

Planning Proposal to reclassify land at Myocum from community to operational land

Proposal Title : **Planning Proposal to reclassify land at Myocum from community to operational land**

Proposal Summary : **The planning proposal seeks to reclassify Lot 15 and 16 DP 1178892 Dingo Lane, Myocum from 'community' to 'operational'.**

PP Number : **PP_2014_BYRON_003_00** Dop File No : **14/09290**

Proposal Details

Date Planning Proposal Received : **05-Jun-2014** LGA covered : **Byron**

Region : **Northern** RPA : **Byron Shire Council**

State Electorate : **BALLINA** Section of the Act : **55 - Planning Proposal**

LEP Type : **Reclassification**

Location Details

Street : **Dingo Lane**

Suburb : City : **Myocum** Postcode : **2482**

Land Parcel : **Lot 15 and 16 DP 1178892**

DoP Planning Officer Contact Details

Contact Name : **Jenny Johnson**

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RPA Contact Details

Contact Name : **Greg Smith**

Contact Number : **0266267219**

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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 : Release Area Name :

Regional / Sub Regional Strategy : **Far North Coast Regional Strategy** Consistent with Strategy : **Yes**

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MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	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 :	The Department's 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 meetings between other agency officers and lobbyists concerning this proposal.		

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **A public hearing is required by the Local Government Act when land is proposed to be reclassified.**

This land was acquired by Council for the Myocum Quarry Landfill Project.

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. The proposal seeks to reclassify the subject land from community to operational land. It also proposes to extinguish any interests applying to the land that require it to be retained as a public reserve. The change to the classification will allow for Council to consider the sale of Lot 16 to fund services involved with the progression of the Myocum Quarry Landfill Project, which is proposed to occur on Lot 15 (project approval expected 2014), and fund future infrastructure projects.**

Note: Although Lot 15 is proposed to be reclassified to Operational, it is not intended that Lot 15 will be sold. Lot 15 is to be retained as part of the Myocum Quarry Landfill Project.

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

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

Comment : **It is noted that the planning proposal was prepared by Council prior to the making of Byron LEP 2014. The current explanation of provisions was drafted to cater for the reclassification to occur under either Byron LEP 1988 or Byron LEP 2014.**

With the recent making of Byron LEP 2014, part of the land was deferred by the Minister's delegate due to its proposed environmental zoning. This has resulted in part of the land being governed by Byron LEP 2014 and the remaining part by Byron LEP 1988. As a result,

amendments to both LEPs will be required to reclassify all of the land. It is recommended that the planning proposal be amended prior to exhibition to clearly identify this issue. It is also noted that the planning proposal currently contains proposed drafting amendments to both LEP(s). It is considered preferable that these proposed drafting amendments be removed prior to public exhibition and replaced with a plain english explanation of the intended amendment to assist the understanding of the general public.

Council has noted in the planning proposal that it is unknown at this time whether the land is a public reserve or subject to any trust, estates, interests, dedications, conditions, restrictions or covenants on the land. If it is found that the land is a public reserve or subject to a trust, etc, Council wishes to remove these interests as part of the reclassification process. If it is confirmed by Council prior to the making of the plan that interests on the land title will sought to changed, the Governor's approval under section 30 of the Local Government Act 1993 will be required.

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

1.2 Rural Zones

1.5 Rural Lands

2.2 Coastal Protection

2.3 Heritage Conservation

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

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 14—Coastal Wetlands

SEPP No 19—Bushland in Urban Areas

SEPP No 26—Littoral Rainforests

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP No 71—Coastal Protection

SEPP (Infrastructure) 2007

North Coast REP 1988

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

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

It is noted that while not identified by Council in the planning proposal, if the land is confirmed to be a public reserve, s117 Direction 6.2 Reserving Land for Public Purpose would also be applicable. This matter is discussed further in the Assessment section of this report.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The proposal includes mapping which adequately shows the land which is affected by the proposed amendment.

It is noted that as the reclassification will involve changes to both Byron LEP 2014 and Byron LEP 1988, mapping of the relevant part lots will be required for both LEPs before the plan can be made.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council did not specify a preferred exhibition period, however under the requirements of Section 34 of the Local Government Act 1993, an exhibition period of 28 days will be required. In addition, a public hearing will also be held under section 29 of the Act as the proposal includes the reclassification from community land to operational land.

