

Reclassification and rezoning of land for the purposes of a health services facility

Proposal Title :	Reclassification and rezoning of land for the purposes of a health services facility		
Proposal Summary :	Proposed amendment to Nambucca LEP 2010 by way of: 1. Amend Schedule 4 to reclassify part Lot 1 DP 1004209 from 'community' to 'operational' land to allow for future disposal. 2. Rezone part Lot 1 DP 1004209 and part Lot 22 DP 1161807 from RE1 Public Recreation to SP2 Infrastructure to provide future use of the land for the purposes of a 'health services facility'.		
PP Number :	PP_2013_NAMBU_003_00	Dop File No :	13/12667

Proposal Details

Date Planning Proposal Received :	30-Jul-2013	LGA covered :	Nambucca
Region :	Northern	RPA :	Nambucca Shire Council
State Electorate :	OXLEY	Section of the Act :	55 - Planning Proposal
LEP Type :	Reclassification		

Location Details

Street :	Centenary Parade		
Suburb :	City :	Nambucca Heads	Postcode : 2448
Land Parcel :	Part Lot 1 DP 1004209 and Part Lot 22 DP 1161807		

DoP Planning Officer Contact Details

Contact Name :	Luke Blandford
Contact Number :	0266416614
Contact Email :	luke.blandford@planning.nsw.gov.au

RPA Contact Details

Contact Name :	Grant Nelson
Contact Number :	0265680248
Contact Email :	grant.nelson@planning.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :	James 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 :	Mid North Coast Regional Strategy	Consistent with Strategy :	Yes

Reclassification and rezoning of land for the purposes of a health services facility

MDP Number :	Date of Release :	
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots : 1	No. of Dwellings (where relevant) :	0
Gross Floor Area : 0	No of Jobs Created :	0

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

If No, comment :

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

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **Section 27 of the Local Government Act provides that the classification or reclassification of public land occurs by means of a local environmental plan. Part of this site is being reclassified to allow its disposal and subsequent use for a purpose other than recreation. Section 29 of the Local Government Act provides that a public hearing is required as part of this process.**

Adequacy Assessment

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

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

Comment : **The statement of objectives adequately describes the intention of the Planning Proposal, which is to reclassify the land to allow for its sale and to rezone it to permit the establishment and use of a 'health services facility'.**

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, which includes:**
1. Reclassify part Lot 1 DP 1004209 by inclusion in Schedule 4, Part 2 (interests changed).
2. Amendment to the Land Zoning Map of part Lot 1 DP 1004209 and part Lot 22 DP 1161807 from RE1 Public Recreation to SP2 Infrastructure (Health Services Facility).

Lot 22 DP 1161807 is already operational land and therefore no reclassification is required to this portion of the site.

The site currently comprises an area of approximately 2,800m2. Council has noted however that the final extent of land to be reclassified and rezoned will be defined once the final design of the future proposed health services facility is determined. This will be determined as part of a DA process. In this regard the final Planning Proposal and DA should be publicly exhibited together in accordance with Part 3, Division 4B of the EP&A Act 1979.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.3 Mining, Petroleum Production and Extractive Industries

1.4 Oyster Aquaculture

2.1 Environment Protection Zones

2.2 Coastal Protection

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

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 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP No 71—Coastal Protection

SEPP (Infrastructure) 2007

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

In addition to the SEPPs listed by the RPA, the following SEPPs also apply:

North Coast Regional Environmental Plan.

The North Coast Regional Environmental Plan (NCREP) is a deemed SEPP. The proposal is considered generally consistent with the provisions of this SEPP given that it seeks to create land suitable for a 'health services facility' in an existing urban area, and which is located within proximity to other community facilities and accessible by regular public transport services (Section 61 of the NCREP).

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

If No, explain :

The proposal is considered consistent with the Mid North Coast Regional Strategy, all relevant SEPPs except for SEPP 55 and all applicable Section 117 Directions except Direction 4.1 Acid Sulfate Soils, 4.4 Planning for Bushfire Protection and 6.2 Reserving Land for Public Purposes. These inconsistencies are discussed under 'assessment' of this planning report.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The maps provided adequately identify the location of the site. As noted above, the final extent of the land to be reclassified and rezoned will be defined once the final design of the future health services facility is determined. Council has indicated that the proposal will not be publicly exhibited until the full extent of the site is known.

It is considered that Council should provide maps which identify both the current and proposed zones for the site as part of any future exhibition package.

