

Eurobodalla LEP 2012 - Amendment 13 - Reclassification, rezoning and change of minimum lot size and height of building controls relating to land at Flying Fox Rd / Rainforest Parkway, Narooma (no dwellings or jobs)

Proposal Title :	Eurobodalla LEP 2012 - Amendment 13 - Reclassification, rezoning and change of minimum lot size and height of building controls relating to land at Flying Fox Rd / Rainforest Parkway, Narooma (no dwellings or jobs)		
Proposal Summary :	The Planning proposal involves part of Lot 23 DP 865887 Flying Fox Road,/Rainforest Parkway Narooma, an existing Council foreshore reserve, and proposes to reclassify it from Community land to Operational land, and rezone the land from E2 (Environmental Conservation) to E4 (Environmental Living). The proposal also proposes to apply a 2ha minimum lot size and an 8.5m maximum building height standard to the subject land.		
PP Number :	PP_2017_EUROB_002_00	Dop File No :	17/09409

Proposal Details

Date Planning Proposal Received :	28-Jun-2017	LGA covered :	Eurobodalla
Region :	Southern	RPA :	Eurobodalla Shire Council
State Electorate :	BEGA	Section of the Act :	55 - Planning Proposal
LEP Type :	Policy		

Location Details

Street :	Flying Fox Rd / Rainforest Parkway		
Suburb :	Narooma	City :	Postcode : 2537
Land Parcel :	Part Lot 23 DP865887		

DoP Planning Officer Contact Details

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Land Release Data

Growth Centre :	Release Area Name :
Regional / Sub Regional Strategy :	Consistent with Strategy :
MDP Number :	Date of Release :
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :
No. of Lots : 0	No. of Dwellings 0 (where relevant) :
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 : The planning proposal is considered relatively minor, seeks to facilitate the development of an adjacent approved subdivision, and acceptable to proceed to community consultation.

External Supporting Notes :

Adequacy Assessment

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

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

Comment : It is proposed to amend the Eurobodalla Local Environmental Plan (LEP) 2012 to rezone and reclassify a certain parcel of land to enable the sale of the subject land. It is also proposed to change the minimum lot size and height of buildings controls.

The Department notes that the subject land will be used to facilitate the erection of dwellings on the adjoining approved subdivision.

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

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

Comment : For land being Part (11,269 square meters) of Lot 23 DP865887, Flying Fox Road / Rainforest Parkway, Narooma;

- Reclassify the land from Community to Operational land,
- Amend the Land zoning map to change from the existing E2 (Environmental conservation) to the E4 (Environmental living) zone,
- Amend the Lot size map to change the minimum lot size from 1000ha to 2ha,

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- Amend the Building height map to apply an 8.5m maximum height limit.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

2.1 Environment Protection Zones

* May need the Director General's agreement

2.2 Coastal Protection

3.4 Integrating Land Use and Transport

5.1 Implementation of Regional Strategies

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

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

d) Which SEPPs have the RPA identified?

SEPP No 71—Coastal Protection

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

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

If No, explain :

Council has provided the following assessment of the planning proposal against relevant S117 Directions;

2.1 Environmental Protection Zones - Inconsistent but of minor significance. Whilst the proposal relates to 77% of the subject lot, however, 65% of the area is cleared for a power transmission line, and remaining vegetation is not an endangered ecological community. The area to be retained in the E2 zone still provides larger than usual vegetated buffer to Wagonga Inlet.

Comment - It is considered that the proposed zoning change from E2 Environmental Conservation to E4 Environmental Living will not substantially reduce environmental protection of the lands and that the inconsistency with s117 2.1 is minor. No further dwellings will result from the proposal, the vegetation is disturbed/cleared, is not an EEC and a relatively small amount of land is affected (11,300m²).

2.2 Coastal Protection - Consistent. Whilst the subject land is either within the coastal zone and/or is in a sensitive coastal location, the proposed amendments will have no impact on coastal zone.

4.4 Planning for Bushfire Protection - Consistent. Whilst the proposal relates to 77% of the subject lot, however, 65% of the area is cleared for a power transmission line. The adjoining land to which the reclassified/rezoned land will likely be consolidated with has an approved subdivision with building footprints and asset protection zones. Should any additional area result in an application to modify lot shapes/building footprints, and assessment against Planning for Bushfire Protection will be required.

Comment - as the planning proposal involves amending provisions within the LEP that will affect bushfire prone land, or land within proximity to bushfire prone land, the Direction applies and therefore requires consultation with the Commissioner of the NSW Rural Fire Service prior to community consultation of the planning proposal.

RECOMMENDATION: A condition should be included in the Gateway determination that consultation should be undertaken with the Rural Fire Service in accordance with the Direction.

5.1 Implementation of Regional Strategies - Proposal not inconsistent with the South Coast Regional Strategy.

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The South East and Tablelands Regional Plan was recently launched and Direction 5.10 Implementation of Regional Plans is now applicable to the proposal. The proposal is not inconsistent with the Regional Plan.

