

Proposed seniors housing and commercial precinct at Ewingsdale Road, Ewingsdale.

Proposal Title : Proposed seniors housing and commercial precinct at Ewingsdale Road, Ewingsdale.

Proposal Summary : Additional permitted land uses are proposed on land known as Lot 101 DP 1140936, Ewingsdale Road, Ewingsdale under the Draft Byron LEP 2012. This land adjoins the site identified and zoned for the planned Byron Shire Central Hospital.

The proposal seeks to facilitate the use of the site for:

- seniors housing;
- business premises;
- restaurants or cafes;
- shops; and
- medical centres

PP Number : PP_2013_BYRON_002_00 Dop File No : 13/11477

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Not Recommended**

S.117 directions : 1.1 Business and Industrial Zones
2.3 Heritage Conservation
3.1 Residential Zones
5.1 Implementation of Regional Strategies
5.4 Commercial and Retail Development along the Pacific Highway, North Coast

Additional Information : It is recommended that the planning proposal should not proceed.

If it is decided that the planning proposal should proceed, it is recommended that the following conditions be included on the Gateway.

1. A community consultation period of 28 days is necessary.
2. The planning proposal is to be completed within 12 months.
3. Prior to undertaking public exhibition, Council is to update the planning proposal to:
 - ensure all sections consistent with A Guide to Preparing Planning Proposals have been included in the planning proposal, including maps and a project timeline.
 - seek a B1 Neighbourhood Centre zone for the proposed commercial precinct, removing reliance on Schedule 1 to permit commercial land uses on the site.
4. The following investigations are to be conducted prior to public exhibition:
 - An ecological assessment considering the ecological significance/biological value of existing flora, fauna and water courses on the site.
 - A bushfire assessment to confirm the proposal complies with the Special Fire Protection Purpose controls under Planning for Bushfire Protection 2006.
 - A noise impact assessment due to the surrounding road network and electrical substation.
 - A local environmental and Aboriginal Cultural heritage impact assessment.
 - An assessment of existing residential zoned land or potential future expansion areas in Ewingsdale and Byron Bay to determine if alternative land is better suited to accommodate seniors housing having regard to the provisions of the Seniors Housing SEPP.
5. The RPA should consult with the NSW Rural Fire Service due to the land being bushfire prone, Roads and Maritime Services given that the site adjoins the Pacific Highway Corridor and the Department of Primary Industries due to the land's classification as regionally significant farmland.
6. The Director-General's delegate agree that the inconsistency with the Far North Coast Regional Strategy, SEPP (Rural Lands), the North Coast Regional Plan and s117 Direction 1.1 Business Zones, 1.2 Rural Zones, 1.5 Rural Lands, 5.1 Implementation of Regional Strategies, 5.3 Farmland of State and Regional Significance on the NSW Far North Coast

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and 6.3 Site Specific Provisions are justified.

7. The Director-General's delegate note that Council may need to obtain agreement to comply with the requirements of s117 Direction 2.3 Heritage Conservation, 4.4 Planning for Bushfire Protection and 5.4 Commercial and Retail Development along the Pacific Highway, North Coast, prior to the plan being made;

8. Delegation to finalise the Planning Proposal not be issued to the Council.

Supporting Reasons :

The planning proposal should not proceed for the following reasons:

1. Adequate strategic assessment of the future housing and employment land needs for Byron has not been completed.
2. The current status of the Byron Shire Central Hospital project does not warrant a 'rezoning' of the land without a comprehensive strategic review.
3. The proposal is contrary to the provisions of the Far North Coast Regional Strategy which seeks to contain urban development within the Town and Village Growth Boundary and requires the protection of significant farmland from urban use.
4. The proposal is not consistent with the provisions of SEPP (Rural lands) and the North Coast Regional Environmental Plan which require the release of rural land for urban purposes to be in accordance with an adopted growth planning strategy.
5. Inconsistency with Section 117 Direction 5.1 Implementation of Regional Strategies and 5.3 Farmland of State and Regional Significance on the NSW Far North Coast cannot be justified.
6. Approval of the planning proposal has the potential to set a precedent or expectation for the 'rezoning' of other land outside of the strategic planning process.

Panel Recommendation

Recommendation Date : 31-Oct-2013

Gateway Recommendation : Passed with Conditions

Panel

Recommendation :

The planning proposal should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to update the planning proposal to include all relevant sections as identified within A Guide to Preparing Planning Proposals, including mapping, which is at an appropriate scale and clearly identifies the subject land, and a project timeline.
2. Additional information regarding the matters below is to be placed on public exhibition with the planning proposal:
 - significance of flora, fauna and watercourses
 - bushfire hazards
 - noise impact
 - local and Aboriginal cultural heritage
 - assessment of existing residential zoned land or potential future expansion areas in Ewingsdale and Byron Bay, to determine if there is an alternative location to better accommodate seniors housing.
3. Council is to update the planning proposal to include sufficient additional information to adequately demonstrate consistency or justify any inconsistency with the below S117 Directions:
 - 2.3 Heritage Conservation
 - 4.4 Planning for Bushfire Protection
 - 5.1 Implementation of Regional Strategies
 - 5.3 Farmland of State and Regional Significance on the NSW Far North Coast
 - 5.4 Commercial and Retail Development along the Pacific Highway, North Coast
4. 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 to

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Preparing LEPs (Department of Planning & Infrastructure 2013).

5. Consultation is required with the following public authorities under sections 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:

- NSW Health
- Roads and Maritime Services
- Department of Primary Industries – Agriculture
- NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)

Each public authority 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.

6. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A 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).

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

Plan making delegation:

The Minister delegated his plan making powers to councils in October 2012. Council has now accepted this delegation, however Council has asked not to be issued with delegation for the making of this plan because of the scale and significance of the proposal. Council's position to not be issued with plan making delegations should be supported.

Signature:



Printed Name:

NEIL SIMON

Date:

20/11/2013