

**14) SUBMISSION OF A PLANNING PROPOSAL TO THE
DEPARTMENT OF PLANNING & INFRASTRUCTURE TO
AMEND THE BLAYNEY LOCAL ENVIRONMENTAL PLAN
2012 (BLEP)**
(Director Planning and Environmental Services)

RECOMMENDED:

1. That Council:
 - a. forward a Planning Proposal to the Minister for Planning & Infrastructure seeking an Amendment to the Blayney Local Environmental Plan 2012 to reclassify Lot 19 DP 244853 – 1 Beaufort Street, Blayney and Lot 7 DP 236443 – 11 Beaufort Street, Blayney (subject sites) from 'Community' to 'Operational' land and request that a Gateway Determination be made, enabling the exhibition of the Planning Proposal pursuant to Section 29 of the Local Government Act 1993 and the Environmental Planning and Assessment Act 1979, as amended;
 - b. upon receipt of a Gateway Determination under Section 56 of the Environmental Planning and Assessment Act 1979, Council place the Planning Proposal on public exhibition pursuant to any requirements of the Gateway Determination, Section 57 of the Environmental Planning and Assessment Act 1979, in accordance with 'LEP Practice Note (PN09_003): Classification and reclassification of public land through a local environmental plan' dated 12 June 2009 and the Local Government Act 1993;
 - c. conduct a Public Hearing no less than 28 days after the Public Exhibition period concludes in accordance with Section 29 of the Local Government Act 1993; and
 - d. prepare a further report for Council's consideration at the conclusion of the public exhibition period and following the public hearing addressing any submissions received from the public, public authorities and the report prepared by the facilitator of the public hearing.

REPORT

The purpose of this report is to seek Council resolution to submit a Planning Proposal to the Department of Planning & Infrastructure (DPI) which seeks to amend the Blayney Local Environmental Plan 2012 (BLEP) so as to reclassify Lot 19 DP 244853 – 1 Beaufort Street, Blayney and Lot 7 DP 236443 – 11 Beaufort Street, Blayney (subject sites) from 'Community' to 'Operational' land for residential purposes and undertake those actions necessary to publicly exhibit the Planning Proposal.

The subject sites have been identified as being surplus to the community's needs for open space and recreation within the Town of Blayney as per

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Council's Operational Plan. As such, the sites are considered appropriate for residential development which will respond to a demand for housing in the Town of Blayney.

Reclassification of Land

The Local Government Act 1993 (LG Act) requires that all public land under the control of Council should be classified as either 'Community' or 'Operational'. Community land is that used to identify land managed by Council for a public use, such as a library or park, while Operational land is used to identify land owned by Council that can be held as a temporary asset or used to generate a commercial return (including its sale).

Under the LG Act a Council has no power to sell, exchange or otherwise dispose of Community land. However, in circumstances determined by the Act, Council may pass a resolution to reclassify land from Community to Operational allowing it to be disposed of, if appropriate.

The process of reclassifying land from Community to Operational is as follows:

Local Government Act 1993

The LG Act is the principle legislation concerned with the classification and management of public land. The mechanism for reclassifying Council owned public land is the Local Environmental Plan (LEP) and hence the LG Act defers to the Environmental Planning and Assessment Act 1979 (EP&A Act) for this process. The LG Act does have some direct influence on the LEP process such as the mandatory requirements for a public hearing.

Accordingly, Section 29 of the LG Act requires that a public hearing be conducted to discuss the reclassification proposal as it relates to the reclassification of Community land. This public hearing is required to be conducted within 28 days following the conclusion of the public exhibition period.

Environmental Planning and Assessment Act 1979

The EP&A Act is the principle legislation concerned with the processes of reclassification and rezoning proposals, as well as, considering development matters.

The EP&A Act and the Environmental Planning and Assessment Regulation 2000, specifies the process by which amendments to LEPs should be prepared, notified, exhibited and reported.

In July 2009, the NSW Government changed the way that LEPs are developed and approved due to an amendment to Part 3 of the EP&A Act. This system is known as the Gateway plan making process and requires the preparation of a Planning Proposal for any requested amendments to LEPs.

NSW Department of Planning LEP Practice Note

In June 2009, the NSW Department of Planning (DoP) released LEP Practice Note PN 09-003 regarding the classification and reclassification of public land

through a Practice Note. This guideline superseded previous Department Guidelines and is now the sole reference document used to help Council's preparing amendments to LEPs that deal with their own land. The purpose of the LEP Practice Note is to ensure transparency in the process where Council is both the owner of the land and the authority for changing the zoning, classification or some other provisions of the local planning instrument (i.e. the LEP).

The LEP Practice Note sets out a process (in addition to the EP&A Act requirements) that Council's should follow when preparing LEPs. When an amendment to an LEP is exhibited, the LEP Practice Note requires a list of information to be placed on exhibition.

All documentation and procedures are to be prepared and undertaken in relation to this Planning Proposal and will comply with relevant legislative and LEP Practice Note requirements.

Public Exhibition

It is proposed that the Planning Proposal will be publicly exhibited for a period of 28 days which includes consultation with public authorities in accordance with the Gateway Determination from the DPI.

Public Hearing

In accordance with Section 32 of the Local Government Act 1993, the reclassification of land requires a public hearing to take place and facilitated by an independent person. At the conclusion of the public hearing, a report will be prepared by the facilitator of the public hearing for Council's consideration.

The outcomes of the public exhibition and hearing will be reported back to Council at the conclusion of the exhibition period.

The proposal seeks to reclassify the subject sites from 'Community' land to 'Operational' land for residential development which will respond to a demand for housing in the Town of Blayney.

The draft Planning Proposal has been prepared for submission to the DPI. The Planning Proposal, should a favourable Gateway Determination be received from the DPI, will be placed on public exhibition and a public hearing will be held at the conclusion of the exhibition period.

BUDGET IMPLICATIONS

Nil effect.

POLICY IMPLICATIONS

Nil effect.

IP&R LINK

DP 1.1.2 – Provide sustainable development and protection of our natural resources through the planning system.

Attachments

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| 1 | Planning Proposal - Reclassification of Land - Beaufort St,
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