lots 7, 17 and 63 DP752836

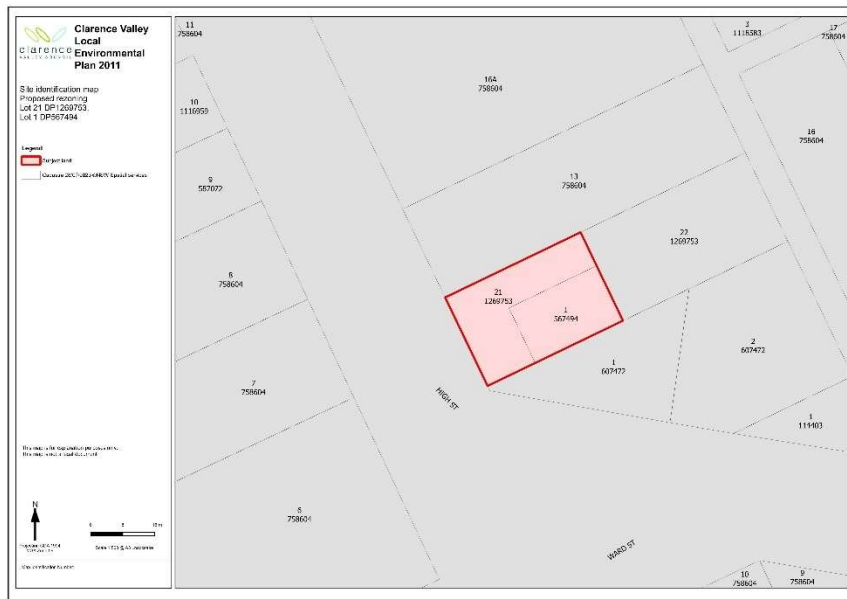


Figure 4: Lot 21 DP1269753 and Lot 1 DP567494

The planning proposal constitutes a document referred to in Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It has been prepared in accordance with the Department of Planning and Environment's "*Local Environmental Plan Making Guideline*" (September 2022).

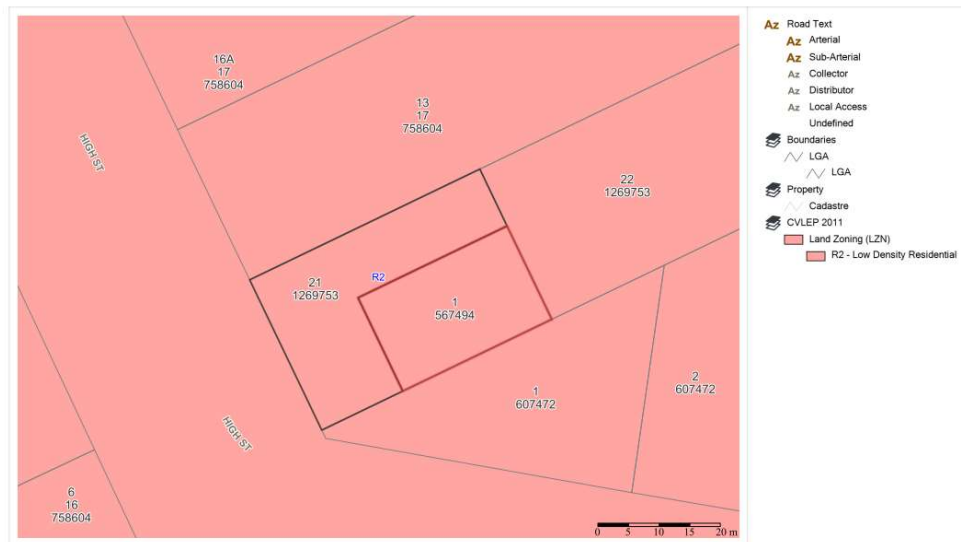
A Gateway determination under Section 3.34 of the EP&A Act is requested.

1.2. Current and Proposed Land Zoning

Current Land Zoning

The current land use zoning of the subject land parcels are as follows:

- Lot 21 DP1269753 (and Lot 1 DP567494) – R2 Low Density Residential (Figure 5);
- Lot 102 DP1277848 – RU2 Rural landscape (Figure 6); and
- Lots 7, 17 and 63 DP752836 - RU2 Rural landscape (Figure 7)



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Projection: GDA94 MGA 2010 56
Date: 11/07/2023
Drawn By: Jasmine Oakes

Map Scale: 1:512 at A4

Figure 5: Land Use Zone R2 Low Density Residential under the CVLEP



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Projection: GDA94 / MGA Zone 56
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Map Scale: 1:7427 at A4

Figure 6: Land Use Zoning RU2 Rural Landscape under the CVLEP



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Projection: GDA94 / MGA Zone 56
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Map Scale: 1:7229 at A4

Figure 7: Land Use Zone RU2 Rural Landscape under the CVLEP

This planning proposal does not seek to amend the Land Zoning Map of the CVLEP for Lot 102 DP1277848, or for Lots 7, 17 and 63 DP752836.

Proposed Land Zoning of Lot 21 DP1269753 and Lot 1 DP567494

This planning proposal seeks to also amend the *Clarence Valley Local Environmental Plan 2011 (CVLEP)* by amending the Land Zoning Map for land at Lot 21 DP1269753 and Lot 1 DP567494 from R2 Low Density Residential to SP2 Infrastructure (water supply system) (Figure 8) to allow for the construction of a rechlorination system without consent under Division 24 Water Supply Systems of the *State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport & Infrastructure SEPP)*.

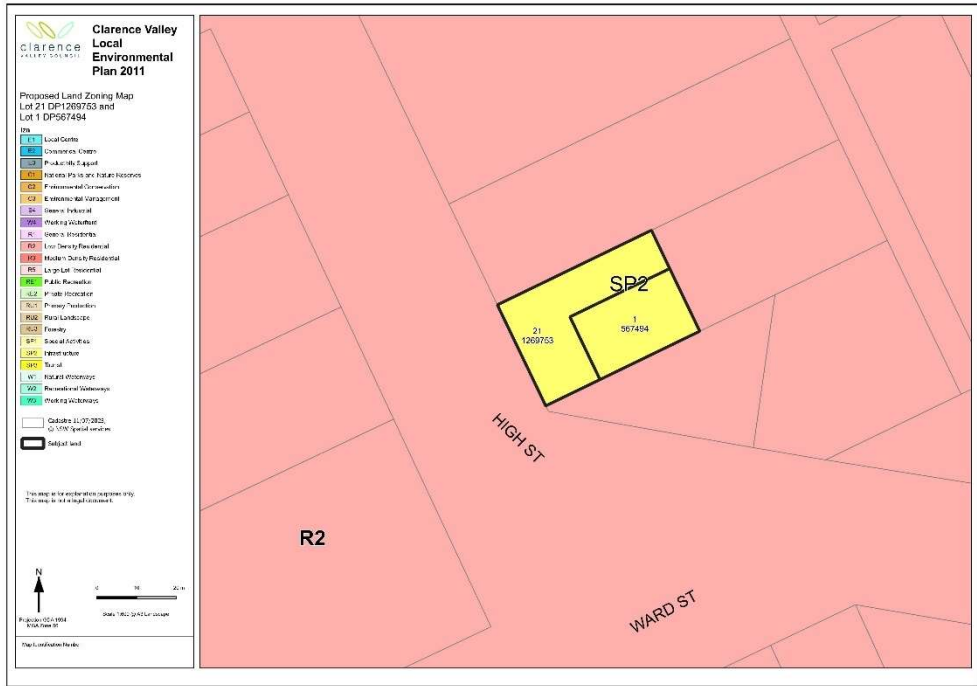


Figure 8: Proposed Land Zoning under the CVLEP - SP2 Infrastructure (water supply system)

1.3. Background to land classification and reclassification

Land classification under the *Local Government Act 1993*

Under the LG Act:

- Public land is defined as any land (including a public reserve) vested in, or under council control. Exceptions include a public road, land to which the *Crown Land Management Act 2016* applies, a common, or a regional park under the *National Parks and Wildlife Act 1974*. (LG Act, Dictionary).
- all public land must be classified as either “Community” or “Operational” land (s25 and 26 LG Act).

Community land

The main effect of classification is to restrict the alienation and use of the land (*Practice Note 1: Public Land Management [Revised]*, Department of Local Government, Sydney, NSW [2000]).

Classification as “Community” reflects the importance of the land to the community because of its use or special features. Generally, it is land intended for public access and use, or where other restrictions applying to the land create some obligation to maintain public access (such as a trust deed, or dedication under section 94 of the *Environmental Planning and Assessment Act 1979*). This gives rise to the restrictions in the LG Act, intended to preserve the qualities of the land.

Community land:

- cannot be sold (s45 LG Act)
- cannot be leased, licenced or any other estate granted over the land for more than 21 years (without Ministerial consent) (s47 LG Act)
- must have a plan of management prepared for it (s35 LG Act).

Community land would ordinarily comprise land such as a public park, sportsground or bushland.

Operational land

In contrast, “Operational” land has no special restrictions other than those that may ordinarily apply to any parcel of land. Operational land is unfettered land. Operational land would ordinarily comprise land that facilitates the carrying out by a council of its functions or land which may not be open to the general public,

such as council offices, a works depot, sewer or water pump station or a council quarry. It also includes land held by Council as a temporary asset or as an investment which may be sold.

1.3.1. History and current position of the land

This planning proposal proposes to reclassify Lot 21 DP1269753, consisting of water supply infrastructure at Lawrence; Lot 102 DP1277848 consisting of water supply infrastructure and access at Nymboida; and Lots 7, 17 and 63 DP752836 adjoining the Nymboida weir pool from 'community' to 'operational' land to effect Council's previous intention to classify the land as 'operational' so the land and water infrastructure can be effectively managed for operational purposes.

Under the *Local Government Act 1993 Act* (the Act), the classification of land can occur before a council acquires the land, or within 3 months after it is acquired (s.31[2]). The process to classify land also requires a council to give public notice of a proposed resolution to classify or reclassify public land and allow a period of not less than 28 days during which submissions may be made to the council on the proposed resolution to classify (or reclassify) the land (s.34).

Councils must classify their land within 3 months otherwise the land by default is classified as 'community' (s.31[2A]). Council must also arrange a public hearing in respect of any proposal to reclassify land (s.29).

Lawrence Water Tower - Lot 21 DP1269753

Lot 21 DP1269753 (previously part lot 2 DP567494) located at 66 High Street, Lawrence was purchased by Council from School Infrastructure NSW by compulsory acquisition in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991* for the purposes of access to the adjoining Lot 1 DP567494 for the renewal of the existing water supply infrastructure on the land.

Council resolved at its business meeting (item 6c.20.143) held on 15 September 2020 to acquire the land (being Lot 21 DP1269753) by compulsory acquisition and that the land was to be classified as 'operational'. The notice of compulsory acquisition was published in the NSW government Gazette on 16 July 2021 and the Certificate of Title issued to Council on 14 September 2021 (See Appendix 1a). However, public exhibition of Council's intention to classify the land as operational did not occur prior to, or within 3 months of acquisition. Consequently, the land has been classified as community by virtue of Section 31(2A) of the LG Act, which now requires the land to be reclassified via an amendment to the CVLEP.

Council intends on constructing a rechlorination system on Lot 21 DP1269753 and the adjoining Lot 1 DP567494 which is not permitted within the R2 Low Density Residential land use zoning under the Transport & Infrastructure SEPP without consent. Consequently, this planning proposal also seeks to amend the CVLEP by amending the Land Zoning Map for land at Lot 21 DP1269753 and Lot 1 DP567494 from R2 Low Density Residential to SP2 Infrastructure (water supply system), to allow this infrastructure to be constructed under Division 24 Water Supply Systems of the Transport & Infrastructure SEPP.

Nymboida Hydro Power Station – Lot 102 DP1277848

The Nymboida Power Station complex (Heritage Item I334 of the CVLEP) was constructed by the then Clarence River County Council and opened in 1924, being the second hydro-electric power station built on the Australia mainland, which holds significance for its history, rarity and aesthetic value, and also holds local social significance.

Lot 102 DP1277848 located at 1 Power Station Road, Nymboida was purchased by Council from Essential Energy and the Certificate of Title issued on 5 November 2021 (see Appendix 1b), 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 enable ongoing management and maintenance of the heritage items there on.

The land is also burdened by several easements including, right of carriageway, water pipeline, overhead and underground powerlines and access which are inconsistent with the classification and use of the land as 'community' land.

Council did not classify this land parcel as operational within three (3) months of its acquisition, consequently the land defaulted to the community land classification, which now requires the land to be reclassified through the CVLEP.

Note – Reclassification of Lot 101 DP1277848 is not sort as part of this planning proposal. Essential Energy remain the owner of this land parcel and power generation assets thereon.

Land adjoining Nymboida Weir – Lots 7, 17 and 63 DP752836

The Nymboida weir (also Heritage Item I334 of the CVLEP), adjoining Lot 7 DP752836, was constructed in 1924 and raised in 1936, as part of the Nymboida Power Station facility to raise the water level which was piped to the power station to generate electricity. 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 located at 107 Glens Creek Road, Nymboida were purchased by Council and the Certificate of Title issued on 28 May 2020 (see Appendix 1c), to provide a buffer to and protect the integrity of the drinking water supply and ensure legal access for operational management of infrastructure.

Reclassifying these land parcels as 'operational' land will enable Council to manage public access and limit land uses on land adjacent to the Nymboida weir pool raw water storage area, to maintain water quality for the security of Council's drinking water catchment, as well as providing a point of legal access to the weir and allowing for the future construction of a fish ladder.

Council resolved (Item 08.20.002, Confidential session held on 25 February 2020) to classify these land parcels as operational land on finalisation of the land purchase, however the three (3) month LG Act requirement was not met. Consequently, the land defaulted to the community land classification, which now requires the land to be reclassified via an amendment to the CVLEP.

1.4. Conclusion and next steps

This planning proposal deals with the reclassification of the five (5) identified land parcels (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) to operational land, and rezoning of Lot 21 DP1269753 and Lot 1 DP567494 located at 66 High Street, Lawrence to SP2 Infrastructure (water supply system).

As the reclassification and rezoning of the lands in this planning proposal is not proposing to extinguish any public reserve status or change or extinguish any other interests in the lands it is Council's view that there is no need to obtain the Governor's approval under section 30 of the LG Act.

PART 1 – OBJECTIVES AND INTENDED OUTCOMES

Objective

To amend the *Clarence Valley Local Environmental Plan 2011* (CVLEP) to reclassify the subject lands being (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), adjoining the weir pool Lots 1 and 2 DP 1270948, 300 Powell Street, Grafton) as operational to restrict access to the water supply infrastructure and enable Council to effectively manage the land and infrastructure under its ownership.

To amend the CVLEP by amending the Land Zoning Map for land at Lot 21 DP1269753 and Lot 1 DP567494 located at 66 High Street, Lawrence from R2 Low Density Residential to SP2 Infrastructure (water supply system), to allow rechlorination system infrastructure to be constructed on the land parcels under Division 24 Water Supply Systems of the Transport & Infrastructure SEPP.

