



PLANNING PROPOSAL

**Blue Mountains Local
Environmental Plan 1991 –
Draft Amendment 40**

**Reclassification of land in
Leura**



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INTRODUCTION

The preparation of a planning proposal is the first step in preparing a Local Environmental Plan (LEP). In this case, it is the first step in preparing an amending LEP to Blue Mountains LEP1991. A planning proposal is a document that explains the intended effect of the proposed LEP and the justification for making it.

This planning proposal has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Department of Planning Guidelines 'A guide to preparing local environmental plans' and 'A guide to preparing planning proposals'. It addresses matters that must be considered to deliver an amending LEP that reclassifies a drainage reserve in Leura from community land to operational land.

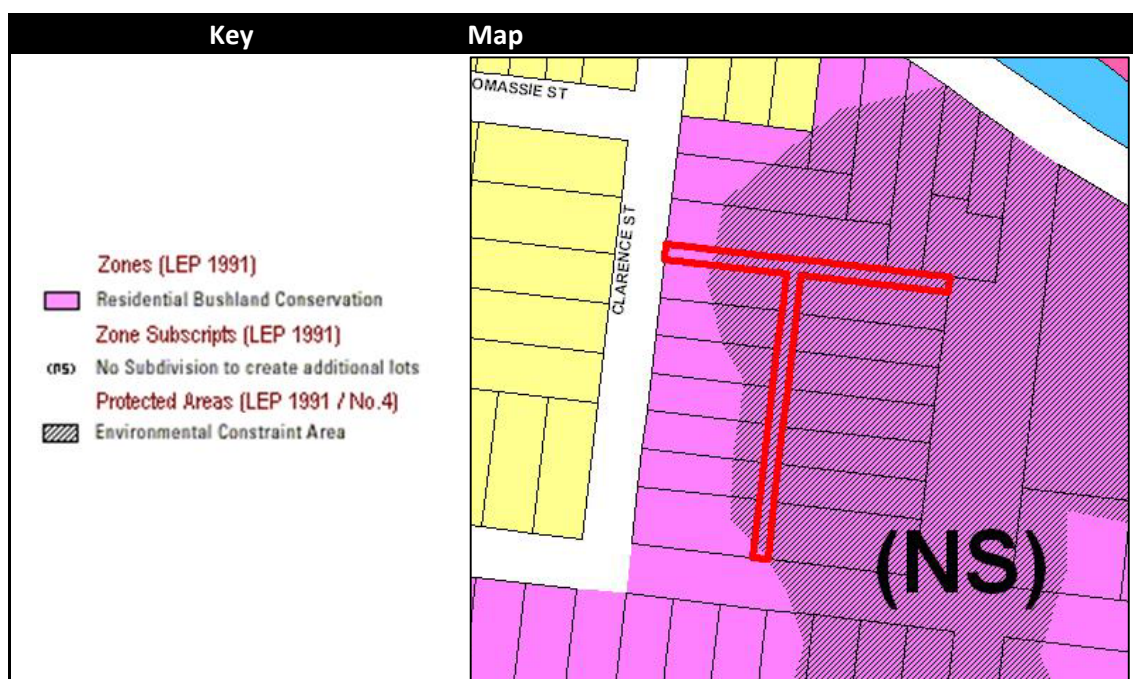
The Site

The Planning Proposal applies to a single site in Leura as described below.

