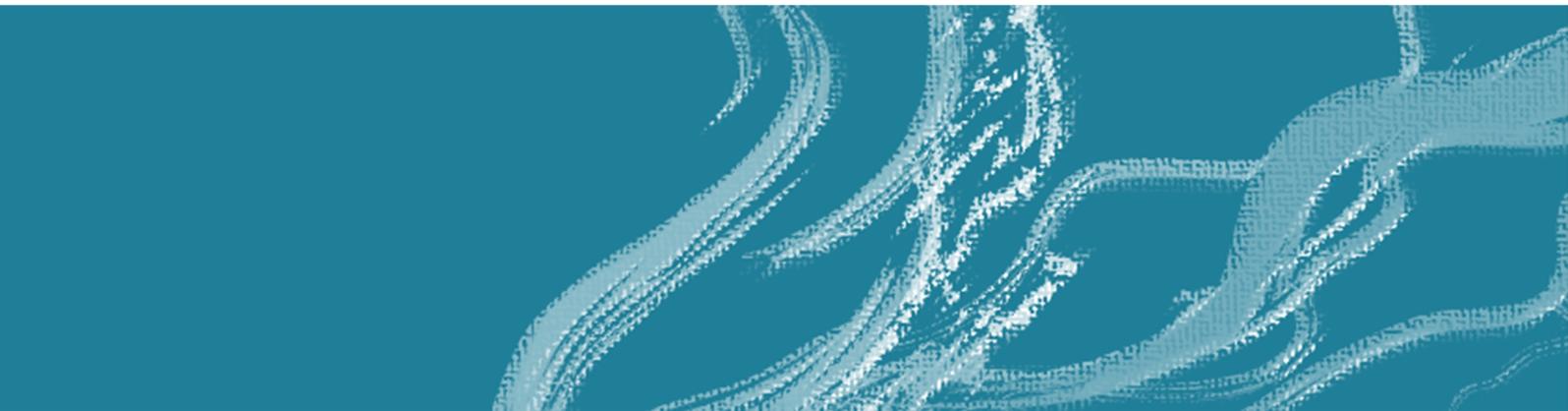


**Shoalhaven City Council**  
Report on Public Hearing  
Draft Shoalhaven Local Environmental Plan 2013



June 2013



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# Contents

1.	Introduction and Background	1
1.1	Purpose of the Report	1
1.2	Legislative Context	1
2.	Subject Land	2
3.	The Public Hearing	7
4.	Draft SLEP 2013 Submissions	8
5.	Findings and Recommendations	9

# 1. Introduction and Background

## 1.1 Purpose of the Report

The purpose of this report is to provide a record of a Public Hearing undertaken in association with the reclassification of Council owned land under the Draft Shoalhaven Local Environmental Plan 2013 (**SLEP 2013**). The report has been prepared by Steve Thompson, being the independent chair of the Public Hearing.

## 1.2 Legislative Context

All Council owned land must be classified as either “community” or “operational” land under Sections 25 and 26 of the *Local Government Act 1993 (LG Act)*. Generally speaking, “community” land is managed by Council for the benefit of the community, consistent with a number of community land categories. “Operational” land owned by Council is more akin to normal land ownership, where land can be sold, leased or used by Council like a private landowner.

Where a Council seeks to “reclassify” land, a public hearing is required under Section 29 of the LG Act. In this instance, Council is seeking to reclassify a total of six allotments from “community” to “operational” land as part of SLEP 2013, a process of reclassification that is subject to Section 27(1) of the LG Act.

## 2. Subject Land

A total of six lots are proposed to be reclassified as part of Draft SLEP 2013. A summary of the sites is provided below.

### **Lot 21 DP 252281 - Shoalhaven Heads Road, Shoalhaven Heads**

The site forms part of a service station and part of the Coastal Palms Holiday Park and is identified in the aerial photo below. The site provides access between Shoalhaven Heads Road, the service station and the Holiday Park. The part of the Coastal Palms Holiday Park that forms part of the subject site is currently held under lease over five year cycles. The intention of the reclassification from community to operational land is to dispose of the surplus land through investigation of sale of the land to an adjoining land owner.



