



Planning Proposal
Reclassification of land from Community to Operational –
Interests Changed

Part Lot 100 DP 1023737 Alcorn Street Suffolk Park

(Byron Shire Council)

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July 2016

Document History

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INTRODUCTION

The intention of this Planning Proposal is that a small part of the Suffolk Beachfront Holiday Park, being the areas occupied by long-term residents, will be reclassified from “community” land to “operational” land.

The whole of the site is public land owned by Council, and is known as Lot 100 DP 1023737, Alcorn Street Suffolk Park. The location of the land is shown in **Plan 1**.

The instrument proposed by this Planning Proposal will:

- a) reclassify the identified part of the property as “operational” in accordance with Part 2 of Chapter 6 of the Local Government Act 1993 (“LG Act”);
- b) result in that part of the land no longer being a public reserve (if it is a public reserve); and
- c) by operation of the plan, discharging that land from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land, except for:
 - i. any reservations that except land out of a Crown grant relating to the land, and
 - ii. reservations of minerals (within the meaning of the Crown Lands Act 1989).

The proposal will only reclassify that part of Lot 100 DP 1023737 that is occupied by the long-term residents, as identified by blue outline in **Plan 2** (below). There is no intention by Council to sell this land, but the proposed reclassification will allow Council to issue new lease agreements to these long-term residents.

The Planning Proposal has been prepared with reference to the provisions of the LG Act, the Environmental Planning and Assessment Act 1979, and the Department of Planning and Environment’s Guidelines “A guide to preparing planning proposals” and “A guide to preparing local environmental plans”.

BACKGROUND

The subject site is identified as Council Parcel No. 237911 and legally described as Lot 100 DP 1023737, Alcorn Street Suffolk Park. It is located as shown in **Plan 1**, and is occupied by the Suffolk Beachfront Holiday Park.

There is a complex history associated with the classification of Suffolk Beachfront Holiday Park.

Council has previously sought to amend the classification to operational in response to legal advice and confirmation from the New South Wales Minister for Local Government that the operation of a caravan park that contains permanent residents is not permitted on Community Land.

This advice indicates that Council is only able to operate a caravan park on land classified as Community Land if there are no permanent residents, as this is deemed to comprise private residential use and potentially involve long-term licences that could be sold for profit.

Council resolved at its Ordinary Meeting of 27 February 2014 as follows:

14-51 Resolved

1. *That Council commence the proceedings to reclassify part of but not all of Lot 100 DP 1023737, Alcorn Street, Suffolk Park, identified in blue on Annexure 13(a) (#E2013/77893) from Community Land to Operational Land.*

2. That Council authorise the General Manager to begin the statutory process to consider reclassification of the land identified in Part 1 above from Community to Operational Land by preparing a planning proposal for the Minister of Planning's determination through the Gateway process.
3. That Council close outstanding resolutions 09-880 and 09-1117 relating to Suffolk Beachfront Holiday Park for the reasons identified in this report.

The land was obtained by Byron Shire Council in approximately 1958. A report to Council's Ordinary Meeting of 22nd April 2012 states:

"Documentation for this parcel of land indicates that the land was not bequeathed or gifted to the community, but was required to be transferred to Council as open space as part of the original subdivision. Legal advice from Wilshire Webb dated May 1958 was included as an Annexure to the report in relation to this issue.

The Byron Shire Community Based Heritage Study provides some information on the history of the caravan park. (It was noted that this information was collated as part of the Study and no Council records had been located for verification). The Study states that before the transfer of the land to Council in 1958, the land was informally used by campers. The Suffolk Park Progress Association was formed in 1959 and it undertook modification of the land until 1964, when the land was operated as a commercial caravan park, run by volunteers and the community. In 1974, after voluntary support had waned, Council commenced administration of the caravan park."

The subject land was classified as Community Land upon the introduction of the *Local Government Act 1993*. The site has an approval under Section 68 of the *Local Government Act 1993* to operate as a caravan park with a total of 84 sites comprising 19 long term sites, 11 short term sites and 54 camping sites.



Plan 1 Site Locality



Plan 2: Extent of Proposed Reclassification

DETAILS OF THE LAND AND LOCALITY

The land is located in Suffolk Park, approximately 1km from the Commercial Centre (see **Plan 1**). The land has a total area of approximately 1.355ha. The land is zoned RE1 Public Recreation in accordance with the provisions of Byron Local Environmental Plan 2014 (BLEP14).

The subject site presently contains the Suffolk Beachfront Holiday Park (SBHP). As previously noted, the site enjoys an approval under Section 68 of the *Local Government Act 1993* to operate as a caravan park with a total of 84 sites. This approval is valid until 27 November 2016 and comprises 19 long-term sites for permanent residents, 11 short term sites for cabins and safari tents and 54 camping sites.

PART 1 OBJECTIVES AND INTENDED OUTCOMES OF THE PROPOSED INSTRUMENT

The **intended outcome** of the instrument proposed by this Planning Proposal is that the identified part of the Lot 100 DP 1023737:

- (a) is classified as “operational” in accordance with Part 2 of Chapter 6 of the LG Act;
- (b) ceases to be a public reserve (if it is a public reserve); and
- (c) that the land is by operation of the plan discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land, except for:
 - i. any reservations that except land out of a Crown grant relating to the land, and
 - ii. reservations of minerals (within the meaning of the Crown Lands Act 1989).

Intended outcome (b) requires the Governor’s approval under section 30 of the Local Government Act 1993, which is sought by the Department before the Minister makes the proposed instrument.

PART 2 EXPLANATION OF PROVISIONS TO BE INCLUDED IN THE PROPOSED INSTRUMENT

The proposed amendment to BLEP14 involves inserting a description of that part of the land which is proposed to be reclassified into Part 2 *Land Classified, or reclassified, as operational land – interests changed* within Schedule 4 *Classification and reclassification of public land*.

Given that the reclassification is proposed for only part of the land, the instrument will include a map illustrating that part of the site to which the operational classification will apply.

PART 3 JUSTIFICATION FOR OBJECTIVES, OUTCOMES AND IMPLEMENTATION PROCESS

Section A – Need for the Planning Proposal

Q1. Is the planning proposal a result of any strategic study or report?