Intended outcomes

Reclassifying the above-mentioned land parcels to operational land will allow Council to restrict general public access to the land to ensure public safety and enable operational management of the water supply infrastructure located thereon. It will also provide a buffer to and limit land use thereby protecting the integrity of the drinking water supply collected upstream of the Nymboida Weir located adjacent to 107 Glens Creek Road Nymboida.

Rezoning of Lot 21 DP1269753 and Lot 1 DP567494 to SP2 Infrastructure (water supply system) will allow Council to undertake upgrades and improvements to the water supply infrastructure as development permitted without consent under the Transport & Infrastructure SEPP, reducing overall construction timeframes and improving the drinking water quality for the Lawrence community in a more timely and efficiently manner.

2.P ART 2 – EXPLANATION OF PROVISIONS

Reclassification from community to operational land

The *Clarence Valley Local Environmental Plan 2011* (CVLEP) Clause 5.2 – Classification and reclassification of public land enables Council to classify or reclassify public land as operational land or community land in accordance with the *Local Government Act 1993*.

This planning proposal seeks to amend *Clarence Valley Local Environmental Plan 2011* (CVLEP) to include the subject public lands listed below within *Part 1 Land classified, or reclassified, as operational land - no interests changed of Schedule 4 Classification and reclassification of public land* thereby confirming reclassification of such lands from community to operational.

- 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.

Note 1: The location of these Lots is shown in Section 1.1 Figures 1, 2 & 3.

Note 2: As no part Lots are proposed to be reclassified there is no need for any draft local environmental plan mapping for the reclassification.

Rezoning from R2 Low Density Residential to SP2 Infrastructure (water supply system)

This planning proposal also seeks to amend the *Clarence Valley Local Environmental Plan 2011* (CVLEP) Land Zoning Map for the subject land parcels listed below from R2 Low Density Residential to SP2 Infrastructure (water supply system).

- Lot 21 DP1269753
- Lot 1 DP567494

Current Land Zoning**Proposed Land Zoning**

3.PART 3 – JUSTIFICATION OF STRATEGIC AND SITE SPECIFIC MERIT

3.1. Section A – need for the planning proposal

3.1.1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?

This planning proposal is not the result of councils LSPS or specific strategy or study, although it generally aligns with Council's LSPS, particularly Priority 9 – *Plan for resilient and sustainable infrastructure* and Priority 15 – *Preserve and enhance our natural environment*.

Council's Drinking Water Management System (DWMS) also includes several continuous improvement items listed in relation to protecting the Nymboida River weir pool and greater catchment area, including limiting development and animal access to the weir pool.

The reclassification of the forementioned Lots from community to operational land will allow Council to restrict public access to the water infrastructure and prevent inappropriate land uses to ensure community safety, maintain drinking water quality and enable efficient and effective operational management of their water supply infrastructure.

This planning proposal is a direct result of the following Council resolutions to classify the following land as operational

- Lot 21 DP1269753 (previous Lot 2 DP567494), located at 66 High Street, Lawrence:
 - Item 6c.20.143, point 3. *The land to be classified as operational* of the Ordinary Council meeting held on 22 September 2020 “*Acquisition of land for water supply at Lawrence*”
- Lots 7, 17 and 63 DP752836, located 107 Glens Creek Road, Nymboida:
 - Item 08.20.002, point 4. *The Property, if the purchase is successful, be classified as “operational”* of the Confidential session held on 25 February 2020 “*Proposed purchase of property for water protection*”;
- 102 DP1277848 located at 1 Power Station Road, Nymboida:
 - Item 07.23.136 Point 1(b). To reclassify the land being 102 DP1277848 to operational of the Ordinary Council Meeting held on 22 August 2023;
- Lot 21 DP1269753 and Lot 1 DP567494, located at 66 High Street, Lawrence:
 - Item 07.23.136 Point 1(d). To rezoning the land being Lot 21 DP1269753 and Lot 1 DP567494 to SP2 Infrastructure (water supply system) of the Ordinary Council Meeting held on 22 August 2023.

Relevant Council reports and resolutions (except for Confidential sessions) are included in Appendix 2.

Additional strategic justification is also required for the reclassification of public land to operational land in accordance with DPE Practice Note PN 16-001 - *Classification and reclassification of public land through a local environmental plan*. A copy of PN 16-001 is in Appendix 3, whilst Appendix 4 provides the justification required to be provided by PN 16-001.

3.1.2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The preparation of a planning proposal under section 3.33 of the *Environmental Planning and Assessment Act 1979* to amend Schedule 4 of the *Clarence Valley Local Environmental Plan 2011* (CVLEP) to reclassify 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 from 'community' to 'operational' land; and to rezone Lot 21 DP1269753 and Lot 1 DP567494 to SP2 Infrastructure (water supply system) and is the only way to achieve the objectives and intended outcomes.

3.2. Section B – relationship to the strategic planning framework

3.2.1. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans)?

The North Coast Regional Plan 2041 (NCRP) published December 2022 is the NSW Government's strategy for guiding land use planning decisions for the North Coast region for the next 20 years. It is the applicable regional plan applying to the Clarence Valley Local Government Area and the land identified in this planning proposal.

The NCRP vision is *healthy and thriving communities, supported by a vibrant and dynamic economy that builds on the region's strengths and natural environment*. The NCRP comprises three (3) goals, twenty (20) objectives, forty six (46) strategies, six (6) actions and five (5) collaboration activities to support the vision for the region.

The strategies provide guidance for councils in preparing local strategic plans, local plans and planning proposals, as well as setting direction for state agencies to support the objectives of the plan.

The actions are initiatives that are led by the NSW Department of Planning and Environment that will be delivered in the next 5 years.

The collaboration activities are initiatives that are led by councils or other state agencies which supports the objectives, and which the NSW Department of Planning and Environment has a role in supporting.

Consequently, this planning proposal will only consider whether the planning proposal is consistent with the forty six (46) strategies identified within the NCRP, no justification will be considered for the actions and / or collaborative activities that are led by the Department of planning and Environment, unless they are directly related to the land identified within the planning proposal.

The NCRP has very few if any strategies (or goals or objectives) that are of relevance to a planning proposal of this nature. Conversely, the planning proposal does not impact nor is considered to be inconsistent with any strategies (or goal or objective) contained within the NCRP. Accordingly, the proposal is considered to be consistent with the NCRP. An assessment of the planning proposal against the NCRP strategies is in Appendix 5.

3.2.2. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

The LSPS includes and identifies planning priorities for the Clarence Valley LGA that are consistent with the North Coast Regional Plan 2041, Council's Community Strategic Plan (The Clarence 2032), and other relevant strategic plans.

An LSPS Assessment is included at Appendix 6.

An assessment of the planning proposal against Council's relevant local strategies, including Council's community strategic plan is The Clarence 2032 is included at Appendix 7.

3.2.3. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

The planning proposal is of administrative nature and therefore has limited alignment, however is consistent with NSW Government and Regional based policy.

3.2.4. Is the planning proposal consistent with applicable SEPPs?

The planning proposal is of administrative nature and therefore has limited alignment, however is consistent with applicable state environmental planning policies (SEPPs). A more detailed assessment of the proposals relevance and consistency with SEPPs is included at Appendix 8.

3.2.5. Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?

The planning proposal is of administrative nature and therefore has limited alignment, however is consistent with applicable Section 9.1 Directions. A more detailed assessment of the proposals relevance and consistency is included at Appendix 9.

3.3. Section C – environmental, social and economic impact

3.3.1. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or habitats, will be adversely affected because of the proposal?

No. The planning proposal to reclassify the land parcels is of administrative nature, as such it is unlikely that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the planning proposal. Restricting access and land use to the Nymboida weir pool and the construction of a fish ladder at the weir (located adjacent to Lot 7 DP752836) are likely to increase viability and habitat of threatened species such as the Eastern Freshwater Cod (*Maccullochella ikei*).

This planning proposal does not propose to rezone or facilitate the carrying out of a particular development on Lots 7, 17 and 63 DP752836 and Lot 102 DP1277848.

The planning proposal proposes to rezone Lot 21 DP1269753 and Lot 1 DP567494, located at 66 High Street Lawrence to SP2 Infrastructure (water supply system) will change the permissible land uses from residential to infrastructure based purposes, which aligns with the current use of the land, which consist of a water tower and access. A Review of Environmental factors (REF) will be completed prior to any future works on the site to identify and mitigate any potential ecological impacts.

3.3.2. Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

No. The planning proposal to reclassify all the land parcels is of administrative nature; and does not propose to rezone or facilitate the carrying out of a particular development on Lots 7, 17 and 63 DP752836 and Lot 102 DP1277848, as such it is unlikely to result in any environmental impacts.

The planning proposal to rezone Lot 21 DP1269753 and Lot 1 DP567494 to SP2 Infrastructure (water supply system) is to facilitate the carrying of a particular development to allow a rechlorination system to be constructed without consent under Division 24 Water Supply Systems of the Transport & Infrastructure SEPP. A REF will be completed prior to any future works on the site to identify and mitigate any potential environmental impacts.

3.3.3. Has the planning proposal adequately addressed and social and economic effects?

The planning proposal to reclassify the land parcels is of administrative nature, as such it is unlikely to result in any social or economic impacts. It will however improve Council's efficiency and operational management of water supply infrastructure under its ownership.

A REF will be completed prior to any future works on the land parcels to identify and mitigate any potential social and or economic impacts.

3.4. Section D – Infrastructure (Local, State and Commonwealth)

3.4.1. Is there adequate public infrastructure for the planning proposal?

This planning proposal does not give rise to any increase in public infrastructure requirement, other than the construction of a rechlorination system to improve water supply to the water supply infrastructure on Lot 21 DP1269753 and Lot 1 DP567494 at 66 High Street Lawrence.

3.5. Section E – State and Commonwealth Interests

3.5.1. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

A Gateway determination has not been issued for this planning proposal. Relevant authorities will be identified and consulted in accordance with the relevant requirements of the Gateway determination.

The views of consulted public authorities will be summarised and addressed as appropriate in the post exhibition report.

4.P ART 4 – MAPS

Planning proposals are required to be supported by relevant and accurate mapping where appropriate.

Relevant mapping identifying the land parcels proposed to be reclassified from community to operational land by this planning proposal is included in *Section 1.1 Context* of this planning proposal.

Relevant mapping identifying the land parcels proposed to be rezoned from R2 Low Density Residential to SP2 Infrastructure (water supply system) by amending the Land Zoning Map of the CVLEP is included in *Section 1.2 Current and Proposed Land Zoning*.

5. PART 5 – COMMUNITY CONSULTATION

Public exhibition

Community consultation will be carried out following the issue of a Gateway Determination.

The proposal is classified as 'Basic' for the purpose of community consultation under the "*Local Environmental Plan Making Guideline, September 2022, Page 54*". This requires a 10 working day minimum exhibition period.

The *Clarence Valley Council Community Participation Plan, June 2022* generally requires a planning proposal to be publicly exhibited for a period of 28 days unless otherwise specified in the Gateway Determination.

Notification of the exhibited planning proposal will include;

- Posting on Council's Noticeboard ENews to inform the public of the exhibition details of the proposal
- Publication of the proposal on the "On Exhibition" page of Council's website along with details of the proposal and proposed public exhibition.
- Consultation with the public authorities as required by the gateway determination.

The planning proposal will also be exhibited in accordance with DPEs *PN 16-001* a copy of which is included in Appendix 3. Written statements addressing the information checklist requirements for planning proposals or draft LEPs to reclassify public land, as required by *PN 16-001* are provided in Appendix 4.

Public Hearing

A public hearing will also be held in accordance with Section 29 of the LG Act and under section 3.34(2)(e) of the EP & A Act following the exhibition of the planning proposal. Public notice of the public hearing will be given 21 days prior to the public hearing.

6. PART 6 – PROJECT TIMELINE

A timeline for the estimated milestones and ultimate completion of the project is provided in the table below.

Milestone	Estimated timeframe/completion date
Referral of the planning proposal to NSW Planning Portal with a request for a Gateway determination	September 2023
Gateway Determination	October 2023
Public Exhibition of Planning Proposal and consultation with public authorities (28 days)	November 2023
Public Hearing	November 2023
Assessment/consideration of submissions	December 2023
Officer report to Council (post exhibition)	February 2024
Submission to the Department with a notification to make the LEP	March 2024
Making of final plan and notification of the LEP amendment	April 2024

7. APENDICIES

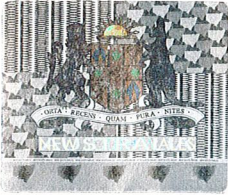
Appendix 1 Certificates of Title

BOX 1W
(AR359862)

NEW SOUTH WALES

CERTIFICATE OF TITLE

REAL PROPERTY ACT, 1900



TORRENS TITLE REFERENCE	
21/1269753	
EDITION	DATE OF ISSUE
1	14/9/2021
CERTIFICATE AUTHENTICATION CODE	
JN9Z-9H-693J	

I certify that the person described in the First Schedule is the registered proprietor of an estate in fee simple (or such other estate or interest as is set forth in that Schedule) in the land within described subject to such exceptions, encumbrances, interests and entries as appear in the Second Schedule and to any additional entries in the Folio of the Register.

REGISTRAR GENERAL



LAND

LOT 21 IN DEPOSITED PLAN 1269753
AT LAWRENCE.
LOCAL GOVERNMENT AREA: CLARENCE VALLEY.
PARISH OF LAWRENCE COUNTY OF CLARENCE
TITLE DIAGRAM: DP1269753

FIRST SCHEDULE

CLARENCE VALLEY COUNCIL

SECOND SCHEDULE

NIL

**** END OF CERTIFICATE ****

ANY ATTEMPT TO ALTER THIS CERTIFICATE COULD RESULT IN HEAVY FINES OR IMPRISONMENT (S.141 REAL PROPERTY ACT).

* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register.

Equifax - hereby certifies that the information contained in this document has been provided electronically by the Registrar General in accordance with section 96B(2) of the Real Property Act 1900. Note: Information contained in this document is provided by Equifax, ABN 26 000 602 862, <http://www.equifax.com.au/> an approved NSW Information Broker.

NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 102/1277848

SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
6/7/2023	2:33 PM	2	5/11/2021

LAND

LOT 102 IN DEPOSITED PLAN 1277848
AT NYMBOIDA
LOCAL GOVERNMENT AREA CLARENCE VALLEY
PARISH OF NYMBOIDA COUNTY OF FITZROY
TITLE DIAGRAM DP1277848

FIRST SCHEDULE

CLARENCE VALLEY COUNCIL (T AR588617)

SECOND SCHEDULE (11 NOTIFICATIONS)

- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 DP875894 RIGHT OF CARRIAGEWAY 3 METRE(S) WIDE AND VARIABLE AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 3 AD407669 EASEMENT FOR WATER PIPELINE AFFECTING THE PART SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 4 AE156326 EASEMENT FOR ACCESS OVER TRACK IN USE APPURTENANT TO THE LAND ABOVE DESCRIBED AFFECTING THE SITE DESIGNATED (F) IN DP1128206
- 5 AE156327 EASEMENT FOR ACCESS OVER TRACK IN USE AFFECTING THE PART SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 6 DP1277848 RIGHT OF ACCESS 3 METRE(S) WIDE AND VARIABLE AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 7 DP1277848 EASEMENT FOR OVERHEAD POWER LINE(S) 20 METRE(S) WIDE AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 8 DP1277848 EASEMENT FOR OVERHEAD POWER LINE(S) 30 METRE(S) WIDE AND VARIABLE AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 9 DP1277848 EASEMENT FOR UNDERGROUND POWERLINES 2 METRE(S) WIDE AND VARIABLE AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 10 DP1277848 RIGHT OF ACCESS 6 & 7 METRE(S) WIDE AND VARIABLE AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 11 DP1277848 EASEMENT FOR UNDERGROUND POWERLINES 4 METRE(S) WIDE AND VARIABLE AFFECTING THE PART(S) SHOWN SO BURDENED

NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 102/1277848

PAGE 2

SECOND SCHEDULE (11 NOTIFICATIONS) (CONTINUED)

IN THE TITLE DIAGRAM

NOTATIONS

DP1128206 NOTE: PLAN OF PROPOSED EASEMENT

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

PRINTED ON 6/7/2023

BOX 1W
(AQ136044)

NEW SOUTH WALES

CERTIFICATE OF TITLE

REAL PROPERTY ACT, 1900



TORRENS TITLE REFERENCE	
7/752836	
EDITION	DATE OF ISSUE
6	28/5/2020
CERTIFICATE AUTHENTICATION CODE	
CCSN-VP-QCVC	

I certify that the person described in the First Schedule is the registered proprietor of an estate in fee simple (or such other estate or interest as is set forth in that Schedule) in the land within described subject to such exceptions, encumbrances, interests and entries as appear in the Second Schedule and to any additional entries in the Folio of the Register.

REGISTRAR GENERAL



LAND

LOT 7 IN DEPOSITED PLAN 752836
LOCAL GOVERNMENT AREA: CLARENCE VALLEY.
PARISH OF NYMBOIDA COUNTY OF FITZROY
(FORMERLY KNOWN AS PORTION 7)
TITLE DIAGRAM: CROWN PLAN 15.1810

FIRST SCHEDULE

CLARENCE VALLEY COUNCIL

(T AQ136044)

SECOND SCHEDULE

1. LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
2. L298467 EASEMENT FOR TRANSMISSION LINE AFFECTING THE LAND SHOWN SO BURDENED IN PLAN WITH L298467
0897019 EASEMENT VESTED IN NEW SOUTH WALES ELECTRICITY TRANSMISSION AUTHORITY
3. AI893028 EASEMENT FOR STANDING AREA 20 WIDE AFFECTING THE PART DESIGNATED (S) IN DP1078052
4. AI893029 RIGHT OF ACCESS OVER TRACK IN USE AFFECTING THE PART DESIGNATED (R) IN DP1078052

**** END OF CERTIFICATE ****

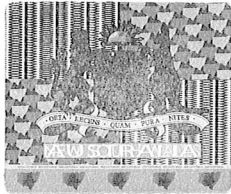
ANY ATTEMPT TO ALTER THIS CERTIFICATE COULD RESULT IN HEAVY FINES OR IMPRISONMENT (S.141 REAL PROPERTY ACT).

BOX 1W
(AQ136044)

NEW SOUTH WALES

CERTIFICATE OF TITLE

REAL PROPERTY ACT, 1900



TORRENS TITLE REFERENCE AUTO CONSOL 5288-186	
EDITION 3	DATE OF ISSUE 28/5/2020
CERTIFICATE AUTHENTICATION CODE 2YT7-66-6GWR	

I certify that the person described in the First Schedule is the registered proprietor of an estate in fee simple (or such other estate or interest as is set forth in that Schedule) in the land within described subject to such exceptions, encumbrances, interests and entries as appear in the Second Schedule and to any additional entries in the Folio of the Register.

REGISTRAR GENERAL



ANY ATTEMPT TO ALTER THIS CERTIFICATE COULD RESULT IN HEAVY FINES OR IMPRISONMENT (S.141 REAL PROPERTY ACT).

LAND

LAND DESCRIBED IN SCHEDULE OF PARCELS
LOCAL GOVERNMENT AREA: CLARENCE VALLEY.
PARISH OF NYMBOIDA COUNTY OF FITZROY
TITLE DIAGRAM: SEE SCHEDULE OF PARCELS

FIRST SCHEDULE

CLARENCE VALLEY COUNCIL

(T AQ136044)

SECOND SCHEDULE

1. LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND
CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)

SCHEDULE OF PARCELS

LOT 17 IN DP752836
LOT 63 IN DP752836

TITLE DIAGRAM

CROWN PLAN 97.1810
CROWN PLAN 2717.1810.

**** END OF CERTIFICATE ****

Appendix 2: Council Meeting Minutes and Resolutions

ITEM	6c.20.068	ACQUISITION OF LAND FOR WATER SUPPLY AT LAWRENCE
Meeting	Council	26 May 2020
Directorate	Works & Civil	
Reviewed by	A/Director - Works & Civil (Peter Birch)	
Attachment	Nil	

SUMMARY

At its meeting of 28 May 2019 Council resolved (Resolution 16.016/19) to accept a tender for demolishing the Lawrence reservoir. The report foreshadowed that a replacement 0.75ML reservoir would be constructed on the site. Subsequent water supply network modelling has taken into account demand which occurred during the late 2019 bushfires for refilling water tankers and has suggested a 1.7ML reservoir at Lawrence is optimal. The current reservoir site is insufficient in size to provide for a 1.7ML reservoir. It is proposed that land be acquired from the Department of Education adjacent to the Lawrence Reservoir site to facilitate construction of a replacement 1.7ML reservoir.

OFFICER RECOMMENDATION

That:

1. Council proceed with the compulsory acquisition of the land described as Lot 2 DP 567494 for the purpose of water supply in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*.
2. Council make an application to the Minister and the Governor for approval to acquire Lot 2 DP 567494 by compulsory process under section 186(1) of the *Local Government Act 1993*.
3. The land be classified as operational.
4. Authority is delegated to the Mayor and General Manager to sign any documentation necessary to complete the acquisition.
5. Council enter into a lease agreement with the Minister for Education (School Infrastructure NSW) for occupation of Lot 2 DP 567494 until the land acquisition has been completed for the purpose of reservoir construction.
6. When a valuation for the site is obtained, the valuation be reported back to Council for information.

COUNCIL RESOLUTION – 6c.20.068

Ellem/Williamson

That:

1. Council proceed with the compulsory acquisition of the land described as Lot 2 DP 567494 for the purpose of water supply in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*.
2. Council make an application to the Minister and the Governor for approval to acquire Lot 2 DP 567494 by compulsory process under section 186(1) of the *Local Government Act 1993*.
3. The land be classified as operational.
4. Authority is delegated to the Mayor and General Manager to sign any documentation necessary to complete the acquisition.
5. Council enter into a lease agreement with the Minister for Education (School Infrastructure NSW) for occupation of Lot 2 DP 567494 until the land acquisition has been completed for the purpose of reservoir construction.
6. When a valuation for the site is obtained, the valuation be reported back to Council for information.

Voting recorded as follows:**For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms****Against: Nil****LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

Objective 2.1 We will have communities that are well serviced with appropriate infrastructure

Strategy 2.1.1 Maintain and renew water and sewer networks

BACKGROUND

Council owns Lot 1 DP 567494, and the recently demolished Lawrence Reservoir was located on this lot. Surrounding Lot 1 is Lot 2 DP 567494 owned by the Minister for Education. The pipelines to the reservoir site are located in easements over Lot 2.

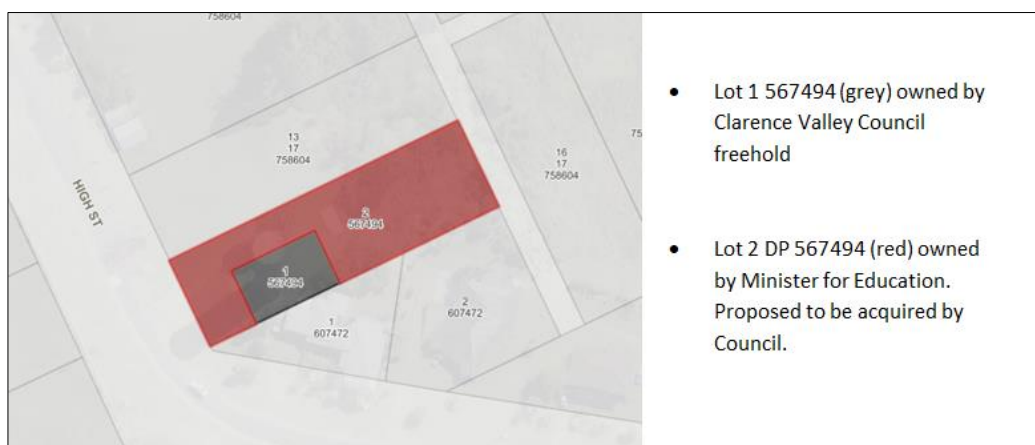
The recently demolished reservoir at Lawrence was of 1.14ML capacity and was a “standpipe” type reservoir 24.4m in height but only 7.6m in diameter. Hydraulic modelling has indicated that, to service the ultimate development peak and fire fighting demand a 1.7ML reservoir is desirable, but there is insufficient area on Lot 1 to construct a reservoir of greater diameter than the recently demolished reservoir.

An issue with “standpipe” type reservoirs is that at times of high flow, pressure reduces quickly as water is consumed. If additional land can be obtained, it is proposed the new 1.7ML reservoir be 15m in height and 12m in diameter. The design life of a new reservoir is 70 years, therefore ensuring the optimum size and shape reservoir can be built is essential.

KEY ISSUES

As part of the upgrade to the Lawrence Reservoir it was initially identified that an easement was required across Lot 2 DP 567494 for electrical work. Initial consultation was undertaken with School Infrastructure NSW for the granting of an easement. Further into the design of the reservoir upgrade it was established that more area was desirable to enable a 1.7ML reservoir to be constructed and negotiations were then commenced with the Department of Education to acquire part or whole of Lot 2.

School Infrastructure NSW has advised Council that their consultation process to dispose of land requires placement of the land on the open market and it was suggested that Council compulsory acquire the land as the process would provide the certainty of ownership and control of the matter to a resolution.



As the acquisition process can take a minimum of 9 months to complete, it is proposed that a lease is to be entered into in the interim so that the reservoir upgrade works can be commenced by tender after current travel restrictions are lifted.

COUNCIL IMPLICATIONS

Budget/Financial

The draft 2020/21 budget has included an allocation of \$650,000 from PJ902037 (Reservoir Rehabilitation) for a new 0.75ML Lawrence reservoir. Increasing the size of the reservoir to 1.7ML will increase the estimated cost of reservoir construction to \$925,000, and the cost of property matters is estimated to be \$150,000.

It is therefore proposed that, following public exhibition, the 2020/21 capital budget for PJ902037 be increased to \$1.075 million to enable construction of a 1.7ML reservoir. Financial modelling of the Water Fund indicates that the proposed capital budget increase can be accommodated, there are similar operating and maintenance costs between the smaller and proposed larger reservoir while the project wouldn't have any adverse impact on payment of a dividend from the water fund. Life cycle costs are taken into account within the financial modelling.

Acquisition and legal costs will be expended from PJ902037. It is proposed to obtain an independent valuation and agree on an acquisition price with School Infrastructure NSW.

If an agreement cannot be reached then compensation will be determined by the Valuer Generals department as part of the acquisition process.

Asset Management

The land would be added to Council's Water Cycle assets register and be included in future management and maintenance.

Policy or Regulation

- *Local Government Act 1993*
- *Land Acquisition (Just Terms Compensation) Act 1991*

Consultation

Consultation has been undertaken between Council's Water Cycle and Property sections and negotiations have commenced with staff from School Infrastructure NSW.

Legal and Risk Management

Local Government Legal have been engaged to provide preliminary advice and to process the acquisition in conjunction with Council staff. There are no Native Title or land claim implications with the land.

Climate Change

With climate change forecast to result in an increasing incidence of severe bushfires, and with reservoirs having a design life of 70 years, the recent bushfires highlighted the desirability of 1.7ML reservoir at Lawrence.

Prepared by	Greg Mashiah, Manager Water Cycle.
Attachment	Nil

ITEM 6c.20.143 ACQUISITION OF LAND FOR WATER SUPPLY AT LAWRENCE

Meeting	Corporate, Governance & Works Committee	15 September 2020
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Confidential	

SUMMARY

Council resolved at its meeting of 26 May 2020 to acquire land for the purpose of water supply and to report back to Council the value for information.

OFFICER RECOMMENDATION

That:

1. Council proceed with the compulsory acquisition of the land described as part Lot 2 DP 567494 for the purpose of water supply in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*.
2. Council make an application to the Minister and the Governor for approval to acquire part Lot 2 DP 567494 by compulsory process under section 186(1) of the *Local Government Act 1993*.
3. The land is to be classified as operational.
4. Authority is delegated to the Mayor and General Manager to sign any documentation necessary to complete the acquisition.

COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.143

Ellem/Novak

That:

1. Council proceed with the compulsory acquisition of the land described as part Lot 2 DP 567494 for the purpose of water supply in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*.
2. Council make an application to the Minister and the Governor for approval to acquire part Lot 2 DP 567494 by compulsory process under section 186(1) of the *Local Government Act 1993*.
3. The land is to be classified as operational.
4. Authority is delegated to the Mayor and General Manager to sign any documentation necessary to complete the acquisition.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

Objective 2.1 We will have communities that are well serviced with appropriate infrastructure

Strategy 2.1.1 Maintain and renew water and sewer networks

BACKGROUND

At Council's meeting of 26 May 2020, it was resolved to acquire Lot 2 DP 567494. At the time it was considered more practical to acquire the whole of the lot as it would involve a straight sale of land and would provide land for future use if required. Further investigation has been undertaken and it is now considered more appropriate to acquire part of the Lot surrounding the reservoir as shown in Figure 1.

As Council previously resolved to acquire the whole of the lot a new resolution is required to now acquire part of the Lot.

KEY ISSUES

Council initially considered acquiring the whole of the Lot as it was considered a straight sale of land would be preferable and would provide land for future use if required. However, the independent valuation obtained for the whole of Lot 2 was higher than expected. As such a review was undertaken and it is proposed to acquire only the land acquired for the construction of the new reservoir.

Council approached School Infrastructure NSW to proceed with the acquisition via a section 30 agreement, which would allow us to agree to the value to be paid in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*. They have declined the section 30 agreement proposal, however will proceed based on Council following the processes for compulsory acquisition.

Council obtained two valuation reports, one for the whole of Lot 2 and one for part of Lot 2 and these are included as confidential attachments.

In accordance with the compulsory acquisition process, these values are only a guide and the final valuation will be determined by the Valuer Generals department.

In accordance with the *Local Government Act 1993* the proposal to classify the acquired section of land as operational will be advertised for public comment.



Figure 1 – part of Lot 2 DP 567494 proposed to be acquired for water supply purposes.

COUNCIL IMPLICATIONS

Budget/Financial

Acquisition and legal costs will be expended from the Water Fund PJ902037. The value of the land will not be known until the Valuer General issues their valuation report but should be similar to the independent value obtained for the part of the land to be acquired.

Asset Management

The land when acquired will be added to Council's Water Cycle Assets register and be included in future management and maintenance.

