

# Proposed rezoning of land

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<b>TO</b>	Thames-Coromandel District Council
<b>FROM</b>	Bruce Baker - Senior Policy Planner
<b>DATE</b>	21 May 2018
<b>SUBJECT</b>	<b>Proposed rezoning of land - Opito Bay and Cooks Beach</b>

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## **1 Purpose of report**

To reconsider notification of a variation to the Proposed District Plan for the proposed rezoning of a lot at Opito Bay and two adjoining lots at Cooks Beach.

## **2 Background**

Council resolved at its meeting held 19 September 2017 to notify a variation to the Proposed District Plan to rezone land located at Cooks Beach and Opito Bay. This land is three separate lots, being two adjoining lots at 35 and 35A Captain Cook Road, Cooks Beach and one lot at 851 Black Jack Road, Opito Bay.

At the Council meeting the following resolution was passed:

2. *Approves to undertake the process of changing the zoning of the land for 35 Captain Cook Road, Cooks Beach - Lot 183 DPS 900 and 35A Captain Cook Road, Cooks Beach - Lot 184 DPS 900 and once all statutory obligations have been met recommending that the land is declared surplus to Council requirements and place it on the open market for disposal.*
3. *Approves to undertake the process of changing the zoning of the land for 851 Black Jack Road, Opito Bay - Lot 1 DPS 6765 in conjunction with the necessary processes to revoke the reserve status, in accordance with the Reserves Act 1977 and once all statutory obligations have been met recommending that the land is declared surplus to Council requirements and place it on the open market for disposal.*

### **35 and 35A Captain Cook Road, Cooks Beach**

The location of these two lots is shown in the aerial photograph below. 35A is highlighted on the aerial photo and No. 35 is the vacant land between 33 and 35A Captain Cook Road. Both lots are flat and rectangular shaped properties without any buildings, with a combined area of 455m<sup>2</sup> (No. 35 being 182m<sup>2</sup> and No. 35A being 273m<sup>2</sup>).

Consultation on the proposed variation began in March 2018. Council staff sent a letter to several adjacent landowners who may be affected by the proposed rezoning seeking their comments.

The only written comment received on the rezoning of 35 and 35A Captain Cook Road, Cooks Beach was two submissions sent to Council through consultation on the Long Term Plan 2018-28. Both submissions were against the proposed rezoning and disposal.

However, at the 30 May Mercury Bay Community Board meeting, two residents of Cooks Beach spoke about the proposed rezoning of this land in the 'Public Forum' part of the meeting. Both these Cooks Beach residents were opposed to the two lots being rezoned to

Pedestrian Core Zone, as they stated that there was increasing interest from the community in using this land. They tabled a proposed usage plan prepared with input from local area residents. The Board was advised that some residents had expressed interest in funding the tabled plan, excluding grass cutting which is subject to a Council contract.

It is therefore proposed to not proceed with the variation to notify the proposed rezoning of these two lots in the commercial area at Cooks Beach.



### 851 Black Jack Road, Opito Bay

This is a corner lot with road frontage to Black Jack Road and Skippers Road. It is a flat rectangular shaped property without any buildings, with an area of 811m<sup>2</sup>. The location of the lot is shown in the aerial photograph below.



This lot was created as "Rec Reserve" on DPS 6765 following subdivision approval in 1960. The land was originally vested with the Crown in February 1961 and subsequently vested with the Coromandel County Council in August 1961.

A Certificate of Title was issued in August 1977 to TCDC for the purpose of a reserve for recreation.

The Proposed District Plan included this reserve in the Recreation Passive Zone in the District Plan Review in 2013. There were no submissions lodged on the zone of the land.

This property is a fee simple title held as a recreation reserve and is subject to the Reserves Act 1977. The statutory process to revoke the recreation reserve status has not yet started.

Council staff began the process for a change to the zone, from the current Recreation Passive Zone to the proposed Coastal Living Zone by sending a letter to several adjacent landowners who may be affected by the proposed rezoning. This consultation, in March 2018, sought comments on the proposed rezoning. The responses from landowners have been consistent in their opposition to the proposed rezoning of 851 Black Jack Road to Coastal Living Zone.

