



Nambucca Shire Council

Planning Proposal Nambucca LEP Amendment no. 13

**Reclassification of 11 Kent Street Nambucca
Heads
Nambucca Heads Senior Citizen Club**

Prepared by: Nambucca Shire Council
Executive Services
Nambucca Shire Council

Dated: April 2013

File: SF

1.0 Preliminary

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, 2012). A gateway determination under Section 56 of the Act is requested.

1.2 Subject Land

This Planning Proposal applies to Council owned land presently occupied by the Nambucca Senior Citizen Club being Lot 2 DP330678, 11 Kent Street Nambucca Heads.

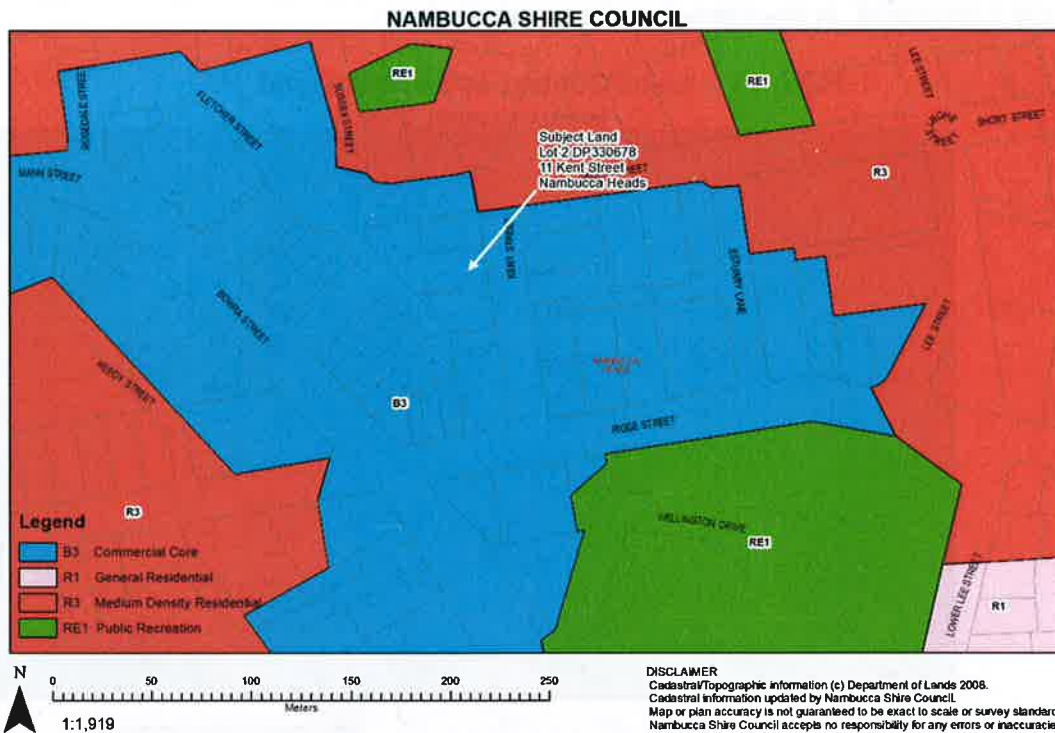
Figure 1 – Local Context and subject land



1.3 Current Zoning and Use

The land is presently zoned B3 Commercial Core and has a maximum building height of 8.5m. There are no Floor Space Ratio restrictions on the land within the Nambucca LEP 2010. The subject land is classified as community land. The land has on it a single building with extensions, and is presently used as the Nambucca Senior citizen centre.

The Nambucca Senior Citizens Inc is the appointed as a Section 355 Committee of Management under the *Local Government Act 1993* with delegated powers. In addition, the Nambucca Senior Citizens Club holds substantial equity in the premises having funded most of the acquisition and subsequent extensions.



View of existing Senior Citizens Building looking south from Kent Street

1.4 Background

The purpose of this planning proposal is to reclassify the land from community to operational land and allow for the future disposal of the land.

At Council's meeting on 10 October 2012 it was resolved:

"that Council approach the Nambucca Senior Citizens Centre with a view to arranging a meeting to discuss a possible partnership with U3A and a mutually agreeable arrangement for sharing of the facility. Further, that the opportunity for transfer of the building from Council ownership to the Senior Citizens Centre Committee also be discussed."

Council's Delivery Program 2012- 2016 indicates that Council has to determine how it will reduce its services to a level which is financially sustainable. One of the measures that may help reduce Council's expenditure on infrastructure is identified as:

- *transfer Senior Citizens Centres to Incorporated Committees*

The transfer of the building to the Nambucca Senior Citizens Club Inc. will remove maintenance costs as well as the depreciation expense from Council's accounts. Council can still provide support to the Club through its Grants Officer and Donations Policy.

