
PS11/ PLANNING PROPOSAL – RECLASSIFICATION AND REZONING OF
CERTAIN COUNCIL OWNED COMMUNITY LANDS

05.9314

SYNOPSIS

The purpose of this report is to seek Council support for a planning proposal to reclassify and rezone 52 parcels of Council owned community land, and forward it to the NSW Department of Planning for consideration in accordance with the Gateway Process.

BACKGROUND

The planning proposal seeks to amend Council's current Urban and Rural Local Environmental Plans for the purposes of rezoning and/or reclassifying various parcels of Council owned Community Land as described in Tables 1 and 2 below.

The subject land has been identified through: a land audit and needs analysis undertaken to inform Council's Recreation and Open Space Strategy, Council resolution, and a Council staff initiated review. All land has been identified as surplus to Council and community needs.

The planning proposal includes 56 properties - 41 of which are proposed to be reclassified and rezoned, and 15 of which are to be reclassified only. Of the 56 properties, 21 are from the Recreation and Open Space Strategy investigation lands, 33 staff investigation lands and 2 properties have been identified through Council Resolution.

All properties are within the ownership of Eurobodalla Shire Council and identified as being either underutilised and surplus to Council's needs, or the current land use is contrary to the community land classification. The purpose of reclassification is therefore to either align land classification with the current land use or assist Council to consider long term leases, sale, subdivision or land swaps where appropriate for that land not currently or planned to be used as community land. In many cases the rezoning and reclassifications will enable the land to be sold and provide proceeds to be reinvested into Council assets which are more financially sustainable or of greater benefit to the community.

The Department of Local Government's Integrated Planning and Reporting System, emphasises the need for Council's to review the life cycle costs of their assets, the risks and liabilities associated with those assets and the level of utilisation of the assets. It also identifies the need to get the maximum benefits from Council's assets, with minimal costs. In line with this, Council's adopted Recreation and Open Space Strategy outlines that enhancement of the open space network will mean strategic rationalisation, consolidation and divestment to allow Council to allocate recreation funding to key spaces.

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Table (1) – Land to be Reclassified and Rezoned

No	Lot and DP	Address	Suburb	Area	Current Zone	Proposed Zone under current LEP	Proposed Zone (under the Draft LEP)	Identified through Recreation Strategy	Interests Changed	Intention	
1	Lot 5 DP 748651	Paul Place	Batehaven	425.1	m	6a1	2g	R2	N	Y	Subdivide and sell with remaining land returned to Open Space
2	Lot 3520 DP 719237	Grantham Road	Batehaven	2.902	Ha	6a1	2g	R2	N	Y	Subdivide and sell with remaining land returned to Open Space
3	Lot 56 DP 708346	Edward Road	Batehaven	1.401	Ha	6a1	2g	R2	N	Y	Subdivide and sell with remaining land returned to Open Space
4	Lot 388 DP 248840	31 Gregory Street	Batemans Bay	1.179	Ha	6a1	6a1	R3/IN2	N	Y	Sell
5	Lot 23 DP 752131	3a Merriman Place	Bodalla	4104	m	6a1	2g	R2	N	Y	Subdivide and sell with remaining land returned to Open Space
6	Lot 58 DP 739830	34a Iluka Street	Broulee	1217.5	m	6a1	2g	R2	Y	Y	Sell
7	Lot 38 DP 718667	Train Street	Broulee	877.1	m	6a1	2g	R2	Y	Y	Sell
8	Lot 2 DP 729153	61 Calga Crescent	Catalina	5.034	Ha	6a1	2g	R2	Y	Y	Subdivide and sell with remaining land returned to Open Space
9	Lot 693 DP 249461	Penguin Place	Catalina	2.552	Ha	6a1	2g	R2	Y	Y	Subdivide and sell with remaining land returned to Open Space
10	Lot 147 DP 882164	Hakea Place	Catalina	7806	m	6a1	2g	R2	Y	Y	Subdivide and sell with remaining land returned to Open Space
11	Lot 66 DP 261646	Mummaga Lake Drive	Dalmeny	9332	m	6a1	2g	R2	Y	Y	Subdivide and sell with remaining land returned to Open Space
12	Lot 13 DP 785266	White Sands Place	Denhams Beach	2050	m	6a1	2g	R2	Y	Y	Sell