The Planning Proposal responds to previous legal advice and advice from the NSW Department of Local Government regarding the requirement for land containing permanent residential sites within the caravan park to be classified as Operational rather than Community Land.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Amending BLEP14 in the manner proposed is the best, most efficient and most time effective mechanism to deliver the objective and intended outcomes of the Planning Proposal. The proposed amendment provides certainty that the identified land:

- a) is reclassified from Community Land to Operational Land;
- b) ceases to be a public reserve to the extent (if any) that it is a public reserve; and
- c) that the land is by operation of the plan discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land, except for:
 - i. any reservations that except land out of a Crown grant relating to the land, and
 - ii. reservations of minerals (within the meaning of the Crown Lands Act 1989).

Section B – Relationship to strategic planning framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

The Planning Proposal is consistent with the objectives and actions of the Far North Coast Regional Strategy. The proposed reclassification of the land will:

- (a) not change the zoning of the land, but amend the classification of the land to operational so that it can continue to be used for permanent residential sites within the existing caravan park;
- (b) not have a significant effect in terms of environmental, agricultural, farmland, vegetation, habitat, areas of high biodiversity value, waterway, wetland, coastline, heritage, water and energy resources, landscape values (including scenic and cultural landscapes) or natural hazards;
- (c) not change the location of planned development;
- (d) not have a significant effect in terms of extractive resources;
- (e) allow the use of the land in a manner which reflects the objectives of the relevant zones; and
- (f) fit into the coastal character of this part of the locality.

Q4. Is the planning proposal consistent with Council's local strategy or other local strategic plan?

The Planning Proposal is consistent with relevant community outcomes and strategies of Council's Draft Community Strategic Plan 2022, which was endorsed by Council on 28th June 2012 and covers the period to 2022.

In particular, the Proposal will allow the continuation of the Suffolk Beachfront Holiday Park, providing sustainable and community-scale tourism development while balancing the needs of the long-term residents.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The Planning Proposal is consistent with applicable State Environmental Planning Policies (SEPP) as shown in **Table 1** below.

Table 1 Consistency with Relevant SEPPs

State Environmental Planning Policies (SEPPs)	Consistent		N/A	Comment
	YES	NO		
SEPP No 1 Development Standards			✓	The proposed change in classification of the land does not raise any issues in relation to the provisions of SEPP No 1.
SEPP No 14 Coastal Wetlands			✓	The site does not contain SEPP 14 wetlands.
SEPP No 19 Bushland in Urban Areas			✓	Not relevant to proposed amendment.
SEPP No 21 Caravan Parks	✓			While the property contains an existing caravan park, the Planning Proposal relates only to that part of the property that contains long-term resident sites. It will have no physical effects on the existing caravan park.
SEPP No 26 Littoral Rainforests			✓	Not relevant to proposed amendment.
SEPP No 30 Intensive Agriculture			✓	Not relevant to proposed amendment.
SEPP No 33 Hazardous and Offensive Development			✓	Not relevant to proposed amendment.
SEPP No 36 Manufactured Home Estates			✓	Not relevant to proposed amendment.

State Environmental Planning Policies (SEPPs)	Consistent		N/A	Comment
	YES	NO		
SEPP No 44 Koala Habitat Protection	✓			No core or potential koala habitat is located at the site. Council has recently mapped koala habitat pursuant to its Draft KPOM, and that document does not include any areas in the vicinity of the site.
SEPP No 47 Moore Park Showground			✓	Not relevant to proposed amendment.
SEPP No 50 Canal Estate Development			✓	Not relevant to proposed amendment.
SEPP No 52 Farm Dams and Other Works in Land and Water Management Plan Areas			✓	Not relevant to proposed amendment.
SEPP No 55 Remediation of Land	✓			Land is currently used for the purpose of a caravan park and the amendment does not seek to change the current use of the land.
SEPP No 60 Exempt and Complying Development	✓			Will apply to future development of the site, but not relevant to proposed amendment.
SEPP No.62 Sustainable Aquaculture			✓	Not relevant to proposed amendment.
SEPP No 64 Advertising and signage			✓	Not relevant to proposed amendment.
SEPP No 65 Design Quality of Residential Flat Development			✓	Not relevant to proposed amendment.
SEPP No.70 Affordable Housing (Revised Schemes)			✓	Not relevant to proposed amendment.
SEPP No 71 Coastal Protection	✓			The proposed Planning Proposal is consistent with the provisions of SEPP No 71 Coastal Protection.
SEPP (Affordable Rental Housing) 2009			✓	May apply to future development of the site but not relevant to proposed amendment.
SEPP(BASIX) 2004			✓	Not relevant to proposed amendment.
SEPP (Exempt and Complying Development Codes) 2008	✓			May apply to future development of the site but not relevant to proposed amendment.
SEPP(Housing for Seniors or People with a Disability) 2004			✓	Not relevant to proposed amendment.
SEPP (Infrastructure) 2007	✓			May apply to future development of the site.
SEPP (Integration and Repeals) 2016			✓	The SEPP has repealed the North Coast regional Environmental Plan, but is otherwise not relevant to proposed amendment.
SEPP (Kosciuszko National Park - Alpine Resorts) 2007			✓	Not relevant to proposed amendment.
SEPP (Kurnell Peninsula) 1989			✓	Not relevant to proposed amendment.
SEPP (Mining, Petroleum Production			✓	Not relevant to proposed

State Environmental Planning Policies (SEPPs)	Consistent		N/A	Comment
	YES	NO		
and Extractive Industries) 2007				amendment.
SEPP (Miscellaneous Consent Provisions) 2007			✓	Not relevant to proposed amendment.
SEPP (Penrith Lakes Scheme) 1989			✓	Not relevant to proposed amendment.
SEPP (Rural Lands) 2008			✓	Not relevant to proposed amendment.
SEPP (State and Regional Development) 2011			✓	Not relevant to proposed amendment.
SEPP (State Significant Precincts) 2005			✓	Not relevant to proposed amendment.
SEPP (Sydney Drinking Water Catchment) 2011			✓	Not relevant to proposed amendment.
SEPP (Sydney Region Growth Centres) 2006			✓	Not relevant to proposed amendment.
SEPP (Three ports) 2013			✓	Not relevant to proposed amendment.
SEPP (Urban Renewal) 2010			✓	Not relevant to proposed amendment.
SEPP (Western Sydney Employment Area) 2009			✓	Not relevant to proposed amendment.
SEPP (Western Sydney Parklands) 2009			✓	Not relevant to proposed amendment.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 Directions)?

The proposal is consistent with relevant S177 Directions, as shown in **Table 2** below.

