

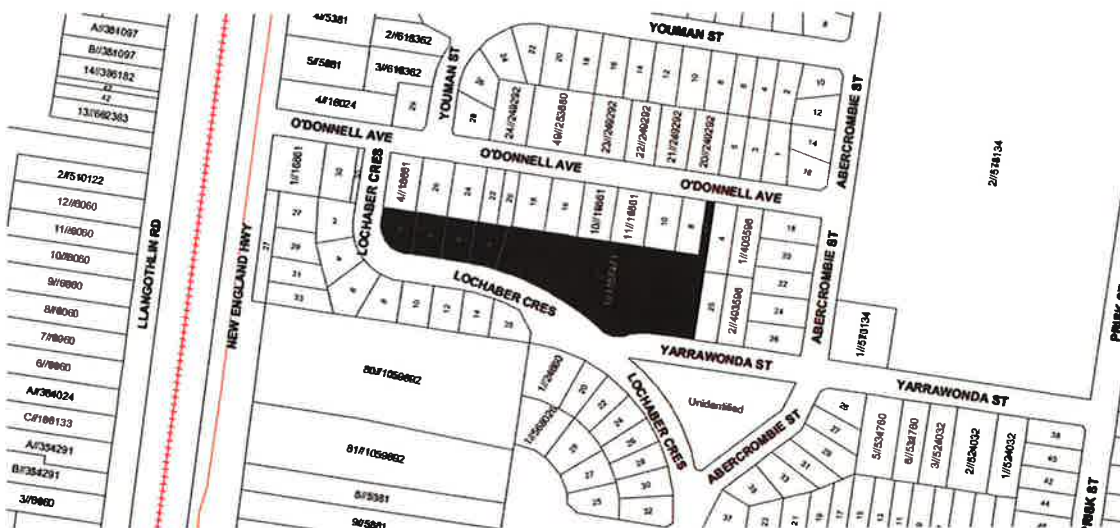
Planning Proposal Guyra LEP 2012

Part 1 – Objectives or Intended Outcomes

To reclassify the site of the Kolora aged care complex, which comprises Lots 13, 14, 15 & 16 DP 237379, Lot 1 DP 1157471 and Lot 13 DP 612522, Lochaber Crescent, Guyra, as highlighted on the map below from community land to operational land. The purpose of the reclassification is to permit the sale of the site and the buildings thereon, either in whole or in part, to provide required funding for the construction of the new aged care facility on the corner of Prisk and Sole Street, Guyra, adjacent to the Guyra Multi purpose Health Service (MPS).

The subject site is located in an area zoned R1 (General Residential) Zone under the Guyra Local Environmental Plan 2012 (LEP) and the following map identifies the site and aerial photograph shows the development in the area.

Map identifying the site and the area surrounding the site



Aerial picture of the site



Kolara Hostel Complex

Part 2 - Explanation of the Provisions

Amending Schedule 4, Part 1, of Guyra Local Environmental Plan 2012, to reclassify the lands being Lot 1 DP 1157471 upon which the Kolara Hostel Complex is built and the vacant land adjacent to the complex which comprises Lots 13, 14, 15 & 16 DP 237379 and Lot 13 DP 612522, from community to operational status.

There are no interests existing which would need to be extinguished via this amendment process.

Part 3 – Justification

Section A – Need for the Proposal

A.1 Is the planning proposal as a result of any strategic study or report?

The Planning Proposal is not a result of any strategic study and has been generated as a result of a review of Council's Land Register, which revealed that the site had been classified incorrectly as community land having regard to the Department of Local Government's Practice Note 1 Public Land Management. This review was deemed necessary after Council determined to replace the existing Kolara aged care facility with a new larger facility on a different site at which time the existing facility will be surplus to Council's needs and would be sold to meet part of the cost of the new aged care facility.

A.2 Is the planning proposal the best means of achieving the objectives or intended outcomes or is there a better way?

The Local Government Act 1993 and the Environmental Planning and Assessment Act 1979, provide comprehensive statutory and procedural requirements for the reclassification of publicly

owned lands. Following discussions with representatives of the NSW Department of Planning and Infrastructure's Regional Office, it has been determined that the most appropriate way to deal with the matter is via an amendment of the Guyra Local Environmental Plan 2012 (LEP).

Section B – Relationship to Strategic Planning Framework

B.1 Is the planning proposal consistent with the objectives and actions of the applicable regional or subregional Strategy?

There are no Regional or Sub-Regional Strategies of relevance to the subject lands. The New England North West Strategic Land Use Plan applies to the Guyra LGA. The proposal is not inconsistent with any of the objectives or actions of the New England North West Strategic Land Use Plan.

B.2 Is the planning proposal consistent with council's local strategy or other local strategic plan?