Policy or Regulation*Local Government Act 1993**Land Acquisition (Just Terms Compensation) Act 1991***Consultation**

Consultation has been undertaken with our legal representative, Local Government Legal, and Council's Water Cycle section.

Legal and Risk Management

Local Government Legal have been engaged to provide preliminary advice and to process the acquisition in conjunction with Council staff. There are no Native Title or land claim implications with the land.

Climate Change

N/A

Prepared by	Kylee Baker, Property Coordinator
Confidential	A – Valuation whole lot 2 B – Valuation part lot 2

ITEM 07.23.136 PLANNING PROPOSAL (REZ2023/0002) TO RECLASSIFY LAND CONSISTING WATER INFRASTRUCTURE AT LAWRENCE AND NYMBOIDA TO OPERATIONAL AND TO REZONE THE LAND AT LAWRENCE TO SP2 INFRASTRUCTURE

Meeting	Council	22 August 2023
Directorate	Environment & Planning	
Prepared by	Strategic Planner, Jasmine Oakes	
Reviewed by	Director Environment & Planning, Adam Cameron	
Attachments	A. REZ2023/0002 - Draft Planning Proposal ⇒	

SUMMARY

This report seeks Council endorsement to submit planning proposal (REZ2023/0002) (**Attachment A**) to the Department of Planning and Environment for Gateway determination. The purpose being to reclassify five (5) land parcels consisting of water supply infrastructure located at Lawrence and Nymboida to 'operational' land, and to rezone two (2) land parcels at Lawrence from R2 Low Density Residential to SP2 Infrastructure to enable more efficient operational management, works and improvements of Council's water supply assets.

OFFICER RECOMMENDATION

That Council:

1. endorse planning proposal REZ2023/0002 (**Attachment A**) to amend Schedule 4 of the *Clarence Valley Local Environmental Plan 2011* (CVLEP) to reclassify the following land parcels from 'community' to 'operational' land:
 - (a) Lot 21 DP1269753 located at 66 High Street, Lawrence;
 - (b) Lot 102 DP1277848 located at 1 Power Station Road, Nymboida;
 - (c) Lots 7, 17 and 63 DP752836 located at 107 Glens Creek Road, Nymboida; and
 - (d) To rezone Lot 21 DP1269753 and Lot 1 DP567494 located at 66 High Street, Lawrence from R2 Low Density Residential to SP2 Infrastructure.
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 and engage an independent consultant to undertake a public hearing in accordance with legislative requirements, notifying Council's intention to reclassify the five (5) land parcels.
4. subject to no submissions or objections being received that require further consideration by Council:
 - (a) Finalise the CVLEP to reclassify the five (5) land parcels as 'operational' land; and
 - (b) Finalise the CVLEP to rezone the two (2) land parcels to SP2 Infrastructure.
5. note that if submissions are received that require further consideration of Council, this will be reported to the next available Council meeting after submissions close.

COUNCIL RESOLUTION - 07.23.136

Clancy/Toms

That Council:

1. endorse planning proposal REZ2023/0002 (**Attachment A**) to amend Schedule 4 of the *Clarence Valley Local Environmental Plan 2011* (CVLEP) to reclassify the following land parcels from 'community' to 'operational' land:
 - (a) Lot 21 DP1269753 located at 66 High Street, Lawrence;
 - (b) Lot 102 DP1277848 located at 1 Power Station Road, Nymboida;
 - (c) Lots 7, 17 and 63 DP752836 located at 107 Glens Creek Road, Nymboida; and
 - (d) To rezone Lot 21 DP1269753 and Lot 1 DP567494 located at 66 High Street, Lawrence from R2 Low Density Residential to SP2 Infrastructure.
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 and engage an independent consultant to undertake a public hearing in accordance with legislative requirements, notifying Council's intention to reclassify the five (5) land parcels.
4. subject to no submissions or objections being received that require further consideration by Council:
- (a) Finalise the CVLEP to reclassify the five (5) land parcels as 'operational' land; and
 - (b) Finalise the CVLEP to rezone the two (2) land parcels to SP2 Infrastructure.
5. note that if submissions are received that require further consideration of Council, this will be reported to the next available Council meeting after submissions close.

Voting recorded as follows

For: Clancy, Day, Johnstone, Novak, Pickering, Smith, Tiley, Toms, Whaites

Against: Nil

CARRIED

ITEM 07.23.136 PLANNING PROPOSAL (REZ2023/0002) TO RECLASSIFY LAND CONSISTING WATER INFRASTRUCTURE AT LAWRENCE AND NYMBOIDA TO OPERATIONAL AND TO REZONE THE LAND AT LAWRENCE TO SP2 INFRASTRUCTURE

Meeting	Council	22 August 2023
Directorate	Environment & Planning	
Prepared by	Strategic Planner, Jasmine Oakes	
Reviewed by	Director Environment & Planning, Adam Cameron	
Attachments	A. REZ2023/0002 - Draft Planning Proposal ↓	

SUMMARY

This report seeks Council endorsement to submit planning proposal (REZ2023/0002) (**Attachment A**) to the Department of Planning and Environment for Gateway determination. The purpose being to reclassify five (5) land parcels consisting of water supply infrastructure located at Lawrence and Nymboida to 'operational' land, and to rezone two (2) land parcels at Lawrence from R2 Low Density Residential to SP2 Infrastructure to enable more efficient operational management, works and improvements of Council's water supply assets.

OFFICER RECOMMENDATION

That Council:

- endorse planning proposal REZ2023/0002 (**Attachment A**) to amend Schedule 4 of the *Clarence Valley Local Environmental Plan 2011* (CVLEP) to reclassify the following land parcels from 'community' to 'operational' land:
 - Lot 21 DP1269753 located at 66 High Street, Lawrence;
 - Lot 102 DP1277848 located at 1 Power Station Road, Nymboida;
 - Lots 7, 17 and 63 DP752836 located at 107 Glens Creek Road, Nymboida; and
 - To rezone Lot 21 DP1269753 and Lot 1 DP567494 located at 66 High Street, Lawrence from R2 Low Density Residential to SP2 Infrastructure.
- delegate authority to the General Manager to:
 - Edit and finalise the Planning Proposal as required;
 - Execute all documentation associated with the local plan making functions;
 - Submit the planning proposal to the Department of Planning and Environment seeking a Gateway determination; and
 - Seek to be the local plan-making authority.
- in the event that a Gateway determination is issued, publicly exhibit the planning proposal and engage an independent consultant to undertake a public hearing in accordance with legislative requirements, notifying Council's intention to reclassify the five (5) land parcels.
- subject to no submissions or objections being received that require further consideration by Council:
 - Finalise the CVLEP to reclassify the five (5) land parcels as 'operational' land; and
 - Finalise the CVLEP to rezone the two (2) land parcels to SP2 Infrastructure.
- note that if submissions are received that require further consideration of Council, this will be reported to the next available Council meeting after submissions close.

LINKAGE TO OUR COMMUNITY PLAN

Theme Infrastructure

Objective We will have communities that are well serviced with appropriate infrastructure

KEY ISSUES

Proposed reclassification as 'operational' land

Council is required to reclassify five (5) land parcels consisting of water supply infrastructure via a planning proposal prepared under the provisions of section 55(a)-(e) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) from 'community' to 'operational' land by amending Schedule 4 of the *Clarence Valley Local Environmental Plan 2011* (the CVLEP). This is to give effect to Council's previous intentions to classify the land parcels as 'operational' land so the land and water supply infrastructure can be effectively managed for operational purposes. This however did not occur due to it not being publicly exhibited in accordance with

the provisions of the *Local Government Act 1993* (the LG Act). As a consequence, the following land parcels were classified as 'community' land by default (s.31[2A] of the LG Act).

Lawrence Water Tower

Lot 21 DP1269753 (previously part Lot 2 DP567494) located at 66 High Street, Lawrence was purchased by Council from School Infrastructure NSW by compulsory acquisition in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991* for the purposes of access to the adjoining Lot 1 DP567494 for the renewal of the existing water supply infrastructure.

Council resolved (item 6c.20.143) on 15 September 2020 to acquire the land by compulsory acquisition and that the land is to be classified as 'operational'. The notice of compulsory acquisition was published in the NSW government Gazette on 16 July 2021 and the Certificate of Title issued to Council on 14 September 2021, however the land defaulted to 'community' land under the LG Act.

The site plan below (**Figure 1**) shows the property boundaries of Lot 21 DP1269753 proposed to be reclassified to 'operational' land by the planning proposal REZ2023/0002.



Figure 1: Site Pan - being part of the Lawrence Water Tower

Note: Reclassification of the adjoining land parcel (Lot 1 DP567494) consisting of Lawrence Water Tower infrastructure is not sought as part of this planning proposal. This land parcel was classified as 'operational' on the 3 May 2019 [Clarence Valley Local Environmental Plan 2011 (Amendment No 40)].

Nymboida Hydro Power Station

Lot 102 DP1277848 located at 1 Power Station Road, Nymboida was purchased by Council from Essential Energy and the Certificate of Title issued on 5 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.

This report seeks Council endorsement to reclassify this land parcel as 'operational' land to enable the effective operational management of Council owned water supply infrastructure.

The site plan below (**Figure 2**) shows the property boundary of Lot 102 DP1277848, proposed to be reclassified to 'operational' land by planning proposal REZ2023/0002.

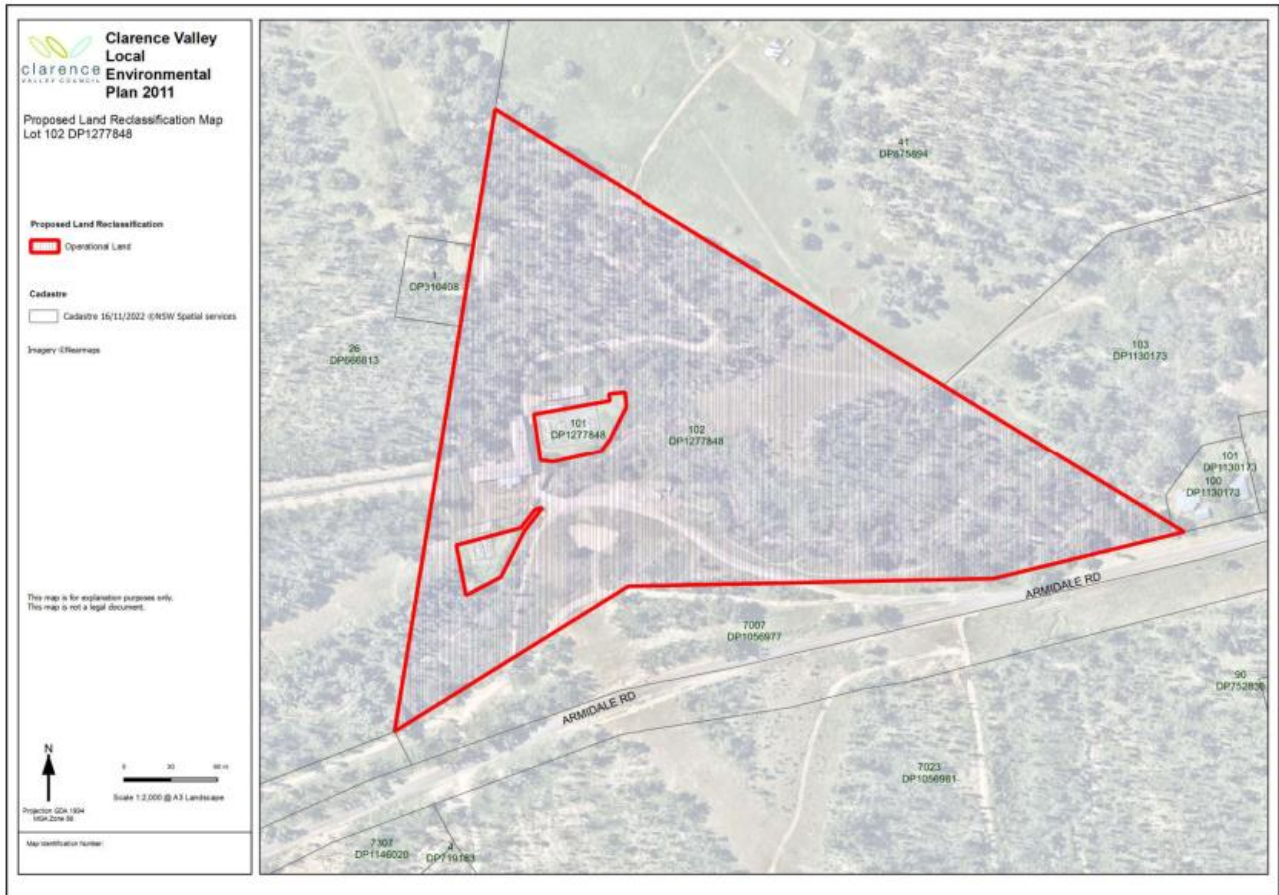


Figure 2: Site Plan - Nymboida Hydro Power Station

Note – Reclassification of Lot 101 DP1277848 is not proposed as part of this planning proposal. Essential Energy remain the owner of this land parcel and power generation assets thereon.

Nymboida weir pool

Lots 7, 17 and 63 DP752836 located at 107 Glens Creek Road, Nymboida were purchased by Council to provide a buffer to and protect the integrity of our drinking water supply and ensure legal access to facilitate the construction of a fish ladder at the weir and for operational management of the land and infrastructure.

Council resolved (Item 08.20.002, Confidential session held on 25 February 2020) to classify these land parcels as operational land on finalisation of the land purchase, the Certificate of Title was issued on 28 May 2020, however the land defaulted to ‘community’ land due to the LG Act provisions not being met.

The site plan below (**Figure 3**) shows the property boundaries of Lots 7, 17 and 63 DP752836, proposed to be reclassified to ‘operational’ land by this planning proposal REZ2023/0002.