Table 2 Assessment against Section 117 Directions

Ministerial Directions	Consistent		N/A	Comment
	YES	NO		
1. Employment and Resources				
1.1 Business and Industrial Zones			✓	Not relevant to proposed amendment.
1.2 Rural Zones			✓	Not relevant to proposed amendment.
1.3 Mining, Petroleum Production and Extractive Industries			✓	Not relevant to proposed amendment.
1.4 Oyster Aquaculture			✓	Not relevant to proposed amendment.
1.5 Rural Lands			✓	Not relevant to proposed amendment.
2. Environment and Heritage				
2.1 Environment Protection Zones			✓	Not relevant to proposed amendment.
2.2 Coastal Protection	✓			The proposed amendment will not result in any physical changes within the existing site.

Ministerial Directions	Consistent		N/A	Comment
	YES	NO		
2.3 Heritage Conservation			✓	There are no heritage items defined at the site.
2.4 Recreation Vehicle Areas			✓	Not relevant to proposed amendment.
3. Housing, Infrastructure and Urban Development				
3.1 Residential Zones			✓	Not relevant to proposed amendment.
3.2 Caravan Parks and Manufactured Home Estates	✓			This S117 Direction seeks to provide opportunities for Caravan Parks and Manufactured Home Estates, and provides for a variety of housing types. The Direction requires the relevant Planning Authority to retain provisions that permit development for the purpose of a caravan park in identifying suitable zones, location and provisions for caravan parks in a Planning Proposal. The proposed Planning Proposal is consistent with retaining the existing caravan park.
3.3 Home Occupations			✓	Not relevant to proposed amendment.
3.4 Integrating Land Use and Transport			✓	Not relevant to proposed amendment.
3.5 Development Near Licensed Aerodromes			✓	Not relevant to proposed amendment.
3.6 Shooting Ranges			✓	Not relevant to proposed amendment.
4. Hazard and Risk				
4.1 Acid Sulfate Soils			✓	The Planning Proposal will not result in any amendment to existing works on the site.
4.2 Mine Subsidence and Unstable Land			✓	Not relevant to proposed amendment.
4.3 Flood Prone Land			✓	The Planning Proposal will not result in any amendment to existing works on the site.
4.4 Planning for Bushfire Protection			✓	The Planning Proposal will not result in any amendment to existing works on the site.
5. Regional Planning				
5.1 Implementation of Regional Strategies			✓	Not relevant to proposed amendment.
5.2 Sydney Drinking Water Catchments			✓	Not relevant to proposed amendment.
5.3 Farmland of State and Regional Significance on the NSW Far North			✓	Not relevant to proposed amendment.

Ministerial Directions	Consistent		N/A	Comment
	YES	NO		
Coast				
5.4 Commercial and Retail Development along the Pacific Highway, North Coast			✓	Not relevant to proposed amendment.
5.8 Second Sydney Airport: Badgerys Creek			✓	Not relevant to proposed amendment.
6. Local Plan Making				
6.1 Approval and Referral Requirements	✓			The proposed amendment does not include any concurrence or referral provisions.
6.2 Reserving Land for Public Purposes	✓			The proposed amendment does not alter the zoning of any public land, nor does it reserve any land for public purposes.
6.3 Site Specific Provisions			✓	The proposed amendment does not include any site specific provisions.
7. Metropolitan Planning				
7.1 Implementation of the Metropolitan Plan for Sydney 2036			✓	Not relevant to proposed amendment.

The purpose of NSW Planning & Environment's Practice Note 09-003 *Classification and reclassification of public land through a local environmental plan* dated 12 June 2009, is to provide updated guidance on the process to classify or reclassify public land through a local environmental plan. A written statement is to be provided addressing the following:

- The reasons why the draft LEP or planning proposal is being prepared including the planning merits of the proposal, e.g. the findings of a centres' strategy, council's intention to dispose of the land, provision of open space in a town centre*

The Planning Proposal is prepared in response to legal advice and advice from the NSW Department of Local Government relating to the legality of the long-term residential sites on land classified as Community Land. The Proposal does not envisage the disposal of the land and hence the land has been retained as a single allotment to reinforce this objective.
- The current and proposed classification of the land*

The land is currently classified as community land. The land identified above is proposed to be reclassified to operational land.
- The reasons for the reclassification including how this relates to council's strategic framework, council's proposed future use of the land, proposed zones, site specific requirements, e.g. heritage controls, anticipated physical or operational changes resulting from the reclassification*

The reclassification accords with the existing and proposed zones. The reclassification results in no physical change to the land. The reclassification provides certainty to the community and residents as to the status of the land and facilitates the ongoing long-term residential sites to operate within the established legal framework.
- Council's ownership of the land, if this applies*

The land is currently in Council's ownership. There is no intention to dispose of the land and that area of the site to be reclassified as operational land is proposed to be retained within the same allotment as the Community Land.

- *The nature of council's interest in the land, e.g. council has a 50 year lease over the site*
Council has owned the land since approximately 1958 and has no intention to sell the land.
- *How and when the interest was first acquired, e.g. the land was purchased in 20XX through section 94*
As previously noted, it is understood that the land was transferred to Council as open space, as part of the original subdivision of the locality in approximately 1958.
- *The reasons council acquired an interest in the land, e.g. for the extension of an existing park; council was given responsibility for the land by a State agency*
As previously noted, it is understood that the land was transferred to Council as open space, as part of the original subdivision in approximately 1958.
- *Any agreements over the land together with their duration, terms, controls, agreement to dispose of the land, e.g. whether any aspect of the draft LEP or planning proposal formed part of the agreement to dispose of the land and any terms of any such agreement*
It is understood that there are no agreements over the land other than those Council has with permanent site residents. The reclassification will enable formal agreements to be put in place in regard to new permanent sites. There is no intention to dispose of any part of the land.
- *An indication, as a minimum, of the magnitude of any financial gain or loss from the reclassification and of the type(s) of benefit that could arise e.g. council could indicate the magnitude of value added to the land based on comparable sites such as the land is currently valued at \$1500 per square metre, nearby land zoned for business development is valued at between \$2000 and \$5000 per square metre.*
The Planning Proposal is not anticipated to result in any financial gain or loss as it merely seeks to ensure the existing land use conforms with statutory requirements. There is no intention to sell the land. The reclassification does enable Council enter into leases with residents of the long-term sites.
- *The asset management objectives being pursued, the manner in which they will be achieved and the type of benefits the council wants, i.e. without necessarily providing details of any possible financial arrangements, how the council may or will benefit financially.*
As noted above, the asset management objective is merely to ensure that the existing use of that part of the site proposed to be reclassified is consistent with relevant statutory requirements.
- *Whether there has been an 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.*
It is understood that the only agreements relating to the land involve the informal ongoing leasing of the permanent sites. The Planning Proposal will enable these leases to be formalised.
- *Relevant matters required in plan making under the EP&A Act.*
This Planning Proposal addresses the relevant matters required in plan making under the Environmental Planning and Assessment Act 1979.