An exhibition period of 28 days is considered appropriate for the proposal.

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 an adequate justification for the proposal;
3) Allowing for a suitable proposed community consultation program;
4) Providing a time line for the completion of the proposal. Council has suggested a time line of 12 months, which is acceptable.

Note: Although the 'Explanation of Provisions' was not suitable to satisfy the adequacy criteria, it will be conditioned by the Gateway and be amended prior to exhibition.

It is not known at this time whether the land is a public reserve or subject to a trust, estates, interests, dedications, conditions, restrictions or covenants will require the Governor's approval to be discharged. As this is not known at present, it is not appropriate for delegation to be granted to Council in this instance.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Byron LEP was made in May 2014. This planning proposal will require an amendment to both Byron LEP 2014 and Byron LEP 1988.

Assessment Criteria

Need for planning proposal : The planning proposal is a result of Council's Financial Sustainability Project Plan (FSPP) 2013. The land was originally purchased for use in the proposed extension of the existing Myocum Landfill and part of the buffer of the landfill site. Lot 15 is believed to be reserved for this extension.

Council has now determined through the Financial Sustainability Project Plan that it is no longer necessary to retain all the the land for the landfill project and that the sale of Lot 16 could help Council to address the rising costs associated with the landfill and fund the major program of works at the landfill site.

The reclassification of the land from Community to Operational will allow Council to investigate the option of selling Lot 16 in accordance with the FSPP and to fund future infrastructure projects.

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Consistency with strategic planning framework :

FNCRS

The proposal to reclassify the subject lots is not inconsistent with the provisions of the Far North Coast Regional Strategy (FNCRS).

SEPP's

The proposal is not inconsistent with any relevant State Environmental Planning Policy.

s117's Directions

The proposal to reclassify the subject lot is considered to be consistent with all relevant s117 Directions except in relation to:

4.4 Planning for Bushfire Protection

This Direction is relevant as the Planning Proposal applies to land that is identified as bushfire prone land. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued. Until this consultation has occurred the consistency of the proposal with the Direction cannot be resolved.

6.2 Reserving Land for Public Purposes

If prior to the making of the plan it is confirmed that the land is a public reserve, an inconsistency with s117 Direction 6.2 Reserving Land for Public Purpose would arise as the Secretary has not yet granted approval to reduce the existing public reserve. If this occurs, the inconsistency will need to be agreed to by the Secretary prior to the plan being made.

Environmental social economic impacts :

The planning proposal will not have any direct adverse impact on critical habitat or threatened species, populations or ecological communities, or their habitats. Similarly the planning proposal will not have any direct adverse effects on the natural built or socio-economic environment.

Assessment Process

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

Timeframe to make LEP : **12 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. :

If Other, provide reasons :

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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
Byron Shire Council_05-06-2014_LEP 2014 Amendment Los 15 & 16 Dingo Lane Myocum - s56_.pdf	Proposal Covering Letter	Yes
Planning Proposal - Lots 15 and 16 DP 1178892 Dingo Lane - Myocum.pdf	Proposal	Yes

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**
- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 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**

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

- 1) The planning proposal should proceed;
- 2) The planning proposal is to be completed within 12 months;
- 3) A community consultation period of 28 days be undertaken;
- 4) A public hearing be held into the reclassification in accordance with the requirements of section 29 of the Local Government Act 1993;
- 5) Council is to consult with the NSW Rural Fire Service;
- 6) The planning proposal is to be amended prior to exhibition so that it only contains a plain English version of the explanation of provisions;
- 7) That the Secretary (or his delegate) note the current inconsistency with section 117 Direction 4.4 Planning for Bushfire Protection, and the potential inconsistency with section 117 Direction 6.2 Reserving Land for Public Purposes, and that these inconsistencies will need to be resolved prior to the proposal being finalised; and
- 8) Delegation not been granted to Council, as the reclassification may require approval by the Governor depending on whether any land interests are to be changed.

Supporting Reasons : **The proposal to change the classification of these lots from community to operational will allow Council to potentially dispose of the excess property (Lot 16) to fund future infrastructure projects and is considered appropriate.**

Signature: _____



Printed Name: _____

Craig Diss

Date: _____

13/6/14