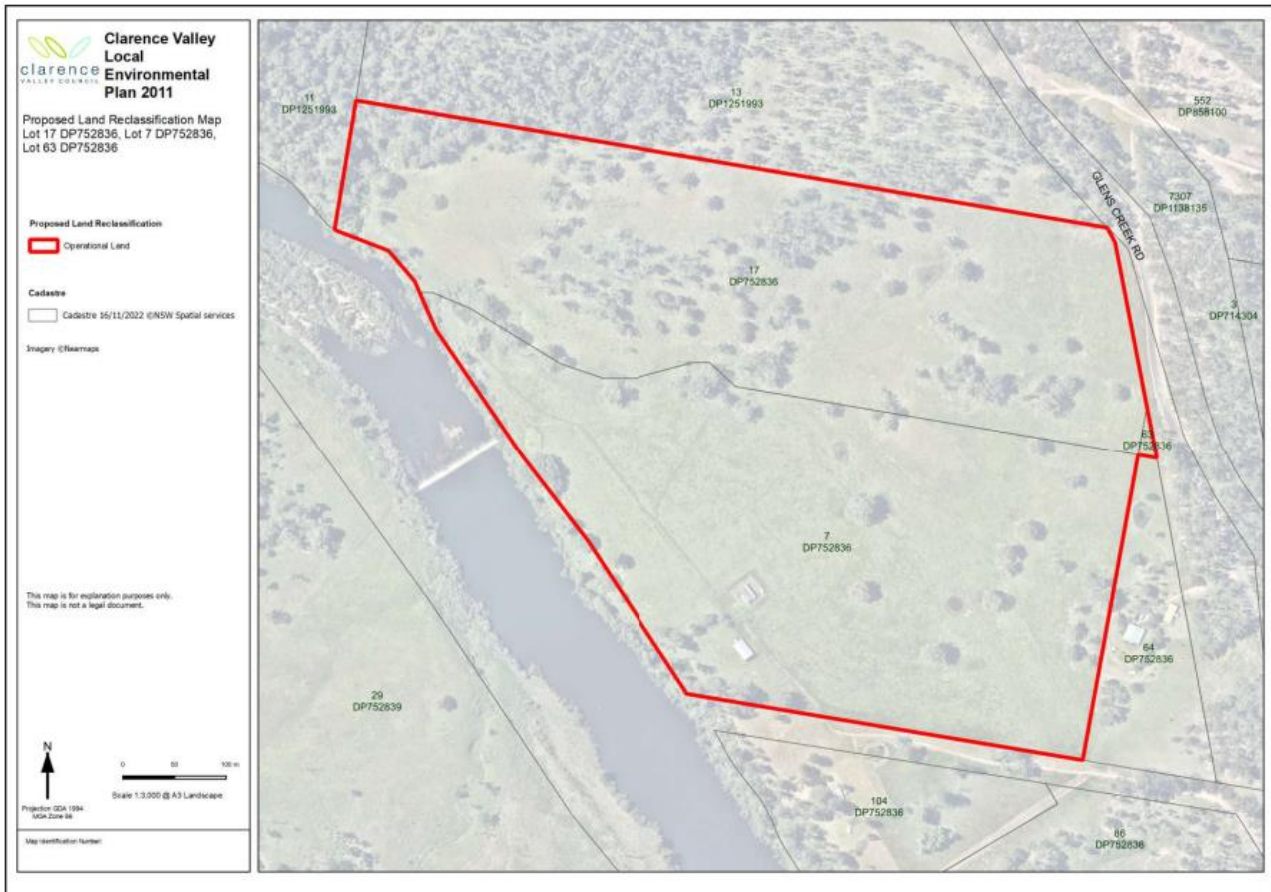


Figure 3: Site Plan - Nymboida weir pool

Proposed rezoning to SP2 Infrastructure

Council intends on constructing a re-chlorination system on Lot 21 DP1269753 and the adjoining Lot 1 DP567494 at 66 High Street, Lawrence which would otherwise require a development application within the R2 Low Density Residential land use zoning. An alternative and more efficient planning pathway is normally available under the *State Environmental Planning Policy (Transport and Infrastructure) 2021* (Infrastructure SEPP) to be permitted without consent. However, the existing land use zoning, which does not reflect the current land use, complicates and extends the process.

Consequently, this report seeks Council endorsement to rezone Lot 21 DP1269753 and Lot 1 DP567494 from R2 Low Density Residential to SP2 Infrastructure via the planning proposal REZ2023/0002, by amending the CVLEP Land Zoning Map. This would then allow future infrastructure works to be constructed without consent under Division 24 Water Supply Systems of the Infrastructure SEPP. The site plan below (**Figure 4**) illustrates the property boundaries of Lot 21 DP1269753 and Lot 1 DP567494, proposed to be rezoned to SP2 Infrastructure by this planning proposal.

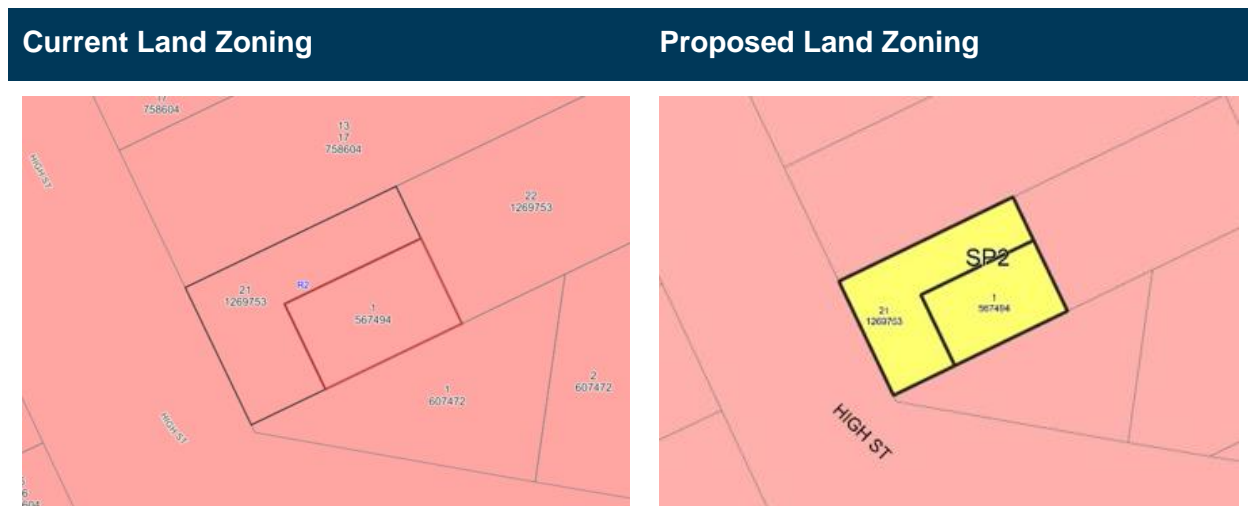


Figure 4: Site Plan – 66 High Street, Lawrence, being the proposed re-chlorination system site

BACKGROUND

The LG Act requires that all public land owned and / or managed by Council to be classified as either 'community' or 'operational' land under Sections 25 and 26 of the LG Act.

The process to be followed by councils in classifying and reclassifying public land is detailed at Division 1, Part 2, Chapter 6 of the LG Act.

Generally speaking, 'community' land is to be managed by Council for the benefit of the community, it is intended for public access and use consistent with a number of community land categories. The use of community land is to be directed by a plan of management. Importantly, community land cannot be sold or leased for a period greater than 21 years (without Ministerial consent).

'Operational' land on the other hand is more akin to normal land ownership, where land can be sold, leased or used by Council like a private landowner.

Under the LG Act, the classification of land can occur before a council acquires the land, or within 3 months after it is acquired (s.31[2]). The process to classify land also requires a council to give public notice of a proposed resolution to classify or reclassify public land and allow a period of not less than 28 days during which submissions may be made to the council on the proposed resolution to classify (or reclassify) the land (s.34).

Councils must classify their land within 3 months otherwise the land by default is classified as 'community' (s.31[2A]).

When Council intends to reclassify 'community' land as 'operational' land, they must also arrange a public hearing in respect of any proposal to reclassify land (s.29).

COUNCIL IMPLICATIONS

Budget/Financial

The preparation of this planning proposal, including the engage an independent consultant to undertake the required public hearing for reclassification of the five (5) land parcels is estimated at \$15,000, will be funded by the Water Fund and will be reflected in the August Monthly Financial Report as a variation.

Public exhibition of the planning proposal and associated documentation will be coordinated through Council's 'On-Exhibition' webpage and 'Noticeboard' platforms and as such will not incur additional budgetary constraints.

Asset Management

The land has been included in Council's Water Cycle Assets register and future management and maintenance schedules.

Policy and Regulation

Local Government Act 1993

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2021

Clarence Valley Local Environmental Plan 2011

Clarence Valley Community Participation Plan

Consultation

Internal consultation has been undertaken between the Strategic Planning, Property and Water Cycle sections.

The planning proposal will be submitted to the Department of Planning and Environment requesting a Gateway determination. The Gateway, if issued, will detail the public authorities that need to be consulted and public exhibition requirements.

If the Gateway 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 section 34 of the LG Act and Schedule 1 of the EP&A Act.

A public hearing into the reclassification of the five (5) land parcels will be undertaken by an independent consultant in accordance with Section 29 of the Act. In the event that submissions are received, or concerns/objections are raised during the hearing and exhibition period a report will be brought back to Council.

Legal and Risk Management

The purchase and management of Lots 7, 17 and 63 DP752836 as operational land for the purposes noted in the report the purchase of this property would reduce water quality risks associated with the drinking water supply, ensure Council has access to the weir pool and facilitate potential construction of a fish ladder at the weir.

Climate Change

Reclassifying the five (5) land parcels to 'operational' land enables Council's effective operational management of their water supply infrastructure to ensure the ongoing security of the Clarence Valley and Coffs Harbour LGA water supply.

In addition, allowing public access to Lots 7, 17 and 63 DP752836 as per the 'community' land classification, may lead to potential environmental impacts from land uses associated with this type of land classification which is generally considered to be openly accessible for recreational based uses. Reclassifying these land parcels to 'operational' land enables council to manage public access and land use appropriate to maintain water quality for the security of Council's drinking water.

**Appendix 3: *Practice Note PN 16-001 -
Classification and reclassification of public land
through a local environmental plan***

Ref No.	PN 16-001
Issued	5 October 2016
Related	Supersedes PN 09-003

Classification and reclassification of public land through a local environmental plan

The purpose of this practice note is to update guidance on classifying and reclassifying public land through a local environmental plan (LEP). This practice note emphasises the need for councils to demonstrate strategic and site specific merit, includes a comprehensive information checklist and clarifies issues arising for public reserves and interests in land. It should be read in conjunction with *A guide to preparing local environmental plans* and *A guide to preparing planning proposals*.

Classification of public land

Public land is managed under the *Local Government Act 1993* (LG Act) based on its classification. All public land must be classified as either community land or operational land (LG Act ss.25, 26).

- *Community* land – is land council makes available for use by the general public, for example, parks, reserves or sports grounds.
- *Operational* land – is land which facilitates the functions of council, and may not be open to the general public, for example, a works depot or council garage.

What is public land?

Public land is defined in the LG Act as any land (including a *public reserve*) vested in, or under council control. Exceptions include a public road, land to which the *Crown Lands Act 1989* applies, a common, land subject to the *Trustees of Schools of Arts Enabling Act 1902* or a regional park under the *National Parks and Wildlife Act 1974*.

Why classify public land?

The purpose of classification is to identify clearly that land made available for use by the general public (community) and that land which need not (operational). How public land is classified determines the ease or difficulty a council can have dealings in public land, including its sale, leasing or licensing. It also provides for transparency in council's strategic asset management or disposal of public land.

Community land must not be sold, exchanged or otherwise disposed of by a council. It can be leased,

but there are restrictions on the grant of leases and licences, and also on the way community land can be used. A plan of management (PoM), adopted by council, is required for all community land, and details the specific uses and management of the land.

There are no special restrictions on council powers to manage, develop, dispose, or change the nature and use of operational land.

How is public land classified or reclassified?

Depending on circumstances, this is undertaken by either:

- council resolution under ss.31, 32, or 33 (through LG Act s.27(2)), or
- an LEP under the *Environmental Planning and Assessment Act* (through LG Act s.27(1)).

Councils are encouraged to classify or reclassify land by council resolution where suitable.

Classification of public land occurs when it is first acquired by a council and classified as either community or operational.

Reclassification of public land occurs when its classification is changed from community to operational, or from operational to community.

Reclassification through an LEP

Classification and reclassification of public land through an LEP is subject to both the local plan-making process in the EP&A Act and the public land management requirements of the LG Act.

A planning proposal to classify or reclassify public land, will need to be prepared in accordance with this practice note and the additional matters specified in Attachment 1 to this practice note.

Reclassification through an LEP is the mechanism with which council can remove any public reserve status applying to land, as well as any interests affecting all or part of public land (LG Act s.30).

It is critical that all interests are identified upfront as part of any planning proposal. If public land is reclassified from community to operational, without relevant interests being identified and discharged, then the land will need to be reclassified back to community (usually by council resolution under LG Act s.33¹) before being reclassified in a new planning proposal to operational, to explicitly discharge any interests.

While a reclassification proposal to remove the public reserve status of land and/or discharge interests may not necessarily result in the immediate sale or disposal of the land, the community should be aware the public land in question is no longer protected under the LG Act from potential future sale once it has been reclassified to operational.

Councils should obtain their own advice when proposing to discharge any interests and be aware that this may attract a claim for compensation under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Where land has been dedicated to council by a State agency for a particular purpose and a trust exists, it is advisable for council to seek the views of that agency prior to council commencing any planning proposal affecting the land.

Public reserve is defined in the LG Act and includes a public park and land declared or dedicated as a public reserve.

Land can be dedicated as a public reserve by either:

- registering a deposited plan with a statement creating a lot(s) as 'public reserve', or
- publishing a notification in the Government Gazette for an existing parcel.

Interests in land refers to property ownership as well as rights and privileges affecting land, such as leasehold, easements, covenants and mortgages.

For the purpose of reclassification through an LEP, 'interests' means trusts, estates, dedications, conditions, restrictions and covenants affecting the land.

A legal owner of land may not be the only person with an interest in the land. For example, one person may have the benefit of an easement for services, such as water, electricity or sewerage over someone else's land.

Certain interests are registered on title to ensure they are on record and cannot be disregarded if sold to a new owner. An electronic title search is generally conducted to determine the land owner, correct land description and the type of interests which may affect the land.

Standard Instrument LEP requirements

Clause 5.2—Classification and reclassification of public land in Standard Instrument LEPs enables councils to classify or reclassify public land as operational land or community land in accordance with the LG Act. The land to be reclassified or classified is described in Schedule 4 of the LEP.

Schedule 4 is not to refer to any land already classified or reclassified.

Where there is no public land to be classified, or reclassified, through a principal LEP (i.e. the LEP applies to the whole of a local government area), Schedule 4 will appear blank.

Note: At a later stage council may lodge a planning proposal to remove previous listings in Schedule 4. This will not affect the classification status of these parcels of land.

Department assessment

A proposal to classify or reclassify public land through an LEP must have planning merit. The Department will undertake an assessment to determine whether the proposal demonstrates strategic and site specific merit.

Community consultation

Planning proposals to reclassify public land are to be publicly exhibited for at least 28 days.

A copy of this practice note is to be included in the public exhibition materials.

¹ Note: Council is required to give public notice of the proposed resolution and provide a period of at least 28 days during which submissions may be made (LG Act s.34).

Public hearings

Councils must hold a public hearing when reclassifying public land from community to operational (EP&A Act s.57 & LG Act s.29). This gives the community an opportunity to expand on written submissions and discuss issues with an independent person in a public forum.

After the exhibition period has ended, 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.

There are specific requirements for the independence of the person chairing the hearing, their preparation of a public hearing report and council making the report publicly available (LG Act s.47G).

Governor's approval

The Governor's approval is required when a reclassification proposal seeks to remove any public reserve status and/or discharge any interests affecting public land (s.30).

When a council reports back to the Department on the community consultation undertaken and requests the Department make the LEP, the Department will arrange legal drafting of the LEP, including recommending the Governor approve the provisions before the LEP can be legally made.