- *A copy of this practice note must be included in the exhibition material to assist the community in identifying information requirements. Council staff may wish to identify the column in Attachment 1 that applies.*

A copy of the relevant Practice Note will be included in the exhibition material.

Section C – Environmental, social and economic impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The proposed reclassification will not result in direct nor indirect impacts on any critical habitat or threatened species, populations or ecological communities, or their habitats. No change to the operation of the current caravan park is proposed as a result of the Planning Proposal.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No other likely environmental effects are expected.

Q9. Has the planning proposal adequately addressed any social and economic impacts?

The proposed reclassification is not expected to result in any adverse social or economic impacts.

Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

The planning proposal will not create any need for public infrastructure.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

The views of State and Commonwealth public authorities would be considered (where required) after the public exhibition process is completed.

PART 4 MAPPING

The Planning Proposal includes the LEP 2014 survey and zoning maps to identify the land.

PART 5 COMMUNITY CONSULTATION

Council has, on a number of occasions, previously undertaken local community consultation, with the most recent being a presentation to permanent residents and Suffolk Park Progress Association on 29 January 2014. The following issues were raised by residents and Suffolk Park Progress Association at the meeting of 29 January 2014:

- *Requested a statement of intent from Council not to sell part of the whole of Lot 100 DP 1023737 in the future but to continue to operate Holiday Park on this land provided sites for the long-term residents.*
- *Development of a long-term plan for the Holiday Park (refer previous comments on the development of business/operations plan for the Holiday Park).*
- *That the long-term plan for the Holiday Park designate sites for the long-term residents.*
- *That the long-term residents be consulted during the development of the long-term plan for the Holiday Park.*
- *That Council consider incorporating the word “community” into the name for Lot 100 DP 1023737 on which the Suffolk Park Community Hall and Holiday Park are situated.*

In the meeting with the representatives of the Suffolk Park Progress Association the following points were raised:

- *Acknowledged that the current Council in the adopted Financial Sustainability Project Plan had no intention to sell Lot 100 DP 1023737 but had concerns over the actions or plans of future Councils.*
- *That Council retain the classification of Community Land for the portion of Lot 100 DP 1023737 between the existing fence and surveyed boundary of Lot 100 DP 1023737 on the MacGregor Street side of the Holiday Park. This would create a buffer between that part of Lot 100 DP 1023737 on which the long term residents are located and the land proposed to be classified as operational. This would restrict any potential opportunity for subdivision and/or access to these sites from MacGregor Street.*

(Note: Staff agree that this recommendation be considered and adopted by Council.)

- *That Council consider the issuing any leases to long term residents for a period of 5 years only, with no rollover or extension provision).*

(Note: Staff do not support this recommendation based on the information provided below in this report.)

The Gateway determination will specify the community consultation that must be undertaken in relation to the Planning Proposal. The planning proposal will be exhibited in accordance with the Department of Planning and Environment's Practice Note (PN 09-003) *Classification and reclassification of public land through a local environmental plan and Best Practice Guidelines for LEPs and Council Land*.

A public hearing will be arranged in respect of this Planning Proposal in accordance with section 29 of the LG Act because the proposal is to reclassify community land as operational land. Council will consider any submissions made concerning the Planning Proposal and the report of the public hearing into the proposed LEP.

PART 6 PROJECT TIMELINES

An indicative project timeline is provided below, noting that:

1. The timeframes for each stage in the project are approximate only;
2. The timeframes are not necessarily concurrent; and
3. There may be substantial intervening periods between each stage in the project.

CONCLUSION

The proposed reclassification of the part of the land to “operational land – interests changed” is satisfactory having regard to relevant legislative and environmental planning requirements.

The reclassification is merely intended to enable the lawful ongoing use of the long-term residential sites within the caravan park and there is no intention to dispose of the land.

INDICATIVE PROJECT TIMELINE

Indicative Stages	Indicative Timeframe
Council forwards the Planning Proposal to the Department. The Department carries out the Gateway assessment and returns the Planning Proposal with the Gateway determination to Council (section 56 of EP Act).	<u>July 2016</u>

Completion of required technical information after receipt of Gateway determination, including preparation for community consultation. [The stages after the Gateway determination may be varied by the Gateway determination].	August 2016
Community consultation (including public exhibition) for Planning Proposal (section 57 of EP Act).	Public exhibition 28 days (September)
Preparation for and conducting of public hearing (section 29 of LG Act), by a person other than a Councillor or employee (section 47G of LG Act). Preparation of report on public hearing by the person presiding at the public hearing (section 57(7) of EP Act). The report is to be made available by Council for inspection no later than 4 days after Council has received the report (section 47G of LG Act).	October 2016
Report to Council on outcome of community consultation and public hearing, to recommend any amendments to the Planning Proposal post-exhibition and to seek a resolution to adopt the Planning Proposal, to be forwarded along with relevant supporting information to the Department seeking the agreement of the Secretary of the Department to comply with the requirements of Section 117 Directions 4.4 Planning for Bushfire Protection and 6.2 Reserving Land for Public Purposes and requesting that the proposed instrument be prepared.	November 2016
Department makes arrangements for the proposed instrument to be prepared by PCO.	December 2016
Approval of the Governor obtained by the Department / PCO (section 30 of LG Act), content of proposed instrument finalised by PCO, an opinion issued by PCO that the proposed instrument can be made and Council advised by the Department accordingly.	February 2017
The proposed instrument is published on the legislation website and becomes effective.	February 2017

Notes:

- Council is not seeking delegation of plan making functions in relation to this planning proposal, due to Council's commercial interest in the subject property.
- 'EP Act' means Environmental Planning and Assessment Act 1979, 'LG Act' means Local Government Act 1993 and 'PCO' means the Office of Parliamentary Counsel.

