

Reclassification of 2 Jessie Road Anna Bay (Lot 10 DP 729986)

Proposal Title : **Reclassification of 2 Jessie Road Anna Bay (Lot 10 DP 729986)**

Proposal Summary : **Reclassification of 3.5ha former Anna Bay Oval and current Pony Club area from Community Land to Operational Land.**

PP Number : **PP_2013_PORTS_003_00** Dop File No : **13/09477**

Proposal Details

Date Planning Proposal Received : **03-Jun-2013** LGA covered : **Port Stephens**

Region : **Hunter** RPA : **Port Stephens Council**

State Electorate : **PORT STEPHENS** Section of the Act : **55 - Planning Proposal**

LEP Type : **Reclassification**

Location Details

Street : **2 Jessie Road**

Suburb : **Anna Bay** City : **Port Stephens** Postcode : **2316**

Land Parcel : **Lot 10 DP 729986**

DoP Planning Officer Contact Details

Contact Name : **Dylan Meade**

Contact Number : **0249042718**

Contact Email : **dylan.meade@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Rebecca Connor**

Contact Number : **0249800317**

Contact Email : **rebecca.connor@portstephens.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**

Regional / Sub Regional Strategy : **Lower Hunter Regional Strategy** Consistent with Strategy : **Yes**

Reclassification of 2 Jessie Road Anna Bay (Lot 10 DP 729986)

MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	1	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 :			
External Supporting Notes :			

Adequacy Assessment

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

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

Comment : **The proposal objective is stated as:**

To amend either the Port Stephens Local Environmental Plan 2000 or the Port Stephens Local Environmental Plan 2013 (whichever instrument is in force at the time this proposal is finalised) to reclassify Lot 10 DP 729986 from community land to operational land.

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

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

Comment : **Depending on the instrument in force the proposal will either:**

Insert the subject property description into Part 2 Schedule 1 of Port Stephens LEP 2000 as identified on the land reclassification map (Part 4 Mapping)

or,

Amend the Port Stephens LEP 2013 by inserting the property description into Part 2, Schedule 4.

This will reclassify the land from community to operational and result in the extinguished of the public reserve status.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

1.5 Rural Lands

* May need the Director General's agreement

2.1 Environment Protection Zones

2.2 Coastal Protection

2.3 Heritage Conservation

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.2 Reserving Land for Public Purposes

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP No 60—Exempt and Complying Development

SEPP No 71—Coastal Protection

SEPP (Infrastructure) 2007

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

Council have not requested the rezoning of the land at this point in time. Council indicate that several options for the future use of the site are permissible under the current 6a Open Space zoning, and any future rezoning proposal if required would be considered separately.

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 :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal is proposed to be exhibited for 28 days in accordance with the relevant guidelines. This timeframe is supported.

A public hearing is also required to be held under the provisions of the Local Government Act.

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 seeks to reclassify the land from Community to Operational, and does not consider a change to zoning. It is considered that although the current zone may limit the opportunities available for the site, this is appropriate until Council considers management options for the site.

Reclassification of 2 Jessie Road Anna Bay (Lot 10 DP 729986)

Proposal Assessment

Principal LEP:

Due Date : **August 2013**

Comments in relation to Principal LEP : **The draft comprehensive Port Stephens LEP 2013 received Gateway Determination on 17 July, 2012. The Port Stephens LEP 2013 was publicly exhibited and has been resubmitted to the Department for finalisation.**

Assessment Criteria

Need for planning proposal : **Council prepared a LGA wide open space study in 2007 (Open Space Consolidation Review) which indicated that the subject land was better classified as operational land in order to improve administrative efficiency and flexibility. Council have identified that the land is not required for open space or any other community land related use. It is considered that the 2007 Open Space Consolidation Review should be placed on public exhibition with the proposal.**

Reclassification of 2 Jessie Road Anna Bay (Lot 10 DP 729986)

Consistency with strategic planning framework :

LOWER HUNTER REGIONAL STRATEGY

The proposal is within the Watagans to Stockton Bight Green Corridor as defined in the Lower Hunter Regional Strategy (LHRS). The LHRS is currently under review and the mapping and definition of the Green Corridor will be considered as part of this review.

Preliminary advice from Office of Environment and Heritage to the Department indicated that OEH would be likely to object to any rezoning proposal over this land for uses not compatible with its management based on its residual and potential conservation value within a contiguous green corridor. However, the proposal does not seek to rezone the site.

It is noted that about 20% of the land has remnant vegetation. Council notes further site specific investigation may be required at development assessment should the site be developed. However, as the Planning Proposal does not propose to change the zoning and only reclassifies the site, the proposal is not considered to prevent the site's ongoing role in the green corridor. The site's environmental and heritage significance would be appropriately considered at a local planning level through any future development assessment process. The proposal is considered sufficiently consistent with the LHRS.

STATE ENVIRONMENTAL PLANNING POLICIES

SEPP 44: Koala Habitat

Council advises that the land is classified as secondary koala habitat along its northern and eastern boundaries, comprising about 15% of the land area.

The proposal, as a reclassification, is consistent with this SEPP

SEPP 71: Coastal Protection

The land is within the coastal zone however the reclassification of this land is consistent with the SEPP.

The proposal is considered consistent with all other relevant SEPPs.

SECTION 117 DIRECTIONS

Section 117 Direction 2.1 Environment Protection Zones

This Direction applies to all relevant planning authorities and to all planning proposals. While the land within the Lower Hunter Green Corridor, wherein all land is to be managed for conservation, the proposal does not include any provisions to facilitate the protection and conservation of the land (clause 4). Because the proposal seeks only to reclassify the land this inconsistency is considered under clause 6d to be of minor significance.

