

Planning Proposal

Reclassification and rezoning

Lot 249 DP 711220, 29 Tranquil Bay Place, Rosedale, under the Eurobodalla LEP 2012

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INTRODUCTION

The Planning Proposal explains the intended effect of, and justification for the proposed amendment to Eurobodalla Local Environmental Plan 2012 with regard to reclassification and rezoning of Lot 249 DP 711220 being 29 Tranquil Bay Place, Rosedale, as shown in the Maps in Part 4 of this Planning Proposal. It has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and the relevant Department of Planning and Infrastructure Guidelines, including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

As this Planning Proposal relates to a minor matter, Council intends to request an authorisation to exercise delegation under section 23 Environmental Planning and Assessment Act 1979 with regards to all matters addressed in this Planning Proposal. Responses to the relevant matters in the 'Evaluation criteria for the delegation of plan making functions' are provided in Appendix 1 of this report.

The planning proposal was prepared at the request of the adjoining land owner. Given the unique circumstances of the subject land, it is intended that it be offered publicly to them to purchase following the finalisation of the planning proposal. The subject land has only one adjoining land owner in this regard.

PART 1: OBJECTIVES of the proposed amendment

The objectives of this planning proposal are to reclassify and rezone public land known as Lot 249 DP711220, 29 Tranquil Place Rosedale to enable its sale to the adjoining land owner.

PART 2: EXPLANATION of PROVISIONS

This planning proposal seeks the reclassification of Lot 249 DP 711220 from community land to operational land under the meaning of the *Local Government Act 1993* as well as the rezoning of the land from RE1 Public Open Space to E4 Environmental Living under the *Eurobodalla Local Environmental Plan 2012* to match the zoning and land use provisions of the adjoining land. The purpose of the planning proposal is to enable the subject land to be sold to the adjoining land owner.

This is to be achieved by:

- Amending the Eurobodalla Local Environmental Plan 2012 to include Lot 249 under Part 1 of Schedule 4 of the Eurobodalla LEP 2012.
- Amending the Eurobodalla LEP 2012 Land Zoning Map to show Lot 249 as E4 – Environmental Living.
- Amending the Eurobodalla LEP 2012 Height of Buildings Map to show Lot 249 as I – 8.5m
- Amending the Eurobodalla LEP 2012 Lot Size Map to show Lot 249 as U – 1500m²

PART 3: JUSTIFICATION

In accordance with the Department of Planning's 'Guide to Preparing Planning Proposals', this section provides a response to the following issues:

- Section A: Need for the planning proposal;
- Section B: Relationship to strategic planning framework;
- Section C: Environmental, social and economic impact; and
- Section D: State and Commonwealth interests.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

No. The planning proposal is the result of a request from the adjoining land owner to purchase the land.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. An amendment to the Eurobodalla LEP 2012 is the most effective and timely method to achieve the desired future outcomes for the subject land and is the only means to allow the subject land to be reclassified to become Operational land.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

South Coast Regional Strategy

Yes. Being of a minor nature, the proposed amendment to Eurobodalla LEP 2012 is not inconsistent with the South Coast Regional Strategy.

4. Is the planning proposal consistent with the Council's local strategy or other local strategic plan?

Community Strategic Plan

Yes. The Planning Proposal is consistent with the Eurobodalla Community Strategic Plan.

Recreation and Open Space Strategy 2010 - 2030

Yes. The planning proposal is consistent with the Eurobodalla Recreation and Open Space Strategy.

Council's Recreation Strategy outlines Council's role which is to promote future recreation development in locations that represent the best utilisation of resources for our community and prioritise the expenditure and maintenance on open space and recreation to obtain maximum benefit.

The needs analysis conducted to inform the strategy indicates an oversupply of recreation and open space across the Eurobodalla Shire, the majority of which is not being actively used. It suggests the focus should be on rationalizing the amount of space and developing key spaces and facilities.

5. Is the planning proposal consistent with applicable state environmental planning policies?

There are a number of existing SEPPs that are relevant to the LEP amendments outlined in this planning proposal. An assessment of the relevant SEPPs against the planning proposal is provided in the table below.

SEPP	Relevance	Consistency and Implications
SEPP (Infrastructure) 2007	The allotment is identified as land to which this SEPP applies.	Consistent
SEPP 71 – Coastal Protection	The allotment is identified as being within the coastal zone but is not in a sensitive coastal location.	Consistent

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The proposed amendments to Eurobodalla LEP 2012 are not inconsistent with any s.117 Ministerial Directions. An assessment of the relevant s. 117 Directions against the planning proposal is provided in the table below.