**Lot 12 DP 617101 - Bolong Road, Coolangatta**

The site adjoins the road reserve and is partly unused land and partly within the fence of an adjoining private land owner. The site is identified in the aerial photo below. The intention of the reclassification from community to operational land is to dispose of the surplus land through investigation of sale of the land to an adjoining land owner.



**Lot 3 DP597223 - Bolong Road, Coolangatta**

The site adjoins the road reserve and is unused land. The area is identified in the aerial photo below. The intention of the reclassification from community to operational land is to dispose of the surplus land through investigation of sale of the land to an adjoining land owner.



**Lot 2081 DP 216860 - Lively Street, Vincentia**

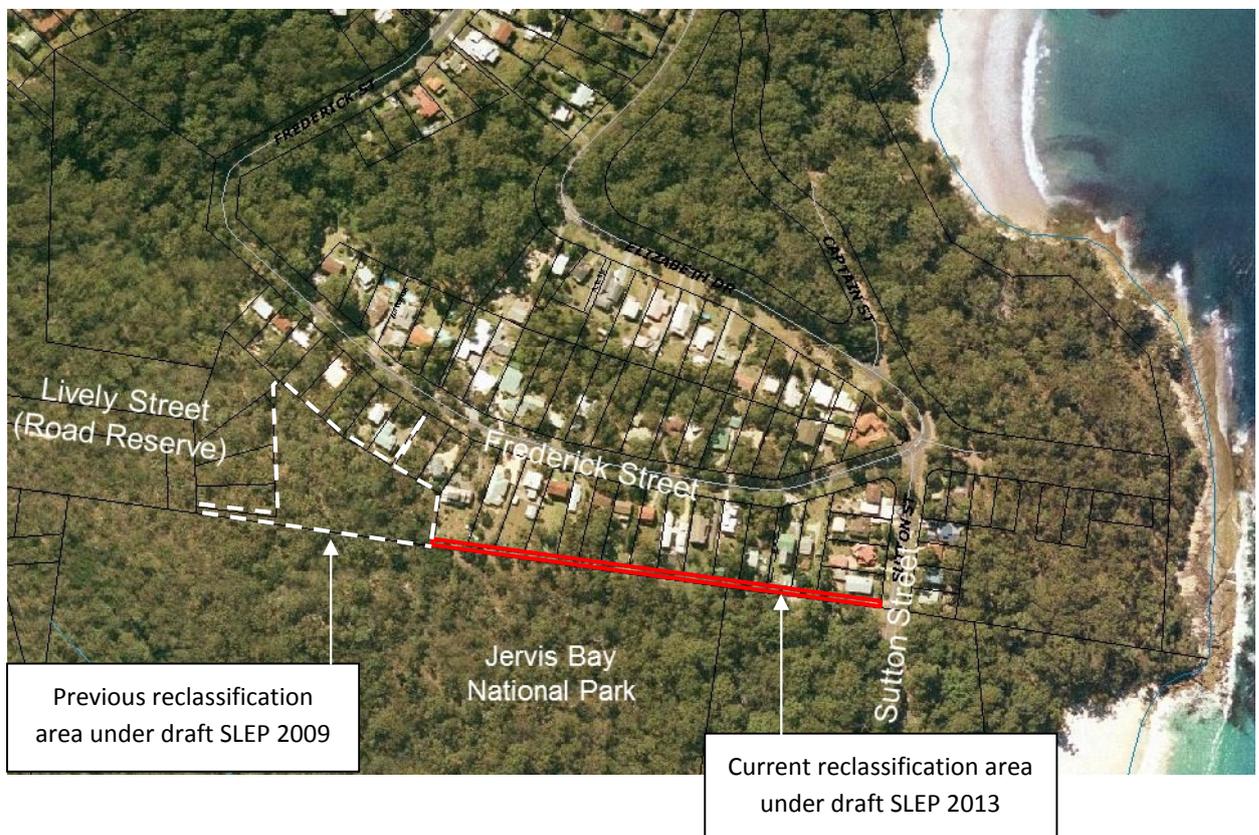
The site adjoins the Jervis Bay National Park and is presently used to access the rear of some residential lots with frontages to Frederick and Sutton Streets. The site is identified in the aerial photo below. The intention of the reclassification from community to operational land is to enable investigation of licensing of the land to adjoining land owner(s) to enable the attainment of legal access to the rear of their properties. All existing residential properties have an existing legal access from Frederick or Sutton Streets. One dwelling on Sutton Street utilises the land as its primary access.

