



Nambucca Shire Council

Planning Proposal to Reclassify Council owned land at the Bowraville Racecourse from Community to Operational Land

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1.1 Context

This planning proposal has been drafted in accordance with section 55 of the *Environmental Planning and Assessment Act 1979*, and 'A guide to preparing planning proposals' (DoP, 2009). A gateway determination under Section 66 of the Act is requested.

1.2 Subject Land

This Planning Proposal applies to Lot 3 DP 593774 and Lot 4 DP593774, Rodeo Drive, Bowraville. The land is shown in yellow highlight on the attached plan.

1.3 Current Zoning and Use

The land is zoned RE1 Public Recreation pursuant to Nambucca Local Environmental Plan 2010.

1.4 Background

Council is the registered proprietor of Lot 3 DP 593774 and Lot 4 DP 593774 being the land upon which the Nambucca River Jockey Club has its clubhouse and racing facilities (Lot 3) and land forming the starting run to the racetrack proper (Lot 4). The land is classified as community land.

Council is also the Trust Manager for Reserve D540002 being the racecourse proper. The Reserve is gazetted as a Public Recreation Reserve.

Both Lots 3 & 4 in DP 593774 and the Crown Reserve are leased to the Nambucca River Jockey Club until September 2013. The rental on each lease is set at the minimum statutory rental of \$396 per annum.

In 2009, the Nambucca River Jockey Club requested Council consider selling the Council owned land to the Club and transferring the Crown Reserve Management to the Club.

The Club advises that Racing NSW (the controlling body of Thoroughbred Racing in NSW) is in the process of establishing a minimum venue standard for every racing and training venue in NSW. The Club has advised that they are committed to achieving minimum standards to ensure the ongoing operation of the racecourse.

The Club's commitment to the ongoing operation of the racecourse however presents a less than ideal situation for the Club insofar as the Club's capital expenditure on assets will be committed to land they do not own or control. It should be noted that currently the majority of improvements to the racecourse facilities have been financed and completed by the Jockey Club.

The Club does not propose to change the current operation of the facility or reserve other than to effect improvements that may be required to meet the minimum venue requirements required by Racing NSW so as to best ensure their continued operation.

At Council's meeting on 11 April 2012 it was resolved as follows:

1/12 RESOLVED: (Moran/Finlayson)

- 1 That Council support representations by the Nambucca River Jockey Club for the transfer of the Trust Management for Reserve D540002 from Council to the Nambucca River Jockey Club.
- 2 That Council advise the Nambucca River Jockey Club that it is willing to sell Lots 3 and 4 DP 593774 for \$4,000 plus GST subject to the land being reclassified from community land to operational land.

- 3 *That, In relation to the reclassification of the land, the Nambucca River Jockey Club be advised they will be required to meet Council's reasonable expenses being the \$1,574 (including GST) fee for a planning proposal plus the fee (at cost) for the independent person to conduct the public inquiry.*
- 4 *That the Nambucca River Jockey Club be advised that they will be required to meet all of Council's legal costs in relation to the transfer of the land and all expenses associated with Reserve D540002.*

2/12 **RESOLVED:** (Finlayson/Ainsworth)

That the \$4,000 be remitted to the Jockey Club on the basis that the funds be used for landscaping the inside of the track. (Reference made to the presentation of Grafton Racecourse.)

3/12 **RESOLVED:** (Finlayson/Ainsworth)

- 5 *That following receipt of the fee for a planning proposal from the Nambucca River Jockey Club, Council proceed to undertake the reclassification of Lots 3 and 4 DP 593774 from community to operational land and the General Manager be provided with delegated authority to appoint an independent person to undertake the public hearing.*

For the motion: Councillors Hoban, Court, Flack, Smyth, Finlayson, Ainsworth, Moran and South
(Total 8)

Against the motion: Nil

Under Sections 29 and 47G of the Local Government Act, Council must employ an independent person to conduct a public hearing into the proposed reclassification of lots 3 and 4 DP 593774. The reclassification must proceed as a planning proposal.