Where the Governor's approval is required, the council's report accompanying the final planning proposal must address:

- council's interests in the land;
- whether the land is a 'public reserve';
- the effect of the reclassification, including loss of open space, any discharge of interests, and/or removal of public reserve status;
- the strategic and site specific merits of the reclassification and evidence to support this;
- any current use of the land, and whether uses are authorised or unauthorised;
- how funds obtained from any future sale of the land will be used;
- the dates the planning proposal was publicly exhibited and when the public hearing was held;
- issues raised in any relevant submissions made by public authorities and the community;
- an explanation of how written and verbal submissions were addressed or resolved; and
- the public hearing report and council resolution.

Authorisation of delegation

Local plan making functions are now largely delegated to councils.

A Written Authorisation to Exercise Delegation is issued to a council as part of the Gateway determination. However, where an LEP requires the Governor's approval, this council delegation cannot be issued. In this instance, the council must request the Department make the LEP.

A decision to classify or reclassify public land cannot be sub-delegated by council to the general manager or any other person or body (LG Act s.377(1)(l)).

Background

On July 1, 1993 when the LG Act commenced, the following land under council ownership or control, was automatically classified as *community* land:

- land comprising a public reserve,
- land subject to a trust for a public purpose,
- land dedicated as a condition of consent under s.94 of the EP&A Act,
- land reserved, zoned or otherwise designated for use under an environmental planning instrument as open space,
- land controlled by council and vested in Corporation Sole - Minister administering the EP&A Act.

Councils must keep a register of land under their ownership or control (LG Act s.53) and anybody can apply to a council to obtain a certificate of classification (LG Act s.54).

Further information

A copy of this practice note, *A guide to preparing planning proposals* and *A guide to preparing local environmental plans* is available at:

<http://www.planning.nsw.gov.au>

For further information, please contact the Department of Planning and Environment's Information Centre by one of the following:

Post: GPO Box 39, Sydney NSW 2001.

Tel: 1300 305 695

Email: information@planning.nsw.gov.au

Authorised by:
Carolyn McNally
Secretary

Important note: This practice note does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this practice note.

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www.planning.nsw.gov.au

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ATTACHMENT 1 – INFORMATION CHECKLIST FOR PROPOSALS TO CLASSIFY OR RECLASSIFY PUBLIC LAND THROUGH AN LEP

The process for plan-making under the EP&A Act is detailed in *A guide to preparing planning proposals* and *A guide to preparing local environmental plans*.

Importantly, *A guide to preparing local environmental plans* contains the Secretary's requirements for matters that must be addressed in the justification of all planning proposals to reclassify public land. Councils must ensure the Secretary's requirements are addressed.

Councils must also comply with any obligations under the LG Act when classifying or reclassifying public land. More information on this can be found in *Practice Note No. 1 - Public Land Management* (Department of Local Government, 2000).

All planning proposals classifying or reclassifying public land must address the following matters for Gateway consideration. These are in addition to the requirements for all planning proposals under section 55(a) – (e) of the EP&A Act (and further explained in *A guide to preparing planning proposals* and *A guide to preparing local environmental plans*).

- the current and proposed classification of the land;
- whether the land is a 'public reserve' (defined in the LG Act);
- the strategic and site specific merits of the reclassification and evidence to support this;
- whether the planning proposal is the result of a strategic study or report;
- whether the planning proposal is consistent with council's community plan or other local strategic plan;
- a summary of council's interests in the land, including:
 - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution)
 - if council does not own the land, the land owner's consent;
 - the nature of any trusts, dedications etc;
- whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why;
- the effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged);
- evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents);
- current use(s) of the land, and whether uses are authorised or unauthorised;
- current or proposed lease or agreements applying to the land, together with their duration, terms and controls;
- current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time);
- any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy);
- how council may or will benefit financially, and how these funds will be used;
- how council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal;
- a Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot; and
- preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.

Appendix 4: Justification required to be provided by Practice Note PN 16-001 - Classification and reclassification of public land through a local environmental plan

Practice Note PN 16-001 item	Yes / No	Comment
The current and proposed classification of the land		Current classification – Community Proposed classification – Operational
Whether the land is a 'public reserve' (defined in the LG Act)		All of the land parcels are not deemed or considered to be a public reserve as defined by the LG Act. The certificates of titles are included as Appendix 1
The strategic and site specific merits of the reclassification and evidence to support this		An assessment of the proposals consistencies are include in appendices as follows – <ul style="list-style-type: none"> - Appendix 4 – NCRP - Appendix 8 – SEPPs - Appendix 9 – Local Planning Directions
Whether the planning proposal is the result of a strategic study or report		This planning proposal is the result of Council resolutions to classify the land parcels as operational land, on finalisation of the purchase of the Lots. The relevant Council meeting minutes are included in Appendix 2
Whether the planning proposal is consistent with council's community plan or other local strategic plan		Yes, this planning proposal is generally aligns with and is consistent with Council's strategies and plans. An

Practice Note PN 16-001 item	Yes / No	Comment
<p>A summary of council's interests in the land, including</p> <ul style="list-style-type: none"> - How and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for a public purpose, or a developer contribution) - If council does not own the land, the land owner's consent - The nature of any trusts, dedications etc 		<p>assessment of consistency is included in the following appendices:</p> <ul style="list-style-type: none"> - Appendix 6 – LSPS - Appendix 7 – Council Strategies and Plans <hr/> <ul style="list-style-type: none"> - Lot 21 DP1269753 was purchased by Council from the School of infrastructure NSW by compulsory acquisition for the purposes of access to the adjoining Lot 1 DP 567494 for renewal of the water supply infrastructure on 14 September 2021. There are no trusts of dedications on the land parcel. - Lots 7, 17 and 63 DP752836 (Nymboida weir) was purchased by Council from private ownership to provide a buffer to the Nymboida weir raw water storage area on 28 May 2020. There are no trusts of dedications on the land parcels - Lot 102 DP1277848 (Nymboida Power Station) was purchased by Council from Essential Energy to secure water supply infrastructure and water extraction licences on 5 November 2021. There are

Practice Note PN 16-001 item	Yes / No	Comment
Whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why		no trusts of dedications on the land parcels No interests are proposed to be discharged as part of this planning proposal.
The effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged)		All the land parcels proposed under this planning proposal to be reclassified as operational land 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.
Evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents)		No public reserve status exists over the land parcels proposed by this proposal to be reclassified as operational land. Certificate of title for the Lots are include at Appendix 1.
Current use(s) of the land, and whether uses are authorised or unauthorised		<p>- Lot 21 DP1269753 is currently used for access to the adjoining Lot 1 DP567494 consisting water supply infrastructure which is considered an authorised land use under the R2 Low Density Residential Land zoning to provide community facilities and roads, however SP2 Infrastructure (water supply system) is considered a more appropriate Land Zoning.</p> <p>- Lots 7, 17 and 63 DP752836 are currently used and managed to provide a buffer to the raw water storage area of the adjoining weir pool which is considered an authorised land use under the RU2 Rural landscape Land Zoning.</p> <p>- Lot 102 DP1277848 is used and managed to extract water from the</p>

Practice Note PN 16-001 item	Yes / No	Comment
Current or proposed lease agreements applying to the land, together with their duration, term and controls		<p>Nymboida weir pool to the Shannon Creek Dam for water security of Clarence Valley and Coff Harbour LGAs, which is considered an authorised land use under the RU2 Rural landscape Land Zoning.</p> <p>There are no lease and/ or proposed lease agreements regarding any of the land parcels proposed to be reclassified operational as part of this proposal.</p>
Current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time)		<p>There are currently no Council intentions to dispose of any of the land parcel assets as a result of the proposed reclassification to operational land.</p>
Any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy)		<p>It is not proposed to rezone Lots 7, 17 and 63 DP752836 and / or Lot 102 DP1277848.</p> <p>It is proposed to rezone Lot 21 DP1269753 from R2 Low Density Residential to SP2 Infrastructure (water supply system) as part of this planning proposal. Council had proposed to classify the land operational land on finalisation of purchase, consequently a PoM was not developed for this land parcel (The council resolution to classify this land parcel as</p>

Practice Note PN 16-001 item	Yes / No	Comment
		<p>operational is included at Appendix 2 - item 6c.20.143.</p> <p>This proposal also proposes to rezone the adjoining Lot 1 DP567494 however justification against this practice note is not required as it has already been classified operational land.</p>
How council may or will benefit financially, and how these funds will be used		The are no foreseeable financial benefit to Council for reclassifying the land parcels to operational land.
How council will ensure funds remain available to fund propose open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal		These land parcels were not intended to be classified as community land or to provide open space to the community. Council intended for these land parcels to be classified as operational on finalisation of the purchases, consequently, there is no requirement for any additional land to be dedicated as open space as part of this reclassification proposal.
A Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot		There is no requirements for mapping for the reclassification of the land parcels to be included within this planning proposal, as no 'part lots' are proposed to be reclassified as operational land.
Preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable		There are no preliminary comments from government agencies as pat of this reclassification process. The Gateway determination will make recommendation on agencies required for referral.

Appendix 5: North Coast Regional Plan 2041 Compliance

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
GOAL 1: LIVABLE, SUSTAINABLE AND RESILIENCE		
<i>Objective 1: Provide well located homes to meet demand</i>	N/A	-
<u>Strategy 1.1:</u> A 10 year supply of zoned and developable residential land is to be provided and maintained in Local Council Plans endorsed by the Department of Planning and Environment	N/A	
<u>Strategy 1.2:</u> Local Council plans are to encourage and facilitate a range of housing options in well located areas.	N/A	
<u>Strategy 1.3:</u> Undertake infrastructure service planning to establish land can be feasibly serviced prior to rezoning.	Yes	These land parcels consist water supply infrastructure to ensure a reliable water supply source to the community
<u>Strategy 1.4:</u> Councils in developing their future housing strategies must prioritise new infill development to assist in meeting the region's overall 40% multi-dwelling / small lot housing target and are encouraged to work collaboratively at a subregional level to achieve the target.	N/A	
<u>Strategy 1.5:</u> New rural residential housing is to be located on land which has been approved in a strategy endorsed by the Department of Planning and Environment and is to be directed away from the coastal strip.	N/A	
<u>Strategy 1.6:</u> Councils and LALCs can partner to identify areas which may be appropriate for culturally responsive housing on Country	N/A	
<i>Objective 2: Provide for more affordable and low cost housing</i>	N/A	
<i>Objective 3: Protect regional biodiversity and areas of high environmental value</i>	Yes	
<u>Strategy 3.1:</u> Strategic planning and local plans must consider opportunities to protect biodiversity values by: <ul style="list-style-type: none"> • focusing land-use intensification away from HEV assets and implementing the 'avoid, minimise and offset' hierarchy in strategic plans, LEPs and planning proposals • ensuring any impacts from proposed land use intensification on adjoining reserved lands or land that is subject to a conservation agreement are assessed and avoided • encouraging and facilitating biodiversity certification by Councils at the precinct scale for high growth areas and by individual land holders at the site scale, where appropriate • updating existing biodiversity mapping with new mapping in LEPs where appropriate • identifying HEV assets within the planning area at planning proposal stage through site investigations 	Yes	Limiting land use adjacent to the raw water supply above the Nymboida Weir Pool assist in management of water catchment areas, and enhances habitat values and ecological processes

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
<ul style="list-style-type: none"> • applying appropriate mechanisms such as conservation zones and Biodiversity Stewardship Agreements to protect HEV land within a planning area and considering climate change risks to HEV assets • developing or updating koala habitat maps to strategically conserve koala habitat to help protect, maintain and enhance koala habitat. • considering marine environments, water catchment areas and groundwater sources to avoid potential development impacts. 		
<p><u>Strategy 3.2:</u> In preparing local and strategic plans Councils should:</p> <ul style="list-style-type: none"> • embed climate change knowledge and adaptation actions • consider the needs of climate refugia for threatened species and other key species. 	Yes	Reclassifying these land parcels as operational land ensures efficient operational management and security of our LGA water supply
<p>Objective 4: Understand, celebrate and integrate Aboriginal culture</p>	N/A	
<p><u>Strategy 4.1:</u> Councils prepare cultural heritage mapping with an accompanying Aboriginal cultural management plan in collaboration with Aboriginal communities to protect culturally important sites.</p>	N/A	
<p><u>Strategy 4.2:</u> Prioritise applying dual names in local Aboriginal language to important places, features or infrastructure in collaboration with the local Aboriginal community.</p>	N/A	
<p>Objective 5: Manage and improve resilience to shocks and stresses, natural hazards and climate change</p>	Yes	Reclassifying these land parcels as operational land ensures efficient operational management and security of our LGA water supply
<p><u>Strategy 5.1:</u> When preparing local strategic plans, councils should be consistent with and adopt the principles outlined in the Strategic Guide to Planning for Natural Hazards.</p>	N/A	
<p><u>Strategy 5.2:</u> Where significant risk from natural hazard is known or presumed, updated hazard strategies are to inform new land use strategies and be prepared in consultation with emergency service providers and Local Emergency Management Committees (LEMCs). Hazard strategies should investigate options to minimise risk such as voluntary housing buy back schemes.</p>	N/a	
<p><u>Strategy 5.3:</u> Use local strategic planning and local plans to adapt to climate change and reduce exposure to natural hazards by:</p> <ul style="list-style-type: none"> • identifying and assessing the impacts of place-based shocks and stresses • taking a risk-based-approach that uses the best available science in consultation with the NSW Government, emergency service providers, local emergency management committees and bush fire risk management committees 	Yes	Reclassifying these land parcels as operational land ensures efficient operational management and security of our LGA water supply

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
<ul style="list-style-type: none"> • locating development (including urban release areas and critical infrastructure) away from areas of known high bushfire risk, flood and coastal hazard areas to reduce the community's exposure to natural hazards • identifying vulnerable infrastructure assets and considering how they can be protected or adapted • building resilience of transport networks in regard to evacuation routes, access for emergencies and, maintaining freight connections • identifying industries and locations that would be negatively impacted by climate change and natural hazards and preparing strategies to mitigate negative impacts and identify new paths for growth • preparing, reviewing and implementing updated natural hazard management plans and Coastal Management Programs to improve community and environmental resilience which can be incorporated into planning processes early for future development • identifying any coastal vulnerability areas • updating flood studies and flood risk management plans after a major flood event incorporating new data and lessons learnt • communicating natural hazard risk through updated flood studies and strategic plans. 		
<p><u>Strategy 5.4:</u> Resilience and adaptation plans should consider opportunities to:</p> <ul style="list-style-type: none"> • encourage sustainable and resilient building design and materials (such as forest products) including the use of renewable energy to displace carbon intensive or fossil fuel intensive options • promote sustainable land management including Ecologically Sustainable Forest Management (ESFM) • address urban heat through building and street design at precinct scale that considers climate change and future climatic conditions to ensure that buildings and public spaces are designed to protect occupants in the event of heatwaves and extreme heat events • integrate emergency management and recovery needs into new and existing urban areas including evacuation planning, safe access and egress for emergency services personnel, buffer areas, building 	N/A	