With respect to this site, Council, at its meeting of 29<sup>th</sup> November 2005, resolved as follows:

- a) *Council commence the process to reclassify the narrow section of Lot 2081 DP 216860 at Vincentia adjoining 83-109 Frederick Street and 7 Sutton Street from Community Land to Operational Land and the associated fees and costs be met by benefiting property owners.*
- b) *Should, after due process, the narrow section of Lot 2081 DP 216860 at Vincentia adjoining 83-109 Frederick Street and 7 Sutton Street be reclassified as Operational Land, Council commence negotiating a licence or a right-of-carriageway with a fee which meets the cost the legal process and the cost to Council of the provision and maintenance of this vehicle access.*

The reclassification, at the request of the State Government, is being dealt with as part of the Draft SLEP 2013.

It is also noted that a previous reclassification process for the site under Draft SELP 2009 resulted in a recommendation that only part of the site be reclassified. This recommendation was endorsed by Council on 20 March 2012 however Draft SLEP 2009 was never finalised and has since been superseded by Draft SLEP 2013 and this report. The previous area that was removed from consideration of being reclassified is indicated in a white dashed line in the image below.



**Lot 4 DP 550354 - Island Point Road, St Georges Basin**

The site has a frontage to St Georges Basin, but no frontage to any other public land or road reserve and is identified in the aerial photo below. The site is understood to have been acquired by Council through subdivision of a larger allotment into the three residential lots that now adjoin the land to the north-west. The intention of the reclassification from community to operational land is to dispose of the land through investigation of sale of the land to adjoining land owner(s). There are three adjoining allotments that are separated from St Georges Basin by the subject land.

It is also noted that a previous reclassification process for the site under Draft SELP 2009 resulted in a recommendation that the site be reclassified if there was no strategic justification or policy of Council to retain the foreshore land in this area. This recommendation was endorsed by Council on 20 March 2012 however Draft SLEP 2009 was never finalised and has since been superseded by Draft SLEP 2013 and this report.



**Lot 35 DP 226342 - Edgewater Avenue, Sussex Inlet**

The site forms part of a drainage canal and larger foreshore reserve area that has a frontage to the Sussex Inlet waterway. The site is bounded by public roads on three sides, being Edgewater Avenue, Pacificana Drive and Alamein Road, and is identified in the aerial photo below. The site is partly underwater, providing access for boats to the adjoining Sussex Inlet waterway. The site is understood to have been acquired by Council through subdivision of the area. The intention of the reclassification from community to operational land is to implement improved canal management through the licensing of the existing jetties and moorings.

Council has previously dealt with the land and undertaken public consultation in relation to the matter. With respect to this site, Council, at its meeting of 29<sup>th</sup> November 2005, resolved as follows:

- a) *Council resolve to prepare a Draft Local Environmental Plan to reclassify under the Local Government Act that part of Lot 35 DP 226342 (Alamein drainage canal) comprising of land from the road reserve to the mean high water from community to operational land*
- b) *Council endeavour to achieve the reclassification as part of a Draft Local Environmental Plan that includes other reclassification or special use issues.*

- c) Council support in principle the preparation of a Management Plan for the Alamein drainage canal that would allow for the provision of long term licensing of jetties and moorings at this location only with the cost of construction of jetties being met by the licensee.
- d) Preparation of a management plan for the canal be deferred pending Council's successful rezoning application
- e) Council endorse that action be taken to remove the public liability risk associated with jetties in the Alamein drainage canal as outlined in the report.