The infrastructure at 11 Kent Street is currently in good repair, it is an older timber building and will require proportionately more maintenance than a newer brick building on a concrete slab. Notwithstanding that Council is the registered owner of the property, the Nambucca Senior Citizens Club Inc. can demonstrate they have more equity in the property than Council. This may make it more problematic, at least from a political/moral perspective, to direct the Nambucca Senior Citizens Club Inc. in relation to the use of the property. There is no evidence that in the 19 years since the establishment of the Senior Citizens Centre that Council has provided any direction as to the use of the property.

The property is required to be reclassified as operational land before it can be transferred to the Club. This is the intent of this planning proposal amendment to the Nambucca Local Environmental Plan 2010. Council is required to conduct a public hearing into the reclassification.

On the 16th January 2013 Council resolved the following:

- 1 *That Council offer to transfer ownership of the Nambucca Senior Citizens Centre to the Nambucca Senior Citizens Club Inc. with Council meeting all legal costs and any stamp duty which may be applicable. Further that the Club be requested to indicate its agreement or otherwise to this offer within 60 days.*
- 2 *That the Nambucca Senior Citizens Club Inc. be advised of the provisions of the Local Government Act 1993 in relation to exempting the property from the payment of rates.*
- 3 *In the event that the Nambucca Senior Citizens Club Inc. agree to the offer in Recommendation 1, that Council proceed with a planning proposal for the reclassification of the land from community to operational and undertake the required public notice and public hearing.*

Subsequent correspondence from the Nambucca Senior Citizens Inc identified that they agreed to the transfer of the land as such a planning proposal for the reclassification of the land is required.

Part 1 Objectives or Intended outcomes

The objective of this LEP Amendment is to:

- Reclassify the community land at Lot 2 DP330678 (11 Kent Street Nambucca Heads) as operational to allow for its disposal.

Part 2 Explanation of Provisions

The objectives of the LEP amendment will be achieved by amending Schedule 4 to include Lot 2 DP330678 11 Kent Street Nambucca Heads description and any trusts not discharged into the relevant fields within PART 2 as prepared below (changes highlighted).

Part 1 Land classified, or reclassified, as operational land—no interests changed

Column 1	Column 2
Locality	Description
Eungai Creek, Little Tamban Road	Lot 163, DP 822649 (known as Eungai Pre School)

Part 2 Land classified, or reclassified, as operational land—interests changed

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
Macksville, Yarrowonga Street	Part of Lot 31, DP 248561, as shown edged heavy red on the Land Reclassification (Part Lots) Map	Nil
Nambucca Heads, Kingsworth Estate, Old Coast Road	Part of Lot 40, DP 711098, as shown edged heavy red on the Land Reclassification (Part Lots) Map	Nil
Nambucca Heads 11 Kent St	Lot 2 DP330678, as shown edged heavy red on the Land Reclassification Map	Nil

Part 3 Land classified, or reclassified, as community land

Column 1	Column 2
Locality	Description
Nil	

Part 3 Justification

Section A – Need for the Planning Proposal

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

As stated previously the Planning Proposal is a result of or has been identified within the following Strategies:

Councils Delivery Plan 2012 – 2016

The relevant extract from the plan is shown below:

Cost shifting from the State Government such as through reduced regional road funding and increased contributions to the Rural Fire Service adds to the problem. Council has to determine how it will reduce its services to a level which is financially sustainable. In the latter part of 2012, Council will explore a number of measures that in may help reduce its expenditure on infrastructure, including:

- Reduce the service level of bridges, with bridges going from two-lane to single lane where possible.
- Reduce the number of public amenities managed by Council, and reduce the size of new amenities.
- Transfer Council halls to incorporated committees, which would have ownership or trusteeship for their halls.
- Transfer Senior Citizens Centres to incorporated committees.

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

The reclassification allows for the reduction in infrastructure maintenance costs and has been specifically recognised as an action in Councils Delivery Plan 2012 - 2016.

3 *if the provisions of the planning proposal include the extinguishment of any interests in the land, an explanation of the reasons why the interests are proposed to be extinguished.*

There are presently no interests on the land that are required to be retained.

4 *The concurrence of the landowner, where the land is not owned by the relevant planning authority*

Although Council does not require it the Nambucca Senior Citizens Inc are agreeable to the transfer of the land.

Part 4 Community Consultation

The proposal is not considered to be a low impact proposal in accordance with Section 4.5 of '*A guide to preparing local environmental plans*'. As such it is intended that exhibition period for the planning proposal will be a minimum of 28 days and the exhibition will be undertaken in accordance with Section 4.5 of '*A guide to preparing local environmental plans*'.

Pursuant with the requirements of the *Local Government Act* and clause 56E of the *Environmental Planning and Assessment Act 1979* a public hearing is required to be held in relation to the reclassification of this land.

Community consultation will be undertaken as part of the exhibition process.

Appendix 1 - State Environmental Planning Policies

All State Environmental Planning Policies (SEPP) have been considered in the preparation of the planning proposal for this reclassification however none are directly applicable to this proposal.

