
REPORT OF GENERAL MANAGER

DEVELOPMENT COMMITTEE

TUESDAY, 14 JULY 2015

PLANNING AND DEVELOPMENT

ITEMS TO BE DEALT WITH UNDER DELEGATION OF COUNCIL

1. **Draft Planning Proposal (PP010) – Council Land Reclassification (Housekeeping)**
File 50767E

SECTION MANAGER: Gordon Clark

PURPOSE:

To obtain Council's support to progress draft Planning Proposal (PP010) – Council Land Reclassification (Housekeeping) which will correct an administrative error which occurred in the drafting of the Shoalhaven Local Environmental Plan (LEP) 2014.

RECOMMENDED, in accordance with the Committee's delegated authority from Council, that the Committee submit draft the Planning Proposal (PP010) – Housekeeping Reclassification of Council Land to the Department of Planning & Environment for initial Gateway determination.

OPTIONS

1. Adopt the recommendation (preferred option). This will enable the Planning Proposal (PP) process to commence.
2. Request amendments to the draft PP. Depending on the scale of the change, this may result in the need for a further report to Council prior to submission to the Department of Planning and Environment (DP&E).
3. Provide alternative direction in this regard.

DETAILS

Council resolved on 20 March 2012 to reclassify the following parcels of Council owned land from "community" to "operational" as part of Shoalhaven LEP 2014 (see **Attachment "A"**).

1. Lot 21 DP 252581 - Shoalhaven Heads Road, Shoalhaven Heads
2. Lot 12 DP 617101 - Bolong Road, Coolangatta
3. Lot 3 DP597223 - Bolong Road, Coolangatta

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4. Lot 4 DP 550354 - Island Point Road, St Georges Basin
 5. Part of Lot 2081 DP 216860 - Lively Street, Vincentia along the rear of Nos. 83-109 Frederick Street and No. 7 Sutton Street
 6. Lot 35 DP 226342 - Edgewater Avenue, Sussex Inlet

For sites 1 to 5 above, the reclassifications also proposed to extinguish Council's interests in the land to enable the land to be sold or licensed (see Fact Sheet which formed part of the exhibition materials for Shoalhaven LEP 2014 at **Attachment "B"**).

However, due to an administrative error when the plan was drafted, the sites were inserted into Part 1 of Schedule 4 of the new LEP instead of Part 2. This meant that when the comprehensive Shoalhaven LEP 2014 came into effect on 22 April 2014, the land was reclassified to "operational" but no change was made to the interests in the land. In addition, the Shoalhaven LEP 2014 changed the classification of all of Lot 2081 DP 216860 to "operational", not just the narrow strip of land to the rear of 83 to 109 Frederick Street and 7 Sutton Street.

This report seeks Council's support for submission of a PP to the DP&E to extinguish Council's interests in the sites at Shoalhaven Heads, Coolangatta, St Georges Basin and part of the Vincentia land, and to reclassify the remainder of the Vincentia land from "operational" to "community". No changes are proposed to the classification of the drainage reserve at Edgewater Avenue, Sussex Inlet.

PROPOSED PLANNING PROPOSAL:

The proposed PP relates to the following parcels of Council-owned land (subject land):

1. Lot 21 DP 252581 - Shoalhaven Heads Road, Shoalhaven Heads
2. Lot 12 DP 617101 - Bolong Road, Coolangatta
3. Lot 3 DP597223 - Bolong Road, Coolangatta
4. Lot 4 DP 550354 - Island Point Road, St Georges Basin
- 5a. Part Lot 2081 DP 216860 - Lively Street, Vincentia (land along the rear of Nos. 83-109 Frederick Street and No. 7 Sutton Street only)
- 5b. Part Lot 2081 DP 216860 - Lively Street, Vincentia (remainder of lot)

The PP proposes to amend Shoalhaven LEP 2014 to list sites 1 to 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 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". This will enable Council to explore the sale (sites 1-4) or licensing (site 5a) of the subject land.