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
<p>back better, whole-of-life cycle maintenance and operation costs for critical infrastructure for emergency management</p> <ul style="list-style-type: none"> • adopt coastal vulnerability area mapping for areas subject to coastal hazards to inform the community of current and emerging risks • promote economic diversity, improved environmental, health and well-being outcomes and opportunities for cultural and social connections to build more resilient places and communities. 		
<p><u>Strategy 5.5:</u> Partner with local Aboriginal communities to develop land management agreements and policies to support cultural management practices.</p>	N/A	
<p>Objective 6: Create a circular economy</p>	N/A	
<p><u>Strategy 6.1:</u> Support the development of circular economy, hubs, infrastructure and activities and consider employment opportunities that may arise from circular economies and industries that harness or develop renewable energy technologies and will aspire towards an employment profile that displays a level of economic self-reliance, and resilience to external forces.</p>	Yes	
<p><u>Strategy 6.2:</u> Use strategic planning and waste management strategies to support a circular economy, including dealing with waste from natural disasters and opportunities for new industry specialisations.</p>	N/A	
<p>Objective 7: Promote renewable energy opportunities</p>	Yes	<p>Development for the purposes of a solar farm is identified in the property management plan being developed for 107 Glens Creek Road Nymboida, requiring further investigation for suitability on the land.</p>
<p><u>Strategy 7.1:</u> When reviewing LEPs and local strategic planning statements:</p> <ul style="list-style-type: none"> • ensure current land use zones encourage and promote new renewable energy infrastructure • identify and mitigate impacts on views, local character and heritage where appropriate • undertake detailed hazard studies. 	Yes	
<p>Objective 8: Support the productivity of agricultural land</p>	N/A	
<p><u>Strategy 8.1:</u> Local planning should protect and maintain agricultural productive capacity in the region by directing urban, rural residential and other incompatible development away from important farmland.</p>	N/A	
<p>Objective 9: Sustainably manage and conserve water resources</p>	Yes	
<p><u>Strategy 9.1:</u> Strategic planning and local plans should consider:</p> <ul style="list-style-type: none"> • opportunities to encourage riparian and coastal floodplain restoration works • impacts to water quality, freshwater flows and ecological function from land use change • water supply availability and issues, constraints and opportunities early in the planning process 	Yes	<p>Reclassifying these land parcels as operational land ensures efficient operational management</p>

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
<ul style="list-style-type: none"> • partnering with local Aboriginal communities to care for Country and waterways • locating, designing, constructing and managing new developments to minimise impacts on water catchments, including downstream waterways and groundwater resources • possible future diversification of town water sources, including groundwater, stormwater harvesting and recycling • promoting an integrated water cycle management approach to development • encouraging the reuse of water in new developments for urban greening and for irrigation purposes • improving stormwater management and water sensitive urban design • ensuring sustainable development of higher water use industries by considering water availability and constraints, supporting more efficient water use and reuse, and locating development where water can be accessed without significantly impacting on other water users or the environment • identifying and protecting drinking water catchments and storages in strategic planning and local plans • opportunities to align local plans with any certified Coastal Management Programs. 		<p>and security of our LGA water supply; limiting land use adjacent to the Nymboida weir pool and construction of a fish ladder enhances the ecological process and habitat of threatened sp.</p>
<p><u>Strategy 9.2:</u> Protect marine parks, coastal lakes and estuaries by implementing the NSW Government’s Risk-Based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions, with sensitive marine parks, coastal lakes and estuaries prioritised.</p>	N/A	
<p><u>Strategy 9.3:</u> Encourage a whole of catchment approach to land use and water management across the region that considers climate change, water security, sustainable demand and growth, the natural environment and investigate options for water management through innovation.</p>	Yes	<p>Reclassifying these land parcels as operational land ensures efficient operational management and security of our LGA water supply; limiting land use adjacent to the Nymboida weir pool and construction of a fish ladder</p>

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
		enhances the ecological process and habitat of threatened sp.
Objective 10: Sustainably manage the productivity of our natural resources	N/A	
<u>Strategy 10.1:</u> Enable the development of the region’s natural, mineral and forestry resources by avoiding interfaces with land uses that are sensitive to impacts from noise, dust and light interference.	N/A	
<u>Strategy 10.2:</u> Plan for the ongoing productive use of lands with regionally significant construction material resources in locations with established infrastructure and resource accessibility.	N/A	
GOAL 2: PRODUCTIVE AND CONNECTED		
Objective 11: Support cities and centres and coordinate the supply of well-located employment land	N/A	
<u>Strategy 11.1:</u> Local council plans will support and reinforce cities and centres as a focal point for economic growth and activity.	N/A	
<u>Strategy 11.2:</u> Utilise strategic planning and land use plans to maintain and enhance the function of established commercial centres by: <ul style="list-style-type: none"> • simplifying planning controls • developing active city streets that retain local character • facilitating a broad range of uses within centres in response to the changing retail environment • maximising the transport and community facilities commensurate with the scale of development proposals. 	N/A	
<u>Strategy 11.3:</u> Support existing and new economic activities by ensuring council strategic planning and local plans: <ul style="list-style-type: none"> • retain, manage and safeguard significant employment lands • respond to characteristics of the resident workforce and those working in the LGA and neighbouring LGAs • identify local and subregional specialisations • address freight, service and delivery considerations • identify future employment lands and align infrastructure to support these lands • provide flexibility in local planning controls • are responsive to future changes in industry to allow a transition to new opportunities • provide flexibility and facilitate a broad range of commercial, business and retail uses within centres • focus future commercial and retail activity in existing commercial centres, unless there is no other suitable site within existing centres, there is a demonstrated need, or there is positive social and economic benefit to locate activity elsewhere • are supported by infrastructure servicing plans for new employment lands to demonstrate feasibility prior to rezoning 	N/A	

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
<u>Strategy 11.4:</u> New employment areas are in accordance with an employment land strategy endorsed by the Department of Planning and Environment.	N/A	
Objective 12: Create a diverse visitor economy	N/A	
<u>Strategy 12.1:</u> Council strategic planning and local plans should consider opportunities to: <ul style="list-style-type: none"> • enhance the amenity, vibrancy and safety of centres and township precincts • create green and open spaces that are accessible and well connected and enhance existing green infrastructure in tourist and recreation facilities • support the development of places for artistic and cultural activities • identify appropriate areas for tourist accommodation and tourism development • protect heritage, biodiversity and agriculture to enhance cultural tourism, agri-tourism and eco-tourism • partner with local Aboriginal communities to support cultural tourism and connect ventures across the region • support appropriate growth of the night time economy • provide flexibility in planning controls to allow sustainable agritourism and ecotourism • improve public access and connection to heritage through innovative interpretation • incorporate transport planning with a focus on active transport modes to connect visitors to key destinations. 	N/A	
Objective 13: Champion Aboriginal self-determination	N/A	
<u>Strategy 13.1:</u> Provide opportunities for the region’s LALCs, Native Title holders and community recognised Aboriginal organisations to utilise the NSW planning system to achieve development aspirations, maximising the flow of benefits generated by land rights to Aboriginal communities through strategic led planning.	N/A	
<u>Strategy 13.2:</u> Prioritise the resolution of unresolved Aboriginal land claims on Crown land.	N/A	

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
<u>Strategy 13.3:</u> Partner with community recognised Aboriginal organisations to align strategic planning and community aspirations including enhanced Aboriginal economic participation, enterprise and land, sea and water management.	N/A	
<u>Strategy 13.4:</u> Councils consider engaging Aboriginal identified staff within their planning teams to facilitate strong relationship building between councils, Aboriginal communities and key stakeholders such as Local Aboriginal Land Councils and local Native Title holders.	N/A	
<u>Strategy 13.5:</u> Councils should establish a formal and transparent relationship with local recognised Aboriginal organisations and community, such as an advisory committee.	N/A	
Objective 14: Deliver new industries of the future	N/A	
<u>Strategy 14.1:</u> Facilitate agribusiness employment and income-generating opportunities through the regular review of council planning and development controls, including suitable locations for intensive agriculture and agribusiness.	N/A	
<u>Strategy 14.2:</u> Protect established agriculture clusters and identify expansion opportunities in local plans that avoid land use conflicts, particularly with residential and rural residential land uses.	N/A	
Objective 15: Improve state and regional connectivity	N/A	
<u>Strategy 15.1:</u> Protect proposed and existing transport infrastructure and corridors to ensure network opportunities are not sterilised by incompatible land uses or land fragmentation.	N/A	
Objective 16: Increase active and public transport usage	N/A	
<u>Strategy 16.1:</u> Encourage active and public transport use by: <ul style="list-style-type: none"> • prioritising pedestrian amenity within centres for short everyday trips • providing a legible, connected and accessible network of pedestrian and cycling facilities • delivering accessible transit stops and increasing convenience at interchanges to serve an ageing customer • incorporating emerging anchors and commuting catchments in bus contract renewals • ensuring new buildings and development include end of trip facilities • integrating the active transport network with public transport facilities • prioritising increased infill housing in appropriate locations to support local walkability and the feasibility of public transport stops. 	N/A	
<u>Strategy 16.2:</u> Local plans should encourage the integration of land use and transport and provide for environments that are highly accessible and conducive to walking, cycling and the use of public transport and encourage active travel infrastructure around key trip generators.	N/A	
Objective 17: Utilise new transport technology	N/A	
<u>Strategy 17.1:</u> Councils should consider how new transport technology can be supported in local strategic plans, where appropriate.	N/A	
GOAL 3: GROWTH, CHANGE AND OPPORTUNITY		
Objective 18: Plan for sustainable communities	N/A	

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
Objective 19: Public spaces and green infrastructure support connected and healthy communities	N/A	
<p>Strategy 19.1: Councils should aim to undertake public space needs analysis and develop public space infrastructure strategies for improving access and quality of all public space to meet community need for public spaces. This could include:</p> <ul style="list-style-type: none"> • drawing on community feedback to identify the quantity, quality and the type of public space required • prioritising the delivery of new and improved quality public space to areas of most need • considering the needs of future and changing populations • identifying walkable and cycleable connectivity improvements and quality and access requirements that would improve use and enjoyment of existing infrastructure • consolidating, linking and enhancing high quality open spaces and recreational areas • working in partnership with local Aboriginal communities to develop bespoke cultural infrastructure which responds to the needs of Aboriginal communities and facilitates continued cultural practices. 	N/A	
<p>Strategy 19.2: Public space improvements and new development should consider the local conditions, including embracing opportunities for greening and applying water sensitive urban design principles.</p>	N/A	
<p>Strategy 19.3: Encourage the use of council owned land for temporary community events and creative practices where appropriate by reviewing development controls.</p>	N/A	
<p>Strategy 19.4: Local environmental plan amendments that propose to reclassify public open space must consider the following:</p> <ul style="list-style-type: none"> • the role or potential role of the land within the open space network • how the reclassification is strategically supported by local strategies such as open space or asset rationalisation strategies • where land sales are proposed, details of how sale of land proceeds will be managed • the net benefit or net gain to open space. 	Yes	<p>These land parcels were not intended to be classified as community land or to provide open space to the community. Council intended for these land parcels to be classified as operational on</p>

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
		<p>finalisation of the purchases and do not have any intention to dispose of the property in the foreseeable future. Consequently, there is no requirement for any additional land to be dedicated as open space as part of this reclassification proposal.</p>
Objective 20: Celebrate local character	N/A	
<p>Strategy 20.1: Ensure strategic planning and local plans recognise and enhance local character through use of local character statements in local plans and in accordance with the NSW Government's Local Character and Place Guideline.</p>	N/A	
<p>Strategy 20.2: Celebrate buildings of local heritage significance by:</p> <ul style="list-style-type: none"> • retaining the existing use where possible • establishing a common understanding of appropriate reuses • exploring history and significance • considering temporary uses • designing for future change of use options. 	Yes	<p>Lots 7, 17 and 63 DP752836 and Lot 102 DP1277848 contain infrastructure of the heritage listed Nymboida Hydro-electric Power Station, including pipeline, weir and race (CVLEP Heritage Item I334) –. The purchase of these land parcels and reclassifying them operational enables Council to manage public access to these historic items to ensure their ongoing protection. It also allows Council's operational management of the infrastructure for water supply and extraction for</p>

NORTH COAST REGIONAL PLAN 2041 Goals, Objectives & Strategies	CONSISTENT Yes or No	COMMENTS
		Clarence Valley and Coffs Harbour LGAs

Appendix 6: LSPS Assessment Checklist

LSPS Action	LSPS Action (guiding Principle)	Applicable	Complies (Y / N or N/A)	Detailed Answer
1.1	<p>Does the proposal promote the long term liveability, health and resilience of the community, and supporting economic, social and cultural improvement?</p> <p>Particularly through:</p> <p>a) Protecting and enhancing terrestrial and aquatic biodiversity and our natural environment?</p> <p>b) A regenerative landscape planning approach that includes listening to First Nations People and caring for country?</p> <p>c) A hierarchy of avoiding, mitigating and managing natural hazards, as well as considering environmental constraints to be used in planning and design?</p> <p>d) Ensuring a collaborative approach to place making, that engages those who can contribute to making the Clarence Valley a community full of opportunities?</p> <p>e) North Coast Settlement Planning Guidelines 2019?</p>	Yes	Y	Reclassifying these land parcels as operational land ensures efficient operational management and security of our LGA water supply; limiting land use adjacent to the Nymboida weir pool and construction of a fish ladder enhances the ecological process and habitat of threatened sp.
1.2	<p>Does the proposal comply with the North Coast Urban Design Guidelines?</p> <p>Does the proposal comply with the Urban Design for Regional NSW guidelines?</p>	N/A	N/A	
2.1	<p>Does the proposal / process help expand existing partnerships with our First Nations communities to be involved in decision making?</p> <p>Have you referred to the NSW Government Architect 'Connecting with Country' and Designing with Country guidelines?</p>	N/A	N/A	
2.2	Are First Nations communities involved in the development of strategic plans, inclusive of local growth management, housing and biodiversity strategies?	N/A	N/A	

LSPS Action	LSPS Action (guiding Principle)	Applicable	Complies (Y / N or N/A)	Detailed Answer
2.3	Has the proposal involved collaboration with Traditional Owners, Local Aboriginal Land Councils and DPIE in identifying sites of cultural significance and assets with economic development potential?	N/A	N/A	
2.5	Have you considered the Clarence Valley Aboriginal Heritage Study and relevant studies and planning controls?	N/A	N/A	
2.6	Does the proposal incorporate First Nations cultural heritage and design in new developments?	N/A	N/A	
3.3	For any expansion of existing commercial or industrial lands or new development – is appropriate infrastructure that promotes active travel to work options included (walking, cycling, PT, accessibility etc.)?	N/A	N/A	
3.4	Have you explored options to promote smaller homes in appropriate locations of our existing centres to help achieve a target of 40% infill housing across the Clarence LGA?	N/A	N/A	
4.3	Does the proposal comply with the Clarence Valley Affordable Housing Strategies, Plans and Policies ?	N/A	N/A	
5.2	Does the proposal comply with the Crime Prevention Through Environmental Design (CPTED) and Safer by Design Evaluation?	N/A	N/A	

