



Byron LEP 2014 – Rezoning of land for North Ocean Shores Sports Field.

Proposal Title : **Byron LEP 2014 – Rezoning of land for North Ocean Shores Sports Field.**

Proposal Summary : **The planning proposal seeks to amend Byron LEP 2014 by rezoning part of Lot 5 DP 880917, Shara Boulevard, North Ocean Shores to RE1 Public Recreation to enable the development of a sports field and associated amenities.**

PP Number : **PP_2015_BYRON_001_00** Dop File No : **15/01946**

Proposal Details

Date Planning Proposal Received : **28-Jan-2015** LGA covered : **Byron**

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

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

LEP Type : **Spot Rezoning**

Location Details

Street : **Shara Boulevard**

Suburb : **North Ocean Shores** City : Postcode : **2482**

Land Parcel : **Lot 5 DP 880917**

DoP Planning Officer Contact Details

Contact Name : **Paul Garnett**

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RPA Contact Details

Contact Name : **Julie Francombe**

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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 Consistent with Strategy :

Regional Strategy :

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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 :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **The subject land is currently deferred from the Byron LEP 2014 and is therefore subject to the provisions of Byron LEP 1988. The part of the land proposed to be rezoned RE1 is currently zoned part 1(a) General Rural, part 7(k) Habitat and part 5(b) High Hazard Flood Liable.**

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 amend the Byron LEP 2014 to zone the land to enable it to be developed for a soccer field and associated amenities and facilities to serve the recreational needs of the neighbouring communities.**

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

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

Comment : **The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal. The proposal seeks to amend the LEP by amending the land zoning map to apply an RE1 zone to that part of the land proposed for the sports field and amenities building. The zone will then permit 'recreation areas' with consent.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

**1.2 Rural Zones
2.1 Environment Protection Zones
2.2 Coastal Protection
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection**

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 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP No 71—Coastal Protection
SEPP (Rural Lands) 2008**

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

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **See the assessment section of this report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The planning proposal contains maps which adequately show the site, and the proposed map changes for the LEP amendment.

Maps which comply with the Standard Technical Requirements for LEP Maps will be required prior to the LEP amendment being finalised.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal nominates a community consultation period of 28 days. In accordance with "A Guide to Preparing Local Environmental Plans" (the 'Guide'), it is considered that the planning proposal is not a low impact planning proposal as it is not consistent with surrounding land use zones, and relates to publicly owned land and will require the provision of public infrastructure. The proposal does not reclassify land. It is considered that a community consultation period of 28 days is appropriate.

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 :

Time Line

The planning proposal includes a project timeline which estimates the completion of the planning proposal in August 2015. To ensure the RPA has adequate time to complete exhibition, and finalise reporting, map preparation and legal drafting it is recommended that a time frame of 9 months is appropriate.

Delegation.

Council has requested an Authorisation to exercise delegation for this proposal. An Evaluation Criteria For the Delegation of Plan Making Functions has been provided. It is considered the matter is of local significance and it is recommended that an Authorisation for the execution of delegation be issued to Byron Council for this planning proposal.

Overall Adequacy

The planning proposal satisfies the adequacy criteria by;

- 1. Providing appropriate objectives and intended outcomes.**
- 2. Providing a suitable explanation of the provisions proposed for the LEP to achieve**

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the outcomes.

3. Providing an adequate justification for the proposal.
4. Outlining a proposed community consultation program.
5. Providing a project time line
6. Completing the evaluation criteria for the delegation of plan making functions.

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

The Byron LEP 2014 commenced in July 2014. This planning proposal seeks an amendment to the Byron LEP 2014 to include the subject land in the RE1 zone.

Assessment Criteria

Need for planning
proposal :

The proposal is the result of Byron Council's Northern Shire Sporting Fields Strategy 2008. The strategy identified the Shores United Soccer Club as the club with the most pressing need for improved facilities. Council conducted investigations into existing facilities and available Crown land however these options were either not suitable or not viable. The investigations culminated in Council purchasing the subject land in November 2013 with the intention of using it for providing sports fields for the community.