The Southern Region has identified that s117 Direction 6.2 Reserving Land for Public Purposes also applies to this amendment as the planning proposal seeks to alter or reduce existing zonings or reservations of land for public purposes. An assessment of the planning proposal notes Council's statements that given only part lot is proposed for reclassification/rezoning, that the intended function of the community land to provide foreshore access and a headland reserve will be retained, and funds from any future sale will be used in accordance with Council's Recreation and Open Space Policy. The inconsistency is therefore considered minor and justified.

Council has provided the following assessment of the planning proposal against relevant State Environmental Planning Policies (SEPP);

SEPP 71 Coastal Protection

Consistent. Land is within coastal zone/sensitive coastal location. Proposed amendments will have no impact on coastal zone.

The proposed amendments do not generate significant new development potential on the subject land and therefore the potential impacts on the coastal zone are considered minor.

The Department notes the intended use of the subject land is to facilitate development in an adjacent approved subdivision. Given the potential for some level of future clearing, it is recommended that consultation occur with the Office of Environment and Heritage.

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment : Mapping has been provided within the planning proposal, however it is not consistent with Standard Instrument LEP mapping format.

The mapping is considered acceptable for the purpose of consultation.

Following consultation, Council will be required to produce the appropriate LEP standard maps to allow finalisation of the LEP.

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment : Council has proposed a 28 day exhibition period.
This is considered appropriate.
It is noted that, as the planning proposal involves the reclassification of Community land, a public hearing will be required in accordance with the Local Government Act 1993

Additional Director General's requirements

Are there any additional Director General's requirements? No

If Yes, reasons : none

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Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment : The planning proposal is considered adequate.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : Eurobodalla LEP 2012 was notified in 2012.

Assessment Criteria

Need for planning proposal :

The planning proposal is required to rezone and reclassify certain parcels of land to enable the sale of the subject land to the adjoining land owner. The intent of the adjoining land owner is to amalgamate parts of the reclassified area into two or three of the adjoining lots in order to facilitate the erection of dwellings on those lots.

Council has noted that a planning proposal is the only way to make the above listed changes to its current planning controls in the Eurobodalla LEP 2012.

The Southern Region acknowledges that a planning proposal is the only mechanism to achieve the intended outcome. It is noted that the proposal includes amendment of the Height of building map and Minimum lot size map for the area being rezoned/reclassified to ensure consistency with the adjoining land zoned E4 (Environmental Living) to which the subject land is proposed to be amalgamated with.

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Consistency with strategic planning framework :

Council has provided the following assessment of the proposals consistency with the Strategic Planning Framework:

The proposal is not the direct result of any strategic study or report, but is the result of a request from the adjoining land owner. The intent of the adjoining land owner is to amalgamate parts of the reclassified area into two or three of the adjoining lots, in order to facilitate the erection of dwellings on those lots. Council has advised the landowner that it would be willing to sell the subject land following completion of the planning proposal process.

The proposed reclassification does not impact on the retention of a consistent and continuous public reserve along Wagonga Inlet foreshore. The majority of the area proposed to be reclassified is cleared, including a power transmission easement and the remaining vegetation is not an endangered ecological community. Vegetation is dominated by spotted gum upper-storey, and a disturbed and degraded under-storey.

The land does not meet criteria established for E2 zone application in the Northern Councils E Zone Review Final Recommendations. The six criteria set out in the Review includes land identified by SEPP's 14 & 26, EEC's and threatened species habitat which are not applicable to the site. The site characteristics are similar to the adjoining zone (E4 Environmental Living) to which it is proposed to be amalgamated with.

The Southern Region notes that the Northern Councils E Zone review Final Recommendations are specific to 5 Councils in Northern NSW, however sets a framework that can be applied to other areas when considering the application of environmental zones.

The subject land was dedicated to Council in 1997 as a public reserve as part of the Ringlands Estate. It formed part of a foreshore area of varying widths to ensure access along the foreshore and for public reserve areas around headland points along the foreshore. The subject lot is a headland. Council considers that as only a portion of the subject lot is proposed to be reclassified/rezoned, and the adjoining foreshore access lot will remain in public ownership, that the intent of the original land dedication, being foreshore access and a headland reserve is met, albeit reduced in area.

Land will be retained in public ownership between the site and the foreshore. Erection of dwellings on the adjoining lots may cause some clearing of under storey vegetation and thinning of upper storey vegetation for asset protection zones. There will be minimal visual impact of development when viewed from Wagonga inlet.

Council advises that there are no trusts or dedications upon the land, and the electricity easement will be retained. No other interests are to be discharged, and no leases or agreements apply to the land. There is currently no formal use of the land other than some walking from time to time.