LSPS Action	LSPS Action (guiding Principle)	Applicable	Complies (Y / N or N/A)	Detailed Answer
5.5	Are there opportunities to involve School Infrastructure NSW (SINSW) to explore and implement joint and shared use opportunities where there is mutual benefit for the school and the community?	N/A	N/A	
6.4	Is the re-use of Grafton Gaol and the Health Precinct sympathetic to the character of the surrounding streets and aspirations for the economic vitality of the Grafton CBD?	N/A	N/A	
7.3	Have you explored options with state government (esp. TfNSW) and infrastructure providers to accelerate the provision of infrastructure and availability of residential and employment land to support a growing community and job opportunities in the Clarence Valley, where appropriate?	N/A	N/A	
7.4	Working with State government, do facilities and redevelopment (Hospitals, Education, Corrections etc.) provide supporting infrastructure which will support a healthy, prosperous and sustainable Clarence Valley community, including for walking, cycling and other active travel? Will an 'active travel plan' be prepared to promote walking, cycling and sustainable modes of travel?	N/A	N/A	
8.1	Have you checked with TfNSW and other stakeholders to identify any impacts on major transport corridors and ensure they are protected for future transport alignments and avoid the encroachment of incompatible land uses?	N/A	N/A	
9.2	Have you checked with SES, RFS and other emergency management authorities that the proposal will help make a more resilient community?	N/A	N/A	
9.3	Do Infrastructure proposals include the provision of 'green infrastructure' as well as its integration with recreation and open space planning? Have you considered the governments Greener Places guideline?	N/A	N/A	
10.2	Will the proposal help implement the TfNSW TfNSW Movement and Place Framework ? Have you checked with TfNSW?	N/A	N/A	

LSPS Action	LSPS Action (guiding Principle)	Applicable	Complies (Y / N or N/A)	Detailed Answer
	Will the proposal help to promote active transport, including opportunities to develop an active transport network, through the development of an integrated transport and land use settlement strategy for the valley, along with a 'place plan' for key centres such as Grafton, and areas of 'investigation' for urban development?			
11.1	Does the proposal help implement the Clarence Valley Regional Economic Development Strategy ?	N/A	N/A	
11.4	Will the proposal help promote job opportunities in the marine industries? Does the proposal accord with the Far North Coast & Mid North Coast Marine based Industry Policy ?	N/A	N/A	
12.1	Does the proposal help support Grafton CBD as the principal activity centre for business, retail, culture, entertainment and prestige events in the region?	N/A	N/A	
13.2	Have you examined opportunities to leverage proximity to Gold Coast Airport and Toowoomba Wellcamp Airport in the supply chain for products from the Clarence Valley?	N/A	N/A	
13.3	Does the proposal help to protect rural zoned land and productive agricultural land from urban and rural residential development by directing development to identified investigation areas and not adjacent to productive agricultural land?	N/A	N/A	

LSPS Action	LSPS Action (guiding Principle)	Applicable	Complies (Y / N or N/A)	Detailed Answer
	Does the proposal help to implement state government policy, such as the 'right to farm'?			
13.4	Does the proposal help to implement the North Coast farmland mapping project undertaken by DPI and DPIE, supplemented with local studies?	N/A	N/A	
13.5	Have you explored opportunities for artisan food and drink industry developments to be located within existing business zones and centres to improve the vitality and viability of our main streets, particularly in Grafton and Yamba?	N/A	N/A	
13.6	Does the proposal help to implement work by relevant agencies to support bushfire recovery and future resilience of the agriculture and food producing sector of the Clarence? Does the proposal help to establish networks and training opportunities for primary producers to work with local First Nations to improve land management, especially cultural burning?	Yes	Yes	Aids in the protection of our water supply
13.7	Does the proposal identify opportunities to increase resilience of rural landscapes and promote regenerative agriculture, especially to increase carbon in soils to improve productive capacity, contribute to reducing atmospheric CO2, increase water holding capacity of soil so reducing drought impact and significantly reducing the effects of runoff and soil erosion on roads, bridges and other infrastructure?	N/A	N/A	
13.8	Does the proposal help to: a) reduce the density and proximity of energy dense nutrient poor (ENDP) aka 'fast food' outlets, particularly for vulnerable populations? b) facilitate community gardens and urban agriculture on public and private land, particularly in new land release areas and urban fringes so that neighbourhoods have access to local food growing lands? c) increase access to drinking water through the provision of bubbler/taps in public places, sporting venues and community facilities, and limit/discourage the consumption of sugar sweetened beverages (SSBs)? d) support and encourage community food centres (aka food hubs) which supply and promote locally grown produce and take a social justice approach to food? e) support and encourage local farmers markets which supply local produce thereby reducing food miles and supporting local and regional farmers?	N/A	N/A	

LSPS Action	LSPS Action (guiding Principle)	Applicable	Complies (Y / N or N/A)	Detailed Answer
14.1	<p>Does the change to the planning framework help to implement the Clarence River Way Masterplan?</p> <p>Will the proposal help to welcome and sustainably manage visitors to the area, particularly to enable appropriate development in Grafton and our river towns and coastal areas?</p>	N/A	N/A	
14.2	Does the proposal help to update the Clarence Valley LEP and relevant DCPs to build on the strengths of the Clarence River and support appropriate tourism opportunities and help implement aspects of the Clarence River Way Masterplan?	N/A	N/A	
14.3	Does the proposal help to identify opportunities to expand nature-based adventure and cultural tourism by leveraging the Clarence Valleys natural, heritage and community assets?	N/A	N/A	
15.1	<p>Will the proposal help to protect areas of High Environmental Value (HEV)?</p> <p>Does the proposal take a strategic approach to land use planning, informed by our biodiversity strategy and strategic environmental goals, particularly for corridors and areas of high environmental value?</p>	N/A	N/A	
15.2	Does the proposal help to achieve waterway health and protect our marine environment?	Yes	Yes	Reclassifying these land parcels as operational land ensures efficient operational management and security of our LGA

LSPS Action	LSPS Action (guiding Principle)	Applicable	Complies (Y / N or N/A)	Detailed Answer
				water supply; limiting land use adjacent to the Nymboida weir pool and construction of a fish ladder enhances the ecological process and habitat of threatened sp.
15.3	<p>Will the proposal help to ensure that water quality and aquatic biodiversity impacts are considered in planning decisions?</p> <p>Will the changes ensure that the planning framework aligns with our coast and estuary management plans/programs, including to promote the values of riparian vegetation vegetated buffers and permeable surfaces to maintain and improve water quality and hydrology?</p>	Yes	Yes	Reclassifying these land parcels as operational land ensures efficient operational management and security of our LGA water supply; limiting land use adjacent to the Nymboida weir pool and construction of a fish ladder enhances the ecological process and habitat of threatened sp.
16.2	Have you checked biodiversity mapping layers and fauna corridors with Council?	N/A	N/A	
16.6	Does the proposal help implement Councils Biodiversity Strategy 2020?	N/A	N/A	
17.1	<p>Does the proposal help create safer, more disaster resilient communities?</p> <p>Have you had particular regard to the long term social and economic costs of the potential effects of natural hazards and risk to life and evacuation capacity?</p>	Yes		Aids in the protection of our water supply
18.3	Does the proposal consider the Clarence Valley Regional Water Efficiency Strategic Plan ?	All		
19.1	Does the proposal help to sustainably manage natural, mineral and forestry resources? (e.g. Protecting quarry's from urban encroachment and vice versa)	N/A	N/A	

LSPS Action	LSPS Action (guiding Principle)	Applicable	Complies (Y / N or N/A)	Detailed Answer
20.1	Does the proposal help to grow regional and sub-regional relationships with adjoining Councils, state government and other organisations?	Yes	Yes	Coffs Harbour City Council – Joint Regional Water Supply Scheme
21.1	Does the proposal help increase community participation in decision making and comply with the Councils Community Participation Plan ?	N/A	N/A	
22.1	Will the proposal help Grafton to be recognised as a Regional City in the North Coast Regional Plan?	N/A	N/A	
23.1	Will the proposal help achieve the Priorities of the Local Strategic Planning Statement?	N/A	N/A	

Appendix 7: Councils Local Strategy and Strategic Plan/s Consistency Checklist

Strategy/Strategic Plan	Relevant component/statement of consistency
The Clarence 2032	Yes
Council's Delivery Program and Operational Plan (Note: this changes annually)	Yes
Maclean Urban Catchment Local Growth Management Strategy 2011	Yes - Aids in the protection of our water supply
South Grafton Heights Precinct Strategy	N/A
Clarence Valley Settlement Strategy 1999	N/A
Lower Clarence Retail Strategy (May 2007)	N/A
Yamba Retail/Commercial Strategy (May 2002)	N/A
Clarence Valley Economic Development Strategic Plan	N/A
Clarence Valley Employment Lands Strategy 2022	N/A
Clarence Valley Rural Lands Strategy 2022	N/A
Clarence Valley Green Infrastructure Strategy 2023	N/A
Clarence Valley Affordable Housing Strategy	N/A
Clarence Valley Biodiversity Strategy 2020-2025	Yes
Clarence River Way Masterplan 2009	N/A
Clarence Valley Open Spaces Strategic Plan 2012	N/A

Appendix 8: SEPP Checklist

Name of SEPP	Relevant/applicable?	Comment/statement of consistency
<i>The following consolidated State Environmental Planning Policies (SEPPs) are current from March 2022 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>		
1. State Environmental Planning Policy (Primary Production) 2021	N/A	
2. State Environmental Planning Policy (Resources and Energy) 2021	N/A	
3. State Environmental Planning Policy (Resilience and Hazards) 2021	N/A	
4. State Environmental Planning Policy (Industry and Employment) 2021	N/A	
5. State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes	Rezoning of Lot 21 DP1269753 and Lot DP567494 from R2 Low Density Residential to SP2 Infrastructure (water supply system) not only is a more appropriate zoning however will also allow Council to undertake works on chlorination system at the water supply tower, under Division 24 of the Transport & Infrastructure SAEPP without consent
6. State Environmental Planning Policy (Biodiversity and Conservation) 2021	N/A	
7. State Environmental Planning Policy (Planning Systems) 2021	N/A	
8. State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021	N/A	
9. State Environmental Planning Policy (Precincts – Central River City) 2021	N/A	
10. State Environmental Planning Policy (Precincts – Wester Parkland City) 2021	N/A	
11. State Environmental Planning Policy (Precincts – Regional) 2021	N/A	

Name of SEPP	Relevant/applicable?	Comment/statement of consistency
12. State Environmental Planning Policy (Housing) 2021	N/A	
13. State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development	N/A	
14. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	N/A	
15. State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	N/A	
16. State Environmental Planning Policy (Sustainable Buildings) 2022	N/A	

Appendix 9: Section 9.1(2) - Local Planning Directions Checklist

SECTION 9.1 DIRECTION	CONSISTENCY	COMMENTS
Focus Area 1: Planning Systems		
1.1 Implementation of Regional Plans	N/A	
1.2 Development of Aboriginal Land Council Land	N/A	
1.3 Approval and Referral Requirements	N/A	
1.4 Site Specific Provisions	Yes	This proposal proposes to rezone Lot 21 DP1269753 and Lot 1 DP567494 from R2 Low Density Residential to SP2 Infrastructure (water supply system) to allow Council to undertake works on chlorination system at the water supply tower, under Division 24 of the Transport & Infrastructure SEPP, without consent. It does not propose to rezone any of the other land parcels.
Focus Area 1: Planning Systems – Place based		
1.5 -1.18 Sydney based – not applicable to the Clarence Valley	N/A	
Focus Area 2: Design and Place – N/A		
Focus Area 3: Biodiversity and Conservation		
3.1 Conservation Zones	N/A	

SECTION 9.1 DIRECTION	CONSISTENCY	COMMENTS
3.2 Heritage Conservation	N/A	Lots 7, 17 and 63 DP752836 and Lot 102 DP1277848 contain infrastructure of the heritage listed Nymboida Hydro-electric Power station, including pipeline, weir and race (CVLEP Heritage Item I334). The purchase of these land parcels and reclassifying them as operational land enables Council to manage public access to these historic items to ensure their ongoing protection, management and maintenance
3.3 Sydney Drinking Water Catchments	N/A	
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North coast LEPs 26	N/A	
3.5 Recreation Vehicle Areas	N/A	
3.6 Strategic Conservation Areas	N/A	
3.7 Public bushland	N/A	
3.8 Willandra Lakes	N/A	
3.9 Sydney Harbour Foreshores and Waterways Area	N/A	
3.10 Water Catchment Protection	Yes	Reclassifying Lot 7 DP752836 to operational land allows Council to limit access and use of the land located adjacent to Nymboida weir pool and enable the construction of a fish ladder at the weir which are likely to increase viability and habitat of threatened species such as the Eastern Freshwater Cod (<i>Maccullochella ikei</i>), and enhance ecological processes and improve overall water quality.
Focus Area 4: Resilience and Hazards		
4.1 Flooding	N/A	
4.2 Coastal Management	N/A	

SECTION 9.1 DIRECTION	CONSISTENCY	COMMENTS
4.3 Planning for Bushfire Protection	Yes	This planning proposal seeks to reclassify the land parcels mapped as BFPL in Nymboida, to operational land, it does not propose to rezone any of these land parcels or increase development potential of the land. Consequently this proposal is not deemed to place an increased bush fire risk to life, property or the environment.
4.4 Remediation of Contaminated Land	N/A	
4.5 Acid Sulfate Soils	N/A	
4.6 Mine Subsidence and Unstable land	N/A	
Focus area 5: Transport and Infrastructure		
5.1 Integrating Land Use and Transport	N/A	
5.2 Reserving land for Public Purposes	N/A	
5.3 Development Near Regulated Airports and Defense Airfields	N/A	
5.4 Shooting Ranges	N/A	
Focus Area 6: Housing		
6.1 Residential Zones	Yes	This proposal proposes to rezone Lot 21 DP1269753 and Lot 1 DP567494 from R2 Low Density Residential to SP2 Infrastructure (water supply system) to allow Council to undertake works on chlorination system at the water supply tower, under Division 24 of the Transport & Infrastructure SEPP, without consent. The land currently consists of water supply infrastructure to supply the Lawrence Village making it unsuitable for housing provision.

SECTION 9.1 DIRECTION	CONSISTENCY	COMMENTS
6.2 Caravan Parks and Manufactured Home Estates	N/A	
Focus Area 7: Industry and Employment		
7.1 Business and Industrial Zones	N/A	
7.2 Reduction in non-hosted short-term rental accommodation period.	N/A	
7.3 Commercial and Retail Development along the Pacific Highway, North Coast.	N/A	
Focus Area 8: Resources and Energy		
8.1 Mining, Petroleum Production and Extractive Industries	N/A	
Focus Area 9: Primary Production		
9.1 Rural Zones	Yes	This proposal does not propose to rezone Lots 7, 17 and 63 DP752836 and Lot 102 DP1277848 (Nymboida) that are currently zoned as RU2 Rural Landscape. This proposal only proposes to reclassify these land parcels as operational land.
9.2 Rural Lands	Yes	This proposal does not propose to rezone Lots 7, 17 and 63 DP752836 and Lot 102 DP1277848 (Nymboida) that are currently zoned as RU2 Rural Landscape. This proposal only proposes to reclassify these land parcels as operational land to enable Council to efficiently manage and protect the water supply infrastructure and heritage items there on, ensure the ongoing viability of our water supply, and enhance ecological processes and water quality.
9.3 Oyster Aquaculture	N/A	

SECTION 9.1 DIRECTION	CONSISTENCY	COMMENTS
9.4 Farmland of State and Regional Significance on the NSW Far North Coast.	N/A	