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No	Lot and DP	Address	Suburb	Area	Current Zone	Proposed Zone under current LEP	Proposed Zone (under the Draft LEP)	Identified through Recreation Strategy	Interests Changed	Intention
13	Lot 88 DP 803087	Lewana Close	Lilli Pilli	4829	6a1	2g	R2	N	Y	Sell
14	Lot 41 DP 1061842	Bunderra Circuit	Lilli Pilli	6.095	6a1	2g	R2	N	Y	Subdivide and sell with remaining land returned to Open Space
15	Lot 246 DP 569875	Maloneys Drive	Maloneys Beach	2.285	6a1	2g	R2	Y	Y	Subdivide and sell with remaining land returned to Open Space
16	Lot 14 DP 701609	Maloneys Drive	Maloneys Beach	646.6	6a1	2g	R2	N	Y	Sell
17	Lot 17 DP 264212	Shelley Road	Moruya	1517.2 6	6a1	4a	IN1	Y	Y	Sell
18	Lot 11 DP 771497	Jeffery Place	Moruya	1518	6a1	2g	R2	Y	Y	Sell
19	Lot 11 DP 809702	1a Panorama Parade	Moruya	1.302	6a1	2g	R2	N	Y	Subdivide and sell with remaining land returned to Open Space
20	Lot 1 DP 250216	Campbell Street	Moruya	4066	6a1	2g	R2	N	Y	Subdivide and sell with remaining land returned to Open Space
21	Lot 22 DP 260248	Bushland Road	Moruya	2.817	1a/7a	1a/7a	E3	N	Y	Sell
22	Lot 51 DP 771497	9-7 Pioneer Avenue	Moruya	2289	6a1	2g	R2	N	Y	Subdivide and sell part, gazette part as road with remaining land returned to open space
23	Lot 91 DP 631493	North Head Drive	Moruya	4789	1a	7a	E2	N	Y	Gazette as road with remainder returned to Open Space
24	Lot 55 DP 1075538	42 Shelley Road	Moruya	5630	4a1	4a1	IN2	N	N	Potential future road for access to industrial expansion area
25	Lot 90 DP 713637	Rose Street	Moruya	7109	6a1	6a1	SP2	N	Y	Cemetery expansion

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No	Lot and DP	Address	Suburb	Area	Current Zone	Proposed Zone under current LEP	Proposed Zone (under the Draft LEP)	Identified through Recreation Strategy	Interests Changed	Intention	
26	DP 26279	Preddeys Wharf Road	Moruya Heads	63.225	m	6a1	2g	R2	N	Y	Gazette as road
27	Lot 558 DP 752155	3a McMillan Road	Narooma	1796	m	6a1	2g	R2	Y	Y	Sell
28	Lot 21 DP 825840	2 Chisholm Place	Narooma	862	m	6a1	2g	R2	Y	Y	Sell
29	Lot 2 DP 244134	Penthouse Place	North Batemans	1.498	Ha	6a1	2g	R2	N	Y	Subdivide and sell with remaining land returned to Open Space
30	Lot 173 DP 262910	Hume Road	Sunshine Bay	2.505	Ha	6a1	2g	R2	Y	Y	Sell
31	Lot 214 DP 830979	Wentworth Avenue	Sunshine Bay	2738	m	6a1	2g	R2	N	Y	Sell
32	Lot 9 DP 774356	Sunshine Bay Road	Sunshine Bay	2411	m	6a1	2g	R2	N	Y	Sell
33	Lot 216 DP 830979	Wentworth Avenue	Sunshine Bay	866.4	m	6a1	2g	R2	N	Y	Sell
34	Lot 3 DP 622389	Beach Road	Surf Beach	501.8	m	6a1	2t	R3	N	Y	Subdivide and sell part, gazette part as road with remaining land returned to open space
35	Lot 14 DP 30365	Bayview Street	Surf Beach	1929	m	6a1	2t	R3	N	Y	Subdivide and sell part, gazette part as road with remaining land returned to open space
36	Lot 47 DP 262947	32 Eric Fenning Drive	Surf Beach	994.1	m	6a1	2g	R2	N	Y	Sell
37	Lot 852 DP 214160	The Vista	Surf Side	347.8	m	6a1	3a	B2	Y	N	Sell
38	Lot 851 DP 214160	The Vista	Surf Side	347.8	m	6a1	3a	B2	Y	N	Sell

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39	Lot 853 DP 214160	The Vista	Surf Side	347.8	6a1	3a	B2	Y	N	Sell
40	Lot 850 DP 214160	The Vista	Surf Side	347.8	6a1	3a	B2	Y	N	Sell
41	Lot 277 DP 218664	Tuross Boulevard	Tuross Head	1539	6a1	2g	R2	Y	Y	Subdivide and sell part, gazette part as road with remaining land returned to open space

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Table (2) – Land to be Reclassified