For site 5b, the PP proposes to list the land under Part 3 of Schedule 4 "Land classified, or reclassified, as community land". This will ensure that this part of the land is classified to reflect the original intent of the reclassifications carried out under Shoalhaven LEP 2014, i.e. classified as "community" land and no interests changed. This will create a dual classified lot.

As the PP involves extinguishing Council's interests in some of the land, the approval of the Governor of NSW will be required in accordance with section 30 of the Local Government Act 1993 (LG Act) prior to the PP being finalised.

- # The details of each of the subject sites, including zoning and site characteristics, are provided in **Attachment "C"**.

FINANCIAL IMPLICATIONS:

The cost of preparing the PP will be covered by Strategic Planning's existing staff budget and resources.

COMMUNITY ENGAGEMENT:

Section 29 of the LG Act requires a public hearing to be held into land reclassifications when the classification of the land is changing from "community" to "operational". To comply with this requirement, public hearings for the land reclassifications under draft Shoalhaven LEP 2014 were held on 2nd and 3rd November 2011, and 11 June 2013, following each public exhibition period. As the draft PP does not reclassify community land to operational, a public hearing is not required to be held for this proposal.

In accordance with DPE's LEP Practice Note PN 09-003 – Classification and reclassification of public land through a local environmental plan (practice note), Council will include a written statement in the exhibition material which outlines certain details of the land and the purpose of the reclassification. A copy of the practice note will also be included with the exhibition material.

It is proposed to exhibit the PP for the minimum of 14 days or as otherwise directed in the DP&E Gateway determination.

CONCLUSION:

The PP will enable 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 originally desired outcomes. The PP corrects an administrative error which occurred in the drafting of the Shoalhaven LEP 2014 and will ensure that the original intent of the reclassifications is reflected in the written plan. As such, it is recommended that Council submit Planning Proposal (PP010) – Council Land Reclassification (Housekeeping) to the DP&E for Gateway determination.

ADOPTED AT COUNCIL MEETING HELD ON TUESDAY 20 MARCH 2012

236. Draft Shoalhaven Local Environmental Plan 2009 - Council Land Reclassifications and Associated Public Hearings File 33363E (PDR)

Note: Cllr Young had previously stated her declaration of interest in the matter being that her family, friends and herself are property owners and as she does not have a Ministers Exemption and was absent from the meeting.

Note: Cllrs Green, Fergusson, Bennett, Guile, Brumerskyj, Miller, Watson and Proudfoot previously declared their pecuniary interests in the matter being that they and their families and friends own properties that may be affected. The Councillors remained in the room as they have a Ministers Exemption.

RESOLVED on a MOTION of Cllr Fergusson, seconded Cllr Findley, that in regard to Lot 21 DP 252581 - Shoalhaven Heads Road, Shoalhaven Heads Council adopt the land reclassification (from community to operational) of Lot 21, DP 252581, Shoalhaven Heads Road, Shoalhaven Heads, as exhibited in Draft Shoalhaven LEP 2009.

RESOLVED on a MOTION of Cllr Fergusson, seconded Cllr Findley, that in regard to Lot 12 DP 617101 - Bolong Road, Coolangatta Council adopt the land reclassification (from community to operational) of Lot 12, DP 617101, Bolong Road, Coolangatta, as exhibited in Draft Shoalhaven LEP 2009.

RESOLVED on a MOTION of Cllr Fergusson, seconded Cllr Findley, that in regard to Lot 3 DP597223 - Bolong Road, Coolangatta Council adopt the land reclassification (from community to operational) of Lot 3, DP 597223, Bolong Road, Coolangatta, as exhibited in Draft Shoalhaven LEP 2009.

RESOLVED on a MOTION of Cllr Fergusson, seconded Cllr Findley, that in regard to Lot 2081 DP 216860 - Lively Street, Vincentia:

- a) Council adopt the land reclassification (from community to operational) for part of the site only, being that part to the rear of 83-109 Frederick Street and 7 Sutton Street, with the remainder being retained as community land;
- b) Any licensing or lease agreement to formalise access include requirements that the primary property access remain from existing legal means, and that the access be for secondary purposes only; and
- c) Any costs associated with the maintenance and/or upgrade to the access be at the cost of those owners who benefit from the access.