A Preliminary Assessment Report for Lot 5 DP 880917 was conducted by SGL Consulting Group Australia Pty Ltd (SGL) which concluded that the site was well located to the population areas of Ocean Shores, New Brighton and Billinudgel with excellent road and trail access and pedestrian and cycle networks already in place. The site contains an area of land already cleared and filled and suitable for public recreation, and is also large enough to accommodate multiple playing fields pending further investigation of biodiversity and flooding constraints in the southern portion of the land.

The proposal to rezone the land is the best means of achieving the intent of the planning proposal. The land is currently zoned part 1(a) General Rural, part 5(b) High Hazard Flood Liable, part 7(b) Coastal Habitat and part 7(k) Habitat. Recreation areas are permitted with consent in the 1(a) zone but are prohibited in the remaining zones. The area of 1(a) zoned land is not large enough to accommodate a soccer field and associated amenities buildings.

The Planning proposal seeks to rezone part of the land RE1 Public Recreation, in which recreation areas are permitted with consent, to enable the land to be developed for sporting purposes. Since the land is publicly owned it is appropriate for the cleared area of the site to be zoned RE1.

Consistency with strategic planning framework :

Far North Coast Regional Strategy (FNCRS).

The proposal to rezone the subject land RE1 is not inconsistent with the FNCRS. The subject land is not located within the town and village growth boundary for Ocean Shores or New Brighton however the FNCRS provides that "Open Space may be located outside of the Town and Village Growth Boundary where suitable land is not available within the mapped areas." Byron Council has demonstrated that the subject land is generally suited for public recreation and no unconstrained alternative land is available within the growth area boundaries.

Consistency with Council's Local Strategies.

The proposal is consistent with the Council's Community Strategic Plan 2022, and Northern Shire Sporting Facilities Strategy in that it will enable the delivery of sporting/recreational facilities for the northern part of the shire.

SEPPs

The proposal is not inconsistent with any State environmental planning policies (SEPPs). The proposal indicates that SEPP 44 Koala habitat Protection, SEPP 55 Remediation of Land, SEPP 71 Coastal Protection and SEPP (Rural Lands) 2008 are relevant to the subject land however the proposal to rezone the land is not inconsistent with these SEPPs.

S117 Directions.

The following S117 directions are applicable to the proposal, 1.2 Rural Zones, 1.5, Rural Lands, 2.1 Environmental Protection Zones, 2.2 Coastal Protection, 2.3 Heritage Conservation, 2.4 Recreational Vehicle Areas, 3.2 Caravan Parks and Manufactured Home Estates, 3.3 Home Occupations, 3.4 Integrating Land Use and Transport, 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, 6.2 Reserving Land for Public Purposes, and 6.3 Site Specific Provisions.

Of the above s117 Directions the proposal is considered to be inconsistent with Directions 2.1, 4.1 and 4.4.

Direction 2.1 Environmental Protection Zones is relevant to the proposal. The direction requires that a planning proposal must include provisions which facilitate the protection and conservation of environmentally sensitive areas and must not reduce the environmental protection standards that apply to the land.

The proposal is inconsistent with this direction as it applies to land, part of which contains high value native vegetation for which Council had proposed an E zone in its draft LEP. The land was deferred from the Byron LEP 2014 pending the Review of E Zones in Far North Coast LEPs (the Review). The Review has not yet been completed and consistent with the approach to other LEPs E zones will not be applied until the review is complete. Once the review is complete Council will be able to commence a planning proposal which implements the outcome of the review across the local government area in a consistent manner.

Additionally the proposal seeks to rezone an area of land which is zoned 7(k) Habitat under the Byron LEP 1988 to RE1 Public Recreation. This area of land has already been disturbed and cleared of significant native vegetation in preparation for a proposed service station which was never constructed. The RE1 zone is considered to be appropriate for this land. The concept design for the proposed recreation facilities includes compensatory planting along the boundaries of the development to offset any impact the proposed works may have on the surrounding vegetation. It is therefore considered that the inconsistency of the proposal with the direction is of minor significance and is justified in accordance with the terms of the direction.

