

Suffolk Beachfront Holiday Park reclassification

Proposal Title : **Suffolk Beachfront Holiday Park reclassification**

Proposal Summary : **The planning proposal seeks to reclassify part of Lot 100 DP 1023737, which contains the Suffolk Beachfront Caravan Park, from community to operational, and discharge any interests applying to this land, to facilitate the use of this part of the site for permanent sites.**

PP Number : **PP_2016_BYRON_006_00** Dop File No : **16/09780**

Proposal Details

Date Planning Proposal Received :	27-Jul-2016	LGA covered :	Byron
Region :	Northern	RPA :	Byron Shire Council
State Electorate :	BALLINA	Section of the Act :	55 - Planning Proposal
LEP Type :	Reclassification		

Location Details

Street :	Alcorn Street		
Suburb :	Suffolk Park	City :	Byron Bay
Land Parcel :	Lot 100 DP 1023737		Postcode :
Street :	Alcorn Street		
Suburb :	Suffolk Park	City :	Byron Bay
Land Parcel :	Lot 100 DP 1023737		Postcode :

DoP Planning Officer Contact Details

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Contact Name : **Tamara Prentice**
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Land Release Data

Growth Centre :	N/A	Release Area Name :	
Regional / Sub Regional Strategy :	Far North Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with :

If No, comment :

Have there been meetings or communications with registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting Notes : **Section 27 of the Local Government Act provides that the classification or reclassification of public land occurs by means of a local environmental plan. Section 29 of the Local Government Act provides that a public hearing is required as part of this process.**

Council have advise that the reclassification of this land is required to enable the issue of long term tenancy agreements to permanent residents, as advice has been received that the issue of long term agreements for private use is inconsistent with a 'community land' classification.

The reclassification has been undertaken to leave a tract of community land separating the proposed operational land from the road access to prevent any future subdivision or sale of the land.

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The Statement of objectives clearly describes the intention of the planning proposal. The proposal intends to classify part of Lot 100 DP 1023737 to operational and discharge it of any interests which may apply.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal. The proposal intends to amend the Byron Local**

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Environmental Plan 2014 by inserting a description of the land into Part 2 of Schedule 4 and identifying the land on a part lots map.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

2.2 Coastal Protection

3.2 Caravan Parks and Manufactured Home Estates

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 21—Caravan Parks

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP No 60—Exempt and Complying Development

SEPP No 71—Coastal Protection

SEPP (Exempt and Complying Development Codes) 2008

SEPP (Infrastructure) 2007

e) List any other matters that need to be considered :

The proposal has considered planning practice note 09-003.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Yes. See the assessment section of this report.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The planning proposal includes mapping sufficient to identify the site and extent of the proposed reclassification. The proposal will require the preparation of a Land Reclassification (Part Lots) Map which complies with the Standard Technical Requirements for SI LEP Maps before the LEP is made.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council have previously consulted with the caravan park residents and Suffolk Park Progress Association regarding this proposal. The community's comments have guided the preparation of the current planning proposal. The Guide to Preparing LEP's indicates that reclassifications require a 28 day consultation period. In addition a public hearing will be required following completion of the exhibition period pursuant to the Local Government Act 1993.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

The planning proposal satisfies the adequacy criteria by;

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1. Providing appropriate objectives and intended outcomes.
2. Providing a suitable explanation of the provisions proposed for the LEP to achieve the outcomes.
3. Outlining a proposed community consultation program.
4. Providing a project time line

Additional justification for the removal of any implied interests will be required prior to community consultation.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

The Byron LEP 2014 is the Principal LEP which applies to this land. This Planning Proposal seeks to amend the Byron LEP 2014.

Assessment Criteria

Need for planning
proposal :

Is the planning proposal a result of any strategic study or report?
The planning proposal is submitted in response to legal advice and advice from the NSW Office of Local Government that land containing permanent residential sites within the caravan park must be classified as Operational rather than Community.

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

The amendment to the Byron LEP 2014 is the only way to reclassify this land under the Local Government Act 1993.

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Consistency with strategic planning framework :

Far North Coast Regional strategy (FNCRS).

The proposed reclassification of this allotment is not inconsistent with the objectives of the Far North Coast Regional Strategy.

Draft North Coast Regional Plan

The proposal is not inconsistent with the Draft North Coast Regional Plan (the 'Draft RP').

Byron Draft Community Strategic Plan 2022

The proposal enables the continued lawful operation of the Suffolk Beachfront Holiday Park. This is a key tourism site. The Draft Byron Strategic Community Plan 2022 recognises tourism as the principal economic driver within the LGA. The proposal is consistent with this plan.

SEPPs

The proposal lists the State environmental planning policies (SEPPs) applicable to the land. Comments are provided below regarding key relevant SEPP's for the proposed rezoning:

SEPP 21 Caravan Parks

This caravan park is existing. The proposed reclassification will not impact on the physical development on this site.

