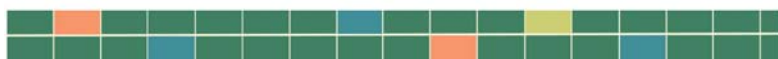


Planning Proposal under section 55 of  
the *Environmental Planning &  
Assessment Act 1979*

# Reclassification of the Casino Sports Stadium from Community Land to Operational Land



|             |                         |
|-------------|-------------------------|
| RPA:        | Richmond Valley Council |
| RPA Ref:    | PP-2013/03              |
| Date:       | July 2013               |
| PP Version: | v1.0                    |

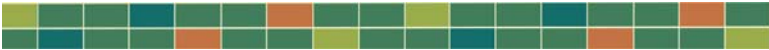






## Planning Proposal

# Reclassification of the Casino Sports Stadium from Community Land to Operational Land



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Richmond Valley Council 2013

### Casino Administration Office.

Cnr Walker Street and Graham Place  
(Locked Bag 10)  
Casino NSW 2470  
Phone (02) 6660 0300  
Fax (02) 66600 1300

### Evans Head Administration Office.

Cnr Woodburn Street and School Lane  
Evans Head NSW 2473  
Phone (02) 6682 4392  
Fax (02) 6682 4252

**Email.** [council@richmondvalley.nsw.gov.au](mailto:council@richmondvalley.nsw.gov.au)

**Web.** [www.richmondvalley.nsw.gov.au](http://www.richmondvalley.nsw.gov.au)



# Exhibition Information

This Planning Proposal is for the reclassification of the Casino Sports Stadium, 155-157 Canterbury Street Casino, being Lots 1 & 2 DP380479, from Community Land to Operational Land, pursuant to Division 1 of Part 2 of the *Local Government Act 1993*. Reclassification of Public Land from Community Land to Operational Land can only be done by means of a Local Environmental Plan (LEP). As such this Planning Proposal seeks to amend Schedule 4 of the *Richmond Valley Local Environmental Plan 2012* to included details of the reclassification.

The purpose of the reclassification is to facilitate Council's sale of the land and its subsequent redevelopment as a medical centre.

## Exhibition

The exhibition period is from << start date >> to << finish date >>, with the Planning Proposal available for inspection by any person at Council's Administration Offices at Casino and Evans Head, and on Council's website [www.richmondvalley.nsw.gov.au](http://www.richmondvalley.nsw.gov.au).

## Public Hearing

Section 29 of the *Local Government Act 1993* requires a Public Hearing to be conducted when reclassifying public land from Community Land to Operational Land. Any person may request to appear at the Public Hearing which will be conducted on << date >>, at the Casino Community and Cultural Centre, Walker Street Casino, from 6pm.

## Submissions

Any person may make a written submission to Council up until the end of the exhibition period.

| Post to.                                                                           | or | Email to.                                                                                |
|------------------------------------------------------------------------------------|----|------------------------------------------------------------------------------------------|
| The General Manager<br>Richmond Valley Council<br>Locked Bag 10<br>CASINO NSW 2470 |    | <a href="mailto:council@richmondvalley.nsw.gov.au">council@richmondvalley.nsw.gov.au</a> |

**Note.** Submissions may be made public.

Political Donations must be declared. Section 147(5) of the *Environmental Planning and Assessment Act 1979* states in part:

"A person who makes a relevant public submission to a council in relation to a relevant planning application made to the council is required to disclose the following reportable political donations and gifts (if any) made by the person making the submission or any associate of that person within the period commencing 2 years before the submission is made and ending when the application is determined:

- (a) all reportable political donations made to any local councillor of that council,
- (b) all gifts made to any local councillor or employee of that council."

## Further Information

Please contact Tony McAteer on phone (02) 66600276.



