

PLANNING PROPOSAL

GOSFORD CITY COUNCIL

LOT 121 DP 1179469, 1 FASSIFERN STREET/MAITLAND BAY DIVE, ETTALONG BEACH RECLASSIFICATION OF COMMUNITY LAND

This Planning Proposal has been drafted in accordance with Section 55 of the *Environmental Planning and Assessment Act, 1979* and the Department of Planning and Infrastructure's *A Guide to Preparing Planning Proposals* and *Guide to Preparing Local Environmental Plans*.

A gateway determination under Section 56 of the Environmental Planning and Assessment Act is requested from the Department of Planning and Environment (DP&E).

Introduction

The land is leased and parts of it are being redeveloped as a long term residential park. A Planning Proposal is required to reclassify the land to operational land. The reclassification better reflects the use of the land as an asset and removes blockages to its effective development and management.

The holiday caravan park has been located on Council land for a number of years and is zoned RE1 in Local Environmental Plan 2014. Approval to operate a Caravan Park with 95 long term sites, 22 short term sites and 8 camping sites was issued on 13 September 2013 and is current for the period 1 July 2013 until 30 June 2018.

Historically, with the 1993 *Local Government Act*, Council owned land was required to be classified as “community land” or “operational land” – community land was classified as it had value to the wider community and needed to be managed consistently for the benefit of the wider community. Operational land, however, was used to accommodate Council’s functional assets and business interests. Community land has more stringent provisions to provide accountability as to how land is dealt with, and is required to be managed in accordance with a Plan of Management (POM). Many POMs have been prepared and can be for a specific site or for a “generic” type of public landuse. Operational land can be dealt with in a different manner and does not require a POM – it can managed by Council as an asset, leased or sold to private interests. These provisions of the *Local Government Act* are now somewhat at odds with the need for increasing financial sustainability required in local government, however Council is still bound by legislative requirements and hence the need for this Planning Proposal and LEP.

Under the provisions of *State Environmental Planning Policy (SEPP) 22 – Caravan Parks*, a caravan park is able to be used for both long and short term occupancy subject to relevant approvals, and individual sites may be leased. *SEPP 36 Manufactured Home Estates* also allows the establishment of a manufactured home estate on land on which a caravan park is permitted, and individual sites can also be leased.

The land has not been used as a predominately tourist related “public” caravan park for a number of years. The classification of the land as community land is redundant as

developments permissible through SEPP provisions mean that it is not an asset for use by the general public.

The land previously (under the Gosford Planning Scheme Ordinance) was comprised of one large 6(a) Open Space – Recreation zoned holding and two small 5(a) Special Use lots fronting Fassifern Street. All the allotments have now been consolidated to form Lot 121 DP 1179469. The land was formerly leased to and managed by Australian Tourist Park Management Pty Ltd, however is now leased to Ingenia Community Trust until 30 June 2029.

DA approval was granted on 30 June 2014 to demolish 30 short term sites, provide lots and services to 31 new long term sites, and alterations and additions to existing community services including pool and common areas (DA45331/2014 Part 1 refers). Commencement of works has occurred. The DA will facilitate upgrading of facilities to accommodate long term tenants. The DA consent requires certain conditions to be met in relation to the creation of restrictions and covenants. Such covenants would be required to be in accordance with a POM, however none exists.

In response to an approach by the lessee, Council is also currently in the process of granting an electricity easement and preparing a Deed of Indemnity in relation to improving improved service supply in the area. The classification of the land is not an impediment to this process.

Overall, however, the reclassification of the land to “operational land” under the *Local Government Act*, 1993, would remove the requirement to prepare a POM, facilitate the creation of the required covenants for the DA and represent a less onerous management regime for Council. It would better reflect that the land is leased and occupied by long term tenants (in part).

A POM would create expectation that the land is a public asset that is freely available for use by the general public (even if not visitors or residents to the site). It would require a detailed management plan (implying that Council manages the facility), a community consultation/engagement process and various functions to be complied with under the *Local Government Act*. Conversely, reclassification of the land through the Planning Proposal process (under the *Environmental Planning and Assessment Act*) would be a less complex procedure (although public notification/meeting procedures would still be required) and would provide greater flexibility in how Council deals with the land.

In this instance, a POM would not benefit the wider community. Reclassification will more accurately reflect the management of the land by a leaseholder and will ensure conditions of development consent can be met. Public accountability can still be satisfied, with the LEP being prepared in accordance with LEP Practice Note PN09-003 Classification and reclassification of public land through a Local Environmental Plan gazettal.