RESOLVED on a MOTION of Cllr Fergusson, seconded Cllr Findley, that in regard to Lot 4 DP 550354 - Island Point Road, St Georges Basin, in the absence of a dedicated direction for the subject land or dedicated direction to proceed with a strategic project to bring the overall foreshore into public ownership, Council adopt the land reclassification (from community to operational) as exhibited in Draft Shoalhaven LEP 2009.

RESOLVED on a MOTION of Cllr Fergusson, seconded Cllr Findley, that in regard to Lot 35 DP 226342 - Edgewater Avenue, Sussex Inlet:

- a) Council adopt the land reclassification for part of the site (from community to operational) in accordance with Council's resolution of 28 November 2006; and
- b) Council develop a Management Plan for the site, including appropriate public consultation, that addresses the need for equitable access to the proposed facilities, consistent with the resolution of Council from 28 November 2006.

THE RECORD OF VOTING ON THESE MATTERS WAS AS FOLLOWS:

The following Councillors voted "Aye";

Cllrs Fergusson, Bennett, Guile, Miller, Brumerskyj, Watson, Proudfoot, Findley, Green.

The following Councillors voted "No";

Cllr Ward.



FACT SHEET 28: Reclassifications

Introduction

Council has the ability to reclassify public land through the draft Shoalhaven Local Environmental Plan (LEP) 2013, but has kept these reclassifications to a minimal number of minor changes. 'Reclassification' of public land refers to the process of changing the classification of 'operational' land to 'community' land or from 'community' land to 'operational' land. This is required to be done through an LEP process when the land is being changed from community to operational land (see Part 2 of Chapter 6 of the *Local Government Act 1993*).

Reclassifications

It is proposed to reclassify six parcels of land under draft Shoalhaven LEP 2013 as per the table below.

These reclassifications are being undertaken consistent with the Department of Planning and Infrastructure's *LEP Practice Note PN 09-003 – Classification and reclassification of public land through a local environmental plan* which is included with the background documents for this exhibition or can be viewed on the DP&I's website www.planning.nsw.gov.au. Please note that the left hand column in Attachment 1 of the Department's Practice Note applies to the draft Shoalhaven LEP 2013.

Lot 21 DP 252581 Shoalhaven Heads Road, Shoalhaven Heads

The Council intends to dispose of the land to achieve its planning objectives for the area. Council is only entitled to sell operational land. Therefore, Council needs to reclassify the land to effect the sale.

Current Classification	Community
Proposed Classification	Operational
Reasons for Reclassification	Reserve adjoins and is currently leased to holiday park.
Ownership	Council
Council's interests in land - when and how acquired	Created as Public Reserve in Plan of Subdivision DP252581 as a condition of consent dated 29/10/1974.
Any Agreements over the land	Licence to Coastal Palms Holiday Park. Term – 5 years.
Financial loss or gain of reclassification	Small financial gain through possible sale of land, however possible loss of ongoing income from licensing agreement.
Asset management objectives	Dispose of surplus land through investigation of sale of land to adjoining land owner.
Any agreements for sale or lease of land	No

DRAFT SLEP 2013 – FACT SHEET 28: RECLASSIFICATIONS**Lot 12 DP 617101 & Lot 3 597223 Bolong Road, Coolangatta**

The Council intends to dispose of the land to achieve its planning objectives for the area. Council is only entitled to sell operational land. Therefore, Council needs to reclassify the land to effect the sale.