Part 1 Objectives or Intended outcomes

The primary objective of this LEP Amendment is to reclassify Lots 3 and 4 DP 593774 from community to operational land so as to allow Council to transfer the lots to the Nambucca River Jockey Club so they can invest in and develop the Bowraville Racecourse for its intended purpose.

Part 2 Explanation of Provisions

The objectives of the LEP amendment are simply to reclassify Lots 3 and 4 DP 593774 from community to operational land pursuant to the NSW Local Government Act 1993.

This will be done by amending schedule 4 part 2 of the Nambucca LEP 2010. All interests in the property will be changed and it is anticipated that Parliamentary Counsel will draft the appropriate changes to this schedule. The Department of Planning will seek the Governor's approval for the changes at the appropriate stage of the reclassification process.

Part 3 Justification

Section A – Need for the Planning Proposal

- 1 ***Is the Planning Proposal the Result of any Strategic study or Report***

No

- 2 ***Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?***

I wish there was an easier way, but a Planning Proposal is the only means of achieving a reclassification from community to operational land.

3 *Is there a net community benefit?*

Yes. The Nambucca River Jockey Club will have difficulty obtaining finance to undertake the necessary upgrading of the Bowraville Racecourse if they do not own the land. The already contribute volunteer labour to the maintenance of the Racecourse, but they have no permanent tenure. The continued upgrading of the Bowraville Racecourse is in the interest of the residents of the Nambucca Valley.

Implications of not proceeding at this time

The future of the Bowraville Racecourse will be at increased risk. The Council has no funding to provide improvements at the Bowraville Racecourse. The Nambucca River Jockey Club is the only organisation which can secure the future of the Bowraville Racecourse.

Section B – Relationship to strategic planning framework.

4 *Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy.*

Yes

5 *Is the planning proposal consistent with the local Council's Community Strategic Plan, or other strategic plan?*

Yes

6 *Is the Planning Proposal consistent with applicable state environmental planning policies (SEPP's)?*

Yes

7 *Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?*

Yes

Section C – Environmental, social and economic impact

8 *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.*

No. The land will continue to be used as a racecourse.

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

There are no environmental effects.

10 *How has the planning proposal adequately addressed any social and economic effects?*

The social and economic impacts of the development of the subject land and stage 1 is considered in detail in Council's Draft Local Growth Management Strategy – Employment Lands Component (Draft).

Section D – State and Commonwealth Interests

11 *Is there adequate public infrastructure for the planning proposal?*

Yes

12 *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

There has been no consultation with State and Commonwealth public authorities.

Part 4 Community Consultation

It is intended that the exhibition period for the planning proposal will be a minimum of 28 days.

Under Sections 29 and 47G of the Local Government Act, Council must employ an independent person to conduct a public hearing into the proposed reclassification of the land.

Appendix 1 - State Environmental Planning Policies

The following State Environmental Planning Policies (SEPP) have been considered in the preparation of the planning proposal for the reclassification of Lots 3 and 4 DP 593774 from community to operational land.

- **State Environmental Planning Policy (Infrastructure) 2007**

The SEPP supports greater flexibility in the location of infrastructure and service facilities and allows efficient development, redevelopment or disposal of surplus government owned land.

Appendix 2 - Section 117 Directions

The following is relevant to this planning proposal.

Direction 6.3 Site Specific Provisions

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

This direction applies when a council prepares a draft LEP to allow a particular development to be carried out.

A draft LEP that amends another environmental planning instrument in order to allow a particular development proposal to be carried out shall either:

- a allow that land use to be carried out in the zone the land is situated on, or
- b rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or
- c allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

A draft LEP shall not contain or refer to drawings that show details of the development proposal.

It is intended to ensure the planning proposal is consistent with this direction.