No.	Lot and DP	Address	Suburb	Area	Current Zone	Proposed Zone under current LEP	Proposed Zone (under Draft LEP)	Identified through Recreation Strategy	Interests Changed	Intention
42	Lot 1 DP 327858	Bumbo Road	Bodalla	1.14	Ha	1a	RU1	Y	N	Gazette as road
43	Lot 1 DP 1144366	17 Imlay Street	Broulee	595.9	m	2g	R2	Y	N	Sell
44	Lot 56 DP 849895	Blairs Road	Long Beach	2.561	Ha	6a1	SP2	N	Y	Lease
45	Lot 127 DP	13a Litchfield Crescent	Long Beach	1702.6	m	2g	R2	N	Y	Sell
46	Lot 15 DP 1013717	Bergalia Street	Moruya	660.8	m	2g	R2	Y	Y	Sell
47	Lot 95 DP 631493	North Head Drive	Moruya	1836	m	1(a)	E3	N	N	Sell
48	Lot 36 DP 264448	Maclean Place	Moruya	12.83	Ha	1c	RU1	N	Y	Subdivide and sell with remaining land returned to Open Space
49	Lot 3 DP 631315	Queen Street	Moruya	140.8	m	5b1	B2	N	Y	Gazette as road
50	Lot 102 DP 710162	Queen Street	Moruya	140	m	5b1	B2	N	N	Gazette as road
51	Lot 13 DP 838695	Costin Street	Narooma	552.1	m	2g	R2	N	N	Sell
52	Lot 2 DP 34654	Runnyford Road	Nelligen	126.5	m	1(c)	SP2	N	Y	No Change
53	Lot L DP 362231	95 Trafalgar Road	Tuross Head	8871.5 ₂	m	6a1	RE1	N	N	No Change

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No.	Lot and DP	Address	Suburb	Area	Current Zone	Proposed Zone under current LEP	Proposed Zone (under Draft LEP)	Identified through Recreation Strategy	Interests Changed	Intention
54	Part Lot 33 DP 207386	2-10 Ainslie Parade	Tomakin	2950	6a1	6a1	RE1	N	Y	No change. Insert enabling clause to legitimise use in lieu of zoning change
55	Lot 1156 DP 529665	587 George Bass Drive	Malua Bay	4.066	6a1	6a1	RE1	N	Y	Gazette part as road with remaining land returned to Open Space
56	Lot 94 DP 631493	North Head Drive	Moruya	1996	1a	1a	SP2	N	N	Gazette as road

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Planning Proposal Process

The Planning Proposal has been prepared in accordance with the Department of Planning's publications: *A guide to preparing planning proposals* and *A guide to preparing local environmental plans* (NSW Department of Planning July 2009). The planning proposal addresses the matters required by the Director General to be addressed in all planning proposals.

Should Council wish to proceed, the planning proposal will be forwarded to the Minister for Planning for 'Gateway Determination'. The intention of the gateway process is to allow a planning proposal to be reviewed at an early stage to make a decision whether to proceed further, before significant resources are committed.

At the gateway determination stage the Minister will decide:

1. Whether the proposal will proceed, with or without variation;
2. The level of community consultation required;
3. Whether input from State and Commonwealth authorities is required;
4. The appropriate timeframes for the various stages of the proposal.

Following the gateway determination the proposal may, in accordance with the determination be publicly exhibited, government authority view will be sought and Council will consider any submissions received.

Under the new planning procedures it is only the planning proposal and supporting documents which is exhibited. The written legal instrument (draft LEP) is prepared by Parliamentary Counsel when the planning proposal is finalised immediately before it is made by the Minister or their delegate. The LEP takes effect when it is published on the NSW legislation website.

ISSUES

Rally for Recovery

Rally for Recovery is a not for profit charity which raises money for cancer research. The group has been operating from a former Rural Fire Shed located at Tomakin. Rally uses the shed to store donated goods and subsequently conducts sales on site approximately once a month. The sales are extremely successful and as a result Rally has outgrown the current shed and have expressed an interest in demolishing the bushfire shed and constructing a 500m² L-shaped building around the existing community hall. Alternatively they have expressed a desire to continue to use the site in its current form.

Council's position is that the use of the premises for the warehousing and sale of second hand goods falls within the definition of a "shop" under the Eurobodalla Urban Local Environmental Plan 1999 and is not permissible under the 6a1 Open Space zone applying to the land. Dialogue with the group has been ongoing about this for some time, during which Council has provided advice in regard to the location of appropriately zoned lands.

