

Land Reclassification (Housekeeping) (PP010) Planning Proposal

Proposal Title : **Land Reclassification (Housekeeping) (PP010) Planning Proposal**

Proposal Summary : **The planning proposal seeks to extinguish Shoalhaven City Council's interests in land at Shoalhaven Heads, Coolangatta, St Georges Basin and part of land at Vincentia to enable Council to sell or lease the sites; and to reclassify the remainder of the Vincentia land from operational to community land. The planning proposal seeks to correct an administrative error in the classification of these sites made during the finalisation of the Shoalhaven LEP 2014.**

PP Number : **PP_2015_SHOAL_007_00**

Dop File No : **15/12560**

Proposal Details

Date Planning
Proposal Received : **19-Aug-2015**

LGA covered : **Shoalhaven**

Region : **Southern**

RPA : **Shoalhaven City Council**

State Electorate : **KIAMA
SOUTH COAST**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Reclassification**

Location Details

Street : **50 Shoalhaven Heads Road**

Suburb : **Shoalhaven Heads**

City : **Shoalhaven**

Postcode : **2535**

Land Parcel : **Lot 21 DP 252581**

Street : **Bolong Road**

Suburb : **Coolangatta**

City : **Shoalhaven**

Postcode : **2535**

Land Parcel : **Lot 12 DP 617101**

Street : **Bolong Road**

Suburb : **Coolangatta**

City : **Shoalhaven**

Postcode : **2535**

Land Parcel : **Lot 3 DP 597223**

Street : **Island Point Road**

Suburb : **St Georges Basin**

City : **Shoalhaven**

Postcode : **2540**

Land Parcel : **Lot 4 DP 550354**

Street : **Lively Street, Vincentia along the rear of Nos. 83-109 Frederick Street and No.7 Sutton Street**

Suburb : **Sussex Inlet**

City : **Shoalhaven**

Postcode : **2540**

Land Parcel : **Part of Lot 2081 DP 216860**

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	South Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
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 : **Council has provided details of each of the sites including the rights or interests to be
extinguished.**

External Supporting
Notes : **During the finalisation of the Comprehensive Shoalhaven LEP 2014 the subject sites were
incorrectly inserted into Part 1 of Schedule 4 "interests unchanged" instead of Part 2
"interests changed" of the LEP. This meant that when the LEP came into effect on 22 April
2014, the land was reclassified as operational but no change was made to the interests in
the land. In addition, the LEP changed the classification of all of Lot 2081 DP 216860 at
Vincentia to operational not just the narrow strip of land to the rear of 83 to 109 Frederick
Street and Sutton Street as originally intended.**

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : The planning proposal states that the intended outcome is to allow Council to explore the sale or licensing of the subject land, and reclassify part of the land at Vincentia from operational to community to clearly reflect the original desired outcomes for that land under the Shoalhaven LEP, i.e classified as community land and no interests changed. It is considered that the statement of outcomes of the planning proposal is adequate.

Council has identified that the lots have limited practical public use due to their shape, location or limited access.

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

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

Comment : The planning proposal states that it proposes to amend the Shoalhaven LEP 2014 to list sites 1-5a under Part 2 of Schedule 4 "land classified, or reclassified, as operational land - interests changed". This change will give effect to Clause 5.2(5) of the Shoalhaven LEP 2014 so that the subject land will no longer have public reserve status, and will be discharged from "all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land.

For site 5b (Lot 2081 DP 216860 Lively Street, Vincentia), the planning proposal proposes to list the land under Part 3 of Schedule 4 "Land classified, or reclassified, as "community land".

It is considered that the explanation of the provisions provided is adequate.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

2.2 Coastal Protection

3.2 Caravan Parks and Manufactured Home Estates

5.1 Implementation of Regional Strategies

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 71—Coastal Protection

SEPP (Rural Lands) 2008

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

The s117 Direction 1.1 Business and Industrial Zones is considered to be relevant to the planning proposal as it is proposing to affect land zoned B4 Mixed Use (site 4 Lot 4 DP 550354 Island Point Road, St Georges Basin). It is considered that the planning proposal is consistent with the Direction.

Section 117 Direction 6.2 RESERVING LAND FOR PUBLIC PURPOSES: Although not identified in the planning proposal as relevant, this Direction does apply to the planning proposal as it will alter existing reservations of land for public purposes, ie it seeks to extinguish Council's interest in 5 sites and to change the classification for another site, and this requires the approval of the relevant public authority and the Secretary of the Department.

The proposal is considered to be **CONSISTENT** with this Direction as the Gateway determination will issue the necessary approval.

RECOMMENDATION: The Secretary of the Department approves of the proposal to alter

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the existing reservation of land for public purposes.

Council's assessment that the planning proposal is consistent with the remainder of applicable s117 Directions and applicable SEPPs is supported.

The approval of the Governor is required to extinguish the Council's interests with respect to five of the sites in accordance with section 30 of the Local Government Act 1993.

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Locality maps are provided for the sites which are considered adequate for purposes of public exhibition. The planning proposal does not involve changes to the Shoalhaven LEP 2014 maps.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The planning proposal states that it is proposed to exhibit the planning proposal for a minimum of 14 days or as required by the Gateway determination. It also indicates that as the proposal does not reclassify community land to operational, a public hearing (under the Local Government Act 1993) is not required to be held for the proposal. Council's proposed community consultation is considered to be appropriate given the low impact nature of the proposal.**

It is noted that a public hearing was held by Council on the proposed reclassification of the subject sites, as part of the preparation of the draft Shoalhaven LEP, on 2 and 3 November 2011 and 11 June 2013 in accordance with requirements of section 29 of the Local Government Act 1993.