It is considered that the proposed reclassification is consistent with the New England Development Strategy approved by the Director General of the Department of Planning and Infrastructure in March 2010, the Guyra Local Environmental Plan 2012 and Council's community Strategic Plan.

B.3 Is the planning proposal consistent with applicable State Environmental Planning Policies?

The Planning Proposal is considered to be consistent with the relevant State Environmental Planning Policies (SEPPs) including the following:-

State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP 44)

The site is located within the Guyra urban area and does not contain core or potential koala habitat.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

The planning proposal has no implications in terms of the application of the provisions of SEPP. 55. None of the site is known to be contaminated.

State Environmental Planning Policy (Infrastructure) 2007

The planning proposal has no implications in terms of the application of the Infrastructure SEPP.

State Environmental Planning Policy (Major Development) 2005

The planning proposal has no implications in terms of the application of the Major Development SEPP.

State Environmental Planning Policy (Rural Lands) 2008

The planning proposal has no implications in terms of the application of the Rural Lands SEPP.

State Environmental Planning Policy No 21 - Caravan Parks

The planning proposal has no implications at this time in terms of the application of the Caravan Parks SEPP.

B.4 Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The Planning Proposal is considered to be consistent with all applicable section 117 Directions. The following provides a summary of the section 117 Directions, as relevant to the planning proposal:

3.1 Residential Zones	When this direction applies (3) This direction applies when a relevant planning authority prepares a planning proposal that will affect land within: (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted. What a relevant planning authority must do if this direction applies (4) A planning proposal must include provisions that encourage the provision of housing that will: (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design. (5) A planning proposal must, in relation to land to which this direction applies: (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land.	The subject lands are currently utilised primarily for aged care. The area is zoned R1 General Residential Zone under the Guyra LEP, and this Planning Proposal does not involve residential development. No lands are proposed to be rezoned under this Planning Proposal. The Planning Proposal is not considered to be inconsistent with this S117(2) Direction.
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4.3 Flood Prone Land	When this direction applies (3) This direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land. What a relevant planning authority must do if this direction applies (4) A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas). (5) A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone. (6) A planning proposal must not contain provisions that apply to the flood planning areas which: - permit development in floodway areas, - permit development that will result in significant flood impacts to other properties, - permit a significant increase in the development of that land, - are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or - permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development. (7) A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General). (8) For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).	The subject lands have not been identified as being subject to inundation by floodwater. No specific additional provisions relating to flood prone lands are proposed to be incorporated. The planning proposal is not considered to be inconsistent with this S117(2) Direction.
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4.4 Planning for Bushfire Protection	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land. What a relevant planning authority must do if this direction applies (4) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made, (5) A planning proposal must: (a) have regard to Planning for Bushfire Protection 2006, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. (6) A planning proposal must, where development is proposed, comply with the following provisions, as appropriate: (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with, (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks, (d) contain provisions for adequate water supply for fire-fighting purposes, (e) minimise the perimeter of the area of land interfacing the hazard which may be developed, (f) introduce controls on the placement of combustible materials in the Inner Protection Area.	The site is not located on land identified as being Bushfire Prone. The planning proposal is not considered to be inconsistent with this S117(2) Direction.
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6.2 Reserving Land for Public Purposes	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal. What a relevant planning authority must do if this direction applies (4) A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General). (5) When a Minister or public authority requests a relevant planning authority to reserve land for a public purpose in a planning proposal and the land would be required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991, the relevant planning authority must: (a) reserve the land in accordance with the request, and (b) include the land in a zone appropriate to its intended future use or a zone advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), and (c) identify the relevant acquiring authority for the land. (6) When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal relating to the use of any land reserved for a public purpose before that land is acquired, the relevant planning authority must: (a) include the requested provisions, or (b) take such other action as advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) with respect to the use of the land before it is acquired. (7) When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal to rezone and/or remove a reservation of any land that is reserved for public purposes because the land is no longer designated by that public authority for acquisition, the relevant planning authority must rezone and/or remove the relevant reservation in accordance with the request.	The Planning Proposal will not create, alter or reduce any existing zonings. No lands are proposed to be rezoned as part of the Planning Proposal. None of the lands identified in the Planning Proposal have been identified by a public authority or the Minister as being required for future public purposes. The planning proposal is not considered to be inconsistent with this S117(2) Direction.
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In addition to the Section 117 Directions nominated above, the NSW Department of Planning issued a Practice Note (PN09-003) titled "Classification and Reclassification of Public Land through a Local Environmental Plan" on 12 June 2009.