ATTACHMENT A –PHOTOGRAPHS OF THE LAND



Existing permanent sites



Existing permanent sites



Existing permanent sites



Existing permanent sites



Existing permanent sites



Existing permanent sites



Existing permanent sites



The caravan park

BYRON SHIRE COUNCIL

ORDINARY MEETING

27 FEBRUARY 2014 (45)

Report No. 13.6. **Reclassification of Community Land Suffolk Beachfront Holiday Park**
Director: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: #E2013/77901

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Theme: Corporate Management – Property Services

Summary: This report is prepared for Council's consideration following on from discussions at a Strategic Planning Workshop held on 12 September 2013 of the outstanding Resolutions relating to Suffolk Park Beachfront Holiday Park (SBHP) regarding the land classification, plan of management and other related issues.

The report recommends that Council consider commencing the process to reclassify part of Council owned Community Land described as Lot 100 DP 1023737, Alcorn Street, Suffolk Park (refer Annexure 13) to Operational Land.

The rationale for the need to consider the land reclassification is outlined in this report. In respect of the land parcel associated with Suffolk Beachfront Holiday Park (SBHP), it is not proposed to reclassify the land parcel entirely to Operational Land but only a portion with the residual remaining as Community Land in accordance with the current classification.

The report also is seeking Council approval to close outstanding Council resolutions in relation to Suffolk Beachfront Holiday Park for the reasons identified in this report.

RECOMMENDATION:

- 10 1. **That Council commence the proceedings to reclassify part of but not all of Lot 100 DP 1023737, Alcorn Street, Suffolk Park, identified in Annexure 13a (#E2013/77893) from Community Land to Operational Land.**
- 15 2. **That Council authorise the General Manager to begin the statutory process to consider reclassification of the parcel of land identified in part 1 from Community to Operational Land by preparing a planning proposal for the Minister of Planning's determination through the Gateway process.**
- 20 3. **That Council close outstanding resolutions 09-880 and 09-1117 relating to Suffolk Beachfront Holiday Park for the reasons identified in this report.**

Attachments:

- 25 • Proposed Map Conversion to Operational Land (SPHP) #E2013/77893 [1 page] **Annexure 13(a)**
• Letter from Minister Local Government 27 August 2013 #S2013/10984 [2 pages] **Annexure 13(b)**

Report

This report is prepared for Council to consider the commencement of a process to reclassify part of Council owned Community Land to Operational Land in relation to Suffolk Beachfront Holiday Park (SBHP).

In respect of the land parcel associated with Suffolk Beachfront Holiday Park (SBHP), it is not proposed to reclassify the land parcel entirely to Operational Land but only a portion with the residual remaining as Community Land in accordance with the current classification.

The report also is seeking Council approval to close outstanding Council resolutions in relation to Suffolk Beachfront Holiday Park for the reasons identified in this report.

Suffolk Beachfront Holiday Park SPHP

Land Information

Council Parcel No: 237911
 Description: Lot 100 DP 1023737
 Address: Alcorn Street, Suffolk Park
 Owner: Byron Shire Council
 Classification: Community Land
 Plan of Management: Yes but not adopted by Council.
 LEP Zone: 7F(2) – Urban Coastal Lands Zone

Background and Reason for proposed reclassification:

There has been a long and significant history surrounding the land classification at Suffolk Beachfront Holiday Park. Council has received legal advice on more than one occasion that the operation of a caravan park with long term residents was not legal on Community categorised land. Council had previously held the view contrary to the legal advice that provided that there was an adopted plan of management for the land that included the use of the site by long term residents than that meant the Park could operate. There has also been resistance by the Suffolk Park community to support the reclassification as it was seen that once the land was reclassified, Council would sell and then the community asset would be lost.

Currently Suffolk Beachfront Holiday Park has an approval under Section 68 of the Local Government Act 1993 to operate as a caravan park until 27 November 2016 with a total of 84 sites comprising 19 long term sites (residents), 11 short term sites comprising cabins and safari tents and 54 camping sites.

The last report prepared by staff recommending to commence the reclassification of the land was put forward to Council in April 2010. This proposal though was considering the reclassification of the entire land parcel from Community to Operational.

Council following the consideration of a Notice of Motion at its Ordinary meeting held on 28 June 2012 adopted Resolution **12-525** which reads as follows:

Resolved that Council

1. undertake an updated complete survey of the Holiday Park to update documentation concerning the Park.
2. update/address the current development consent at Suffolk Park Holiday Park to ensure the current operation is totally covered.

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3. *Resolve the encroachments at Suffolk Park Holiday Park, possibly through site relocations.*
4. *Address compliance issues surrounding permanent resident sites and provide some certainty to permanent residents over their respective sites.*
5. *Support the reclassification from Community to Operational to address legal issues of operating a Holiday Park on 'Community Land' and compliance with the Local Government Act 1993 and commence the process for a Public Hearing as part of that process.*
6. *Provide a response to Part 3 of resolution 10-814 regarding 00-1022 from 2000.*

Part 1 of resolution 12-525 has been completed and the survey of the Park undertaken. The survey clearly identifies the land encroachments and Park Managers are updating documentation about the Park.

Parts 2 and 4 will be addressed following the resolution of the land classification issue.

Staff have scheduled a meeting with representatives of the Division of Crown Lands to discuss the resolution of the encroachment issues either through a lease or purchase of the Crown land impacted by the encroachments on the beach side of the Holiday Park.

Part 5 of the Resolution supports the preparation of this Report and the commencement of the process to reclassify part of Lot 100 DP 1023737 from Community to Operational Land.

Council received written confirmation from the NSW Minister for Local Government on 27 August 2013 (refer Annexure 13b) that clarified the requirements of the Local Government Act 1993 as they related to Suffolk Beachfront Holiday Park. This advice was provided to Council at a Councillor Workshop held on 12 September 2013 and also the Long Term Residents and representatives of the Suffolk Park Progress Association at separate meeting held on 29 January 2014. The advice in part stated:

'In relation to a council's ability to use a parcel of community land for a caravan or holiday park, I am advised by the Division of Local Government, Department of Premier and Cabinet, that the Act does not prohibit appropriately categorised community land from being utilised for that purpose.

However, in the case of Suffolk Park Holiday Park, the Division has advised me that it is not the operation of the holiday park itself, but the residential use and the existence of long term licences that can be on sold for profit, which are in conflict with the current land classification and management requirements of the Act.

This is because the Act contains clear restrictions about how and for what purpose community land can be alienated by the granting of estates In the case of Suffolk Park Holiday Park, the existence of estates that can be sold for profit has had the effect of alienating this community land from the public'.

