

Draft Marine-based Industry Policy



Responsible Manager (Title)	Murray Lane		
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Community Plan Linkage	3.4 Economy - Support for the sustainable growth of local industries that are respectful of the lifestyle that exists		

1 Purpose

The Marine-based Industry Policy has been developed to facilitate:

- New and existing businesses in the marine-based industry and allied industry sector.
- The creation and retention of highly skilled jobs.
- Improved opportunities for vocational education and training focused on industry needs.
- New or improved infrastructure to support industry growth.
- The increased use of the Clarence River and its port facilities as an underutilised natural asset.

This Policy includes criteria to assist in identifying appropriate locations within the Clarence Valley Local Government Area, particularly where access to navigable waterways that boat building and allied industries require, may be further investigated. It also provides guidance for proponents who may be considering submitting a Development Application or a planning proposal that seeks to amend the *Clarence Valley Local Environmental Plan 2011 (CVLEP)*.

It is also intended that the Policy will result in:

- Greater certainty for investment in the marine-based industry within the Clarence Valley.
- Marine-based industry being appropriately located.
- Protection of biodiversity, Aboriginal and non-Aboriginal cultural heritage, commercial fisheries, aquaculture, oyster farming and recreational fisheries.
- Hazards associated with flooding, riverbank erosion, climate change, coastal erosion and acid sulfate soils are considered, with risks being avoided, mitigated or managed.

2 Definitions

Marine-based industry: Vessel manufacturing/modifications/refit/repair/maintenance as well as requisite allied services such as marine auto electrical, upholstery, painting, mechanical, sail making, communications and navigation equipment.

Local Government Area (LGA): The Clarence Valley Local Government Area.

Navigable: A waterway at a specific location that can be safely used by a commercial vessel in all weather and tidal stages.

Waterfront land: The bed of the river, together with any land lying between the bed of the river and a line drawn parallel to, and inland of,* the bank of the river.

*The *Water Management Act 2000* defines waterfront land being a distance of up to 40 metres inland of the highest bank of the river. Clarence Valley Council has not adopted this distance for the purposes of this Policy.

3 Background/Legislative Requirements

A variety of sectors within the marine-based industry in the Clarence Valley has long been established, from the use of the Clarence River as the primary goods transportation route following European settlement to its more recent uses. This includes the Port of Yamba as one of only a few international ports of first entry in NSW, wharves, commercial fishing and aquaculture, boating and berthing facilities, slipways, recreational vessel retail and maintenance as well as significant commercial vessel manufacturing, modification, refit, repair and maintenance businesses. One significant commercial operation with river access is Polaris Marine Dockyard, situated on land and river zoned W4 (Working Waterfront) and W3 (Working Waterway) respectively and which has a slipway long and wide enough to accommodate large commercial vessels.

The Clarence River is also a significant recreational asset for both active and passive uses. These uses include fishing, rowing, kayaking, sailing, water-skiing and pleasure craft use.

Some areas adjacent to the Clarence River include significant archaeological deposits and registered Aboriginal sites. The river itself is immensely important and a source of dreamtime stories for the Yaegl, Bundjalung and Gumbayngirr people. Non-Aboriginal heritage items or sites also occur. Waterfront land, by its nature, is often subject to hazards such as the risk of flooding, sea level rise driven tidal inundation and a high incidence of potential acid sulfate soils.

The Clarence River has a wide range of environmental values including seagrass meadows, mangroves, saltmarsh, wetland and lowland swamp forest areas. These areas provide diverse habitats for aquatic and terrestrial flora and fauna including important migratory, wetland and waterbird species. National parks, nature reserves, recreational reserves and other protected areas are situated adjacent to the river and will continue to be protected through the application of this Policy.

The key statutory instruments relevant to this Policy are *Environmental Planning and Assessment Act 1979* and Regulations and associated instruments. These include the CVLEP, a number of Development Control Plans (DCP), other applicable State planning instruments such as State Environmental Planning Policies (SEPPs) and other planning documents such as the *North Coast Regional Plan 2041* (NCRP) and *Risk-based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions*.

