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Planning & Development.

MinuteNumber: Council Meeting Date: 22.09.2010

Council meeting date: 15/09/2010

Report Number: SD300069

Director City Strategy & Development Author: Tai Z, Manager: Shannon C.

ITEM: <#> DE3179

SUBJECT:

SD300069 - Planning Proposal to Rezone Land at Richmond Road, Marsden Park from 5(b) Special Uses (Arterial Road and Arterial Road Widening) to 2(a) Residential under Blacktown Local Environmental Plan 1988

FILE NUMBER: RZ-10-860

▶ **MANAGEMENT PRIORITY AREA:**

SUMMARY OF REPORT:

1. Council is in receipt of an application to rezone a small parcel of land at Marsden Park from 5(b) Special Uses (Arterial Road and Arterial Road Widening) to 2(a) Residential under Blacktown Local Environmental Plan (LEP) 1988.
2. The proposed amendment to the LEP is considered appropriate as the Roads and Traffic Authority (RTA) has advised that the 5(b) zoning in this instance (previously intended to accommodate an on/off ramp to the proposed future Castlereagh Freeway to the west of Richmond Road) is now surplus to their needs.
3. Accordingly, the purpose of this report is to seek Council endorsement to prepare a Planning Proposal to forward to the Minister for Planning seeking a "Gateway Determination" to proceed with this rezoning.
4. Council support the proposed rezoning and endorse the progression of a Planning Proposal based on the information provided in this Report.
5. Attachments to this report are:
 - Attachment 1 - Location Plan
 - Attachment 2 - Existing Zonings
 - Attachment 3 - Exhibited Draft Indicative Layout Plan for Marsden Park Industrial Precinct

RECOMMENDATION:

1. Council resolve to prepare a Planning Proposal to rezone part of Lot 9 DP 976148 and part of Lot 86 DP 752030 from 5(b) Special Uses (Arterial Road and Arterial Road Widening) to 2(a) Residential under Blacktown Local Environmental Plan 1988.

2. Council resolve to forward the Planning Proposal to the Minister for Planning seeking a Gateway Determination.
3. Upon receipt of notification of the Gateway Determination to proceed, Council exhibit the Planning Proposal in accordance with the Gateway Determination and the Environmental Planning and Assessment Act 1979.
4. The applicant be advised of Council's decision.

REPORT:

1. Background

- a. On 1 July 2009 the NSW Government changed the way that amendments to Local Environmental Plans (LEPs) are considered and approved. The new system for preparing LEPs includes a Planning Proposal that explains the intended effect and justification for making the proposed LEP and introduces a new "gateway" plan-making process which is intended to provide an early indication of the viability of a proposal.
- b. On 29 April 2010 Council received an application from Legacy Property Pty Ltd, with the consent of the landowner, to rezone part of Lot 9 DP 976148 and part of Lot 86 DP 752030 from 5(b) Special Uses (Arterial Road and Arterial Road Widening) to 2(a) Residential under Blacktown Local Environmental Plan 1988.
- c. The site is located on the eastern side of Richmond Road, south of Townson Road and opposite the Masjid Bait-ul-Huda Mosque.
- d. The site is mostly undeveloped. However, some existing structures are located at the Richmond Road frontage. The part of the lots that are subject to the rezoning are vacant. Lot 9 DP 976148 has a site area of approximately 3.44 hectares and Lot 86 DP 752030 has a site area of approximately 3.48 hectares. Both lots are in private ownership. A location plan is provided at **Attachment 1**.
- e. The area to be rezoned on Lot 9 DP 976148 is approximately 6545 m² and the area to be rezoned on Lot 86 DP 752030 is approximately 6420m². The total area to be rezoned is therefore approximately 1.3 hectares.

2. Reasons for the Rezoning Request

- a. The subject land is zoned 5(b) Special Uses (Arterial Road and Arterial Road Widening) and is identified for acquisition by the RTA. The RTA has advised in writing that this land is surplus to its needs and is thus no longer required. A map showing the land to be rezoned as well as existing zonings is provided at **Attachment 2**.
- b. The main purpose of the 5(b) zoning is to set aside land for future arterial roads. Residential development is prohibited in this zone.
- c. The purpose of the proposed rezoning is to enable development of the subject land for residential purposes, consistent with surrounding zonings.
- d. The surrounding zonings are residential, open space and drainage. This forms part of the Colebee Release Area Precinct that was rezoned by Council in May 2005 and the proposed rezoning will be consistent with the aims and objectives of the Precinct.