SEPP 44 Koala Habitat Protection

This site contains no core or potential koala habitat.

SEPP 55 Remediation of Land

The proposal does not result in the change of use of this site.

SEPP 71 Coastal Protection

The proposal is consistent with the provisions of SEPP 71.

The proposal is otherwise consistent with State environmental planning policies.

S117 Directions.

The Council has identified the following S117 directions are applicable to the proposal, 2.2 Coastal Protection, 3.2 Caravan Parks and Manufactured Home Estates, 6.1 Approval and Referral requirements, 6.2 Reserving Land for Public Purposes. Directions 4.1 Acid Sulphate Soils, 4.3 Flood prone land, 4.4 Planning for Bushfire protection, and 6.2 Reserving Land for public purposes also are applicable.

The proposal was considered to be consistent with all the above directions excepting 2.2, 4.4 and 6.2.

2.2 Coastal Protection

The land is located within the coastal zone as defined under the Coastal Protection Act 1979. The proposal is inconsistent with this Direction as it does not include provisions which give effect to the specified coastal policies, guidelines and manuals for land within the coastal zone. This inconsistency is considered to be of minor significance as the proposal involves only a change in land classification to facilitate the leasing arrangements within the existing caravan park and creates no new or additional development potential within the coastal area.

4.4 Planning for Bushfire Protection

The land is identified as being bushfire prone. The proposal is inconsistent with the Direction as it does not seek to introduce all the required controls and provisions outlined in the Direction. The inconsistency with this Direction is unable to be determined until after consultation with the NSW Rural Fire Service has been completed.

6.2 Reserving Land for Public Purposes

The proposal is inconsistent with this Direction as seeks to reduce an existing public reserve reservation without the approval of the Department of Planning and Environment's

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Secretary. Council has indicated that it believes the land is likely to have an existing implied public reserve reservation due its coming into Council ownership for a public purpose under a condition of subdivision consent in 1958. This inconsistency is considered to be of minor significance as the land serves no existing public open space purpose and the change in reserve status is required to only resolve and facilitate the long term leasing issues of the existing caravan park sites.

The proposal has also addressed appropriately Practice Note PN09-003 Classification and reclassification of public land through a LEP.

Environmental social
economic impacts :

The subject land has a total area of 1.355ha, the area to be reclassified is approximately 1ha. The land contains the Suffolk Beachfront Holiday Park which comprises 84 sites with current approval for 19 long term sites, 11 short term sites and 54 camping sites.

The reclassification of this land will provide administrative certainty to the governance of the long term tenancy agreements at this site.

Council have requested that any interests which may exist in the land be discharged. While there are no trusts or reservations listed on the title of the land Council are concerned about trusts which may be implied by the method by which the land came to be Council land. This land was transferred to Councils ownership as a condition of subdivision consent in 1958. As the land was required by Council to service a public purpose it seems likely that an implied trust (or trust for a public purpose) may exist.

The planning proposal should be amended prior to public exhibition to include additional information on the need to discharge any implied trusts which may exist.

Assessment Process

Proposal type : **Routine** Community Consultation **28 Days**
Period :

Timeframe to make **9 months** Delegation : **DG**
LEP :

Public Authority
Consultation - 56(2)(d)

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

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Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal Suffolk Park reclassification.pdf	Proposal	Yes
Request for Suffolk Beachfront reclassification.pdf	Proposal Covering Letter	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 2.2 Coastal Protection**
- 3.2 Caravan Parks and Manufactured Home Estates**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**

Additional Information :

Recommendation.

It is recommended that the planning proposal should proceed subject to the following;

1. Prior to the commencement of community consultation, Council is to amend the planning proposal to justify the discharge of any trusts which may apply to the land.
2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 28 days;
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Infrastructure 2013); and
 - (c) Any mapping material must meet the specifications in the current Standard Technical Requirements for Spatial Datasets and Maps (Department of Planning and Environment 2015).
3. Consultation is required with the NSW Rural Fire Service (RFS) under section 56(2)(d) of the Act. The NSW RFS is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

It is also recommended that:

- a. The Secretary's delegate determines that the inconsistency with s117 Directions 2.2 Coastal Protection and 6.2 Reserving Land for Public Purposes are justified by the minor nature of this proposal; and
- b. Delegation not be issued to Council as the proposal includes the discharge of interests in the land requiring the Governors approval.

Supporting Reasons :

Supporting reasons.

The reasons for the recommendation are as follows:

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1. The proposal does not currently address the discharge of any interests;
2. The proposal is minor and does not enable further development potential on the subject land; and
3. Public consultation requirements are set out in the Local Government Act 1993

Signature:



Printed Name:

Craig Diss

Date:

9 August 2016