4 Policy Statement

This Policy is intended to give effect to the Clarence local government narrative in the NCRP which recommends a focus on the Harwood precinct in relation to marine-based industry development. It has also been adopted to provide broad direction to Council and proponents when addressing marine-based industry matters within the context of the current planning framework. This includes any investigation into the suitability of current land use zones with waterfront land with access to navigable river stretches, permitted use of the land as outlined in the LEP as well as matters such as the suitability of a Lot(s) configuration of waterfront land currently zoned W4 (Working Waterfront). While the Policy is not focused on any one particular use of the Clarence River, it is expected that both existing and future marine-based industry businesses will support the commercial and recreational use of the Clarence River, such as commercial fishing and recreational boating.

5 Implementation

In order to meet the purposes of this Policy and where any proposed marine-based industry requires an amendment to the current planning framework, it must meet the following criteria:

1. The industry is dependent on access to a navigable waterway.
2. The maximum draught of the vessel(s) or product(s) proposed to be built allows it/them to pass safely through the Clarence River's entrance to the sea.
3. The size or bulk of the vessel(s) or product(s) proposed to be built requires transport by water.
4. It is preferential for any application for a marine-based industry to be located on land already zoned W4 (Working Waterfront). Any planning proposal to rezone land for a marine-based industry must articulate why land currently zoned W4 (Working Waterfront) is unsuitable.
5. Any planning proposal to rezone land for a marine-based industry must provide a compelling strategic rationale as to why re-zoning is necessary and make reference to the requirements outlined in the key planning documents such Council's *Local Strategic Planning Statement* and *Employment Land Strategy* as well as the NCRP.

Having satisfied the criteria above, the proposed marine-based industry planning proposal or Development Application will be assessed by Council in association with the 2017 *Risk-based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions* and the adopted *Lower Clarence Flood Model Update 2022* which incorporates climate change parameters, as well as against the site criteria below. The criteria can be taken as being met if the matter can be sustainably managed, ameliorated or off-set.

- a) Any new dredging required for site access would not adversely affect estuarine habitats, marine vegetation, fishery resources and water quality.
- b) The site is not located where its development would be likely to adversely affect water quality for other users or impact on water quality or tidal regimes for estuaries, wetlands, marine parks, aquatic reserves or other high conservation value habitats.
- c) Development of the site would not have an adverse effect on oyster aquaculture development or Priority Oyster Aquaculture Areas (POAA) and/or commercial and recreational fishing activities.
- d) Water-based access to the site would be practicable given river currents and tidal movements in the locality.

- e) The main industrial complex (excluding slipways and wharves) should be set back to avoid any future riverbank erosion risks.
 - f) Native vegetation (including vegetation on waterfront land such as mangroves and other trees, shrubs, grasses, saltmarsh, etc.) should only be disturbed to the extent necessary to allow river access and or infrastructure such as pontoons or wharves. The principles of avoid, mitigate and offset will apply as well as compliance with the *Biodiversity Conservation Act 2016*.
 - g) The proposed development of the site would not conflict with neighbouring land uses such as agriculture, residential and recreational/tourism interests.
 - h) Services and infrastructure can be practicably provided, not result in increased traffic movements that the road network cannot sustain and waste or by-products associated with the industry are managed to ensure no risk to the environment or adjacent land use.
- Marine-based industry should not occur on land with high natural or cultural value including, but not limited to: Reserves (listed in section 30A of the *National Parks and Wildlife Act 1974* (NPW Act)) or on lands acquired for future reservation (NP&W Act Part 11 Lands) or on land accessed from these.
 - Land that falls within the provisions of the *State Environmental Planning Policy (Resilience and Hazards) 2021*.
 - Locations that include or comprise an area of outstanding biodiversity under the *Biodiversity Conservation Act 2016* or critical habitat as defined in Part 7A of the *Fisheries Management Act 1994* or the former *Threatened Species Conservation Act 1995*.
 - Areas subject to the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, such as habitat for migratory species, Ramsar-listed wetlands, threatened species, etc. or on
 - Land adjoining any of the above.

6 Appeal/objections process

N/A

7 Related Documents

- *Marine-Based Industry Policy – Far North Coast & Mid North Coast NSW*
- Clarence Valley Council's *Local Strategic Planning Statement*
- *North Coast Regional Plan 2041*
- Clarence Valley Council's *Employment Land Strategy*
- *2017 Risk-based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions*

8 Attachments

N/A