The land is shown below on the map below:



The site has an area of 3.1 hectares. It is relatively free from physical constraints, is not subject to coastal processes and part of the site is identified as Bushfire Buffer, separated from vegetated areas by Maitland Bay Drive. Some parts of the site are subject to flooding (local ponding only) and slip, although the land is generally level. Here is no significant vegetation on the land. Any future development would be subject to relevant development assessment processes.

Part 1 Objectives or Intended Outcomes

Section 55(2)(a) A statement of the objectives or intended outcomes of the proposed instrument.

The objective/intended outcome of the Planning Proposal is to reclassify the land from community land to operational land by listing the land in Schedule 4, Part 2 of Gosford Local Environmental Plan 2014 (LEP 2014). This will allow the leaseholder to manage the land and for conditions of development consent to be complied with. The reclassification more accurately reflects that the land is not available for general public use, and has been leased/developed as a residential park.

At this point, the land will retain its current zoning of RE1 Public Recreation. It is not considered appropriate to rezone the land to residential as it acts as a buffer between more urbanised areas of Ettalong Beach, adjoins other public open space land, and acts as a transition area between urban areas and Blackwall Mountain to the north. The existing caravan park/residential village is a lower density development than that which would be permitted if the land were rezoned to a R (residential) zone.

Part 2 Explanation of Provisions

Section 55(2)(b) An explanation of the provisions that are to be included in the proposed instrument.

The objectives/intended outcomes are to be achieved by amending LEP 2014 Schedule 4 Part 2 as being reclassified – Council’s interest changed.

Section 55(2)(d) If maps are to be adopted by the proposed instrument, such as maps for proposed land use zones, heritage areas, flood prone land – a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument.

No maps are required to support this Planning Proposal, as it will be an amendment to the written component of LEP 2014.

Part 3 Justification for objectives & outcomes

Section 55(2)(c) The justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117).

Section A Need for the Planning Proposal

1 Is the Planning Proposal a result of any strategic study or report?

No.

2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The land is not generally available as an asset for use by the general public. Hence, preparation of a POM would not be justified and it is not in the public interest to prepare a POM. Reclassification is the best means of achieving intended outcomes, that is, the leasing and management of the residential park.

Section B Relationship to strategic planning framework

3 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Central Coast Regional Strategy

Regional strategies include outcomes and specific actions for a range of different matters relevant to the region, including specific housing and employment targets. The Central Coast Regional Strategy 2006 – 2031 (CCRS) is applicable to the subject land and the proposed rezoning. Planning proposals should be consistent with the strategic planning directions contained within CCRS to ensure appropriate landuse planning outcomes are achieved across the region. Section 117 Direction 5.1 Implementing Regional Strategies gives legal effect to the need for land rezoning to be consistent with the CCRS.

The Planning Proposal does not raise any regional or subregional strategic planning issues and is not inconsistent with CCRS or future initiatives under the proposed Central Coast Regional Growth and Infrastructure Plan.

3a Does the proposal have strategic merit and is it consistent with the Regional Strategy and Metropolitan Plan, or can it otherwise demonstrate strategic merit in light of Section 117 Directions?

The Planning Proposal is consistent with the Central Coast Regional Strategy (CCRS), and the more recent Discussion Paper Your Future Central Coast (September 2014) and intended CC Regional Growth & Infrastructure Plan. The CCRS identifies the need for an increased housing supply. Due to the ageing population, it specifically identifies a need for “self-care housing for seniors or people living with a disability”. This aligns with lessee plans for the future development of the site. An additional key element of the strategy is “encouraging private investment in affordable housing”. These two key items are embedded in CCRS Actions as follows:

4.2 Councils are to provide for a mix of housing types, including housing that will accommodate an ageing population and smaller household sizes through the preparation of LEPs and strategies.

4.13 Consider a range of affordable housing strategies, including forms of low-cost housing, suitable zonings and development controls to improve housing choice, and specific schemes. These strategies must be consistent with relevant State policies.

4.15 Councils are to consider the appropriateness of the locations in which residential parks or caravan parks are permissible during preparation of principal LEPs, including their access to services. This review is also to have regard for protection of existing affordable housing stock.

4.25 Prior to the preparation of LEPs and centres planning strategies, councils need to establish whether development or redevelopment of any significant government landholdings could assist in achieving the overall objectives of that centre.

It has strategic merit in that it will foster the provision of an alternative, affordable housing form.