3. Justification for the Proposed Rezoning

- a. Apart from setting out the intent of the proposed rezoning, part of the purpose of the Planning Proposal is to set out the justification for making the plan

amendment. In summary, the following provides justification for the Planning Proposal:

- i. The land is surplus to the needs of the RTA.
- ii. The proposed rezoning of the land for residential purposes is a logical land use outcome. It will form part of the surrounding Colebee Release Area Precinct and ensure a compatible urban outcome for the land.
- iii. The proposed area to be rezoned is 1.3 hectares. Due to the relatively small size of the proposed rezoning there will be minimal demand on services and minimal increased traffic generation.
- iv. The land is close to employment nodes, such as the proposed Marsden Park Industrial Precinct and further away the Blacktown CBD.
- v. The land is close to transport nodes including the Richmond Rail Line and the M7.
- vi. The area to be rezoned is located in the "Certified Lands" in the North West Growth Centre. This means that the land is considered not to have significant biodiversity qualities worth preserving.
- vii. There are no known environmental constraints which would be problematic for utilising the subject land for residential development.
- viii. The proposed rezoning is consistent with Section 117 Directions issued by the Minister for Planning.
- ix. The land directly to the south of the subject site is currently zoned 1(a) General Rural and 5(b) Special Uses (Arterial Road and Arterial Road Widening). This land is located in the Marsden Park Industrial Precinct (MPIP) which is in the process of undergoing precinct planning (rezoning), led by the Department of Planning (DoP) in conjunction with Council. This land is proposed to be zoned for conservation purposes under the draft Indicative Layout Plan (ILP) for the Marsden Park Industrial Precinct (refer draft ILP at **Attachment 3**).
- x. The effect of the rezoning of the land to the south of the subject site (under MPIP) would effectively isolate the land zoned 5(b) on the subject lots. There would be no connecting 5(b) zoned land. As such the proposed rezoning of this land to a Residential zone is logical and timely.

4. The Process for the Proposed Rezoning

- a. In July 2009 the NSW Government introduced reforms to the *Environmental Planning and Assessment (EP&A) Act 1979* to expedite the assessment and processing of Local Environmental Plans (LEPs).
- b. An integral part of the new planning reforms and amending an LEP is the preparation of a "Planning Proposal" (section 55 of the EP&A Act). The Planning Proposal stipulates the intent, benefits and any impacts of the proposed LEP amendment, as well as compliance with relevant State Government Growth Strategies, Ministerial Directions and State Environmental Planning Policies.
- c. The initial step in making an LEP is for the relevant Planning Authority, in this case Council, to formally consider the Planning Proposal and decide whether or not to proceed. The Planning Proposal sets out the justification for preparing an LEP.
- d. If Council decides to proceed, the next step in the process is to forward Council's resolution and Planning Proposal to the Minister for Planning seeking a "Gateway Determination". The Determination will stipulate whether the Minister for Planning supports the amendment to proceed to the next stage and, if so, it will detail the requirements for any further technical studies, consultation with government authorities (section 56 of the Act) and public exhibition timeframes (section 57 of the Act).
- e. After the exhibition of the proposal and consideration of submissions, the Planning Proposal may need to be amended.

- f. Section 58 of the Environmental Planning and Assessment Act 1979 provides a process by which Council can seek to vary a Planning Proposal after the initial Gateway Determination. Following public exhibition and Council's consideration of submissions and further technical studies, if Council varies the proposal it must inform the Minister for Planning who may issue a revised Gateway Determination, depending on the nature of the variation.
- g. Should Council resolve not to proceed with the Planning Proposal, Council would need to seek the agreement from the Minister to not make the LEP. This would warrant the provision of sufficient justification for why the LEP amendment should not proceed. Section 58 of the EP&A Act 1979 includes a provision that the relevant planning authority may, **at any time**, vary its proposal as a consequence of its consideration of submissions and request **at any time** the Minister to determine that the matter not proceed. **Verbal advice** from the Department of Planning, **however, suggests that this may be difficult** if Council has already made an initial assessment that the proposal is worthy of support. Council Officers are currently seeking clarification on this. Nevertheless, as this proposal is assessed as being of merit, it is considered that Council can confidently proceed to the Gateway Determination.

5. Conclusion

- a. The proposal to rezone part of Lot 9 DP 976148 and part of Lot 86 DP 752030 from 5(b) Special Uses (Arterial Road and Arterial Road Widening) to 2(a) Residential under Blacktown Local Environmental Plan 1988 is considered appropriate to proceed. The proposed zone for the subject land is considered an appropriate alternative use of land no longer required by the RTA.

