

Planning Services

Gateway Determination Report

LGA	Oberon Council
RPA	Oberon Council
NAME	Rezone open space, public reserves and public parks, insert zone RE1 Public Recreation and remove the minimum lot size map for the subject lots in the Oberon Local Environmental Plan 2013.
NUMBER	PP_2017_OBERO_001_00
LEP TO BE AMENDED	Oberon Local Environmental Plan 2013
ADDRESS/ DESCRIPTION	Item 1: Black Springs Recreation Reserve (Lot 160 / DP 757072) - zone RU5 Village to RE1 Public Recreation – total area of 7.8ha Item 2: Burruga Recreation Reserve (Lot 701/ DP 1024537 and Lot 1 Sec 9 / DP 758196) – zone RU1 Primary Production to RE1 Public Recreation – total area of 5.2ha Item 3: The Reef Reserve (Lot 7004/DP 1032531, Lot 7005/ DP 1032531, Lot 7003/DP 1032531, Lot 7006/DP 1032531) -zone RU1 Primary Production to RE1 Public Recreation – total area of 45ha Item 4: Bligh Street Reserve (Lot 7306/DP1141921, Lot 1 Sec 63 /DP 758805, Lot 2/DP 758805, Lot 3 Sec 63 /DP 758805) zone R1 General Residential to RE1 Public Recreation – total area 0.9ha Item 5: Oberon Dam Reserve 17 Ross Street, Oberon (Part Lot 7307/DP 1141921) – zone RE2 Private Recreation to RE1 Public Recreation – total area 75.5ha Item 6: Oberon Rugby League/Hockey/Netball Grounds (Lot 2/DP 1098783, Lot C/DP 158146, Lot 1/DP 248152) - zone R1 General Residential to RE1 Public Recreation – total area 4.9ha Item 7: Oberon Recreation Reserve (Lot 228/DP 757068, Lot 1/DP 904155, Lot 7015/DP 1051799, Lot 2/DP 904155) - R1 General Residential to RE1 Public Recreation – total area 5.8ha Item 8: Oberon Common (Lot 701/DP 1032524, Lot 7305/DP 1138538, Lot 3/DP 1126275, Lot 1/DP 1074906) - R1 General

Residential to RE1 Public Recreation – total area 6.2ha

Item 9: Apex Park, Oberon (Lot 31 Sec C DP 2364) zone R1
General Residential to RE1 Public Recreation – total area 0.5ha

Item 10: Richards Park North (Lot 90/DP 748894) - R1 General
Residential to RE1 Public Recreation – total area 0.9ha

Item 11: Richards Park South (Lot 25/DP 879315) - R1 General
Residential to RE1 Public Recreation – total area 0.7ha

Item 12: Glyndwr Avenue Reserve (Lot 1/DP 865394) - R1
General Residential to RE1 Public Recreation – total area 0.07ha

Item 13: Cunynghame Oval (Lot 36/DP 848153) - R1 General
Residential to RE1 Public Recreation – total area 1.3ha

Item 14: Miss Wilson Park (Lot 34/DP 700974) - R1 General
Residential to RE1 Public Recreation – total area 0.07ha

Item 15: Oberon Showground (Lot 7016 DP 1051795, Lot 1 DP 375865, Lot 3 Sec 38 DP 758805, Lot 1 DP 823445, Lot 216 DP 757068, Lot 4 Sec 39 DP 758805, Lot 3 Sec 39 DP 758805, Lot 219 DP 757068, Lot 252 DP 757068) - zone R1 General
Residential to RE1 Public Recreation – total area 5.1ha

RECEIVED	14 August 2017
FILE NO.	17/05476-1
QA NUMBER	qA407664
POLITICAL DONATION DISCLOSURE	There are no known donations or gifts to disclose and a political disclosure is not required.
LOBBYIST CODE OF CONDUCT DISCLOSURE	There have been no known meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of Planning Proposal

Council intends to apply the RE1 Public Recreation zone to existing public land currently used for recreation, open space and parkland related uses.

