

Reclassification of Part of Lot 9 DP 703167, Production Avenue, Warragamba

Proposal Title : **Reclassification of Part of Lot 9 DP 703167, Production Avenue, Warragamba**

Proposal Summary : **Reclassification of Part of Lot 9 DP 703167, No. 9 Production Avenue, Warragamba from 'Community' to 'Operational' Land.**

PP Number : **PP_2012_WOLLY_003_00** Dop File No : **12/12849**

Proposal Details

Date Planning Proposal Received : **06-Aug-2012** LGA covered : **Wollondilly**

Region : **Sydney Region West** RPA : **Wollondilly Shire Council**

State Electorate : **WOLLONDILLY** Section of the Act : **55 - Planning Proposal**

LEP Type : **Reclassification**

Location Details

Street : **Production Avenue**

Suburb : **Warragamba** City : Postcode : **2752**

Land Parcel : **Part of Lot 9 DP 703167**

DoP Planning Officer Contact Details

Contact Name : **Tessa Parmeter**

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RPA Contact Details

Contact Name : **Sophie Perry**

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DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**

Regional / Sub Regional Strategy : **Metro South West subregion** Consistent with Strategy : **Yes**

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MDP Number :	0	Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment : **LOBBYIST STATEMENT**

At this point of time, to the best of the Regional Team's knowledge, this planning proposal is compliant with the Department of Planning's Code of Practice in relation to communications and meetings with lobbyists.

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment : To the best knowledge of the Sydney West Region team there have been no meetings or communications with registered lobbyists.

Supporting notes

Internal Supporting Notes : The planning proposal seeks to reclassify part of Lot 9 DP 703167 (98.44m2 of a 14.3 hectare lot), No. 9 Production Avenue, Warragamba from 'community' to 'operational' land.

The planning proposal indicates that the reclassification of the land does not require any trusts, interests or covenants to be discharged or extinguished.

The RPA has advised the planning team that the reclassification of the 98.44m2 portion of Lot 9 DP 703167 is to enable an extended lease of the land for a telecommunication facility, which will exceed the 21 year lease period allowed under the Local Government Act 1993 on land classified as 'community' (see attachments).

The land which is to be reclassified is zoned IN2 Light Industrial and currently has a Plan of Management on the lot (the Plan of Management for the Former Warragamba Waste Management Centre and Bushland Reserve).
The land is contaminated and potentially bushfire prone.

Additional information is required from the RPA prior to the planning proposal being publically exhibited.

External Supporting Notes : **LOBBYIST STATEMENT**

At this point of time, to the best of the Regional Team's knowledge, this planning proposal is compliant with the Department of Planning's Code of Practice in relation to communications and meetings with lobbyists.

POLITICAL DONATIONS DISCLOSURE STATEMENT

Political donation disclosure laws commenced on 1 October 2008. The legislation requires the public disclosure of donations or gifts for certain circumstances relating to the Planning system.

"The disclosure requirements under the new legislation are triggered by the making of relevant planning applications and relevant public submissions on such applications.

Planning Circular PS 08-009 specifies that a person who makes a public submission to the Minister or Director General is required to disclose all reportable political donations (if any).

The Department has not received any disclosure statements for this Planning Proposal.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **A statement of the objectives was provided. The intended outcome is to reclassify part of Lot 9 DP 703167 (9 Production Avenue, Warragamba)(approximately 98.4m2) from community to operational land.**

Council has clearly indicated that there are no interests are to be extinguished with the reclassification.

The associated maps provided with the planning proposal provided multiple land parcels and areas of land which could apply to the planning proposal. The associated maps should clarify what land is intended to be reclassified.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **An explanation of provisions was provided. It is intended to include the address and property description in Schedule 4 Part 1 of the Wollondilly Local Environmental Plan 2011, to facilitate the reclassification.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

3.1 Residential Zones

* May need the Director General's agreement

3.2 Caravan Parks and Manufactured Home Estates

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.4 Planning for Bushfire Protection

5.2 Sydney Drinking Water Catchments

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)

SEPP No 53—Metropolitan Residential Development

SEPP No 55—Remediation of Land

Drinking Water Catchments Regional Environmental Plan No. 1

SREP No. 20 - Hawkesbury–Nepean River (No. 2 - 1997)

e) List any other matters that need to be considered :

Practice Note PN 09-003 Classification and reclassification of public land through a local environmental plan.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

SEPP55 - Remediation of Land -

The site has been identified as contaminated land and the planning proposal identifies that remediation is currently being undertaken on the site. The lot is zoned IN2 Light industrial and the reclassification will not change the zoning of the site. The RPA should consult with Office of Environment and Heritage during the public exhibition period to ensure that the reclassification will not impact on the remediation process.

Drinking Water Catchments Regional Environmental Plan No. 1 (SEPP (Sydney Drinking Water Catchments) 2011)-

The planning proposal is generally consistent with is SEPP.