▼ RECOMMENDATION:

1. Council resolve to prepare a Planning Proposal to rezone part of Lot 9 DP 976148 and part of Lot 86 DP 752030 from 5(b) Special Uses (Arterial Road and Arterial Road Widening) to 2(a) Residential under Blacktown Local Environmental Plan 1988.
2. Council resolve to forward the Planning Proposal to the Minister for Planning seeking a Gateway Determination.
3. Upon receipt of notification of the Gateway Determination to proceed, Council exhibit the Planning Proposal in accordance with the Gateway Determination and the Environmental Planning and Assessment Act 1979.
4. The applicant be advised of Council's decision.

▼ ATTACHMENTS:

Attachment 1 - Location Plan



A1SD300069.PDF

Attachment 2 - Existing Zonings



A2SD300069.PDF

Attachment 3 - Exhibited Draft Indicative Layout Plan for Marsden Park Industrial Precinct



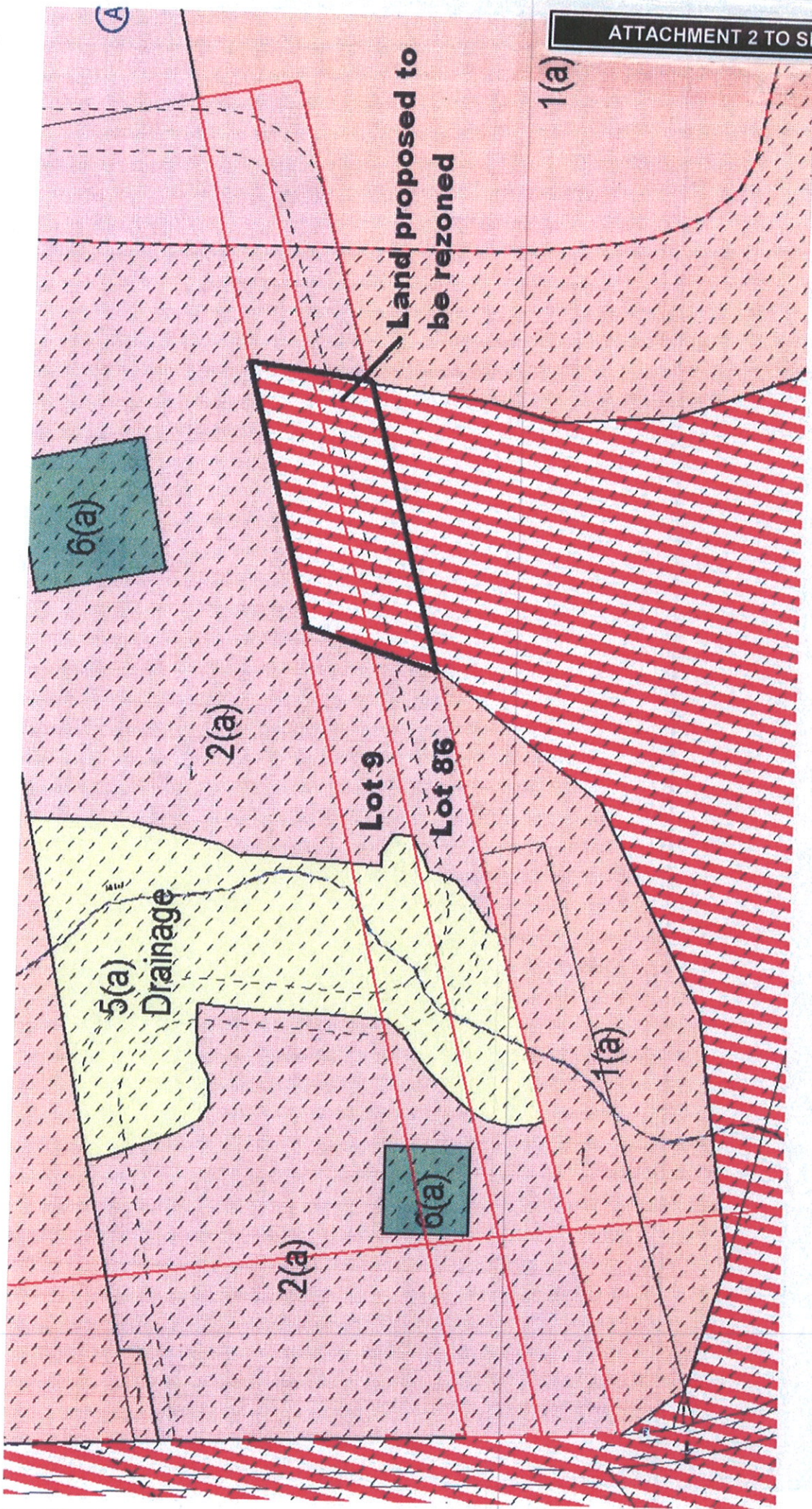
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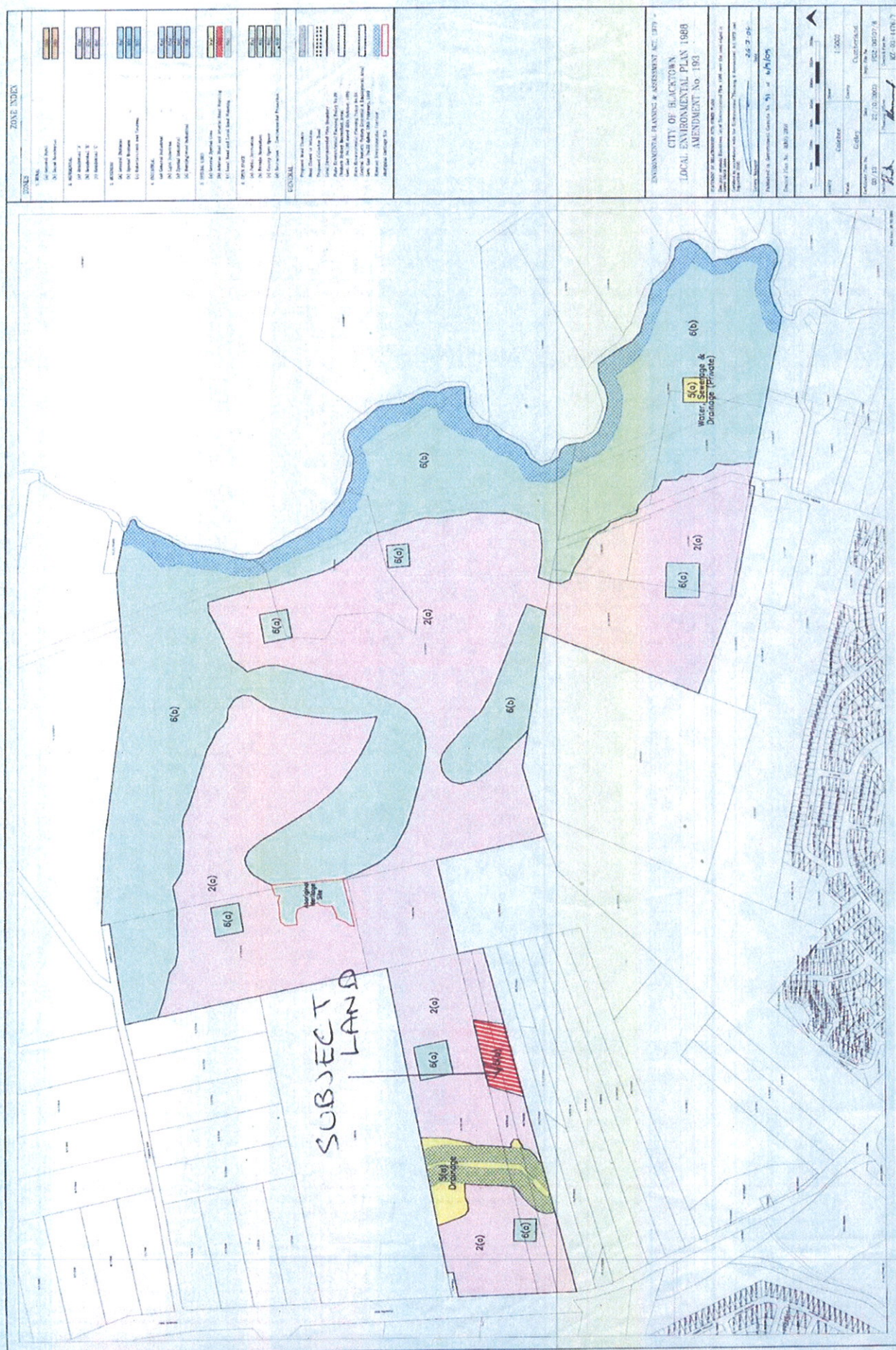
▼ COMMITTEE RECOMMENDATION:

1. Council resolve to prepare a Planning Proposal to rezone part of Lot 9 DP 976148 and part of Lot 86 DP 752030 from 5(b) Special Uses (Arterial Road and Arterial Road Widening) to 2(a) Residential under Blacktown Local Environmental Plan 1988.
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▼ COUNCIL RESOLUTION:

1. Council resolve to prepare a Planning Proposal to rezone part of Lot 9 DP 976148 and part of Lot 86 DP 752030 from 5(b) Special Uses (Arterial Road and Arterial Road Widening) to 2(a) Residential under Blacktown Local Environmental Plan 1988.
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Zoning Plan – Colebee Release Area (Stonecutters Ridge)

LOCATION OF SUBJECT SITE