Direction 4.1 Acid Sulfate Soils is relevant to the proposal. The direction provides that a planning proposal must not propose an intensification of land uses on land containing acid sulfate soils. The subject land does have the potential to contain acid sulfate soils, however the concept plan for the proposed development indicates excavation for the sports field will occur but is not likely to require extensive excavation below the natural

ground level as the majority of the land has already been filled in preparation for the development of the land as a service station. Provisions exist within Byron LEP 2014 to address the potential impact on acid sulfate soils at development application stage. It is therefore considered that the inconsistency of the proposal with the direction is of minor significance and has been justified in accordance with the terms of the direction.

Direction 4.4 Planning for Bushfire Protection is relevant to the proposal. Part of the subject land is bush fire prone. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a gateway determination has been issued and prior to public exhibition. Until this consultation has occurred the consistency of the proposal with the direction remains unresolved.

Direction 6.2 Reserving land for public purposes is relevant to the planning proposal. The Direction states that a planning proposal should not create alter or reduce zonings of land for public purposes without the approval of the relevant public authority and the Secretary of the Department.

The proposal seeks to rezone land to RE1 Public Recreation. This is proposed since the subject land is owned by Council and is intended to be developed for sports fields. The Council's approval to the rezoning is implicit in the planning proposal which proposes the RE1 zone. It is considered that the Secretary's delegate can agree to the proposed rezoning of the land to RE1 Public Recreation.

The proposal is otherwise consistent with S117 Directions.

Environmental social
economic impacts :

Biodiversity Impacts.

The site is located in the vicinity of endangered ecological communities and areas of koala habitat. A preliminary ecological assessment was undertaken by Planit Consulting Pty Ltd. The assessment concluded that the development of a soccer field on the northern part of the site would not impact on any critical habitat or threatened species, populations or endangered ecological communities. The proposal will require the clearing of some trees to provide parking on the Shara Boulevard road reserve however this will have less impact than if the car parking was located on the site. Further investigations of the impacts of the proposed development will be undertaken at development stage once the concept design has been refined.

An original proposal for two sports fields on the site was referred to the NSW Office of Environment and Heritage (OEH) for comment. OEH identified some deficiencies with the Ecological Site Assessment prepared by Planit Consulting Pty Ltd. It is considered that these deficiencies are relevant to the original proposal for a second sports field on the southern, vegetated portion of the site. The current proposal for a single sports field on the northern cleared portion of the site does not require further biodiversity investigation for the purposes of this planning proposal. Further assessment of biodiversity impacts can be conducted by Council at development stage.

Flooding.

The majority of the area of the land proposed to be zoned RE1 has already been filled to between 3.2 and 3.8m AHD in accordance with a previous consent for a service station. This land is already above the 1:100 year flood level. It is proposed to reduce the height of this existing fill and use the material to expand the filled area to accommodate the sports field. Council has engaged BMT WBM Pty Ltd to undertake a flood assessment of the site. The assessment concluded that the impact of a single sports field and amenities building on the existing cleared area of land to be zoned RE1, will have a minimal impact (less than 1cm) on the level of flood waters external to the site in the 100, 50 and 20 year ARI events. The modelling indicated a 4cm increase in peak flood levels in an isolated area east of Brunswick Road during the 5 year ARI. Increases in flood extent up to 2cm within the site are considered to be negligible given the land is only being used for public recreation. It is considered that the impact on flood extent from the proposal can be mitigated further when the development design is refined, and will not result in significant adverse flood impacts on adjacent land.

Aboriginal Cultural Heritage.

The proposal states that the previous consent for a service station considered potential impacts on Aboriginal cultural heritage. Further impacts are not expected as the proposed sports field will be located on the land which has been disturbed and filled in preparation for the service station. However it is recommended that Council consult with the Local Aboriginal Land Council in relation to the potential for impacts on Aboriginal cultural heritage.

Other Environmental Impacts.

The development of the proposed soccer field has the potential to impact on traffic volumes, stormwater management, noise and light spill however it is considered that these can be adequately managed at development stage.

Social Impacts

The proposal will have a positive social benefit. The provision of sporting/recreational facilities has been in demand from the local community for a number of years as is evident by the preparation of Council's Northern Shire Sporting Facilities Strategy in 2008.