The RE1 zone is not currently included in the Oberon LEP 2013. The amendment will allow a suite of associated land uses in addition to recreation, such as camping grounds. This is consistent with the land use table in the Standard Instrument Order (2006) and reflects the current land uses on the sites.

The planning proposal has been initiated by Council following a request from the Department of Primary Industries – Lands on behalf of the Oberon Showground Trust in relation to the ongoing use of the showground facilities for camping. The showground facilities have been used on occasion for camping in conjunction with events held at the site (for example, the Oberon Show). It has been identified as part of this enquiry that the showground and all public reserves, open spaces and recreation areas in the Oberon LEP 2013 are not appropriately zoned as RE1 Public Recreation.

Please note the subject lots and proposed zoning in the item number, address and description section of this report.

The proposed rezoning is consistent with the outcomes included in the Oberon Land Use Strategy.

It is not considered appropriate that Council be issued delegation to exercise plan making functions for this proposal as Council has interests in a number of parcels of land.

The Director Regions, Western can utilise delegation to determine this planning proposal. The proposal will allow for better and more appropriate regulation and management of land uses on public land in the Oberon Council area and clearly identify land intended for public recreation use.

In additional information provided by Council the issue of reclassification is proposed.

Reclassification was not part of the original proposal and not part of Council resolution. Therefore reclassification has not been considered as part of the Gateway determination.

Summary of Recommendation

Proceed with Condition - The amendment will allow a suite of associated land uses in addition to recreation, such as camping grounds. This is consistent with the land use table in the Standard Instrument Order (2006) and reflects the current land uses on the site.

PROPOSAL

Objectives or Intended Outcomes

The planning proposal identifies that the objectives of are to:

- Include RE1 Public Recreation zoning and land use provisions into the Oberon Local Environmental Plan 2013 for recreation, open space and parkland areas consistent with the Standard Instrument – Local Environmental Plan.
- Appropriately zone and identify permissible compatible land uses for areas of recreation, open space and parkland in the Oberon Council area.
- Identify and regulate ongoing and future land use on public recreation areas, open space and parkland in the Oberon Council area.
- Remove the minimum lot size provision for the subject lots (apart from Lot 2/DP 1098783, Lot C/DP 158146, Lot 1/DP 248152).

Explanation of Provisions

- The explanation of provisions clearly states that the objective of the planning proposal will be achieved by amending the legend and the LZN map series zoning land RE1 Public Recreation on Land Zoning Map Sheets and remove the minimum lot size provision from the LZN maps (apart from Lot 2/DP 1098783, Lot C/DP 158146, Lot 1/DP 248152).

Mapping

Adequate locality maps are included in the Planning Proposal to identify the subject land to proceed to community consultation.

A condition will be imposed in the Gateway determination requiring the preparation of final maps in accordance with the Departments Standard Technical Requirements for LEP Maps at finalisation of the LEP (Condition 6).

Council Report

The Council Resolution supports the amendments proposed in the report.

NEED FOR THE PLANNING PROPOSAL

The planning proposal is required to amend the Oberon Local Environmental Plan 2013 to make amendments to the items identified. A planning proposal is the only mechanism to amend the LEP and achieve the desired outcome.

The planning proposal has been initiated by Council following a request from the Department of Primary Industries – Lands on behalf of the Oberon Showground Trust in relation to the ongoing use of the showground facilities for camping. The showgrounds facilities have been used on occasion for camping in conjunction with events held at the site (for example, the Oberon Show). It has been identified as part of this enquiry that the showground and all public reserves, open spaces and recreation areas in the Oberon LEP are not appropriately zoned RE1 Public Recreation in the Oberon LEP 2013.

This proposal will achieve the objectives and intended outcomes of RE1 Public Recreation zoned land.

STRATEGIC ASSESSMENT

State

N/A – there is no State strategic planning framework applicable to the proposal.