Section 117 Direction 2.2 Coastal Protection

The land is identified within the Coastal Zone. The proposal seeks only to reclassify the land, any future development application or rezoning proposal will need to consider the provisions of the SEPP. The proposal is considered consistent with this direction.

Section 117 Direction 2.3 Heritage Conservation

This Direction applies when the RPA prepares a Planning Proposal whether or not the PP is to rezone land. The NSW Aboriginal Heritage Management System (AHIMS) indicates that an Aboriginal heritage place or relic is located in the locality. The reclassification will not affect its preservation should it be located on the site, and further investigation would be required as part of any future development application. The proposal is considered consistent with this direction.

Section 117 Direction 4.1 Acid Sulfate Soils

The proposal shows the land to have an ASS Category 4 constraint on works >2m depth (PP.p.22). As this Planning Proposal is a reclassification and does not propose an intensification of allowable uses, it is considered to be consistent with this Direction.

Section 117 Direction 4.4 Planning for Bushfire Protection

This direction applies to the land and requires Council to assess the bushfire risk of the proposal prior to public consultation towards protecting life, property and the environment from bushfire hazards.

Council advises that the land is categorised bushfire prone "Vegetation Category 1" on the eastern and southern edges, "Vegetation category 2" over most of the site, and "Vegetation Buffer" over a small area of land near the centre of its northern boundary.

As the land is bushfire prone the Council must consult the RFS prior to public exhibition under this Direction.

Section 117 Direction 5.1 Implementing of Regional Strategies

As discussed the Planning Proposal is considered to be consistent with the provisions of the Lower Hunter Regional Strategy. However, if operational, a range of tenures and non-recreational and non-open space purposes become possible to the exclusion of the recreational uses for which the land was originally zoned. This potential should be clearly articulated in the exhibition material

Section 117 Direction 6.2 Reserving Land for Public Purposes

Under clause 4 of this Direction Council cannot alter the reservation of land for a public purpose without the approval of the Director-General. It is considered appropriate that the Director-Generals' decision on this issue be made following public exhibition.

The proposal is considered consistent with all other s117 directions.

Environmental social
economic impacts :

Environmental Impacts

The land is within the Watagans to Stockton Bight Green Corridor as defined in the Lower Hunter Regional Strategy. The land is situated near to two strands of National Park Estate and adjoining land zoned rural but having having extensive remnant bushland and tree canopy.

The site is 80% cleared and has not been investigated for potential loss of significant plant or animal species or communities. The reclassification and subsequent ability to sell the land to a private owner, is likely to make development of the site more attractive, however no additional uses will be permitted on the site. The ongoing management of the land and protection of its environmental value are matters that will be considered through the development assessment process.

The nature of an Aboriginal heritage place or relic indicated by the NSW Aboriginal Heritage Management System (AHIMS) is unknown at this time. The reclassification will not affect its preservation and further work would be required as part of any future development application.

Social

The reclassification proposal does not necessarily imply a loss of public recreation land and the total land area within open space zones in Anna Bay remains unchanged. It is acknowledged by Council however that the operation uses to which the site may be put could result in a substantial or complete loss of recreational access to this land. Council will be asked to make the potential for this situation to arise, as a result of the reclassification clear within the exhibited material.

Economic Impacts

Reclassification, and potentially subsequent rezoning, of the land would be likely to have a positive economic impact on Council's budget and indirectly on service costs supported via council rates, or user fees and charges. Council, at this stage, is not proposing a rezoning of the land.

Reclassification of 2 Jessie Road Anna Bay (Lot 10 DP 729986)

Assessment Process

Proposal type : **Consistent** Community Consultation Period : **28 Days**

Timeframe to make LEP : **6 months** Delegation : **DDG**

Public Authority Consultation - 56(2)(d) : **NSW Rural Fire Service**

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

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

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

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 :

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal_02 May 2013.pdf	Proposal	No
covering letter_s56.pdf	Proposal Covering Letter	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.5 Rural Lands**
2.1 Environment Protection Zones
2.2 Coastal Protection
2.3 Heritage Conservation
4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies
6.2 Reserving Land for Public Purposes

Additional Information : **1) Council clarify within the exhibited material that the reclassification of the land to operation may remove the land from public access and therefore remove any opportunity for recreational use. A copy of Council's 2007 'Open Space Consolidation Review' should also be placed on exhibition with the Planning Proposal.**

2) Council consult NSW Rural Fire Service as per S.117 Direction 4.4 Planning for Bushfire

Reclassification of 2 Jessie Road Anna Bay (Lot 10 DP 729986)

Protection.

3) Council publicly exhibit the planning proposal for 28 days and finalise the PP within six months.

4) Council exhibit a copy of Planning Practice Note PN 09-003, 12 June 2009 with the Planning Proposal

5) Council provide details of the reclassification planning proposal and dates of the public exhibition period to the Nelson Bay Pony Club and adjoining landholders including Energy Australia.

6) Council are not given delegations for the proposal because the subject land is council owned and it may require consideration by the Governor.

7) That inconsistency with s117 direction 2.1 Environmental Protection Zones be considered justified as of minor significance and that consistency with s117 directions 4.4 Planning for Bushfire Protection and 6.2 Reserving land for Public Purposes be resolved post exhibition.

Supporting Reasons :

The proposal is for the reclassification of land currently zoned 6a Open Space. The land is located within the regionally significant Green Corridor and may have environmental, heritage and open space values. The reclassification itself does not prevent these values from being retained, however Council should be advised that the future use of the land and any future proposal to change the zoning, will need to demonstrate how these values have been assessed and if relevant protected.

Signature:



Printed Name:

KOFLAHERTY

Date:

27-6-13