

Reclassification of Lot 530 DP 238451 (Roundhouse Site), Orana Road, Ocean Shores

Proposal Title : Reclassification of Lot 530 DP 238451 (Roundhouse Site), Orana Road, Ocean Shores

Proposal Summary : reclassify the site to operational land to enable the discharge of any interests which may apply to the land.

As the land is already classified as operational land, it may be required that Council undertakes reclassification in two stages - firstly from Operational (no interests changed) to Community, and secondly from Community to Operational – (interests changed). This application relates to the second stage of the process, reclassifying from Community to Operational – interests changed.

PP Number : PP_2014_BYRON_004_00 **Dop File No :** 14/08801

Planning Team Recommendation

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

S.117 directions: 2.2 Coastal Protection
2.3 Heritage Conservation
3.1 Residential Zones
5.1 Implementation of Regional Strategies
6.1 Approval and Referral Requirements

Additional Information : It is recommended that the planning proposal PP_2014_BYRON_004_00, to include Lot 530 DP 238451 in Part 2 of Schedule 4 of the Byron Local Environmental Plan 2014, should proceed subject to the following conditions:

1. The planning proposal is to be amended prior to exhibition by:
 - a. updating the proposal to reflect the notification of the Byron Local Environment Plan 2014 (LEP), and
 - b. amending the Objectives and Intended Outcomes so that they are written in such a way they can be easily understood by the general community.
2. Community consultation is required under sections 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 to Preparing LEPs (Department of Planning and Infrastructure 2013).
 - c. Council is to conduct a public hearing in accordance with the requirements of section 29 of the Local Government Act 1993 as the planning proposal involves reclassification of land to operational.
3. No consultation is required with public authorities under section 56(2)(d) of the EP&A Act.
4. A public hearing is not required to be held into the matter under section 56(2)(e) of the EP&A Act. This does not discharge Council from the obligation to undertake a public hearing as required above.
5. The planning proposal must be amended prior to submitting the plan to the Department to be made by:
 - a. providing information on whether the planning proposal will extinguish any interests applying to the land; and

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b. including appropriate mapping in accordance with the Department's Technical Guidelines to accompany the proposed LEP amendment.

6. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

(No delegation should be issued to Council to finalise the proposal as the Governor's approval may be required to discharge any actual or implied trust.)

Supporting Reasons :

The reasons for the above recommendations for the planning proposal are as follows:

1. The proposal to reclassify this land is considered necessary by Council to fund ongoing infrastructure projects in the Byron Local Government Area and there appears no legal reason why it could not proceed to Gateway; and
2. While there may be another process to enable the same outcome, this pathway provides certainty to both Council and prospective purchasers of the land. It also enables a clear pathway for objectors to the proposal to air their concerns in a public forum.

Consideration was given to a condition to the Gateway determination requiring that the land be reclassified to community first - as is Council's intention. However Council does not want such a condition as it may prejudice the outcome of Council's intention to have the land classified as operational (trusts discharged). The legal advice is there is no legal necessity for such a condition to be imposed by the Gateway.

Panel Recommendation

Recommendation Date : 09-Oct-2014

Gateway Recommendation : Passed with Conditions

Panel Recommendation : The LEP Review Panel met on Thursday 9 October 2014. The following members sat on the Panel:

Simon Manoski (Chair), General Manager, Metropolitan Delivery
Troy Loveday, Project Manager
Brett Whitworth (Regional representative), General Manager Southern Region
Gordon Clark (Local Government representative) Shoalhaven City Council

The Panel recommends that the planning proposal should proceed subject to the following conditions:

1. Prior to commencing public exhibition, Council is to amend the planning proposal by:
 - a. updating references to the Local Environmental Plan to which the planning proposal seeks to amend noting that the Byron Local Environmental Plan 2014 has been notified; and
 - b. amending Part 1 Objectives and Intended Outcomes to ensure the outcome that the planning proposal seeks to achieve can be clearly understood by the general community.
2. Prior to finalisation of the LEP, the planning proposal is to be amended:
 - a. to clarify whether any interests applying to the land will be extinguished; and
 - b. to include required mapping prepared in accordance with the Department's Standard Technical Requirements for LEP Maps.
3. Community consultation is required under sections 56(2)(c) and 57 of the 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 to Preparing LEPs (Department of Planning and Environment 2013).

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4. No consultation is required with public authorities under section 56(2)(d) of the Act.
5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
6. The timeframe for completing the Local Environmental Plan is to be 12 months from the week following the date of the Gateway determination.

Gateway Determination

Decision Date : 07-Nov-2014 Gateway Determination : **Passed with Conditions**

Decision made by : **Deputy Secretary, Growth Planning and Delivery**

Exhibition period : **28 Days** LEP Timeframe : **12 months**

Gateway Determination : **The planning proposal may proceed subject to the following conditions:**

1. Prior to commencing public exhibition, Council is to amend the planning proposal by:
 - a. updating references to the Local Environmental Plan to which the planning proposal seeks to amend noting that the Byron Local Environmental Plan 2014 has been notified; and
 - b. amending Part 1 Objectives and Intended Outcomes to ensure the outcome that the planning proposal seeks to achieve can be clearly understood by the general community.
2. Prior to finalisation of the LEP, the planning proposal is to be amended:
 - a. to clarify whether any interests applying to the land will be extinguished; and
 - b. to include required mapping prepared in accordance with the Department's Standard Technical Requirements for LEP Maps.
3. Community consultation is required under sections 56(2)(c) and 57 of the 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 to Preparing LEPs (Department of Planning and Environment 2013).
4. No consultation is required with public authorities under section 56(2)(d) of the Act.
5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

Signature:



Printed Name:

MARCUS BAY

Date:

Approved on 07/11/14

see meeting note.