### 3. The Public Hearing

A Public Hearing was undertaken in respect of the land parcels as follows:

- Public Hearing  
 Held 6:00pm on 11<sup>th</sup> June 2013  
 Shoalhaven City Council Administration Centre  
 Bridge Road, Nowra

At the Public Hearing, the need for and purpose of the meeting was outlined in a presentation, along with details of each site. The Public Hearing focused on all land parcels that were subject to the reclassification process.

A total of three residents attended the Public Hearing.

Table 1 provides a record of comments and questions received with respect to each site or at the conclusion of the entire presentation.

**Table 1: Public Hearing - Summary of Comments and Questions**

Site	Comments or Question	Response
Lot 21 DP 252281 - Shoalhaven Heads Road, Shoalhaven Heads	No comments or questions received	-
Lot 12 DP 617101 - Bolong Road, Coolangatta	No comments or questions received	-
Lot 3 DP597223 - Bolong Road, Coolangatta	No concern was raised with the proposed reclassification. However the adjoining owner raised concern that the land would be used for a new purpose that may be detrimental to their property, such as being a storage area for materials for road building or the like.	Council's intent, as discussed in the Reclassification factsheet provided in the Draft SELP 2013, is for the land to be sold to an adjoining land owner. The land would remain within the existing zone and its use bound by those requirements. There is no known intention for Council to use the land for any other purpose.
Lot 2081 DP 216860 - Lively Street, Vincentia	No comments or questions received	-
Lot 4 DP 550354 - Island Point Road, St Georges Basin	No comments or questions received	-
Lot 35 DP 226342 - Edgewater Avenue, Sussex Inlet	No comments or questions received	-

## 4. Draft SLEP 2013 Submissions

In addition to the Public Hearing recorded in Section 3, this report also considers relevant submissions made in relation to draft SLEP 2013 as part of the broader exhibition period. The primary purpose of the re-exhibition was to highlight changes made to the draft LEP following exhibition and consideration of submissions on draft SLEP 2009. Given only minor changes were made to one allotment being considered for reclassification there were no submissions received in this instance<sup>1</sup>.

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<sup>1</sup> As advised by Council staff who have reviewed all draft SLEP 2013 submissions.

## 5. Findings and Recommendations

Based on the comments received during the Public Hearing, review of submissions to draft SLEP 2013, information received as part of the previous reclassification process under draft SLEP 2009, and the individual context and history of each site, the following finding and recommendations are made:

■ *Lot 21 DP 252281 - Shoalhaven Heads Road, Shoalhaven Heads*

The site has no practical public use. While public access may be possible, there would be concerns about a public park (for example) being located in a concealed location with limited passive surveillance. There is no reported community opposition to the reclassification and interest has been expressed by adjoining land owners in acquiring the land. As per previous commitments of Council with respect to the sale of public lands in Shoalhaven Heads, it is appropriate that any funds raised be allocated to projects within the community.

**Recommendation: That the site be reclassified from community to operational land**

■ *Lot 12 DP 617101 - Bolong Road, Coolangatta*

The site has no practical public use. The setting on a busy road is not attractive for, and the land size/shape to practical for, any public purpose such as a public park. No submissions or comments were received in relation to the site.

**Recommendation: That the site be reclassified from community to operational land**

■ *Lot 3 DP597223 - Bolong Road, Coolangatta*

The site has no practical public use. The setting on a busy road is not attractive for, and the land size/shape to practical for, any public purpose such as a public park. No submissions were received in relation to the site, and comments concerned future use of the area, but were not in opposition to the reclassification.