The Southern Region is satisfied that the Proposal is generally consistent with regional and local strategic planning. The Southern Region notes that as part of the reclassification, an interest, being a 'Public reserve' will be removed from the subject land. In this regard, the planning proposal will require the Governors approval prior to finalisation.

Environmental social economic impacts :

Council has detailed responses in relation to environmental, social and economic impacts for each section of the planning proposal, a summary of the response is included below:

There is no likelihood of any adverse impacts on any critical habitat or threatened species, populations or ecological communities, or their habitats. No other environmental effects are forecast to result from the proposal. No adverse social or economic effects are forecast. It is noted that the adjoining lot to which the subject area may be consolidated with has development consent for a four lot subdivision. The potential addition of the subject land to the adjoining lot does not provide for any additional lots to be created, but

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will enhance the potential to develop adjoining lots.

Council has advised that funds from the sale of the subject land would be restricted and used in accordance with Council's Recreation and Open Space Strategy to implement the strategy and obtain grants to increase available funding to invest in developing open space and recreation and community facilities.

The Southern Region considers that the proposal represents minimal negative environmental impacts and any potential impacts will be able to be appropriately managed through any subsequent development assessment process. Foreshore access will be retained and positive benefits may result in terms of the provision of funding to improve other more widely used public space areas.

Assessment Process

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

Timeframe to make LEP : **12 months** Delegation : **DDG**

Public Authority : **Office of Environment and Heritage**
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 : **The matter is supported to proceed. Whilst it is proposed to reduce community land and rezone environmental conservation land to a higher use zone, the scale and intended future use is considered relatively minor and suitable to proceed to community consultation.**

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

If Yes, reasons : **Re-submission not required.**

Identify any additional studies, if required. :

If Other, provide reasons :

No formal studies are required, subject to satisfaction of OEH and NSW RFS during consultation.

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 : **Provision of state infrastructure is not relevant**

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal - Reclassification LEP Amendment No. 13 (002).pdf	Proposal	Yes
Council Minutes-9-May-2017.pdf	Proposal	Yes
20170602 - Lot 23 DP 865887 Title Search.pdf	Proposal	Yes

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Planning Team Recommendation

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

S.117 directions: 2.1 Environment Protection Zones
 2.2 Coastal Protection
 3.4 Integrating Land Use and Transport
 5.1 Implementation of Regional Strategies

Additional Information : Planning Proposal (Department Ref: PP_2017_EUROB_002_00): to reclassify and rezone Community land, being part Lot 23 DP865887, Flying Fox Road / Rainforest Parkway, Narooma.

I, the Director Regions, Southern, at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under Section 56(2) of the Environmental Planning and Assessment Act, 1979 that an amendment to the Eurobodalla Local Environmental Plan (LEP) 2012 to reclassify, rezone and change the minimum lot size and height of building controls at part Lot 23 DP865887, Flying Fox Road / Rainforest Parkway, Narooma should proceed subject to the following conditions:

1. Prior to community consultation:
a) to ensure consistency with s117 Direction 4.4 Planning for Bushfire Protection, Council is required to consult with the NSW Rural Fire Service in accordance with the Direction.

2. Community consultation is required under Sections 56(2)(c) and 57 of the Act as follows:

(a) the Planning Proposal must be made publicly available for a minimum of 28 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 (Department of Planning and Environment 2016).

3. Consultation is required with the following public authorities and / or organisations under Section 56(2)(d) of the Act and/or to comply with the requirements of relevant Section 117 Directions:

- Office of Environment and Heritage
- NSW Rural Fire Service

Each public authority/organisation is to be provided with a copy of the Planning Proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under Section 56(2)(e) of the 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).

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

6. The final LEP maps shall be prepared in accordance with the requirements of the Department's "Standard Technical Requirements for Spatial Datasets and Maps" Vers: 1.0 November 2015.

SECTION 117 DIRECTIONS

7. The Secretary's delegate can be satisfied that inconsistency with s117 Directions 2.1

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Environmental Protection Zones and 6.2 Reserving Land for Public Purposes is of minor significance.

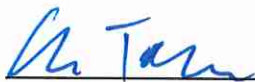
8.The Secretary's delegate can be satisfied that the planning proposal will be consistent with s117 Direction 4.4 Planning for Bushfire Protection following consultation with the NSW Rural Fire Service.

9.The Secretary's delegate can be satisfied that the planning proposal is consistent with other relevant s117 Directions, or that any inconsistencies are of minor significance.

Supporting Reasons :

The planning proposal involves the reclassification of community land to operational land as well as, changes to zoning, lot size and building heights. It is a relatively small piece of land, adjacent to an existing environmental living zoned subdivision, will not increase the permissible number of dwellings, and is considered to be appropriate the planning proposal proceeds to public/agency consultation.

Signature:



A/Team Leader, Southern

Printed Name:

GRAHAM TOWERS

Date:

18/7/17