The Practice Note contains general requirements for the classification or reclassification of land. In accordance with the Practice Note, a written statement is provided addressing a range of additional matters for consideration, as follows:

Land Description:	Response
Lot 1 DP 1157471 and Lots 13, 14, 15 & 16 DP 237379 and Lot 13 DP 612522	
<i>Reason why the planning proposal is being prepared</i>	The planning proposal is being prepared to enable the land to be reclassified from community to operational thereby permitting its sale and reuse.
<i>Current and proposed classification</i>	The land is currently classified as Community and it is proposed that the land be classified as Operational Land.
<i>Council's ownership of the land</i>	The subject land is owned by Guyra Shire Council.
<i>How and when the interest was acquired</i>	The land was initially leased to Council in 1980 by the Department of Housing and it established an aged care facility what is now Lot 1 DP 1157471 and the vacant land that is lot 13 to 16 DP 237379 and Lot 13 DP 612522 which was purchased by Council in July 1998. Lot 1 DP 1157471, upon which the aged care hostel/facilities and aged self care units are located was purchased in June 2005.
<i>The reason Council acquired an interest in the land</i>	The land was leased or acquired for purpose of establishing an aged care facility or hostel for the aged together with some self care units for the aged.
<i>Any agreements over the land</i>	None registered on the title apart from a 3m drainage easement along the northern boundary of Lots 13 to 16 DP 237379.
<i>Any indication of any financial loss or gain from the reclassification of the land</i>	Future disposal of the land may result in financial gain.
<i>The asset management objectives being pursued</i>	The management of this asset is currently being conducted in accordance with Council's Asset Management Plan. The reclassification of the land will provide greater flexibility in the management of the land and attainment of Council's financial and community management objectives.
<i>Whether there has been an agreement for the sale or lease of the land</i>	There are no agreements for the lease or sale of the land.
<i>Relevant matters required in plan making under the EP&A Act</i>	The reclassification is proposed to be carried out in accordance with: • S.55 - Relevant Authority to prepare a planning proposal • S.56 – Gateway determination • S.57 – Community Consultation

Section C – Environmental, social and economic impact

C.1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities or their habitats, will be adversely affected as a result of the proposal?

The proposal will not adversely affect critical habitat or threatened species, or ecological communities, or their habitats. The site, whilst not fully developed, is cleared and any future development of the site will have due regard to potential environmental impacts of the overall proposal.

C.2 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The proposed reclassification of the land will not result in adverse environmental effects.

C.3 Has the planning proposal adequately addressed any social and economic effects?

The planning proposal is considered unlikely to result in any adverse social or economic impacts. As detailed in the preceding section, Council has prepared plans and proposes to enter into a contract for the construction of a new 32 bed aged care facility to replace the existing 22 bed facility. Once this is done the existing facility will be surplus to Council's needs and it will be sold to partially finance the construction of the new facility. The construction of a new, larger, aged care facility will have a net social and economic benefit for the Guyra LGA.

Section D – State and Commonwealth interests

D.1 Is there adequate public infrastructure for the planning proposal?

Existing public infrastructure is already adequate for the affected lands.

D.2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

No specific consultation with any State or Commonwealth public authorities is considered necessary in relation to the proposed reclassification.

Part 4 – Mapping

A locality plan illustrating the land to be reclassified is shown in Part 1 of this Planning Proposal. No changes to the Guyra LEP 2012 maps will be required to facilitate this amendment.

Part 5 – Community Consultation

As the Planning Proposal seeks to reclassify land from community to operational, it is proposed to publicly exhibit the amendment for 28 days. Public exhibition will include:

- Notification in a newspaper that circulates in the area affected by the Planning Proposal; and
- Notification on Council's website.

It is also proposed that a public hearing will be conducted after the conclusion of the public exhibition period in accordance with the guidelines outlined in the Department of Planning and Infrastructure's *A guide to preparing local environmental plans*.

Part 6 – Project Timeline

Task	Anticipated timeframe
Date of Gateway Determination	By 24 June 2013
Completion of required technical information, studies	No further studies expected.
Government agency consultation (pre exhibition as required by Gateway Determination)	Not Applicable
Any changes made to Planning Proposal resulting from technical studies and government agency consultations. Resubmit altered Planning Proposal to Gateway panel. Revised Gateway determination issued, if required.	Not Applicable
Commencement and completion dates for public exhibition.	8 July 2013 – 12 August 2013
Dates for public hearing	19 September 2013
Consideration of submissions, report from public hearing and Planning Proposal post exhibition	To Council meeting October 2013
Date of submission of proposal to Department to finalise the LEP. Note: Council is not seeking plan making delegations due to its ownership of the subject land.	1 November 2013

Conclusion-

The proposed reclassification of the subject lands from community to operational is considered to be consistent with relevant statutory and policy provisions.

The reclassification of the site will facilitate the attainment of economic and development objectives and enhance the strategic management of Council's land portfolio in accordance with applicable Best Practice Guidelines.