Current Classification	Community
Proposed Classification	Operational
Reasons for Reclassification	Small roadside reserves that no longer have any purpose.
Ownership	Council
Council's interests in land - when and how acquired	Unknown
Any Agreements over the land	No
Financial loss or gain of reclassification	Small financial gain if sold to adjoining land owner. Comparable rural land has been valued in the vicinity of \$3 - \$3.5 per m ² .
Asset management objectives	Dispose of surplus land through investigation of sale of land to adjoining land owner.
Any agreements for sale or lease of land	No

Part of Lot 2081 DP 216860 Lively Street, Vincentia

The Council intends to grant licences or a right of way over part of the land to achieve its planning objectives for the area. Licence agreements and right of ways are inconsistent with the current community land classification. Therefore, Council needs to reclassify the part of the land.

Current Classification	Community
Proposed Classification	Operational
Reasons for Reclassification	To allow the adjoining property owners to obtain legal access from Council by negotiating a Licence or Right-of-Carriageway.
Ownership	Council
Council's interests in land - when and how acquired	Unknown
Any Agreements over the land	No
Financial loss or gain of reclassification	Small financial gain through licence agreements.
Asset management objectives	Dispose of surplus land through investigation of licensing of land to adjoining land owner(s).
Any agreements for sale or lease of land	No

DRAFT SLEP 2013 – FACT SHEET 28: RECLASSIFICATIONS

Lot 4 DP 550354 Island Point Road, St Georges Basin

The Council intends to dispose of the land to achieve its planning objectives for the area. Council is only entitled to sell operational land. Therefore, Council needs to reclassify the land to effect the sale.

Current Classification	Community
Proposed Classification	Operational
Reasons for Reclassification	Isolated foreshore reserve that can only be accessed by water or over private property.
Ownership	Council
Council's interests in land - when and how acquired	1971 by dedication
Any Agreements over the land	No
Financial loss or gain of reclassification	Small financial gain if sold to adjoining land owner(s).
Asset management objectives	Dispose of surplus land through investigation of sale of land to adjoining land owner(s).
Any agreements for sale or lease of land	No

Lot 35 DP 226342 Edgewater Ave, Sussex Inlet

The Council intends to enter into licence agreements over the land to allow private jetties. Council needs to reclassify the land to be able to enter into private licensing agreements and to approve development applications for private jetties.

Current Classification	Community
Proposed Classification	Operational
Reasons for Reclassification	Canal requires reclassification to allow for the provision of long term licensing of jetties and moorings.
Ownership	Council
Council's interests in land - when and how acquired	Unknown
Any Agreements over the land	No
Financial loss or gain of reclassification	Financial gain through licence agreements for jetties and moorings.
Asset management objectives	Management of canal system. Enter into licence agreements for jetties and moorings.
Any agreements for sale or lease of land	No

Public Hearings

Council is required to hold a public hearing for any reclassifications of public land from community to operational. As this hearing is required to be held after the completion of the exhibition, Council will provide further information on the timings of the hearing once the draft Shoalhaven LEP re-exhibition has concluded.

Definitions

Community land – Council owned land which should be kept for use by the general public and would ordinarily comprise land such as a public park. The use and management of community land is to be regulated by a plan of management.

Operational land – Council owned land held as a temporary asset or as an investment, land which facilitates the carrying out by a council of its functions or land which may not be open to the general public, such as a works depot or a council garage.

Further information

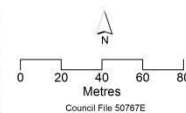
For further details relating to the information in this fact sheet and the draft Shoalhaven LEP 2013, please visit the draft Shoalhaven LEP website at www.slep2013.shoalhaven.nsw.gov.au or contact Council on (02) 4429 5377 or via email SLEP2013@shoalhaven.nsw.gov.au.

Site 1 - Lot 21 DP 252581 - 50 Shoalhaven Heads Road, Shoalhaven Heads

Subject Land

Planning Proposal
PP010

Air Photo 2014

**Current zoning:**

RU1 Primary Production

Site Characteristics:

The site has an area of approximately 1235m². It is a 'battle-axe' shaped lot with an access handle on Shoalhaven Heads Road. It forms part of a service station and part of the Coastal Palms Holiday Park. The part within the Coastal Palms Holiday Park contains a sewer main and playground equipment. In the past the site has been maintained by the holiday park under a lease from Council. This lot was dedicated to Council as public reserve under subdivision no. 3062A in 1976.