Regional / District

The Central West and Orana Regional Plan applies to this proposal. The proposal has not considered the final Central West and Orana Regional Plan. Council is to address the Regional Plan prior to community consultation.

Local

The planning proposal notes that it is consistent with the Oberon Land Use Strategy 2011 which provides that recreation and open space land uses are to be protected by appropriate zoning to ensure they are available to meet the creation needs of the community. The rezoning of the lots to RE1 Public Recreation is consistent with the strategy.

Section 117(2) Ministerial Directions

1.1 Business and Industrial Zone

This Section 117 Direction applies to the proposal as three of the subject lots are currently zoned IN1 General Industrial. The proposal to rezone the land is inconsistent with this direction as the

direction requires the location of existing industrial sites be retained, and that a planning proposal not reduce the total potential floor space for industrial sites. The current use of the land is not reflected by the industrial zoning. Rezoning the three industrial lots will better reflect the current and intended future use of the land for recreation purposes. The Director Regions, Western can be satisfied that the proposal is considered of minor significance and no further work is required. The proposals inconsistency with this Direction is considered minor in nature.

1.2 Rural Zones

This Section 117 Direction applies to six of the subject lots that are currently zone RU1 Primary Production. These lots are proposed to be rezoned to RE1 Public Recreation. The proposal to rezone the land is consistent with this direction, as the planning proposal does not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. The current use for the land is not reflected by the rural zoning. Rezoning the subject lots will better reflect the current and intended future use of the land for recreation purposes.

1.5 Rural Lands

This Section 117 Direction applies to six of the subject lots that are currently zone RU1 Primary Production. These lots are proposed to be rezoned to RE1 Public Recreation. The proposal is consistent with this Direction as the current use for the land is not reflected by the rural zoning. Rezoning the subject lots will better reflect the current and intended future use of the land for recreation purposes.

3.1 Residential Zones

This Section 117 Direction applies to the subject lots that are currently zoned R1 General Residential. These lots are proposed to be rezoned to RE1 Public Recreation. The proposal to rezone the land is inconsistent with this direction as the planning proposal reduces the permissible density of residential land on the subject lots. The current use for the land is not reflected by the residential zoning. Rezoning the subject land will better reflect the current and intended future use of the land for recreation purposes. The proposal inconsistency with this Direction is justified by the endorsed Oberon land Use Strategy 2011 which provides that recreation and open space land uses are to be protected by appropriate zoning to ensure they are available to meet the creation needs of the community. The Director Regions, Western can be satisfied that the inconsistency is justified by the Oberon Land Use Strategy and no further work is required.

4.3 Flood Prone Land

This proposal intends to appropriately zone public owned land to a public recreation zone. Some of this land is affected by waterways and prone to inundation. Rezoning the land to RE1 Public Recreation zone will better reflect the appropriate use of flood prone land in Oberon. The proposal is not proposing to change the flooding provisions or allow more permanent sensitive uses. The planning proposal is consistent with this Direction as it does not remove or alter a provision that affects flood prone land.

4.4 Planning for Bushfire Protection

This Section 117 Direction applies to the proposal. The proposal is not proposing to change the current use of the subject land. The planning proposal is consistent with this Direction as it does not remove or alter a provision that bushfire prone land.

5.10 Implementation of Regional Plans

The proposal has not considered the final Central West and Orana Regional Plan. Council is to address the Regional Plan prior to community consultation.

6.2 Reserving Land for Public Purposes

This Section 117 Direction applies to this proposal. The subject land is in public ownership and will remain for public purposes. The intention of the proposal is to better reflect public ownership and existing future use of the land. The proposal will not reduce the number of lots available for public open space in the Oberon LGA but formally zone land for public use. The Director Regions, Western can agree to the proposal and no further approval is required in terms of this Direction.