The correspondence from the Minister for Local Government outlined above has left Council with two options being either:

1. Do nothing and retain the existing land classification of Community. This will enable Council to operate the Park but will mean Council cannot retain long term residents at the Park and would have to undertake a process to remove the long term residents from the Park; or

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2. Commence a process to reclassify part of the land as defined at Annexure 13a to Operational Land where the long term residents are located and retain the residual of the land as Community.

5 If Council were to proceed with Option 2, being the recommended option from staff, the option will provide the following long term advantages:

- Council be able to retain a Holiday Park that is operating on appropriately classified land compliant with the current Local Government Act 1993.
- Long term residents will be able to continue to reside at the Park which for some has been there home for a very long time.
- The reclassification would result in a dual classification over the one parcel of land and not require subdivision. This then would prevent the ability of any notion to sell the Park whilst it is part classified as Community and in part address any concern of the Suffolk Park community in regard to the potential sale of Lot 100 DP 1023737.
- Be able to enter into new leases with the long term residents which are needed that are currently prohibited due to the current land classification and Council resolution **07-364**.
- Council would be able to work with the existing long term residents following the issuing of leases, providing security over their respective sites, to address long outstanding compliance issues with some of the structures on site (refer Part 4 of Resolution 12-525).
- Council will be able to address other resolutions namely **12-29** and 12-525 requiring the provision of security for the long term residents over their sites and the preparation of a business/operations plan for the Holiday Park. Part of the business/operations plan would also include a new plan of management for the residual Community land that would outline amongst other items a development program at the Park to upgrade current facilities/amenities which are overdue and required.

Consultation

A meeting was held at the Byron Rural Fire Service in Alcorn Street Suffolk Park on Wednesday 29 January 2014 with the long term residents that commenced at 6pm and the executive of the Suffolk Park Progress Association that commenced at 7pm. A presentation was made to both groups outlining the proposal subject of this report including disclosure of the proposed Operational/Community land boundaries as indicated at Annexure 13(a).

There was a good level of discussion with both groups and they were advised a report would be presented to this Ordinary Meeting of Council for consideration. Both groups were also advised there will be further consultation opportunities available if Council adopts part 1 and 2 of the proposed recommendations to this report.

In the meeting with long term residents the following points were raised:

- Requested a statement of intent from Council not to sell part or the whole of Lot 100 DP 1023737 in the future but to continue to operate Holiday Park on this land provided sites for the long term residents.
- Development of a long term plan for the Holiday Park (refer previous comments on the development of a business/operations plan for the Holiday Park).
- That the long term plan for the Holiday Park designate sites for the long term residents.

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- That the long term residents be consulted during the development of the long term plan for the Holiday Park.

- 5 • That Council provide the long term residents with reasonable timeframes in which to address any compliance issues relating to their individual sites.

- 10 • That Council consider incorporating the word “community into the name for Lot 100 DP 1023737 on which the Suffolk Park Community Hall and Holiday Park are situated.

In the meeting with the representatives of the Suffolk Park Progress Association the following points were raised:

- 15 • Acknowledged that the current Council in the adopted Financial Sustainability Project Plan had no intention to sell Lot 100 DP 1023737 but had concerns over the actions or plans of future Councils.

- 20 • That Council retain the classification of community land for the portion of Lot 100 DP 1023737 between the existing fence and surveyed boundary of Lot 100 DP 1023737 on the MacGregor Street side of the Holiday Park. This would create a buffer between that part of Lot 100 DP 1023737 on which the long term residents are located and the land proposed to be classified as operational. This would restrict any potential opportunity for subdivision and/or access to these sites from MacGregor Street.

25 (Note: Staff agree that this recommendation be considered and adopted by Council.)

- That Council consider the issuing any leases to long term residents for a period of 5 years only, with no rollover or extension provision)

30 (Note: Staff do not support this recommendation based on the information provided below in this report.)

Reclassification Process

35 There is a very specific and extensive statutory process which must be followed to reclassify community land to operational land. The process is outlined in sections 27 – 34 of the *Local Government Act 1993* and includes:

- 40 - requirement for an LEP Amendment, with all the statutory requirements that are associated with that process being followed;
- requirement for a Public Hearing if submission/s are received.

45 To begin the statutory process to consider the reclassification of any of the parcels of land, previously identified above from community land to operational land, Council will be required to prepare and forward to the Minister a Planning Proposal that explains the intended effect of the proposed instrument and sets out the justification for making the proposed instrument (planning proposal). The following table outlines the process.

Process
Council resolution to delegate authority to the General Manager to prepare planning proposal and forward to Minister for determination through the Gateway process
Preparation of planning proposal and submission to Minister
Minister considers the recommendations of LEP review panel and gateway determination is issued

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Report to Council on Minister's determination
Community Consultation
Report to Council on Community Consultation
Conduct Public Hearing
Final planning proposal assessed by Department of Planning
Ministerial consideration
Report determination to first available meeting of Council

It is important to note that the above process may not result in any land being reclassified to operational land, as there is no guarantee that the land will be reclassified by the Department of Planning and Infrastructure.

5 To commence the reclassification process Council would be required to resolve to authorise the General Manager to begin the statutory process to consider reclassification of any or all of the identified parcels of land by preparing a planning proposal to forward to the Minister for determination through the Gateway process.

10 Leases

At the time of writing this report, leases to long term residents are governed through the provisions of the Residential Parks Act (1998). Leases are actually called Residential Site Agreements and must include terms and conditions as specified by the Residential Parks Regulation (2006). A new Residential Parks Act is due to be implemented around the end of the 2013/2014 financial year.

20 The type of residential site agreement to be utilised depends upon the term of the agreement (greater than 3 years has a different agreement) and the type of structure/ownership status of the structure installed on the site subject to the residential site agreement. Whilst a residential site agreement may have a fixed term included, the standard residential site agreements provide the following clause:

25 *CONTINUATION:*

At the end of the term the resident can stay on the residential site at the same rent (or at an increased rent if the rent is increased in accordance with the Residential Parks Act 1998) and otherwise under the same terms unless or until the agreement is ended in accordance with the Residential Parks Act 1998.

30 For a residential site agreement to end under the Residential Parks Act 1998, this is governed by Sections 98 to 104. Essentially, the residential site agreement can only end if rent is not paid, the dwelling is dilapidated, the resident continually breaches the residential site agreement terms and conditions or by the park owner due to repairs/upgrading or change of use. Otherwise if the above reasons are not established and even if the fixed term of the residential site agreement has
35 expired, Council cannot require the long term resident to leave the Park. Therefore the suggestion of the Suffolk Park Progress Association that leases only be issued for 5 years with no rollover or extension provision cannot be accommodated by Council.