3b Does the proposal have site-specific merit and is it compatible with the surrounding land uses, having regard to the following: the natural environment (including known significant environmental values, resources or hazards) and the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

Although some parts of the site are subject to flooding (ponding), and some areas identified as being subject to medium landslip constraints, the land does not have significant natural or environmental values.

Historically, public caravan parks have been located at beachside locations, on crown or other public lands and managed by local authorities. Management of caravan parks is not a key responsibility of local government and this has increasingly been devolved to other providers/operators, as in this case. The conversion of caravan parks, whether public or not, has a role in providing lower cost housing to meet sector needs. Conversion of parks to manufactured home estates has been facilitated by state policies.

The reclassification will not create new infrastructure needs or expectations for Council. Arrangements are currently being pursued to upgrade electricity services to the approved development, with liability and costs being the responsibility of the leaseholder.

The site has approval under Section 68 of the Local Government Act, 1993, to operate as a caravan park with 85 long, 22 short and 8 camping sites. Caravan parks, which include camping, are not permitted in either R1 or R2 zones. Hence some remaining uses on the land would become prohibited (and consequently create existing use rights) if the proposal included the rezoning of the land to a Residential zone, in addition to the reclassification. The residential park is a relatively low key development characterised by single storey cabins and remnant fringing mature trees. As such the RE1 Public recreation zone is still considered appropriate.

4 Is the Planning Proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

The Planning Proposal will reflect the use of the land and recent approved development. It is consistent with Council's directions for use of resources and assets with the day to day management of the residential park being undertaken by appropriately experienced leaseholder. Specifically, the proposal is consistent with the following directions of the Community Strategic Plan (CSP):

- A3.1 Planning considers the diversity of people in our community
- A3.3 Improve access to community services, programs and facilities
- A3.4 Increase the availability of appropriate housing
- A4.1 Enhance the character of our local area through good design
- B6.3 Plan for population growth within existing developed footprint
- C1.2 Pursue new ideas and approaches for business and infrastructure investment
- D1.2 Consider social, environmental and economic sustainability in all planning decision making
- D4.1 Implement good practice in planning for infrastructure
- D4.2 Maintain assets for their current purpose and for future generations

The proposal is also consistent with the Peninsula Urban Directions Strategy (PUDS) which is generally encapsulated within LEP 2014.

5 Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

No SEPPs are relevant to the reclassification of land. Any applicable SEPPs would be considered in future DAs as may be relevant.

6 Is the Planning Proposal consistent with applicable Ministerial Directions (Section 117 directions)?

The following assessment is provided of the consistency of the Planning Proposal with relevant Section 117 Directions applying to Planning Proposals lodged after 1 September 2009. Section 117 Directions are only discussed where applicable. The Planning Proposal is consistent, with all other Section 117s Directions or they are not applicable.

- (i) **Direction 3.2 Caravan Parks and Manufactures Home Estates** - the proposal is consistent with this direction. Caravan parks, which can be converted to manufactured

home parks under SEPP provisions, are permissible in the existing RE1 Public Recreation zone. It is not intended to change the zone of the land.

- (ii) **Direction 117 Direction 6.2 Reserving Land for Public Purposes** – this direction requires that an LEP will not create, alter or reduce existing zonings or reservations of land for public purposes without the authority of the relevant public authority and the Director-General of the Department of Planning. Although the reclassification is a draft LEP process, it is not rezoning the land and the land and proposal is considered to be consistent with this direction.

Section C Environmental, social and economic impact

- 7 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

No

- 8 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?**

No

- 9 How has the Planning Proposal adequately addressed any social and economic effects?**

The reclassification of the land will enable it to be leased for long term purposes however Council will still retain the land as a public asset. Revenue from the lease can be returned to Council as an income stream to benefit the wider community. The Planning Proposal/LEP will be required to be exhibited in accordance with PN09-003 Classification and reclassification of public land through a Local Environmental Plan. This Statement, to be exhibited concurrently with the draft LEP/Planning Proposal, is contained in Attachment A to this report.

Section D State and Commonwealth interests

- 10 Is there adequate public infrastructure for the Planning Proposal?**

Not relevant to the reclassification of the land. The land is well located in terms of access to services, facilities and infrastructure.

- 11 What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the Planning Proposal?**

No consultations have been undertaken with State and Commonwealth agencies. Given that the proposal relates to the reclassification of the land alone, and will not result in a substantial change in land use, with the land being retained in the RE1 zone with a caravan park/manufactured home estate located on it, for which relevant approvals under the Environmental Planning and Assessment and Local Government Act have been granted, Council considers that no government agencies require formal consultation.