Section 117 Direction 1.1: Business and Industrial zones -

The RPA has not addressed this direction. As the site is in the zone IN2 Light industrial, this direction is required to be considered. The planning proposal is consistent with this direction as the reclassification does not reduce the floor space for industrial development and retains the total area of land zoned industrial. Council should provide an assessment of this planning proposal against this Direction.

Section 117 Direction 3.1: Residential zones -

This direction is not applicable as the land is zoned IN2 Light Industrial and residential accommodation is not permissible in the zone.

Section 117 Direction 4.4: Planning for Bushfire protection -

The RPA has identified the lot as bushfire prone land. As part of the Gateway conditions, the RPA is required to consult with the Rural Fire Service (RFS) prior to publically exhibiting the planning proposal to ensure that the RFS has no objection to the planning proposal proceeding.

Section 117 Direction 5.2: Sydney Drinking Water Catchments -

The RPA has not identified this section 117 Direction in its assessment. It appears that the land intended to be reclassified is located within the Sydney Drinking Water Catchment Map Sheet 013. The planning proposal is consistent with the direction as it does not permit any new development that will impact on the water quality within the drinking water catchment.

In light of the above, the RPA is required to amend the planning proposal to ensure that the section 117 Directions have been adequately and correctly addressed as required under Section 55(2)(c) of the Environmental Planning & Assessment Act 1979.

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment :

A map has been included to identify the lot however the map is unclear and does not easily identify what area of land is intended to be reclassified. A survey map (Map 2) in the document appears to identifies a much smaller area to be reclassified (it appears to be 98.4 metres of the larger 14.3 hectare lot). This is different to Site Plan in the Council report which shows a dotted line with a larger area as "general community use"

A condition should be included in the Gateway determination to include the following maps:

- a clear map identifying what land within the lot is intended to be reclassified from community to operational.

- A copy of the existing land zoning map sheet where the lot is situated (land zoning map sheet LZN_006A).

- A further map to indicate where the nearby planning proposals are located in the vicinity of this planning proposal (a broader locality map for context).

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment :

As the planning proposal is intended to reclassify land from community to operational land, a 28 day exhibition period has been proposed with a Public Hearing to occur 21 days following the conclusion of the public exhibition period in accordance with clause 29 of the Local Government Act 1993 and Local Government Regulations.

Additional Director General's requirements

Are there any additional Director General's requirements? Yes

If Yes, reasons : The Department's 'Guide to Preparing Local Environmental Plans' includes 4 Director General's requirements required to be considered with any reclassification of land. While the planning proposal includes this information, the 4 questions and the corresponding information should be included in Part 3 Section A, rather than spread out throughout the proposal.

Further information is also required to clarify if there are any existing interests, trusts or covenants on the site and if any of these interests are being extinguished as a result of the reclassification. The planning proposal indicates that no interests will be extinguished; however it does not indicate if there are any existing interests that could potentially be extinguished.

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment : There is adequate information to assess the planning proposal.

Proposal Assessment

Principal LEP:

Due Date : February 2011

Comments in relation to Principal LEP : Wollondilly LEP 2011 was notified on 23 February 2011.

Since the plan was notified, there are currently 13 active planning proposals. It should be also noted that 2 additional planning proposals have been submitted by the RPA in the last week.

Assessment Criteria

Need for planning proposal : The RPA has identified in its assessment that this planning proposal is required as Council Property Administration officer advised that it is essential to the terms of the lease. Further information was requested by the planning team from the RPA to confirm the reason why the reclassification was necessary.

The RPA advised that there is currently a lease on 73.4m² parcel of land on the site for an existing telecommunication facility which expires in 2016. The RPA is seeking to extend the lease for a further 20 years and extend the area (to which the lease applies) a further 25 metres. The total area would be 98.44m².

In accordance with clause 47(5)(b) of the Local Government Act 1993, a Council can not lease community land for more than 21 years without the approval of the Minister or if the land is reclassified to operational. Therefore, the RPA requires the reclassification of this 98.4m² piece of land to enable the further lease agreement with the telecommunication company.

This reason was not made clear in the planning proposal. A clear explanation and justification needs to be provided should the planning proposal proceed.

Further to this, in the Department's "A Guide to Preparing a Local Environmental Plans", additional Director-General's requirements (4 questions) are identified that must be addressed in any planning proposal that includes the reclassification of land (Figure 4, Page 11). While the planning proposal includes this information, the 4 questions and the information should be included in Part 3 Section A.

It should be noted that, in the same report to Council, it has been noted that the remainder

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of the community land which is not vegetated may be reclassified to operational at a later stage once the remediation works are complete.

If all the community land (identified in the site plan on page 157 of Council's report) is intended to be reclassified it may be more beneficial to reclassify the land in a single planning proposal instead of over a series of planning proposals.