**Recommendation: That the site be reclassified from community to operational land**

■ *Lot 2081 DP 216860 - Lively Street, Vincentia*

The subject land is currently used to provide rear access to existing residential dwellings. One dwelling utilises the land as a primary access. Concern was raised during a Public Hearing for draft SLEP 2009 that the land would be used to provide access to new development to the rear of dwellings on Frederick Street and that the access would be formalised into a "street". Further concern was raised during that process about the accessibility of the land further into the site, which was also noted in a submission to draft SLEP 2009 as being protected Bristle Bird Habitat.

Council has since (as part of draft SELP 2013) removed that substantial area contiguous to the adjoining national park from the reclassification (ie. the site would be proposed to have a dual classification). This is consistent with Council's original intention (as per Council resolution of 29<sup>th</sup> November 2005), and the recommendation of the Public Hearing Report for draft SLEP 2009 which was to limit the extent of the proposed reclassification to operational land to that narrow area to the rear of 83-109 Frederick Street.

**Recommendations:**

- i. **That the site be reclassified from community to operational land;**
- ii. **That 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**
- iii. **That any costs associated with the maintenance and/or upgrade to the access be at the cost of those who benefit from the access.**

■ *Lot 4 DP 550354 - Island Point Road, St Georges Basin*

The site in its present form has no practical public use being isolated from other public land. While the site is accessible by water, it is difficult to identify the land as public land as it appears as private land. The size of the land parcel does not present any significant public use opportunities. These constraints to the site were raised at a previous Public Hearing as part of draft SLEP 2009.

Nevertheless, as was also identified at the same Public Hearing and through submissions to draft SLEP 2009, the site does have the potential to form part of a public foreshore space extending from the boat ramp area at the end of Island Point Road through to a connection back to existing public land at Lorilyn Avenue. This connection could, for example, extend for the length of the proposed B4 Mixed Use zone area, and form part of a development control plan (DCP)/Section 94 plan for this area to facilitate orderly redevelopment.

Whilst this opportunity is recognised, there is no current DCP or other policy over the area and no current Council direction to support the provision of public access along this area of foreshore. This was confirmed at the Council meeting of 20 March 2012 in consideration of a previous reclassification report for this site (which is superseded by this document). Without such a policy and direction of Council, the retention of the site as community land would not, on balance, be considered necessary.

**Recommendations:**

- i. **That the site be reclassified from community to operational land.**

■ *Lot 35 DP 226342 - Edgewater Avenue, Sussex Inlet*

The site currently contains jetties and moorings which are privately constructed and subject to private use. Whilst the provision of private jetties from (and on) public land is not supported by Council in the current Wharves and Jetties Policy, Council has sought to control and monitor the site through the reclassification of the land and subsequent licensing of the existing facilities.

While no residents or parties with a direct interest in this matter attended the Public Hearing, comments were made at a previous Public Hearing that the provision of private structures on public land was not supported.

Nevertheless, at the Council meeting of 28 November 2006, Council resolved to seek reclassification of the land with a view to establishing a Management Plan to control the use of the canal. Council acknowledged the inconsistency with the Wharves and Jetties Policy and sought to address this subject to the successful reclassification of the land. Public consultation at that time also provided significant support for the proposal. Given this existing consultation with the affected community, and in the absence of any direct comment from the affected community in respect of this reclassification process, the direction as expressed by the existing Council resolution is considered, on balance, to be an appropriate way forward.

**Recommendations:**

- i. **That the site be reclassified from community to operational land; and**
- ii. **That Council develop a Management Plan for the site, including appropriate public consultation and which addresses the need for equitable access to the proposed facilities, consistent with the resolution of Council from 28 November 2006.**

***Shoalhaven City Council***

*Report on Public Hearing - Draft Shoalhaven Local Environmental Plan 2013*

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