



Item: 13.4

Subject: PLANNING PROPOSAL 15 - RECLASSIFY LAND AT LOOKOUT RD FROM COMMUNITY LAND TO OPERATIONAL LAND

File/Index: 2018/AF-00133

Presented by: Daniel Bennett, Senior Strategic Planner

ALIGNMENT WITH DELIVERY PROGRAM

(CL) CIVIC LEADERSHIP

(CL.1) Council is an organisation that embraces business excellence.

(CL.1.4) Best practice, sustainability principles, accountability and good governance are incorporated in all we do..

(CL.1.4.2) Council's Planning and development assessment services provides advice and planning assistance and process Development Applications and other relevant applications.

RECOMMENDATION

That Council resolves to prepare a Planning Proposal to reclassify land at "Lookout Road", Bellingen, from community land to operational land.

EXECUTIVE SUMMARY

Council owns a section of land described as Lookout Road, which comes off Bowraville Road near the Bellingen Waste Transfer station. This used to be a Crown road but it is now classified as "community land" in accordance with the provisions of the NSW Local Government Act 1993.

In order to provide legal access to an adjoining parcel of privately owned land, it is proposed to reclassify this land as "operational land". This requires an amendment to Bellingen Local Environmental Plan 2010 and it is recommended that Council resolves to prepare a planning proposal to commence this process.

REPORT DETAIL

Background

Bellingen Shire Council is the owner of a small portion of former Crown road that is colloquially known as "Lookout Road". This small portion of land was added to the adjoining Reserve R87120 in 1972 before being vested in the ownership of Council. Reserve R87120 is a "*Reserve for Public Recreation*".

The portion of land referred to as Lookout Road adjoins Lot 11 DP 807439. This land was recently purchased by the current owner who had formed an opinion that he could obtain legal vehicular access to his property from Lookout Rd, on the basis of advice that had been issued by Council.