Part 4 Mapping

S55(2)(d) If maps are to be adopted by the proposed instrument, such as maps for proposed land use zones, heritage areas, flood prone land - a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument.

No maps are required to progress the reclassification.

Part 5 Community Consultation

Section 55(2)(e) Details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.

Subject to Gateway support, community consultation will be undertaken in accordance with Council's standard practice, with the period specified in the Gateway Determination.

LEP Practice Note PN09-003 Classification and reclassification of public land through a Local Environmental Plan gives guidelines and identifies key areas for consideration in the classification and reclassification of public land. To assist the public in understanding the planning proposal, it sets out information requirements that must be addressed as part of the exhibition material. This is contained in Attachment A and must be made available as part of the exhibition material, together with a copy of the Practice Note.

A public hearing into the proposal in accordance with Section 57(6) of the EP&A Act is required to be held. This meeting is to be held in accordance with requirements of Clause 14 of the EP&A Regulation and will occur post-Gateway.

Other Matters for Consideration

The retention of the land's classification as "community land" and the preparation of a Plan of Management is not appropriate for the land. The establishment of a residential village has been permitted through state legislation. It is no longer a community asset in the traditional sense of a public park or other area available to the general public. Reclassification to operational land will better reflect the use of the land and allow its appropriate management by the leaseholder.

Conclusion

From an operational perspective, the use of Council's asset as predominately a residential village is better accommodated by reclassifying the land. Issues in relation to public disclosure of Council's interests are contained with Attachment B which addresses criteria as required under "PN09-003 Classification and reclassification of public land through a local environmental plan". The wider public interest will be maintained through appropriate use and the management of asset by experienced operators. The income from the lease can be incorporated into Council's revenue stream to benefit the wider residential population and provide fiscal sustainability.

The proposal is consistent with relevant strategies, including the Central Coast Regional Strategy and the Community Strategic Plan and relevant Section 117 Directions.

PS 12-006 "Delegations and independent reviews of plan-making decisions" outlines that this type of LEP can be routinely delegated to councils following the Gateway Determination.

The proposed reclassification is a better outcome to facilitate the management of the land by the lessee as a predominately residential village, and does not raise any significant issues. The reclassification results in transparency in relation to Council's interest in the land.

ATTACHMENT A - Public Exhibition Statement PN09-003 Classification and reclassification of public land through a Local Environmental Plan

The following information is required to be exhibited as a Statement to accompany the public exhibition of the planning proposal.

- *The reasons why the draft LEP or planning proposal is being prepared including the planning merits of the proposal, eg the findings of a centres' strategy, council's intention to dispose of the land, provision of open space in a town centre*

Comment: The planning proposal is being prepared as the classification of land from community land to operational land is required to be undertaken by way of an LEP amendment.

- *The current and proposed classification of the land*

Comment: The land is currently classified as "community land" under the Local Government Act. This is reflective of its historical use as a holiday caravan park for use by the general public. This classification is no longer appropriate and the use has changed to predominately a residential park accommodating long and short term mobile homes/caravan as well as camping sites. Classification of the land as "operational land" will allow appropriate management by the leaseholder together with satisfaction of conditions of development consent.

- *The reasons for the reclassification including how this relates to council's strategic framework, council's proposed future uses of the land, proposed zones, site specific requirements, anticipated physical or operational changes resulting from the reclassification*

Comment: The land is leased. The land is not required for Council or the community's wider public use. Zoning of the land is to remain as RE1 given its relationship to other surrounding public open space, the low key nature of the residential village/caravan park and camping sites and on-going permissibility issues. Operational changes will reflect that the land is to be leased.

- *Council's ownership of the land, if this applies;*

Comment: Woy Woy Shire Council (which has been amalgamated as part of the Gosford LGA since 1947) obtained the land in 1930 from a private owner. Council leased the land as a caravan park from approximately 1950 (for 80 pounds/annum). Although continuously owned by Council, it has been the subject of on-going leases to various parties. More recently, it was leased to J and S Lobina t/a J and S Caravan Park from 1978-1986, W and K Dempsey from 1987-1991 and Oakhut Pty Ltd from 1991 until 2008. In 2007, Council sought tenders (Expression of Interest followed by Selective Tender) with Oakhut Pty Ltd and Australian Tourist Park Management (ATPM) lodging submissions, and ATPM being awarded the tender on a 7 year lease, with 2 x 7 year options for renewal. In 2013, ATPM assigned the lease to Ingenia Communities and it is anticipated that Ingenia will maintain the lease until 2029.