Furthermore, revised maps which indicate the land to be reclassified and rezoned, which comply with the Department's 'Standard Technical Requirements for LEP Maps' will be prepared for the making of the LEP. This will include revision to the following maps;

1. Land Use Zone Map

2. Land Reclassification (Part Lot) Maps

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The Planning Proposal has indicated a 28 day public exhibition/community consultation period, given that the proposal relates to a reclassification of land. Council has also confirmed that a public hearing for the reclassification will be conducted. It is considered appropriate that this public hearing be undertaken following the conclusion of the exhibition period.**

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 by the Planning Proposal to achieve the outcomes.**
- 3. Providing an adequate justification for the proposal.**
- 4. Outlining a proposed community consultation program including public exhibition and a public hearing.**
- 5. Providing a project timeline which suggests completion within 6 months. It is noted that the Governor's approval will be required to alter an existing interest applying to Lot 1 DP 1004209. Given a public hearing is required, and that the Governor's approval is also required, 9 months is considered more appropriate.**
- 6. Completing the evaluation criteria for the delegation of plan making functions. In view of the Governor's involvement delegation of plan making functions is therefore not appropriate in the case.**

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Nambucca (Principal) LEP 2010 was notified in July 2010. This Planning Proposal seeks amendment to the Nambucca LEP 2010.**

Assessment Criteria

Need for planning proposal : **Since May 2012, Council, in collaboration with the Mid North Coast Local Health District, has reviewed a number of potential sites throughout the Nambucca Heads area for the establishment of a health facility that could be established and utilised to assist improved community health outcomes.**

In March 2013, Council resolved to support the making of the subject land available for the establishment and use as a health services facility. Council also provided support to the offering of the site for acquisition by the Health District subject to the completion of the required rezoning, reclassification and development assessment processes.

The reclassification of the land from community to operational is required to allow the transfer of the site to the Mid North Coast Local Health District and is generally consistent with the broader State and Local policies as discussed in detail below.

The land is also required to be rezoned to permit establishment and use of the site for the

purposes of a health services facility. Council has sought an SP2 Infrastructure (Health Services Facility) zone for the land.

It is noted that the land could be rezoned as R1 General Residential Zone and a health services facility would be permissible on the site in accordance with the Infrastructure SEPP, given that R1 is a prescribed zone. However, given that the site is predominantly surrounded by land which is zoned for recreational purposes and separated from any residential land by way of a local road, an SP2 zone is considered appropriate in the circumstances. This land use zone will also provide certainty for the local residents that the site is to be sold and used for the purposes of a health services facility.

The proposed amendment to the LEP is the most appropriate means of achieving the outcome for the proposal and will result in a community benefit through the creation of jobs and improved access to health services and facilities.

Consistency with strategic planning framework :

Mid North Coast Regional Strategy

The site is located within the Mid North Coast Regional Strategy growth area boundary and is generally consistent with the objectives of this Strategy.

State Environmental Planning Policies

The proposal is consistent with the provisions of all applicable SEPPs relevant to the site, except for SEPP 55 - Remediation of Land. This inconsistency is considered to be minor and justified, as detailed below.

SEPP 55 - Remediation of Land

The presence of contaminated soils is currently unknown. The land has historically been used for recreational purposes and therefore the potential for contamination is low. Notwithstanding, SEPP 55 is applicable. If required, Council is to prepare an initial site contamination investigation report to demonstrate that the site is suitable for rezoning to the proposed zone. This report is to be included as part of the public exhibition material.

Section 117 Directions

The proposal is considered to be generally consistent with all relevant s117 Directions, except for Direction 4.1 Acid Sulfate Soils, 4.4 Planning for Bushfire Protection and 6.2 Reserving Land for Public Purposes. These inconsistencies are considered to be minor and justified, as outlined below.

4.1 Acid Sulfate Soils

The land is identified to contain Class 5 acid sulfate soils in accordance with Council's mapping and therefore an Acid Sulfate Soils Assessment and Management Plan is required in accordance with this Direction. An Acid Sulfate Soils Assessment and Management Plan does not form part of the Planning Proposal package and therefore the proposal is inconsistent with this Direction. The Nambucca LEP 2010 contains adequate provisions to ensure that the site is properly managed in relation to acid sulfate soils at the development application stage. The inconsistency with this Direction is considered to be minor and justified.

4.4 Planning for Bushfire Protection

Lot 1 DP 1004209 is identified to encompass bushfire prone land in accordance with Council's Bushfire Prone Land Maps. Consultation with the Commissioner of the NSW Rural Fire Service is therefore required and has not yet been undertaken. Consistency with this Direction is therefore currently unresolved. It is noted that the land to be excised from Lot 1 DP 1004209 and to be utilised for the health services facility generally sits outside of this identified bushfire prone land and that the land surrounding the site is predominantly cleared grasslands. It is therefore unlikely that the future use of the site as a health services facility would be detrimentally impacted by bushfire.

6.2 Reserving Land for Public Purposes

The proposal seeks to reduce an existing reservation of land for public purposes without the approval of the Director General. The proposal is therefore inconsistent with this Direction. The inconsistency with this Direction is considered to be minor given the nature of the proposal; that it is a proposal involving State-funded local health benefits; that the land is disused and that it will not impact on recreational opportunity within the surrounding reserve.

Nambucca 2023 Community Strategic Plan

The proposal is consistent with the strategies and goals of the Nambucca 2023 Community Strategic Plan, namely 'support public health initiatives which will benefit the residents of Nambucca Valley (Goal 3.3.1)'.