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 proposal meets all 6 parts of a planning proposal required under the Department's guide to preparing planning proposals.**

Proposal Assessment

Principal LEP:

Due Date : **April 2014**

Comments in relation to Principal LEP :

The planning proposal is one of four housekeeping planning proposals being prepared by Shoalhaven City Council as a staged approach to correct a number of administrative errors that occurred during the finalisation of the Comprehensive Shoalhaven LEP 2014, and to make other required amendments identified by Council since the LEP was notified, namely:

- Housekeeping Planning Proposal (Stage 1)- corrects errors in the B3 Commercial Core Zone and inserts a provision to enable the subdivision of split zoned land. Gateway determination provided on 9 January 2015.

- Housekeeping Planning Proposal (Stage 2)- corrects errors in heritage and other maps and

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corrects errors in a number of land use tables. Gateway determination provided on 16 June 2015.

- Housekeeping Planning Proposal (Stage 3A)- to clarify when strata and community title subdivision must comply with the minimum lot size map and that dual occupancies (attached) in certain zones are subject to the same provisions as dwelling houses. Council has lodged a planning proposal for a Gateway determination.

Assessment Criteria

Need for planning proposal :	The proposal is needed to correct administrative errors in the classification of 6 sites that occurred during the finalisation of the Shoalhaven LEP 2014.
Consistency with strategic planning framework :	The planning proposal is consistent with Council's original intent for the Comprehensive Shoalhaven LEP 2014. It is not inconsistent with the draft Illawarra Shoalhaven Regional Growth and Infrastructure Plan, South Coast Regional Strategy, Shoalhaven City Council's Community Strategic Plan (Shoalhaven 2023), Shoalhaven Growth Management Strategy, applicable SEPPs and s117 Directions.
Environmental social economic impacts :	The planning proposal is unlikely to have any negative environmental, social or economic impacts. It is likely to have a positive social and economic impact by correcting a number of errors in the classification of 6 community land sites in the Shoalhaven LEP 2014 and by allowing Council to explore the potential sale or leasing of 5 sites, that have been identified as being surplus to Council needs, and of little use to the public by Council.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	14 Days
Timeframe to make LEP :	12 months	Delegation :	DDG
Public Authority Consultation - 56(2) (d) :			

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **Local matter to correct a number of administrative errors in the classification of 5 sites under the Shoalhaven LEP 2014.**

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

No additional studies are required.

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 :

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Documents

Document File Name	DocumentType Name	Is Public
Council's covering letter.pdf	Proposal Covering Letter	Yes
Planning_Proposal.pdf	Proposal	Yes
Planning_Proposal_Attachment B_ Council Reclassification Fact Sheet.pdf	Proposal	Yes
Planning_Proposal_Attachment A_ Council resolution.pdf	Proposal	Yes
Planning_Proposal_ Attachment C_ Council report.pdf	Proposal	Yes
Planning Proposal_ Attachment D_ Title Certificates.pdf	Proposal	Yes
Planning Proposal_ Attachment E_ State Environmental Planning Policies.pdf	Proposal	Yes
Planning Proposal_ Attachment E_ State Environmental Planning Policies.pdf	Proposal	Yes
Planning Proposal_Attachment F_ S117 Directions.pdf	Proposal	Yes
Planning Proposal_ Attachment G_ Evaluation criteria for delegation of plan making functions.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**
 2.2 Coastal Protection
 3.2 Caravan Parks and Manufactured Home Estates
 5.1 Implementation of Regional Strategies

Additional Information : **It is RECOMMENDED that the General Manager, as delegate of the Minister for Planning, determine under section 56(2) of the EP&A Act that an amendment to the Shoalhaven Local Environmental Plan 2014 to extinguish Council's interests in land at Shoalhaven Heads, Coolangatta, St Georges Basin and part of land at Vincentia, and to reclassify the remainder of the Vincentia land from "operational" to "community" should proceed subject to the following conditions:**

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:

(a) the planning proposal must be made publicly available for 14 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 proposals as identified in section 5.5.2 of 'A guide to preparing local environmental plans (Planning and Infrastructure, 2013)'.

2. Consultation is not required with any public authorities under section 56(2)(d) of the EP&A Act:

3. No public hearing is required to be held into the matter under section 56(2)(e) of the EP&A Act. 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).

4. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

5. SECTION 117 DIRECTIONS - It is recommended that:

(a) The Secretary's delegate can be satisfied that the planning proposal is consistent with s117 Directions 1.1 Business and Industrial Zones, 1.2 Rural Zones, 1.5 Rural Lands, 2.2 Coastal Protection, 3.2 Caravan Parks and Manufactured Home Estates, 5.1 Implementation of Regional Strategies.

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(b) The Secretary's delegate approves the proposal to alter the existing reservation of land for public purposes under Direction 6.2 Reserving Land for Public Purposes.

(c) The Secretary's delegate can be satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are of minor significance; and

(d) No further consultation or referral is required in relation to s117 Directions while the planning proposal remains in its current form.

6. The planning proposal is considered to be consistent with all relevant SEPPs.

Supporting Reasons : The proposal will correct an administrative error.

Signature:

Graham Towers

Printed Name:

Graham Towers

Date:

1/9/15

ENDORSED

Brett Whitford

3/9/15