

**Rezone Sangsurya Health Retreat for tourist and environmental purposes**

Proposal Title : **Rezone Sangsurya Health Retreat for tourist and environmental purposes**

Proposal Summary : **The planning proposal seeks to rezone Lot 1 DP 857013 at Suffolk Park from 1(a)(General Rural Zone) to part 2(t) (Tourist Area Zone) to enable the continued operation of the health retreat facility on the land; and the remainder of the land to part 7(b)(Coastal Habitat Zone) to conserve the coastal habitat present on the site.**

PP Number : **PP\_2013\_BYRON\_001\_00** Dop File No : **13/01672**

**Proposal Details**

Date Planning Proposal Received : **14-Jan-2013** LGA covered : **Byron**  
 Region : **Northern** RPA : **Byron Shire Council**  
 State Electorate : **BALLINA** Section of the Act : **55 - Planning Proposal**  
 LEP Type : **Spot Rezoning**

**Location Details**

Street : **95 Old Bangalow Road**  
 Suburb : **Byron Bay** City : **Byron Bay** Postcode : **2480**  
 Land Parcel : **Lot 1 DP 857013**

**DoP Planning Officer Contact Details**

Contact Name : **Jenny Johnson**  
 Contact Number : **0266416614**  
 Contact Email : **Jenny.Johnson@planning.nsw.gov.au**

**RPA Contact Details**

Contact Name : **Matthew Walker**  
 Contact Number : **0266267039**  
 Contact Email : **Matthew.Walker@byron.nsw.gov.au**

**DoP Project Manager Contact Details**

Contact Name : **Jim Clark**  
 Contact Number : **0266416604**  
 Contact Email : **Jim.Clark@planning.nsw.gov.au**

**Land Release Data**

Growth Centre : **N/A** Release Area Name : **N/A**  
 Regional / Sub Regional Strategy : **Far North Coast Regional Strategy** Consistent with Strategy : **Yes**

## Rezone Sangsurya Health Retreat for tourist and environmental purposes

MDP Number :		Date of Release :	
Area of Release (Ha) :	<b>3.90</b>	Type of Release (eg Residential / Employment land) :	<b>N/A</b>
No. of Lots :	<b>0</b>	No. of Dwellings (where relevant) :	<b>0</b>
Gross Floor Area :	<b>0</b>	No of Jobs Created :	<b>0</b>

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

If No, comment : **The Department of Planning & Infrastructure Code of Practice in relation to communication and meetings with Lobbyists has been complied with to the best of the Region's knowledge.**

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment : **Northern Region has not met any lobbyists in relation to this proposal, nor has Northern Region been advised of any meeting between other departmental officers and lobbyists concerning this proposal.**

### Supporting notes

Internal Supporting Notes :

External Supporting Notes :

## Adequacy Assessment

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

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

Comment : **The objectives and intended outcomes of the planning proposal are adequately expressed for the area of the proposed amendment to Byron LEP 1988.**

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

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

Comment : **The planning proposal provides a clear explanation of the intended provisions to achieve the objectives and intended outcomes.**

**The draft amendment proposes to:**

**1) Rezone rural land to tourist which is more suited to the present land use. The rezoning will allow for the continual use of the facility and any potential future expansion options of the health retreat facility.**

**2) Rezone rural land to conserve the sensitive nature of the land with a proposed 7(b) zoning. This level of protection is suitable for the subject site due to the dense vegetation present.**

## Rezoning Sangsurya Health Retreat for tourist and environmental purposes

### Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA : **1.2 Rural Zones**

\* May need the Director General's agreement **1.5 Rural Lands**

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 55—Remediation of Land  
SEPP No 71—Coastal Protection  
SEPP (Rural Lands) 2008  
North Coast REP 1988**

e) List any other matters that need to be considered : **Prior to the submission of the planning proposal, Council and the proponent were involved in Court proceedings pertaining to an extension of the health retreat that was constructed without Council approval. Council resolved at the November 2012 meeting to discontinue Court proceedings and review an option of a planning proposal to rezone the site.**