The land will remain owned by Council.

- *The nature of Council's interest in the land;*

Comment: Council still has an interest in the land, as it will remain the owner. Classification will better meet the operational needs of Council to lease the land. The existing lease for the land and future options conclude in 2029. At the conclusion of the lease Council will have three potential options that would need to be considered – firstly, Council may call tenders in accordance with the Local Government Act 1993 for another lease for the site; the term of the lease and number of options will be at the discretion of Council. Alternatively, Council may proceed with sale of the land, in accordance with the legislation set out in the Local Government Act 1993 (as amended). Thirdly, depending on internal resources Council may choose to undertake the management of the site. The on-going appropriateness of the zone would be considered at the time and would be dependant upon the preferable option at the time.

- *How and when the interest was first acquired;*

Comment: Gosford Council's interest in the land was established in 1947, with the land ceding from Woy Woy Shire Council to Gosford Shire Council.

- *The reasons Council acquired an interest in the land eg for the extension to an existing park, council was given responsibility for the land by the a State agency;*

Comment: Council as the owner of the land has received on-going income from consecutive lease agreements since circ 1950 and on an on-going basis until 2029. Revenue from the lease is directed into Council's General Fund, with funds used by Council to achieve community objectives across the LGA.

- *Any agreements over the land together with their duration, terms, controls, agreement to dispose of the land, eg whether any aspect of the draft LEP or planning proposal formed part of the agreement to dispose of the land and any terms of any such agreement*

Comment: Ingenia Communities currently hold the lease at a commercially competitive rate and will be subject to annual CPI increases. The existing lease requires that all maintenance and capital works are the responsibility of the lessee.

- *An indication, as a minimum, of the magnitude of any financial gain or loss from the reclassification and the types of benefits that could arise eg magnitude of value added based on comparable land*

Comment: As the land is currently under a lease agreement there is will no immediate financial gain or loss from the reclassification of the land. Council currently receives \$277,305 rental income p.a. for the land which increases annually in accordance with CPI. The total projected revenue from the annual rental income for the duration of the lease 2015-2029 is \$5.4 million.

The value of the land should not be expected to significantly increase as it is not proposed to rezone the land. The conversion of the holiday caravan park to a residential village and its sub-letting is permissible under state planning provisions. Any future sale of the land would need to consider the appropriateness of the zoning at the time. The RE1 zone accommodates the existing approved activities whereas caravan parks (and residential villages by virtue of SEPP provisions) are not permitted in an alternative residential zone.

- *The asset management objectives being pursued, the manner in which they will be achieved and the type of benefits the Council wants;*

Comment: Operators other than Council have greater expertise to manage a residential village and its subsidiary temporary tourist related components (ie the short term and camping sites). This will be achieved by leasing the site This alleviates issues associated with the day to day management of the site, while allowing a wider benefit to be realised through income generated by the lease. The asset management objective is to allow the lessee to have management responsibility for the facility, including all maintenance works and capital works subject to relevant approvals as may be required.

- *Whether there has been an agreement for the sale or lease of the land, the basic details of any such agreement and, if relevant, when Council intends to realise its asset, either immediately after the rezoning/reclassification or at a later time*

Comment: On 25 March 2008, Council resolved to accept a tender from Australian Tourist Park Management Pty Ltd to lease Lot 1 DP 831210 (the bulk of the current lot) from Council. More recently, Council considered a report in relation to the reassignment of the lease to Ingenia Communities Management Pty Ltd, given that then leaseholder did not intend to continue operations. At its meeting held on 27 November 2012, Council resolved that management be effectively transferred to Ingenia and this process not be subject to normal tendering processes, due to extenuating circumstances and the interests of the residents/community. Income generated by the lease is at a commercially competitive rate. The lease is for a period of seven years, with two options for seven year extensions, which means the lease could remain in place until 2029. Issues associated with the on-going lease arrangements would be subject to further consideration by Council. Reclassification would facilitate on-going leasing arrangements.

- *Relevant matters required in plan making under the EP&A Act*

Comment: Matters relevant to the EP&A Act include the proposal's consistency with relevant Section 117 Directions and other statutory requirements. As outlined in the Report to Council, the proposal is consistent with S117 Directions 3.2 Caravan Parks and Manufactures Home Estates and 6.2 Reserving Land for Public Purposes and the plan will be prepared in accordance with plan making requirements of the EP&A Act.

- *A copy of this practice note must be included in the exhibition material to assist the community in identifying information requirements.*

Comment: This will be undertaken as part of the public exhibition process.

