

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

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

Proposal Summary : **The planning proposal seeks to reclassify Lot 1 DP 952598, Vallances Road, Mullumbimby from 'community' to 'operational'.**

PP Number : **PP_2014_BYRON_002_00** Dop File No : **14/09289**

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 :	Vallances Road		
Suburb :	City :	Mullumbimby	Postcode : 2482
Land Parcel :	Lot 1 DP 952598		

DoP Planning Officer Contact Details

Contact Name : **Jenny Johnson**
 Contact Number : **0266416614**
 Contact Email : **Jenny.Johnson@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Greg Smith**
 Contact Number : **0266267219**
 Contact Email : **Greg.Smith@byron.nsw.gov.au**

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

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

MDP Number :

Date of Release :

Area of Release
(Ha) :

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings : 0
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

The NSW Government Yes

Lobbyists Code of
Conduct has been
complied with :

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 is situated immediately to the west of the Brunswick Valley Sewage Treatment Plant.

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 the potential sale of this land to fund services involved with the existing Sewerage Treatment Plant (STP) and future infrastructure projects.

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 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 be 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? **No**

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

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

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

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 need be held under section 29 of the Act as the proposal includes a 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 to facilitate access to the STP and support future options surrounding the STP.

Council has now determined through the Financial Sustainability Project Plan that it is no longer necessary to retain the land for the STP and that the sale of the land could aid Council to address the rising costs associated with the STP. The reclassification of the land from Community to Operational will allow Council to investigate the option of selling the land in accordance with the FSPP and fund future infrastructure projects.

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

Consistency with strategic planning framework :

Far North Coast Regional Strategy

The proposal to reclassify the subject lot is not inconsistent with the provisions of the Far North Coast Regional Strategy.

SEPP's

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

S117 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 :

Identify any internal consultations, if required :

No internal consultation required

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

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 Lot 1 DP 952598 Vallances Road Mullumbimby - s56_.pdf	Proposal Covering Letter	Yes
Planning Proposal - Lot 1 DP952598 Vallances Road - Mullumbimby.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 the land from community to operational will allow Council to potentially dispose of the excess property to fund future infrastructure projects and is considered appropriate.**

Signature:



Printed Name:

Craig Diss

Date:

13/6/14