Ministerial Direction	Relevance	Consistency and Implications
2.2 Coastal Protection	Lot 249 is identified as being within the Coastal Zone but is not in a sensitive coastal location.	Consistent
4.4 Planning for Bushfire Protection	Lot 249 is identified and mapped as bushfire prone.	Consistent
5.1 Implementation of Regional Strategies	The Planning Proposal relates to land under the South Coast Regional Strategy.	Consistent
6.1 Approval and Referral Requirements	This Planning Proposal seeks an amendment to an LEP.	Consistent

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?

There is no information to suggest that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the planning proposal.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. There are no other known environmental effects that could arise from the planning proposal.

9. How has the planning proposal adequately addressed any social and economic effects?

The planning proposal is not expected to have any negative social or economic effects short or long term.

Section D – STATE and COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

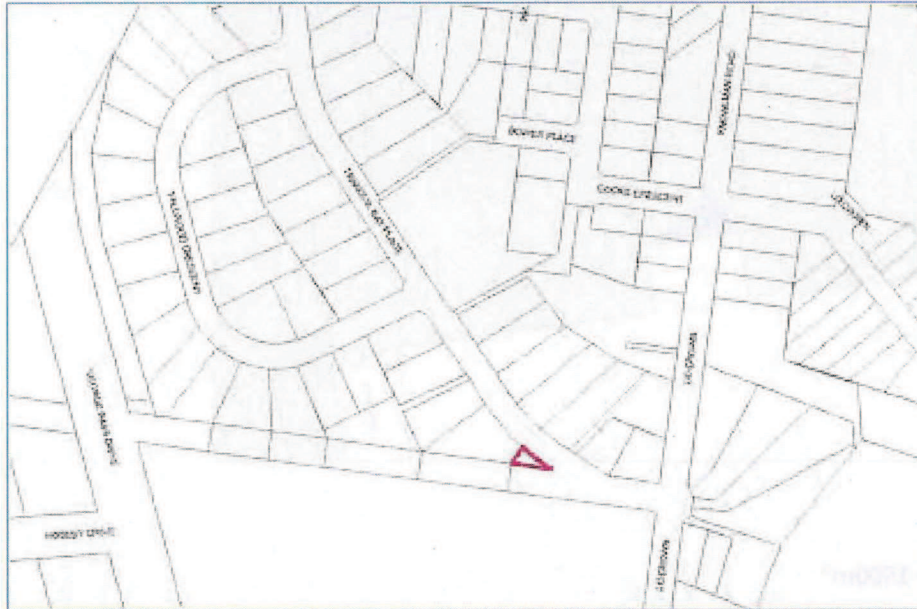
The planning proposal does not alter the public infrastructure requirements for the land or surrounding area. The existing infrastructure is adequate to meet the needs of the proposal.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

No State or Commonwealth public authorities have been consulted at this stage. Council anticipates that the Department of Planning and Infrastructure will issue the appropriate advice as a requirement of the gateway determination.

PART 4: MAPPING AND PROPERTY INFORMATION

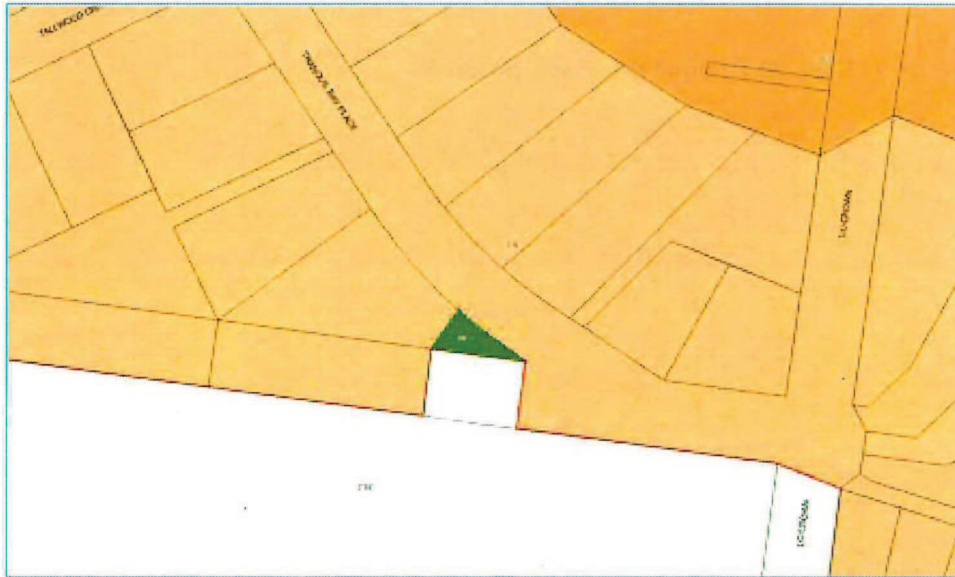
Subject Site: Lot 249 DP 711220, 29 Tranquil Bay Place, Rosedale