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In recent times Council considered a report at the Policy and Strategy Meeting 5 October 2010, regarding legal advice received about the use of the former rural fire shed by Rally. Legal advice confirmed that the current land use, licence and Plan of Management arrangements prohibit the use of the site by Rally for Recovery.

To remedy the situation, the planning proposal includes the reclassification of the Rally for Recovery site at Tomakin from community to operational land, and also inclusion of an enabling clause in the Urban LEP (in lieu of a rezoning) to enable the continued use of the site by Rally as a 'shop'

Strategic Links

The planning proposal is the direct result of a supply audit and needs analysis completed to inform Council's *Recreation and Open Space Strategy 2010-2030*. This analysis included, but was not limited to, consideration of:

1. the overall provision of open space for the entire Eurobodalla Shire,
2. the size and shape of particular sites,
3. any evidence of community use,
4. the provision and quality of recreation and community facilities,
5. whether a site also had other uses such as environmental, storm water, drainage, and
6. the proximity, characteristics and nature of alternative sources of open space

As an outcome of the supply audit undertaken, a list of properties for investigation for disposal was included in the Recreation and Open Space Strategy. These properties have undergone a further investigation process and as such it has been decided to progress with 21 of the total 36 initially listed.

The Strategy states that '*on completion of the land required for both disposal and acquisition a full report be workshopped by Councillors and then put out for public exhibition*' the lands proposed to be progressed were workshopped with Councillors on the 15th of March and as this report outlines will be publicly exhibited in accordance with the gateway determination.

The strategy also notes that '*funds raised through the disposal of these properties should be restricted and used to implement the strategy and obtain grants to increase available funding to invest in developing open space and recreation and community facilities*'.

Timing of Draft LEP

Due to delays in finalising the Eurobodalla Draft LEP 2010, and advice from the Department of Planning about LEP processing, Council has decided to submit these reclassifications as amendments to Rural and Urban LEPs. It should be recognised that if the planning proposal progresses through gateway it would be merged into the Eurobodalla Draft LEP 2010 to minimise impact on Council resources if timing permits.

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Loss of Open Space and Community Land

It is expected and understandable that a proposal to reclassify/rezone and in many cases sell over 50 parcels of community land will generate much public interest and debate about the loss of open space. It is important that Councillors and the community look at the planning proposal in the broader open space context. The sites proposed to be reclassified and/or rezoned total 59.45Ha and amount to approximately 2.1% of Councils total open space network.

It should also be noted that in the case of larger lots proposed to be reclassified to operational, it is intended that following the subdivision process the remaining land be returned to community classification through Council resolution and appropriate zoning applied.

Social Impact

The progression of the planning proposal will allow:

1. Release of Council resources to enable better management of remaining open space areas
2. Provision of potential opportunities for new housing and commercial development
3. Provision of an overall higher standard of open space

These broad community benefits outweigh the loss of a number of small and poorly used pockets of community land.

Environmental

The planning proposal is not expected to generate any significant adverse environmental impacts. Larger parcels of land that are proposed to be subdivided will be required to consider site and environmental constraints in the subdivision process.

Economic Development Employment Potential

The possibility of subject properties being redeveloped to increase housing stock in developed urban areas and offer employment opportunities will contribute positively to the local economy.

Financial

The reclassification of the subject properties will in many cases allow for the sale of the property and a positive financial impact for Council and the community.

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Community Consultation

Community consultation will occur as required by the Gateway Determination if given. It is worth noting that Council has requested an extended public exhibition as part of planning proposal to ensure community awareness of the planning proposal and its effects. A public hearing must also be held.

CONCLUSION

The planning proposal seeks reclassification and rezoning of a relatively small amount of Council owned community land, the proceeds of which will be reinvested into appropriate Council projects, assets and infrastructure that represent the most community benefit. It is recommended that Council support is given to progress the planning proposal to gateway determination.

RECOMMENDED

THAT

1. Council forward to the NSW Minister for Planning for a gateway determination in accordance with section 56 of the Environmental Planning and Assessment Act, the planning proposal to amend the Eurobodalla Urban Local Environmental Plan 1999 and Rural Local Environmental Plan 1987 such that the lots shown in table 1 and 2 are rezoned and/or reclassified.
2. Council also amend Eurobodalla Urban Local Environmental Plan 1999 through the inclusion of an enabling clause under clause 76 to legitimise the use of the Rally for Recovery site as a 'shop'.
3. Council commit to return any residue land back to a community land classification following the subdivision process of the larger lots identified in 1 above.

SHANNON BURT
MANAGER, STRATEGIC SERVICES
STRATEGIC, DEVELOPMENT AND ENVIRONMENTAL SERVICES

Attach.