- **State Environmental Planning Policy No 71 – Coastal Protection**

The object of this policy is to provide for the protection and management of sensitive and significant areas within the coastal zone. Part of the subject land is located within the coastal zone. Therefore, in preparing the final LEP, Council must consider the natural, cultural, recreational and economic attributes of land within the coastal zone to ensure that public access to foreshore areas, Aboriginal heritage, visual amenity, coastal flora and fauna, coastal processes and cumulative impacts are addressed.

The matters considered relevant under clause 8 of this SEPP include the following:

(a) the aims of this Policy set out in clause 2,

The planning proposal is simply reclassifying the land from community to operational. This process would not be inconsistent with aims of the policy.

(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,

The site does not provide any access to the coastal foreshore. The planning proposal will not change the function of the property or building.

(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,

The site does not lend itself to foreshore access.

(d) the suitability of development given its type, location and design and its relationship with the surrounding area,

The proposal will not result in development it is reclassifying the land from community to operational.

(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,

The proposal will not result in development it is reclassifying the land from community to operational.

(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,

The proposal will not result in development it is reclassifying the land from community to operational.

(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,

The land is general urban in nature and no development is proposed.

(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats

The land is general urban in nature and no development is proposed.

(i) existing wildlife corridors and the impact of development on these corridors,

No existing vegetation will be removed as part of this proposal – there is no development involved.

(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,

Nil

(k) measures to reduce the potential for conflict between land-based and water-based coastal activities

None required, no development is proposed.

(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,

None required, no development is proposed, the land is an existing urban allotment.

(m) likely impacts of development on the water quality of coastal waterbodies,

Nil

(n) the conservation and preservation of items of heritage, archaeological or historic significance,

No development proposed, and there are no recognised heritage items on the site.

(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,

N/A

(p) only in cases in which a development application in relation to proposed development is determined:

(i) the cumulative impacts of the proposed development on the environment, and

There is no development proposed

(ii) measures to ensure that water and energy usage by the proposed development is efficient.

There is no development proposed.

Note. Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires the Government Coastal Policy (as defined in that clause) to be taken into consideration by a consent authority when determining development applications in the local government areas identified in that clause or on land to which the Government Coastal Policy applies.

Appendix 2 - Section 117 Directions

A number of directions under Section 117 of the EP & A Act 1979 are relevant to this planning proposal.

1 Employment and Resources

Direction 1.1 Business and Industrial Zones

Objectives

- (1) The objectives of this direction are to:
 - (a) encourage employment growth in suitable locations,
 - (b) protect employment land in business and industrial zones, and
 - (c) support the viability of identified strategic centres.

Where this direction applies

- (1) This direction applies to all relevant planning authorities.

When this direction applies

- (2) This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).

What a relevant planning authority must do if this direction applies

- (3) A planning proposal must:
 - (a) give effect to the objectives of this direction,
 - (b) retain the areas and locations of existing business and industrial zones,
 - (c) not reduce the total potential floor space area for employment uses and related public services in business zones,
 - (d) not reduce the total potential floor space area for industrial uses in industrial zones, and
 - (e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.

Consistency

- (4) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:
 - (a) justified by a strategy which:
 - (i) gives consideration to the objective of this direction, and
 - (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
 - (iii) is approved by the Director-General of the Department of Planning, or
 - (b) justified by a study (prepared in support of the planning proposal) which gives consideration to the objective of this direction, or
 - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
 - (d) of minor significance.

Note: In this direction, "identified strategic centre" means a centre that has been identified as a strategic centre in a regional strategy, sub-regional strategy, or another strategy approved by the Director General.

The subject land is zoned B3 Commercial Core therefore this direction is relevant to this proposal. However the planning proposal is reclassifying the land it is not intended to amend the zoning, floor space ratio or heights on the land or affect the potential density. Although the land will no longer be publicly owned it will be owned by an incorporated body with a public focus (Senior Citizen Club Inc).

The planning proposal is considered consistent with this planning direction.

2 Environment and Heritage

Direction 2.2 Coastal Protection

The objective of this direction is to implement the principles in the NSW Coastal Policy.

This direction applies to the coastal zone, as defined in the *Coastal Protection Act 1979*.

This direction applies when a council prepares a draft LEP that applies to land in the coastal zone.

A draft LEP shall include provisions that give effect to and are consistent with:

- a the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, and
- b the *Coastal Design Guidelines 2003*, and
- c the manual relating to the management of the coastline for the purposes of section 733 of the *Local Government Act 1993* (the *NSW Coastline Management Manual 1990*).

It is intended to ensure that the planning proposal is consistent with this direction. Clause 8 matters of SEPP 71 have been addressed in Appendix 1.

3 Housing, Infrastructure and Urban Development

NIL

4 Hazard and Risk

NIL

5 Regional Planning

N/A

6 Local Plan Making

N/A