40 Outstanding Resolutions – Suffolk Beachfront Holiday Park (SPHP)

There are long outstanding resolutions associated with SPHP being resolution **09-880** and **09-1117**. Both of these resolutions are partly related to the land classification and long term residents.

45 These resolutions were reported to Council on 28 February 2013 but Council resolved not to close the resolutions and refer them to a Councillor Workshop for further discussion. Council was briefed on these resolutions at a Councillor Workshop held on 12 September 2013.

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The outstanding resolutions are listed below with comments or a current status update as follows:

Resolution 09-880

- 5 3. *That in relation to the current circumstances of permanent occupation within the park and the potential for on-selling, clarification be given regarding on-selling and compliance responsibilities of future purchasers under the compliance regulations of the Local Government Act (relocatable/moveable dwellings).*
- 10 4. *That a report be received regarding on-selling since 2003 and resolution 03-293.*

Comment/Status Update:

- 15 Parts 1 and 2 of Resolution 09-880 have previously been completed.
- In relation to part 3 of Resolution 09-880, any assignment of a lease to a new person requires the new lessee to rectify any compliance issues with structures located on a long term site if they are not rectified by the previous lessee.
- 20 In relation to part 4 of Resolution 09-880, this cannot be addressed as Council does not have the records, as it is not privy to the financial terms agreed between purchasers and seller of moveable structures at the Park. If a long term resident wishes to on sell Council cannot unreasonably withhold permission for the on selling to occur due to Section 41 of the Residential Parks Act 1998. By virtue of the legislation, Council is powerless to prevent the on selling or knowing the financial
- 25 amounts of any on selling transaction.

Based on the above comments, it is recommended that Council close resolution 09-880.

Resolution 09-1117

- 30 4. *That Council receive a report with an update on the Suffolk Park Caravan Park including a business and marketing plan.*

Comment/Status Update:

- 35 Parts 1, 2 and 3 of Resolution 09-1117 have previously been completed.
- In relation to Part 4, Council received a further report on 22 April 2010 regarding the land classification issue at Suffolk Park Holiday Park. Until the land classification issue is resolved it is
- 40 difficult to complete a business and marketing plan as the park with 19 sites out of 84 allocated to long term residents cannot operate with that site configuration whilst the land is classified as Community.
- If the land classification matter is resolved as suggested by the actions from Council resolution
- 45 12-525, then it will be possible to undertake the development of a business and marketing plan. In addition, Council at its meeting held on 9 February 2012 resolved through Resolution **12-25** that it receive a report on the future operation and charges for holiday parks.
- Resolution 12-25 encompasses both holiday parks operated by Council and can be adequately
- 50 informed for Council's consideration if a business and marketing plan for both holiday parks are completed. It is the view of Staff that Resolution 12-25 has superseded/replaced Resolution 09-1117. Resolution 12-25 is still outstanding.
- Council following the completion of resolution 12-525, will then, in the view of Staff, be able to
- 55 develop a business and marketing plan for both Holiday Parks to inform the setting of future fees and charges, along with marketing strategies to develop the revenue potential of the Council

operated holiday parks. This will then enable Council to consider a report in relation to Resolution 12-25.

- 5 Council's consideration of the recommendations to this report should they be approved, will assist with the ongoing implementation of resolution 12-525 especially part 5 of resolution 12-525.

Financial Implications

- 10 The costs involved with the reclassification process are estimated at approximately \$10,000 being \$4,000 - \$6,000 for the Planning Proposal and an estimated further \$4,000 to run the community consultation and public hearing process, assuming a one day public hearing. Additional costs may also be incurred for the survey of the land should this be required as part of preparing the Planning Proposal. These costs would be able to be funded from Council's adopted budget.

15 **Statutory and Policy Compliance Implications**

Local Government Act 1993 No 30

- 20 Division 1 Classification and reclassification of public land

27 How are the classifications made?

- (1) The classification or reclassification of public land may be made by a local environmental plan.

25

28 Forwarding of planning proposals to Minister for Planning

- 30 (1) A council may not forward a planning proposal to the Minister for Planning under section 56 of the [Environmental Planning and Assessment Act 1979](#) which includes a proposal to classify or reclassify public land that is not owned by the council unless the council has obtained the consent of the owner to the proposed classification or reclassification of public land.

- 35 (2) A local environmental plan that classifies or reclassifies public land may apply to one or more areas of public land.

29 Public hearing into reclassification

- 40 (1) A council must arrange a public hearing under section 57 of the [Environmental Planning and Assessment Act 1979](#) in respect of a planning proposal under Part 3 of that Act to reclassify community land as operational land, unless a public hearing has already been held in respect of the same matter as a result of a determination under section 56 (2) (e) of that Act.

30 Reclassification of community land as operational

45

- (1) A local environmental plan that reclassifies community land as operational land may make provision to the effect that, on commencement of the plan, the land, if it is a public reserve, ceases to be a public reserve, and that the land is by operation of the plan discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except for:

50

- (a) any reservations that except land out of a Crown grant relating to the land, and
(b) reservations of minerals (within the meaning of the [Crown Lands Act 1989](#)).

- 55 (2) A provision referred to in subsection (1) has effect according to its tenor, but only if the Governor has, before the making of the local environmental plan, approved of the provision.

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34 Public notice to be given of classification or reclassification by council resolution

- (1) A council must give public notice of a proposed resolution to classify or reclassify public land.
- (2) The public notice must include the terms of the proposed resolution and a description of the public land concerned.
- (3) The public notice must specify a period of not less than 28 days during which submissions may be made to the council.

Environmental Planning and Assessment Act 1979 No 203

55 Relevant planning authority to prepare explanation of and justification for proposed instrument—the planning proposal

- (1) Before an environmental planning instrument is made under this Division, the relevant planning authority is required to prepare a document that explains the intended effect of the proposed instrument and sets out the justification for making the proposed instrument (the planning proposal).
- (2) The planning proposal is to include the following:
 - (a) a statement of the objectives or intended outcomes of the proposed instrument,
 - (b) an explanation of the provisions that are to be included in the proposed instrument,
 - (c) the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117),
 - (d) if maps are to be adopted by the proposed instrument, such as maps for proposed land use zones; heritage areas; flood prone land—a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument,
 - (e) details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.
- (3) The Director-General may issue requirements with respect to the preparation of a planning proposal.