Aerial Photograph



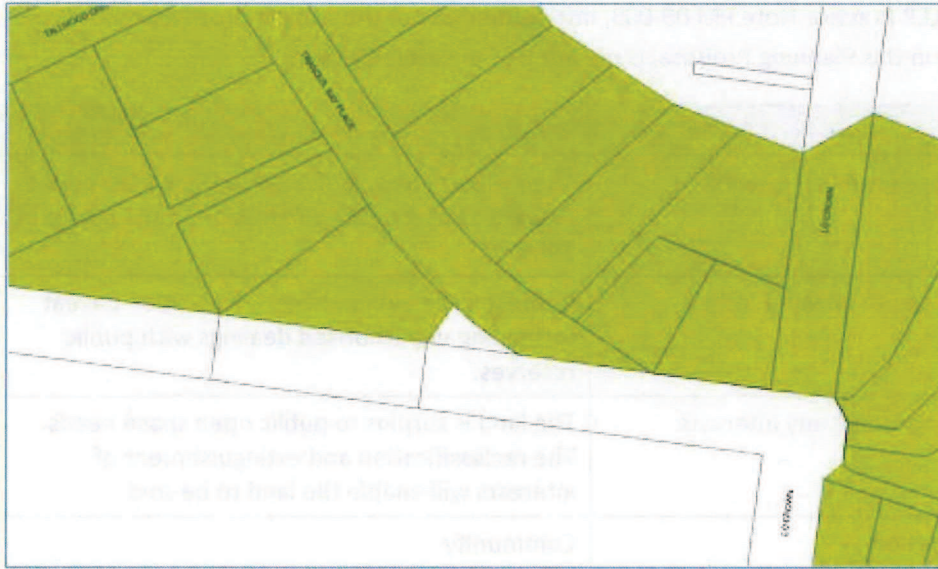
LEP 2012 Zoning: RE1 Public Recreation



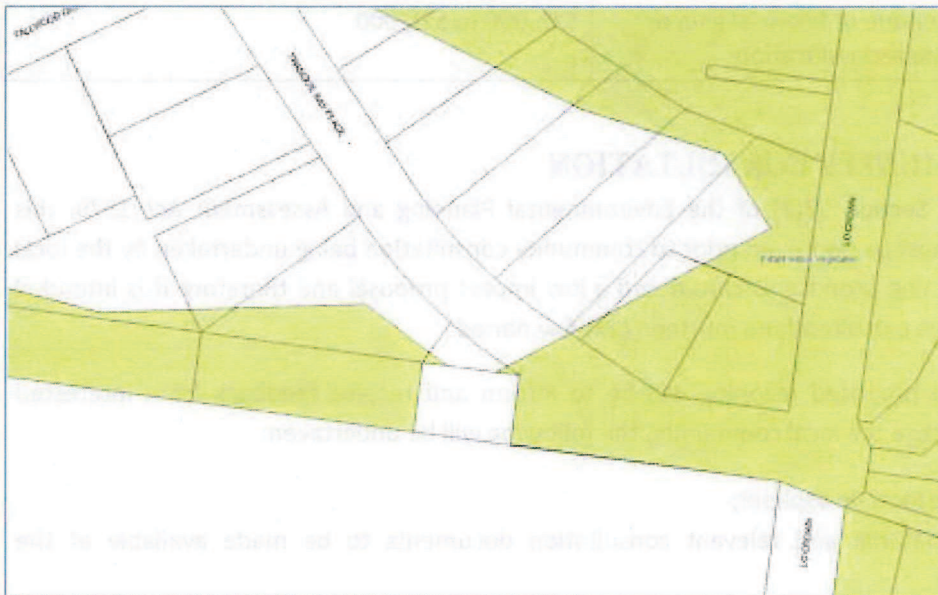
LEP 2012 Lot Size: U – 1500m²



LEP 2012 Height of Buildings: I – 8.5m



LEP 2012 Biodiversity: Extant Native Vegetation



Relevant Property Information

In accordance with LEP Practice Note PM 09-003, information about the subject property not provided elsewhere in this Planning Proposal is provided in the table below.