Consultation with State Agencies.

As indicated above, Council has already consulted with the NSW Office of Environment and Heritage (OEH) on a concept plan which showed two sports fields on the subject land located on the northern and southern ends of the lot. OEH advised it supports the provision of a sports field on the cleared northern portion of the site however has concerns with further development of the southern portion of the site due to the potential impact on high conservation value vegetation. OEH identified that further assessments or investigations are necessary in relation to biodiversity, flooding, Aboriginal cultural heritage and impacts on adjoining nature reserves. OEH also requested to be consulted further after a Gateway determination was issued.

The development of the southern portion of the site is not part of this planning proposal and will be considered by Council at a later stage. It is considered that the biodiversity and flooding investigations undertaken for the proposed sports field on the cleared northern portion of the lot are adequate and that further investigations can be conducted when the design of the development is finalised.

OEH has also raised concerns with the potential impacts of fire, hydrology and habitat connectivity on adjoining nature reserves. It is considered that these matters relate predominantly to the development of the uncleared land in the south of the site or are matters that Council can address with OEH through final design of the development.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
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Timeframe to make LEP :	9 months	Delegation :	RPA
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Public Authority Consultation - 56(2) (d) :	Office of Environment and Heritage NSW Rural Fire Service Transport for NSW - Roads and Maritime Services Other
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Is Public Hearing by the PAC required?	No
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(2)(a) Should the matter proceed ?	Yes
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If no, provide reasons :

Resubmission - s56(2)(b) : No

If Yes, reasons :

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Identify any additional studies, if required. :

Other - provide details below

If Other, provide reasons :

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 Cover Letter for North Ocean Shores Sports Fields Planning Proposal.pdf	Proposal Covering Letter	Yes
Planning Proposal for North Ocean Shores Sports Field.pdf	Proposal	Yes
SEPP and S117 Assessment North Ocean Shores Sports Fields.pdf	Proposal	Yes
Concept Design North Ocean Shores Sports Field.pdf	Drawing	Yes
Preliminary Site Assessment North Ocean Shores Sports Field.pdf	Study	Yes
Needs and Standards Assessment North Ocean Shores Sports Fields.pdf	Study	Yes
Northern Shire Sporting Fields Strategy 2008.pdf	Study	Yes
Ecological Assessment North Ocean Shores Sports Fields.pdf	Study	Yes
Flood Assessment North Ocean Shores Sports Fields.pdf	Study	Yes
OEH Comments 10 September 2014 North Ocean Shores Sports Fields.pdf	Study	No

Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**

Additional Information :

It is recommended that;

- 1. The planning proposal should proceed as a 'routine' planning proposal.**
- 2. A community consultation period of 28 days is necessary.**
- 3. The planning proposal is to be completed within 9 months.**
- 4. A written authorisation to exercise delegation be issued to Byron Shire Council for this planning proposal.**
- 5. A delegate of the Secretary agree that the inconsistency of the proposal with S117 Directions 2.1 and 4.1 and 5.3 are justified in accordance with the terms of the direction.**
- 6. Council consult with NSW Office of Environment and Heritage, NSW Roads and Maritime Services, Local Aboriginal Land Council.**
- 7. Council consult with the Commissioner of the NSW Rural Fire Service in accordance with S117 Direction 4.4 Planning for Bush Fire Protection.**
- 8. The Secretary's delegate, as required by S117 Direction 6.2 Reserving Land for Public Purposes, agree to rezoning areas of the subject land RE1 Public Recreation.**

Supporting Reasons :

The reasons for the recommendation are as follows;

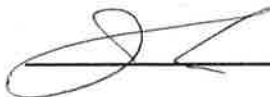
- 1. The proposal will provide much needed sporting/recreation facilities in a suitable**

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location for residents of the northern apportion of the Byron Shire.

2. The proposal to rezone the subject land to RE1 to enable its use for sporting fields is consistent with the Far North Coast Regional Strategy, Council's strategies and the inconsistencies with the S117 directions are of minor significance or are justified in accordance with the terms of the directions.

Signature:



Printed Name:

JIM CLARK

Date:

4 February 2015