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

If No, explain :

### Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The maps provided clearly show the existing and proposed zoning under the Byron LEP 1988.**

**The Draft Byron LEP 2012 exhibition period was completed in December 2012. Should the draft Byron LEP be made before this planning proposal Council has subsequently advised that the land will be rezoned part SP3 - Tourist, and part E2 - Environmental Conservation. Mapping showing these zones will be prepared and exhibited with the planning proposal.**

**If the LEP is made prior to the planning proposal, the map amendments will be in accordance with the Standard technical requirements for LEP maps.**

### Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The planning proposal has indicated a 28 day public exhibition period for community consultation. A development application for the continuation of the current use of the land was previously exhibited for 14 days, with no submissions received.**

**An estimated Project Time Line for the planning proposal has been provided by Council indicating that a period of six months is a suitable time frame to complete the project.**

**A recommendation to extend this for a further three months to allow for any potential delays (consultation with other agencies) that may occur would be put forward to the LEP Panel for consideration before the Gateway decision is made.**

**The Gateway will make the final determination of the time frame required for exhibition.**

## Rezoning Sangsurya Health Retreat for tourist and environmental purposes

### 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:**

1. **Providing appropriate objectives and intended outcomes.**
2. **Providing a suitable explanation of the provisions proposed for the LEP**
3. **Providing an adequate justification for the proposal.**
4. **Provided a time frame for community consultation.**
5. **Providing a project time line.**
6. **Advising that Council request delegation to make the plan in this instance.**

### Proposal Assessment

#### Principal LEP:

Due Date : **June 2013**

Comments in relation to Principal LEP :

**The Draft Byron LEP 2012 exhibition period was completed in December 2012.**

**The planning proposal was not considered under the draft comprehensive LEP. It was considered that the time frame needed to complete the comprehensive LEP could result in this rezoning being delayed.**

**The amendment to the existing Byron LEP is necessary to formalise the continued use of the facility as a health retreat with an appropriate zoning to match its use and not be constrained by the time frame set to complete the comprehensive LEP.**

#### Assessment Criteria

Need for planning proposal :

**There is no strategic study that highlighted the need to rezone the health retreat facility. Council's view on the activities that occur at the 'health retreat' was it that there is a recreational component and the development falls under the definition of a Tourist Facility. The site is currently zoned 1(a) General Rural. The Byron LEP 1988 prohibits 'Tourist facility' in the 1(a)(General Rural Zone). Council considers that the rezoning of the land will permit the rapid resolution of the dispute concerning permissibility of the land use.**

**The proposed changes to the LEP is the most appropriate means of achieving the desired outcomes for the proposal. Rezoning the land to more appropriately reflect the current land use (tourist facility) and coastal habitat protection (dense vegetation) allows for the facility to continue to be utilised as a tourist facility and not be restricted from future expansion by the current rural zoning. Appropriate zoning of the vegetation as 7(b) allows for this land to have an appropriate level of protection, so that valuable coastal vegetation is not lost from the subject land.**

## Rezoning Sangsurya Health Retreat for tourist and environmental purposes

Consistency with strategic planning framework :

The planning proposal, although not identified in the Far North Coast Regional Strategy, is consistent with the overall intent of the strategy. Tourism is considered a key component of the strategy and the Sangsurya Health Retreat is an important tourist facility providing continued patronage for the Byron Shire. The health retreat is small scale tourism development. The strategy supports LEPs that permit small scale tourism development in rural areas.

The planning proposal is consistent with all relevant SEPP with specific reference to SEPP 55 - Remediation of Land and SEPP 71 - Coastal Protection.