Requirement	Response
Reason why Council acquired an interest	The property was dedicated to Council as public reserve as part of the subdivision of the estate in 1985.
Any proposal to extinguish or retain other interests in the land	Interest to be extinguished – K200000P Caveat forbidding unauthorised dealings with public reserves.
Justification for extinguishing any interests	The land is surplus to public open space needs. The reclassification and extinguishment of interests will enable the land to be sold.
Current land classification	Community
Proposed land classification	Operational
Current Zone	RE1 – Public Recreation
Proposed Zone	E4 – Environmental Living
Estimate of the magnitude of financial gain or loss resulting from the reclassification	\$15,000 to \$20,000

PART 5: COMMUNITY CONSULTATION

In accordance with Section 57(2) of the Environmental Planning and Assessment Act 1979, this planning proposal must be approved prior to community consultation being undertaken by the local authority. The planning proposal is considered a low impact proposal and therefore it is intended for this proposal to be exhibited for a fourteen (14) day period.

Consultation on the proposed rezoning will be to inform and receive feedback from interested stakeholders. To engage the local community, the following will be undertaken:

- Notice in the local newspaper;
- Exhibition material and relevant consultation documents to be made available at the libraries and
- Council's Administration Building;
- Consultation documents to be made available on Council's website; and
- Letters, advising of the proposed amendments and how to submit comments will be sent to stakeholders that Council deem relevant to the proposed amendments.

Additional consultation measures may be determined appropriate and added to the above process as part of the 'Gateway' Determination.

A public hearing will be held in accordance with the requirements of the Local Government Act 1993.

PART 6: PROJECT TIMELINE

- Anticipated commencement date (date of Gateway determination) – 02/09/2013
- Anticipated timeframe for the completion of required technical information– 09/09/2013
- Timeframe for government agency consultation– 16/09/2013
- Commencement and completion dates for public exhibition period– 11/09/2013 - 27/09/2013
- Timeframe for the consideration of submissions– 11/10/2013
- Timeframe for consideration of a proposal post exhibition– 11/10/2013
- Date of submission to the Department to finalise the LEP. – 23/10/2013
- Anticipated date the RPA will make the plan (if delegated) – 03/12/2013
- Anticipated date the RPA will forward to the department for notification. – 04/12/2013

Appendix 1 EVALUATION CRITERIA FOR THE DELEGATION OF PLAN MAKING FUNCTIONS

Local Government Area: Eurobodalla Shire Council

Name of draft LEP: Eurobodalla Local Environmental Plan amendment No 4

Address of Land (if applicable): Lot 249 DP 711220, 29 Tranquil Bay Place, Rosedale

Intent of draft LEP: Reclassification and rezoning of public land.

Additional Supporting Points/Information: This spot rezoning is consistent with practice note PS 12/006 Delegations and Independent Reviews of Plan – Making Decisions which states “The following types of draft LEPs will routinely be delegated to Councils to prepare and make following a Gateway determination that the planning proposal can proceed: ... reclassifications of land, ... spot rezoning consistent with an endorsed strategy and/or surrounding zones,”.

Council requests the responsibility for the LEP as it is of local significance and will streamline the process post Gateway.

(Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Yes			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Yes			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Yes			
Does the planning proposal contain details related to proposed consultation?	Yes			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Yes			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Yes			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Yes			
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?		Not relevant		
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?		Not relevant		
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		Not relevant		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		Not relevant		
Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?	Yes			
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		Not relevant		

Is the planning proposal proposed to rectify an anomaly in a classification?	No			
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		Not relevant		
Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?	Yes			
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?	Yes			
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?	Yes			
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?	Yes			
Spot Rezoning	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	No			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	No			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	No			
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		Not relevant		
Does the planning proposal create an exception to a mapped development standard?	No			
Section 73A matters				
Does the proposed instrument a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or	No			

c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? (NOTE – the Minister (or Delegate) will need to form an Opinion under section 73(A(1)(c) of the Act in order for a matter in this category to proceed).				
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NOTES

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.