EJ Biffin Plan of Management 2010

The site is located within the EJ Biffin Public Reserve area which is managed under Council's 'EJ Biffin Plan of Management 2010'. The land subject to this proposal previously encompassed tennis courts. These tennis courts have been removed and the land is noted to be 'disused' under the Plan of Management. Council is currently reviewing a master plan concept for the upgrade of the EJ Biffin

Reclassification and rezoning of land for the purposes of a health services facility

Reserve. The disposal and use of this land for a health services facility has been incorporated as part of this master plan review.

Other Matters

The Planning Proposal has been prepared in accordance with 'Practice Note PN09-003 – classification and reclassification of public land through a local environmental plan' and the department's 'A guide to preparing local environmental plans', confirming that:

1. The proposal is not the result of a strategic study or report
2. The proposal is consistent with Council's community strategic plan
3. That all interests in the land to be reclassified will be extinguished
4. Council is the landowner

Environmental social
economic impacts :

The potential for environmental impact associated with the construction and use of the health services facility will be reviewed as part of any future DA. Notwithstanding, it is considered that any potential for environmental impact is minor given that the site is cleared. Acid sulfate soils and potential contamination management could be considered at development application stage. The potential for impact by bushfire is considered to be minor. Council has advised that sufficient capacity exists in the local utility infrastructure to service the future health facility.

The use of the site for a health services facility would promote significant social impacts through job opportunity and improved access and availability of health services. Appropriate design review will be undertaken at DA stage to ensure the health facility does not impact recreational opportunity on the surrounding public reserve.

Assessment Process

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

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

Public Authority Consultation - 56(2)(d) : **NSW Rural Fire Service**

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

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

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

Other - provide details below

If Other, provide reasons :

Council is to ensure that the Planning Proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land. If required Council is to prepare an initial site contamination investigation report to demonstrate that the site is suitable for rezoning to the proposed zone. The report is to be included as part of the public exhibition material.

Identify any internal consultations, if required :

No internal consultation required

Reclassification and rezoning of land for the purposes of a health services facility

Is the provision and funding of state infrastructure relevant to this plan? **Yes**

If Yes, reasons : **The proposal seeks to facilitate the establishment of a health services facility on the site that would be joint funded by both Commonwealth and the State. Council, in collaboration with the Mid North Coast Local Health District, will be applying for this funding.**

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal.pdf	Proposal	Yes
Planning Proposal Cover Letter.pdf	Proposal Covering Letter	Yes
Information Checklist Attachment 1.pdf	Proposal	No
Information Checklist Attachment 4.pdf	Proposal	No
2013-03-28 Council meeting.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.3 Mining, Petroleum Production and Extractive Industries**
- 1.4 Oyster Aquaculture**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 3.4 Integrating Land Use and Transport**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**
- 6.3 Site Specific Provisions**

Additional Information : **The Planning Proposal should proceed as a "routine" Planning Proposal.**

The Director-General's delegate should agree that the inconsistencies with s117 Directions 4.1 Acid Sulfate Soils and 6.2 Reserving Land for Public Purposes and the unresolved inconsistency with s117 Direction 4.4 Planning for Bushfire Protection are of minor significance. In relation to Direction 4.4, consultation with the NSW Rural Fire Service should be undertaken prior to public exhibition (as recommended below).

The Planning Proposal should proceed subject to the following conditions:

- 1. Prior to undertaking exhibition, maps which identify both the current and proposed zones for the site under the Nambucca LEP 2010 should be prepared and form part of any future exhibition package.**
- 2. Council is to ensure that the Planning Proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land. If required Council is to prepare an initial site contamination investigation report to demonstrate that the site is suitable for rezoning to the proposed zone. The report is to be included as part of the public exhibition material.**
- 3. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:**
 - (a) the Planning Proposal must be made publicly available for a minimum of 28 days; and**
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide**

Reclassification and rezoning of land for the purposes of a health services facility

to Preparing LEPs (Department of Planning & Infrastructure 2012).

4. Consultation is required with the NSW Rural Fire Service (RFS) as per the requirements of s117 Direction 4.4 Planning for Bushfire Protection. No other consultation is required under section 56(2)(d) of the EP&A Act. RFS is to be provided with a copy of the Planning Proposal and any relevant supporting material, and given at least 21 days to comment on the proposal. If necessary, the Planning Proposal is to be updated to take into consideration any comments made by RFS prior to undertaking exhibition.

5. A public hearing is required to be held into the matter in accordance with the Section 29 of the Local Government Act and the department's practice note PN009-003, given that the Planning Proposal involves a reclassification of land from community to operational.

6. Council is to prepare amended maps for the Section 59 submission that are compliant with the Departments Standard technical requirements for LEP maps. The following maps are to be amended:

- (a) Land Use Zone Map
- (b) Land Reclassification (Part Lot) Maps

7. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

Supporting Reasons :

The recommended conditions to the Gateway are required to provide adequate consultation and accountability.

Signature:



Printed Name:

JIM CLARK

Date:

1 August 2013