The planning proposal is considered inconsistent with the following s117 Directions:

### 1.2 Rural Zones

The planning proposal is considered inconsistent with this direction as it proposes to rezone land from a rural zone to a tourist zone. The tourist zone is a more appropriate zone for the land as it covers the site utilised by the health retreat (tourist facility) which is an existing use. The remaining land is proposed to be zoned 7(b) (Coastal Habitat zone) which is most appropriate for the land due to the extent of coastal vegetation on the subject site. None of the land is utilised for agricultural purposes being heavily vegetated (apart from the health retreat buildings). No productive agricultural land will be lost by this rezoning proposal. The inconsistency is justified as of minor significance.

### 1.5 Rural Land

The planning proposal is considered inconsistent with this direction as it affects land within an existing or proposed rural zone. The subject land is not considered productive agricultural land, is not classed as State or Regionally Significant Farmland and is not currently utilised for rural purposes. The inconsistency is justified as of minor significance.

The planning proposal is considered consistent with s117 Direction 4.4 Planning for Bushfire Protection as consultation with the NSW Rural Fire Service (RFS) has already been undertaken. The RFS has issued General Terms of Approval for a Bush Fire Safety Authority as part of the DA process. The RFS is unlikely to issue General Terms of Approval if they objected to the progression of the planning proposal.

The proposal is otherwise consistent with the s117 Directions.

Environmental social economic impacts :

A Flora and Fauna Survey and Assessment has already been completed for the subject site. Although no threatened species or endangered ecological communities were identified, the present vegetation and the need to retain sensitive coastal vegetation has led to the proposed 7(b) (or E2 - Environmental Conservation under the SI LEP) zoning. A Vegetation Management Plan has been prepared which have detailed a number of measure to retain the ecological value of the site. This coupled with the environmental protection zoning should safeguard the present sensitive coastal land.

Major services and facilities are provided in the Byron Bay area which is situated only 5 minutes from the health retreat. There is direct access to bus transport.

Tourism is a major economic provider for the Byron Shire. Participants do utilise the services provided in Byron Bay and the surrounding areas during breaks from the courses undertaken at the health retreat. This leads to an increase in revenue for local businesses.

## Rezone Sangsurya Health Retreat for tourist and environmental purposes

### Assessment Process

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

Timeframe to make LEP : **9 Month** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **Transport for NSW**

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

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

If no, provide reasons : **The rezoning proposal will allow the zoning to better reflect the current land uses (tourist facility and vegetation protection) and confirm the permissibility of these uses.**

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**

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

If Yes, reasons :

### Documents

Document File Name	DocumentType Name	Is Public
Cover letter to DoPI for Planning Proposal.pdf	Proposal Covering Letter	Yes
E2012 24993 Planning Proposal to rezone land at 95 Old ~ Road, B_1.pdf	Proposal	Yes
Byron Shire Council Delegation_of_PLan_Making_Fuictions_PP_Sangsurya_Health_Retreat_Rezoning.pdf	Study	No

### Planning Team Recommendation

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

S.117 directions: **1.2 Rural Zones  
1.5 Rural Lands**

Additional Information : **It is recommended that:**

- 1) The planning proposal be supported;**
- 2) The planning proposal be exhibited for a period of 28 days;**
- 3) The planning proposal should be completed within 9 months;**
- 4) The Director General (or an officer nominated by the Director General) agree that the inconsistencies with s117 Directions 1.2 Rural Zones and 1.5 Rural Lands are justified as of**

**Rezone Sangsurya Health Retreat for tourist and environmental purposes**

minor significance;

5) Consultation with Transport of NSW be undertaken prior to exhibition;

6) the request to delegate the plan making function to Byron Council be approved.

Council should be advised to exhibit draft maps which indicate amendments to the current LEP and the draft comprehensive LEP.

Supporting Reasons : The rezoning proposal will allow the zoning to better reflect the current land uses (tourist facility and vegetation protection) and confirm the permissibility of these uses.

Signature:



Printed Name:

J.M. CLARK

Date:

18 January 2013