Legal Services Branch was contacted by phone to confirm whether it was legally possible to reclassify part of a lot. It was verbally confirmed that it is legally possible to reclassify part of a lot; however a map is required to identify what land has been reclassified.

Consistency with strategic planning framework :

It is noted in the background section of the report to Council that the reclassification is consistent with the Plan of Management (Plan of Management for the Former Warragamba Waste Management Centre and Bushland Reserve). This is not addressed any further in the report.

The reclassification of this lot is not addressed in any of the RPA's Strategic documents.

Environmental social economic impacts :

ENVIRONMENTAL

The land subject to this planning proposal for reclassification has not been identified as having a critical habitat, threatened species or ecological communities. The lot has not been identified as flood prone.

The land is contaminated and currently has a remediation plan in place, with remediation works currently being undertaken.

The land has been identified as bushfire prone. The Rural Fire Service (RFS) is required to be consulted prior to the planning proposal going on public exhibition to determine if there is any issue with the planning proposal proceeding.

ECONOMIC

Council's report indicates that the reclassification of part of the lot to operational will impact financially on Council's budget as the current lease arrangement is a source of revenue. Council is satisfied that this is a minor financial impact.

SOCIAL

The lease of the land for a telecommunication tower will result in improved phone service in the area.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **28 Days**

Timeframe to make LEP : **6 Month** Delegation : **DG**

Public Authority Consultation - 56(2)(d) : **Office of Environment and Heritage
NSW Rural Fire Service**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **The matter should proceed however additional information is required prior to the planning proposal being public exhibited. In particular, more information should be provided to the regional office confirming any existing interests on the land and whether these interests are to be extinguished with this planning proposal.**

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Resubmission - s56(2)(b) : **No**

If Yes, reasons : **There is adequate information to assess the planning proposal. Additional information and assessment should be submitted prior to public exhibition with regards to any interests on the land, the assessment of section 117 directions and clearer and legible maps.**

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons : **No provision or funding of State infrastructure is relevant to this plan.**

Documents

Document File Name	DocumentType Name	Is Public
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Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.1 Business and Industrial Zones**
- 3.1 Residential Zones**
- 3.2 Caravan Parks and Manufactured Home Estates**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**
- 4.4 Planning for Bushfire Protection**
- 5.2 Sydney Drinking Water Catchments**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**

Additional Information :

- 1) The Planning Proposal is to be completed in 6 months.**
- 2) The Rural Fire Service (RFS) be consulted prior to the planning proposal going on public exhibition. as required by Section 117 Direction 4.4 - Planning for Bushfire Protection.**
- 3) The exhibition material should include the following maps:**
 - A clear map indicating what land is intended to be reclassified from community to operational.**
 - A land zoning map indicating the locating of the planning proposal.**
 - A clear map which identifies the adjacent active planning proposals.**
- 4) The planning proposal should be publically exhibited for 28 days.**
- 5) The exhibition material should be consistent with the requirements identified in Practice Note PN 09-003: Classification and reclassification of public land through a local environmental plan.**
- 6) A public hearing is to be held in accordance with the relevant legislation.**
- 7) The RPA should complete further assessment of the Planning Proposal for consistency with Section 117 Direction 1.1 - Business and Industrial Zones and 5.2 Sydney Drinking Water Catchments.**

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Supporting Reasons :

8) The RPA should amend Part 3 Section A of the planning proposal to provide clear justification explaining the need for the planning proposal and to include the 4 Director General's requirements outlined in Section 4.10 (Figure 4 on page 11) of the Department's Guide to preparing a Local Environmental Plan in Part 3 Section A.

1) It is an appropriate time frame for a reclassification planning proposal.

2) The RPA has identified the site as bushfire prone. Consultation could resolve any potential inconsistency with Section 117 Direction 4.4 - Planning for Bushfire Protection.

3) The additional maps are required for public exhibition as:

- The surveyors map does not clearly identifying the land to be reclassified in context with the remainder of the lot.
- The planning proposal does not currently include a land zoning map.
- The map provided in the introduction does not clearly identify the adjacent planning proposals.

4) This timeframe for public exhibition is consistent with Section 4.5 of the Department's 'A Guide to preparing Local Environmental Plans'.

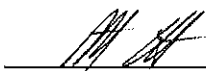
5) To be consistent with Departmental advice provided in Practice Note PN 09-003.

6) A public hearing is required under the Local Government Act 1993.

7) These Section 117 Directions are applicable to the planning proposal and require further consideration by the RPA prior to the planning proposal being publically exhibited.

8) The justification provided in the planning proposal report requires clarification of the need to undertake the planning proposal to reclassify the subject land and the requirements of lease agreements for community land in the Local Government Act 1993. Also, the amendment to Part 3 Section A of the planning proposal to include the 4 Director General's requirements will ensure consistency with the Department's 'Guide to preparing a Local Environmental Plan'.

Signature:



Printed Name:

STEPHEN GARDINER

Date:

10/08/2012