Address	Number of parcels	Lot and DP
Drainage Reserve 36R Kanimbla St, Leura	1	Lot 15 DP 8715

Zoning

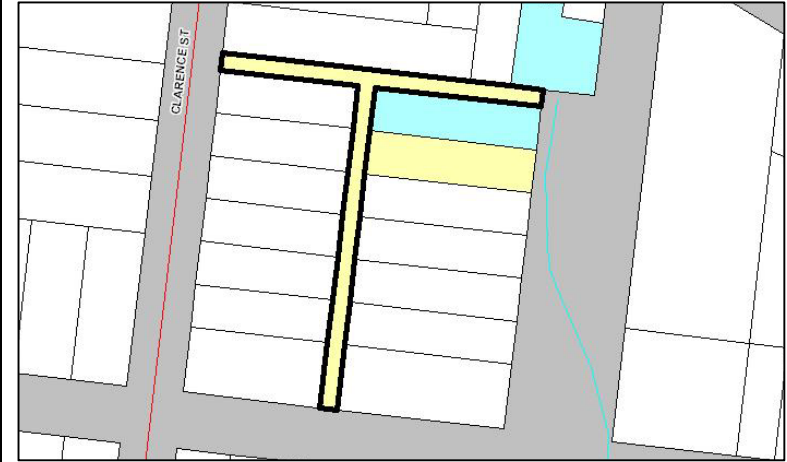
The site is zoned Residential Bushland Conservation (No Subdivision) under Blue Mountains LEP 1991. The majority of the site is mapped with Protected Area – Environmental Constraint Area, as indicated by hatching.



Drainage Reserve 36R Kanimbla St, Leura

Site Analysis

The site to be reclassified is a drainage reserve at 36R Kanimbla St, Leura. The drainage reserve is made up of a single T shaped parcel approximately 1,377 square metres in area and is situated between a block of residential premises fronting Clarence Street and a block of parcels (some developed, others not) fronting an unmade length of Commonwealth Street. The site has been partially cleared of vegetation, is relatively flat and as a result, is capable of accommodating vehicular movements. Photographs of the site are included at attachment 2.



Background

The drainage reserve currently provides an informal access for dwellings at Kanimbla and Commonwealth Streets as there are no alternative means to access these sites due to unformed portions of road. LEP 1991 states that consent shall not be granted to development unless an all-weather vehicular access road is provided, a requirement which effectively renders undeveloped parcels on Commonwealth St sterile. Legal advice received on this matter indicates that Council is not able formalise the access arrangement for these properties by granting a right of carriageway over the drainage reserve because of the community classification. In this regard, it is appropriate that the land be reclassified to operational to allow existing dwellings to be provided with legal access. Providing legal access will also remove a barrier to the future development of an undeveloped, privately owned lot at 7 Commonwealth Street.



PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The objective of the planning proposal is to reclassify land from community to operational so that access over the Council owned drainage reserve to existing dwellings and otherwise sterile land can be legalised through the registration of a right of carriageway.

PART 2 – EXPLANATION OF PROVISIONS

The following explanation provides an explicit statement of how the intended outcome described in Part 1 will be achieved.

Blue Mountains LEP 1991 will need to be amended by inserting a Schedule that identifies land that has been classified or reclassified as operational land, much like Schedule 7 of LEP 2005. No interests will be changing through this reclassification process.

PART 3 – JUSTIFICATION

In the case of LEPs which are being prepared solely to classify or reclassify public land, the Director General of Planning has issued a set of requirements as to the specific matters that must be addressed in the justification for the planning proposal. In accordance with these requirements, this section sets out the case for changing the classification of the subject land as set out in Part 1.

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

The planning proposal responds to an isolated case where legal advice indicates that the subject land should be reclassified so that access to existing dwellings can be formalised by registering a right of carriageway over the land.

B. Is the planning proposal consistent with the local council's community plan, or other local strategic plan?

The proposal to reclassify the site is about rectifying a situation that is currently inequitable for landowners who cannot legally access their land. In this regard, the proposal is consistent with Blue Mountains City Council's Community Plan – *Sustainable Blue Mountains 2025*, specifically Key Direction 4: Looking after People.

C. If the provisions of the planning proposal include the extinguishment of any interests in the land, an explanation of the reasons why the interests are proposed to be extinguished.

The proposal does not include the extinguishment of any interests in the land.