### **3 Issue**

Council are recommended to not publicly notify a variation to the Proposed District Plan to rezone 851 Black Jack Road as Coastal Living Zone; and to rezone 35 and 35A Captain Cook Road, Cooks Beach as Pedestrian Core Zone.

### **4 Discussion**

The opposition to the proposed rezoning of these three lots at Opito Bay and Cooks Beach from the consultation allows for further consideration of this proposed variation. The issue is whether to proceed with notification of the proposed variation or whether to retain the current zone and reserve status for the land.

Clearly there is a section of the Opito Bay community that wish to retain the 'recreation reserve' status and Recreation Passive Zone on 851 Black Jack Road. This indicates a good level of support for the current zone and reserve status and how the community value this land.

Notwithstanding this response, Council may continue with notification of the proposed variation which provides for the community to participate in the statutory process and lodge submissions on the proposal. There would still need to be two separate processes for the change of zone and the revocation of the reserve status.

The opposition to the proposed rezoning of 851 Black Jack Road, Opito Bay in the responses from the consultation was consistent.

Most of the 32 responses received were very clear in explaining their opposition to the proposed rezoning. However several responses were received that were in a signed pro-forma reply. Many responses were from persons who had not been included in the list of persons originally consulted on the proposed rezoning.

Some landowners had engaged a lawyer or planning consultant to reply on their behalf.

A brief summary of the comments received through the consultation included:

- The land is used for vehicle parking, including cars, tractors and boat trailers;
- Limited parking is available on reserve areas adjacent to beach access;
- The lot is an area of flat land used for recreational purposes e.g. children's games;

- Reserve land should not be sold off as it was acquired for reserve purposes;
- The return to Council in selling the lot would be minimal;
- Potential flooding issue with Skippers Road culvert requiring improvements;
- The amenity value of open space areas such as this lot;
- Detraction of amenity values to adjoining neighbour from possible residential use of the lot.

There were no responses that were in support of the proposed rezoning. Given the level of opposition that emerged in the consultation it is anticipated that the statutory plan change process would receive at least this number of submissions, and quite probably significantly more. If there was a decision made by a Commissioner to rezone the land, it is very likely that an appeal would be lodged with the Environment Court.

As noted above in 'Background', it is also proposed to not proceed with notification of the variation for the proposed rezoning of 35 and 35A Captain Cook Road, Cooks Beach, these two lots being located in the commercial area at Cooks Beach. Although no response was received by staff from the consultation letter sent to potentially affected parties, there is opposition to the proposed rezoning by residents of the Cooks Beach community. This opposition has been expressed to the Mercury Bay Community Board in presentations at the 'Public Forum' section of the meeting held on 30 May.

The options are:

- a) To proceed with notification of the proposed variation to change the current zone for 851 Black Jack Road, Opito Bay; and for 35 and 35A Captain Cook Road, Cooks Beach; or
- b) (i) To retain the current Recreation Passive Zone (and recreation reserve status) for 851 Black Jack Road, Opito Bay; and
  - (ii) To retain the current Recreation Active Zone for 35 and 35A Captain Cook Road, Cooks Beach.

The total cost for getting to the stage of a decision issued by Council on a variation to the Proposed District Plan can only be estimated, but typically a change to the Plan could be in the vicinity of \$20,000-\$30,000 (subject to the number of submissions, Commissioner costs and hearing time). Further costs would eventuate if an appeal was lodged, including legal fees to defend Council's decision.

The suggested resolutions below will supersede the resolutions passed by Council at the meeting on 19 September 2017. These resolutions are suggested following the consultation carried out on the proposed variation.

## **5 Suggested resolution(s)**

That the Thames-Coromandel District Council:

1. Receives the 'Proposed rezoning of land' report, dated 21 May 2018.
2. Resolves not to proceed with a variation to the Proposed District Plan to rezone 851 Black Jack Road, Opito Bay to Coastal Living Zone.
3. Resolves not to proceed with a variation to the Proposed District Plan to rezone 35 and 35A Captain Cook Road, Cooks Beach to Pedestrian Core Zone.