The planning proposal also briefly considers the following Section 117 Directions, and no relevant inconsistencies are identified in this case:

- 2.1 Environmental Protection Zones
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.5 Development near licensed aerodromes
- 3.6 Shooting Ranges
- 4.1 Acid Sulphate Soils
- 4.2 Mine Subsidence and Unstable Land
- 5.1 Implementation of Regional Strategies
- 5.2 Sydney Drinking Water Catchment
- 6.1 Approval and Referral Requirements
- 6.3 Site Specific Provisions.

State Environmental Planning Policies

SEPP (Rural Lands) 2008

The planning proposal is consistent with this SEPP as it will not change the current use of the subject land or permit development. There is no further work required for this matter.

SEPP 44 Koala Habitat Protection

This SEPP applies to the planning proposal as Oberon is listed in Schedule 1 of the SEPP. The Planning Proposal is consistent with this SEPP as it will not change the current use of the subject land or permit development. There is no further work required for this matter.

SEPP 55 Remediation of Land

The planning proposal considers past land uses and it is identified that there are no known potential contaminant which would prevent future development of the land. There is no further work required for this matter at this stage. Council can consider this matter with specific development applications.

SITE SPECIFIC ASSESSMENT

Social

It is noted that the proposal to rezone land to RE1 Public Recreation for the purposes of recreation, open space and parkland is consistent with the recommendations of the Oberon Land Use Strategy adopted by Council in 2012. The amount of public land available will not be reduced and not result in a social cost to the community.

Environmental

The planning proposal is likely to have an overall positive impact on subject land. The direct impacts of the proposal will to reflect and rezone to land already utilised for recreation, open space and parkland uses.

The proposal will strengthen the zoning and land use objectives applied to recreational, open space and parkland areas and will ensure development is compatible with the nature of the subject land, as identified in the proposal. This will retain social infrastructure and service in Oberon and potentially stimulate indirect economic impacts.

Economic

The proposal will have economic benefits as the recreational zoning will be confirmed and will allow for example the Oberon Showground to be used for camping which is currently prohibited.

CONSULTATION

Community

It is proposed to exhibit the proposal for a minimum period of 28 days. This is considered adequate given the extent of public land being rezoned.

It is recommended that public notification include notification in local newspapers, notice on Council's website. Hard copies of the Planning Proposal should also be made available at Council's Administrative Office.

Agencies

Consultation with DPI – Lands is required

TIMEFRAME

A 12 month timeframe to complete the proposed LEP amendment is considered appropriate given the nature of the proposal.

DELEGATION

Council have not requested delegation. Council are owners and trustee of the land the subject to this proposal. For this reason, it is not considered appropriate that Council be authorised to exercise delegation in this case.

CONCLUSION

The planning proposal is supported to proceed with conditions. The nature of the amendments are of local significance.

RECOMMENDATION

1. Prior to community consultation the planning proposal is to be amended to address Section 117 Direction 5.10 - Implementation of Regional Plans. This work is to address the final Central West and Orana Regional Plan.
2. Community consultation is required under Sections 56(2)(c) and 57 of the *Environmental Planning and Assessment Act 1979* as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposal as identified in section 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning & Environment 2016).
3. Consultation is required with the Department of Primary Industry - Lands under Section 56(2)(d) of the Act. The Department of Primary Industry - Lands is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
4. A public hearing is not required to be held into the matter by any person or body under Section 56(2)(e) of the *Environmental Planning and Assessment Act, 1979*. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. Prior to submission of the planning proposal under Section 59 of the *Environmental Planning and Assessment Act 1979*, the final LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2015.
6. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.
7. That authorisation to exercise delegation not be granted as Council has an interest in the subject land.
8. Public Land Reclassification is not part of this Gateway determination.



13.9.17

Wayne Garnsey
Team Leader, Western



13.9.17

Katrine O'Flaherty
Director Regions, Western
Planning Services

Contact Officer: Amanda Carnegie
Planning Officer, Western Region
Phone: (02) 6841 2180