56 Gateway determination

- (1) After preparing a planning proposal, the relevant planning authority may forward it to the Minister.
- (2) After a review of the planning proposal, the Minister is to determine the following:
 - (a) whether the matter should proceed (with or without variation),
 - (b) whether the matter should be resubmitted for any reason (including for further studies or other information, or for the revision of the planning proposal),
 - (c) community consultation required before consideration is given to the making of the proposed instrument (the community consultation requirements),
 - (d) any consultation required with State or Commonwealth public authorities that will or may be adversely affected by the proposed instrument,
 - (e) whether a public hearing is to be held into the matter by the Planning Assessment Commission or other specified person or body,
 - (f) the times within which the various stages of the procedure for the making of the proposed instrument are to be completed.
- (3) A determination of the community consultation requirements includes a determination under section 73A (or other provision of this Act) that the matter does not require community consultation.

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- (4) The regulations may provide for the categorisation of planning proposals for the purposes of this section, and may prescribe standard community consultation requirements for each such category.
- 5 (5) The Minister may arrange for the review of a planning proposal (or part of a planning proposal) under this section to be conducted by, or with the assistance of, the Planning Assessment Commission or a joint regional planning panel:
- (a) if there has been any delay in the matter being finalised, or
- 10 (b) if for any other reason the Minister considers it appropriate to do so.
- (6) The relevant planning authority may, at any time, forward a revised planning proposal to the Minister.
- (7) The Minister may, at any time, alter a determination made under this section.
- 15 (8) A failure to comply with a requirement of a determination under this section in relation to a proposed instrument does not prevent the instrument from being made or invalidate the instrument once it is made. However, if community consultation is required under section 57, the instrument is not to be made unless the community has been given an opportunity to
- 20 make submissions and the submissions have been considered under that section.

57 Community consultation

- 25 (1) Before consideration is given to the making of a local environmental plan, the relevant planning authority must consult the community in accordance with the community consultation requirements for the proposed instrument.
- 30 (2) The planning proposal (as revised to comply with the determination under section 56 and in a form approved by the Director-General) is to be made publicly available during the period of community consultation. Detailed provisions may be summarised instead of being set out in full if the Director-General is satisfied that the summary provides sufficient details for community consultation.
- 35 (3) During the period of community consultation, any person may make a written submission to the relevant planning authority concerning the matter (other than any matter that is mandatory under an applicable standard instrument under section 33A).
- 40 (4) The relevant planning authority may (but need not) make publicly available, in accordance with the community consultation requirements, the submissions made concerning a matter (or a summary of or report on any such submissions).
- 45 (5) If:
- (a) a person making a submission so requests, and
- (b) the relevant planning authority considers that the issues raised in a submission are of such significance that they should be the subject of a hearing,
- the relevant planning authority is to arrange a public hearing on the issues raised in the submission.
- 50 (6) The relevant planning authority may arrange a public hearing on any issue whether or not a person has made a submission concerning the matter.
- (7) A report of any public hearing is to be furnished to the relevant planning authority and may be made publicly available by that authority.
- 55 (8) The consultation required by this section is completed when the relevant planning authority has considered any submissions made concerning the proposed instrument and the report of any public hearing.

CORPORATE AND COMMUNITY SERVICES –STAFF REPORTS

Report No. 13.6. Reclassification of Community Land Suffolk Beachfront Holiday Park
File No: #E2013/77901

14-51 Resolved:

1. That Council commence the proceedings to reclassify part of but not all of Lot 100 DP 1023737, Alcorn Street, Suffolk Park, identified in blue on Annexure 13(a) (#E2013/77893) from Community Land to Operational Land.
2. That Council authorise the General Manager to begin the statutory process to consider reclassification of the land identified in Part 1 above from Community to Operational Land by preparing a planning proposal for the Minister of Planning's determination through the Gateway process.
3. That Council close outstanding resolutions 09-880 and 09-1117 relating to Suffolk Beachfront Holiday Park for the reasons identified in this report. (Dey/Woods)

The motion was put to the vote and declared carried.

ATTACHMENT 4 – EVALUATION CRITERIA FOR THE DELEGATION OF PLAN MAKING FUNCTIONS

Checklist for the review of a request for delegation of plan making functions to councils

Local Government Area:Byron Shire

Name of draft LEP:Planning Proposal - Part Lot 100 DP 1023737 Suffolk Park Beachfront Holiday Park

Address of Land (if applicable):143 Alcorn Street SUFFOLK PARK NSW 2481

Intent of draft LEP: A small part of the Suffolk Beachfront Holiday Park, being the areas occupied by long-term residents, will be reclassified from “community” land to “operational” land.

Additional Supporting Points/Information: Please refer to Planning Proposal

Evaluation criteria for the issuing of an Authorisation (Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	N			
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?	N			
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		N/A		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?	N			

Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?	N			
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		N/A		
Is the planning proposal proposed to rectify an anomaly in a classification?	N			
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		N/A		
Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?	Y			
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?	Y			
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?	Y			
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?	Y			
Spot Rezonings	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?		N/A		
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?		N/A		
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?		N/A		
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		N/A		

Does the planning proposal create an exception to a mapped development standard?		N/A		
Section 73A matters				
Does the proposed instrument a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? (NOTE – the Minister (or Delegate) will need to form an Opinion under section 73(A(1)(c) of the Act in order for a matter in this category to proceed).	N			

NOTES

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.

CERTIFICATE OF TITLE

REAL PROPERTY ACT, 1900



TORRENS TITLE

REFERENCE TO POLIO OF THE REGISTER

IDENTIFIER 100/1023737

EDITION

1

DATE OF ISSUE

26/2/2001

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.

David Munksgaard



REGISTRAR GENERAL

LAND

LOT 100 IN DEPOSITED PLAN 1023737
AT SUFFOLK PARK
LOCAL GOVERNMENT AREA: BYRON
PARISH OF BYRON COUNTY OF ROUS
TITLE DIAGRAM: DP1023737

FIRST SCHEDULE

BYRON SHIRE COUNCIL

SECOND SCHEDULE

1. LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND CONDITIONS IN FAVOUR OF THE CROWN AFFECTING THE PART(S) SHOWN SO INDICATED IN THE TITLE DIAGRAM - SEE CROWN GRANT(S) AND MEMORANDUM S700000A
2. E744779 RESTRICTION(S) ON THE USE OF LAND AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM

How the brain works