D. The concurrence of the landowner, where the land is not owned by the relevant planning authority.

Blue Mountains City Council is the owner the subject parcel of land.

PART 4 – COMMUNITY CONSULTATION

The Council will undertake exhibition of the planning proposal in accordance with the Gateway Determination. This will include a public hearing which is a mandatory part of the process where an LEP proposes to reclassify community land.

ATTACHMENT 1 – COMPLIANCE WITH SECTION 117 DIRECTIONS

Directions	Consideration of direction
1.1 Business and Industrial Zones	N/A
1.2 Rural Zones	N/A
1.3 Mining, Petroleum Production and Extractive Industries	N/A
1.4 Oyster Aquaculture	N/A
1.5 Rural Lands	N/A
2.1 Environment Protection Zones	A majority of the site is mapped 'Protected Area – Environmental Constraint'. The planning proposal does not seek to reduce the environmental protection standards that apply to this land.
2.2 Coastal Protection	N/A
2.3 Heritage Conservation	N/A
2.4 Recreation Vehicle Areas	N/A
3.1 Residential Zones	Existing land use zone (Residential – Bushland Conservation (No Subdivision)) permits residential uses. Planning proposal does not seek to adjust or alter the extent of the existing land use zone or the land uses permissible within the zone. The site currently functions as a drainage reserve and will remain as such despite reclassification.
3.2 Caravan Parks and Manufactured Home Estates	N/A
3.3 Home Occupations	N/A.
3.4 Integrating Land Use and Transport	N/A
3.5 Development Near Licensed Aerodromes	N/A
3.6 Shooting Ranges	N/A
4.1 Acid Sulfate Soils	N/A
4.2 Mine Subsidence and Unstable Land	N/A
4.3 Flood Prone Land	A flood study has been undertaken in this locality (Leura/Wentworth Falls) and adopted by the Council. The subject site is above the Flood Planning Level.
4.4 Planning for Bushfire Protection	The Planning Proposal seeks to reclassify a drainage reserve that is mapped as bushfire prone land and will not directly result in any intensification of land use. The site currently serves as an informal access to landlocked parcels on Commonwealth Street. Reclassifying the site will simply allow Council to legalise this arrangement by creating a right of carriageway.
5.1 Implementation of Regional Strategies	N/A

5.2	Sydney Drinking Water Catchments	The Planning Proposal seeks to reclassify a drainage reserve within the Cox's River Sub-catchment and will not directly result in any intensification of land use. The site currently serves as an informal access to landlocked parcels on Commonwealth Street. Reclassifying the site will simply allow Council to legalise this arrangement by creating a right of carriageway. The impact of the planning proposal on water quality within the Sydney drinking water catchment is considered to be neutral. As a result of the minor nature of the proposal, it has not been forwarded to the Sydney Catchment Authority as required by the Direction. However, this can be done as part of the public consultation process following receipt of the Gateway Determination. As required by clause 6 of this Direction, Council seeks the agreement of the Director General of the Department (or a delegated officer) to this approach.
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	N/A
5.8	Second Sydney Airport: Badgerys Creek	N/A
6.1	Approval and Referral Requirements	The Planning Proposal does not include provisions that will require the concurrence, consultation or referral of development applications to a Minister or public authority.
6.2	Reserving Land for Public Purposes	The current use of the land as a drainage reserve will not be affected by this proposal as it is not proposed to extinguish this reservation as part of the reclassification. It does however allow the land to be used for an additional public purpose (access road).
6.3	Site Specific Provisions	N/A
7.1	Implementation of the Metropolitan Plan for Sydney 2036	Not inconsistent. Planning proposal seeks to address an isolated local issue that has no relevance to the Metropolitan Plan.

ATTACHMENT 2 – SITE PHOTOGRAPHS



Figure 1: Looking north along drainage reserve from Kanimbla Street



Figure 2: Existing vehicular access along drainage reserve from Kanimbla Street