Purpose of PP:

Due to the configuration of the land it has limited public use and the reclassification will enable the investigation of sale to adjoining land owner(s).

Site 2 - Lot 12 DP 617101 Bolong Road, Coolangatta**Current Zoning:**

RU1 Primary Production

Site Characteristics:

The site has an area of approximately 1082m². It is a long narrow lot which runs parallel to Bolong Road. It is partly unused land within the fenceline of adjoining private land and contains a small amount of boundary line vegetation. This lot was dedicated to Council as public reserve under subdivision no. 4308 in 1981.

Purpose of PP:

The site has no practical public use and the reclassification will allow Council to investigate the sale of the land to an adjoining land owner.

Site 3 - Lot 3 DP 597223 Bolong Road, Coolangatta**Current Zoning:**

RU1 Primary Production

Site Characteristics:

The site has an area of approximately 2263m². It runs parallel to Bolong Road. It is partly within the fenceline of adjoining private land. The owner of adjoining land was granted a grazing permit for this land in the past, but this permit is not current. This site was dedicated to Council as a condition of consent under subdivision no. 4306. It was dedicated as a public reserve with the idea of it being used as a driver rest area, however it has not been utilised for this purpose.

Purpose of PP:

The site has no practical public use and the reclassification will allow Council to investigate the sale of the land to an adjoining land owner(s).

An aerial photograph of a residential neighborhood with yellow lines delineating individual lots. The lots are numbered in yellow. A red triangle highlights a specific lot, labeled with the number '4'. Other labels on the map include 'D P' (appearing multiple times), '84567', '550354', '1174059', and a vertical label '864462-10307745' along a road or boundary line. The surrounding area includes trees, houses, and a body of water on the right side.

The site has no practical public use and the reclassification will allow Council to investigate the sale of the land to an adjoining land owner(s).

Sites 5a and 5b - Lot 2081 DP 216860 Lively Street, Vincentia**Current Zoning:**

Part RE1 Public Recreation and part R2 Low Density Residential

Site Characteristics:

The site has an area of approximately 1ha, is irregular in shape and contains access handles from Sutton and Frederick Streets. A further access handle is connected to the unformed part of Waldegrave Crescent to the west. The majority of the site is well vegetated and backs onto Jervis Bay National Park. This lot was dedicated to Council under subdivision no. 710 as public garden and recreation space in 1954.

Purpose of PP:

Site 5a. The purpose of the PP is to enable investigation of licensing the narrow section of the lot adjoining 83-109 Frederick Street and 7 Sutton Street to adjoining land owners to formalise access to the rear of their properties (orange shading on map above). All Frederick Street properties have existing legal access from Frederick Street, however 7 Sutton Street currently uses part of the land to access the garage at the rear of their property.

Site 5b. The PP will also reclassify the remainder of the land to community, to reflect the fact that this part of the land was not supposed to be reclassified to operational in the Shoalhaven LEP 2014 process (green shading on map above).

MINUTES OF THE DEVELOPMENT COMMITTEE MEETING HELD ON TUESDAY, 14 JULY, 2015 IN THE COUNCIL CHAMBERS, CITY ADMINISTRATIVE CENTRE, BRIDGE ROAD, NOWRA COMMENCING AT 4:00 PM

1. Draft Planning Proposal (PP010) – Council Land Reclassification (Housekeeping)
File 50767E (PDR)
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MOTION: Moved: Robertson / Second: Baptist

RESOLVED, in accordance with the Committee's delegated authority from Council, that the Committee submit draft the Planning Proposal (PP010) – Housekeeping Reclassification of Council Land to the Department of Planning & Environment for initial Gateway determination.

CARRIED

FOR: Tribe, Robertson, Kearney, Gash, Wells, Baptist, Findley, Watson, Kitchener, White and Russ Pigg.

AGAINST: Nil.