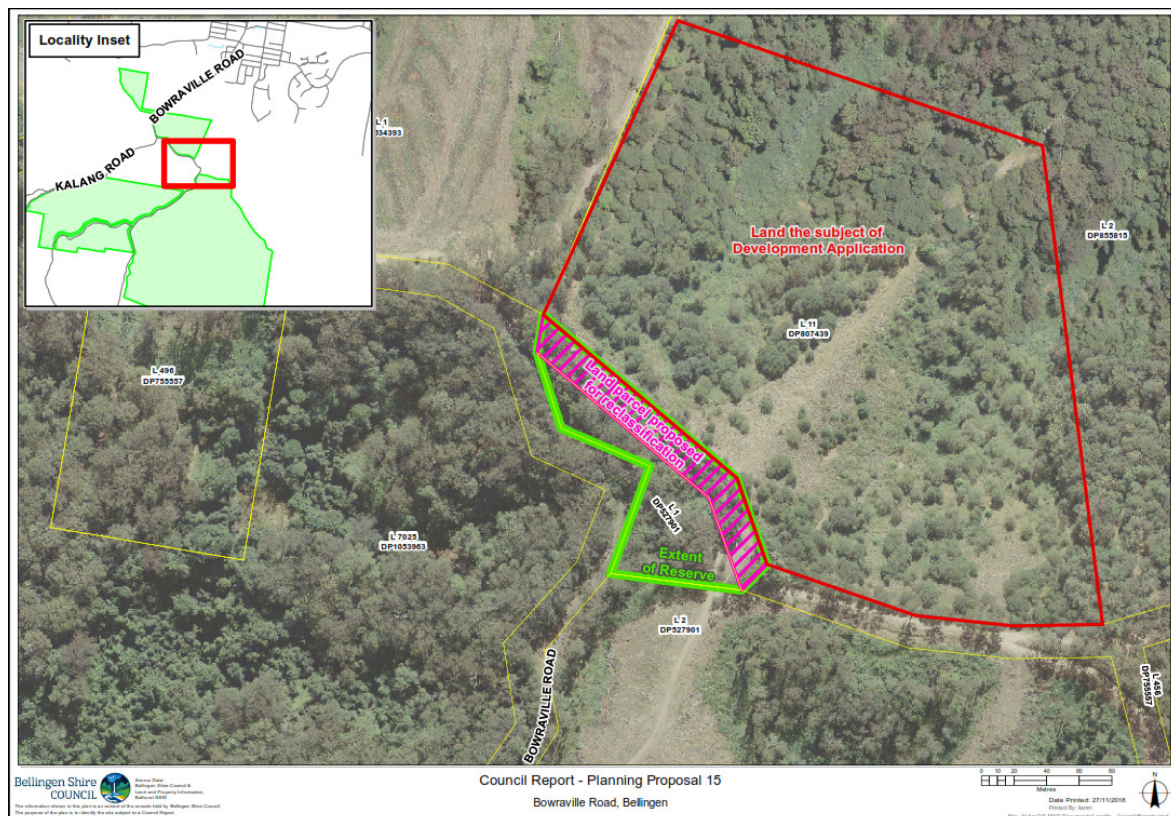


Upon further investigation, it became evident that this land could not be endorsed by Council as a legal form of vehicular access to the relevant property. In addition to this, there are no other legally or economically viable forms of access to the property.

The property owner has submitted a Development Application to Council for the erection of a dwelling on the subject property which cannot be approved until such time as legal access is made available to the property.

In the circumstances, it is proposed that Council undertake the necessary steps to provide legal access to the property from Lookout Road.

The relevant properties are shown in the mapping extract below.



What needs to happen to provide legal access from Lookout Road to Lot 11 DP 807439?

Council can provide legal access over the relevant section of land that would allow the owner to traverse it in order to access their property. This cannot take place though for as long as the land is classified as "Community Land" under the provisions of the NSW Local Government Act 1993. In order for Council to grant the necessary permissions to use this land for access the relevant land parcel would need to be reclassified as "Operational Land".

Land can be reclassified from “Community Land” to “Operational Land”, however this involves a number of processes, one of which is the preparation of an amendment to Councils Local Environmental Plan through the preparation of a “Planning proposal”.



Another thing that needs to happen for a reclassification of land from “Community Land” to “Operational Land” is that Council must arrange a public hearing in respect of the planning proposal whilst it is on public exhibition.

In general terms, the processes involved in reclassification are designed to ensure sufficient levels of probity and transparency for public authorities when considering changes to community land, so that important community land functions are not progressively lost.

A copy of an LEP Practice Note issued by the NSW Department of Planning & Environment, and describing the reclassification process, is included as Attachment A.

Should Council support the reclassification of the relevant land parcel?

The relevant land parcel was historically created as a section of road reserve and, in effect, continues to serve an access function in the locality. The land does not have significant amenity in its own right, or as an addition to Reserve R87120, for the purposes of Public Recreation.

The lower section of the access track is shown in the following image. This portion of the track would be utilised to obtain access to the adjoining private land parcel, through the gate which is visible to the right of the photo.



The upper section of the track that leads up to the lookout area is heavily eroded and is shown in the following image.



The reclassification of the land to "Operational" land would not necessarily result in any reduction in the ability of the public to access this land parcel, but would allow for the registration of a legal interest in using the land for access to the adjoining land parcel.



In the circumstances, it does not appear that there would be any significant adverse impact accruing to the community resulting from the change in classification.

BUDGET IMPLICATIONS

Council will incur costs in advertising the planning proposal and in arranging for a public meeting. The public meeting cannot be run by Council and this means that a suitably qualified person will need to be engaged to perform this function.

SUSTAINABILITY ASSESSMENT

There are no significant sustainability implications associated with this matter. The subject land will remain as public land, with no effective limitations imposed upon ongoing use by the general public.

ENGAGEMENT

The Bellingen Shire Council Community Engagement Strategy was adopted by Council at its Meeting 22 February 2012. This strategy is designed to outline the approach Bellingen Shire takes towards engaging with our community.

Having regards to the Community Engagement Strategy it is considered that the actions/initiatives contained within this report are appropriately categorised as having a LEVEL 4 impact (Low impact – local).

To address the requirements of Council's Community Engagement Strategy, the *NSW Local Government Act 1993*, and the *Environmental Planning & Assessment Act 1979* it is proposed to carry out the following engagement actions.

- Advertise the Planning Proposal for a minimum period of 28 days.
- Notify adjoining landowners.
- Hold a Public Meeting in respect of the Planning Proposal.
- Place copies of the Planning Proposal amendment on "Create"
- Place hard copies of the Planning Proposal on public exhibition at the Bellingen Shire Council Administrative Centre and the Bellingen Library.

ATTACHMENTS

13.4.A Attachment A - LEP Classification Practice Note