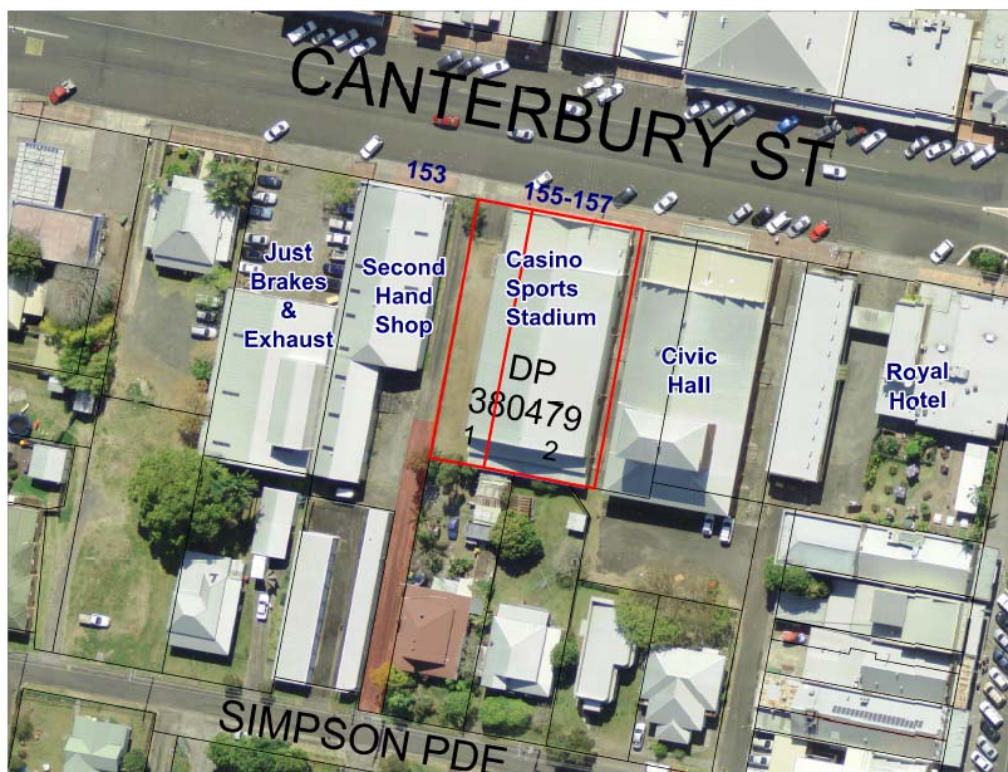


# Planning Proposal

This is a Planning Proposal prepared under section 55 of the *Environmental Planning and Assessment Act 1979*, in relation to a proposed amendment to the *Richmond Valley Local Environmental Plan 2012*. It has been prepared by Richmond Valley Council (the Relevant Planning Authority (the RPA)), and will be used to describe the purpose of the amendment when dealing with the NSW Department of Planning and Infrastructure (DP&I), consulting Government Agencies, and undertaking community consultation.

## Background

|                  |                                                                                                                                                                                                                                                                                                                                                                                                      |
|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Proposal         | <p>This Planning Proposal propose to reclassify the Casino Sports Stadium from Community Land to Operational Land, pursuant to the <i>Local Government Act 1993</i>.</p> <p>Reclassification of public land from Community Land to Operational Land can only be undertaken by a Local Environmental Plan.</p> <p>The purpose for reclassifying the land is to enable its sale and redevelopment.</p> |
| Property Details | <p>The Casino Sports Stadium is located at 155-157 Canterbury Street Casino on Lots 1 &amp; 2 DP380479, parish of North Casino.</p>                                                                                                                                                                                                                                                                  |



**Figure 1.** Site plan and aerial photo for the Casino Sports Stadium, 155-157 Canterbury Street Casino (Aerial courtesy of NSW LPI, 2012).

|                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Applicant Details</b> | Richmond Valley Council                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Land Owner</b>        | Richmond Valley Council                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Brief History</b>     | <p>Casino Municipal Council acquired Lot 2 DP380479 on 21 October 1976, and Lot 1 DP380479 on 9 December 1982.</p> <p>Erected upon the land is an indoor sports stadium that contains a single basket ball court, office, kiosk, and change rooms.</p> <p>Casino Council classified the land as Community Land on 28 June 1994 (Minute No G94-380), and adopted a Plan of Management for the Civic Hall, Sports Stadium and adjacent car park (Feb 1998).</p> <p>Council proposes to sell the land because it is under-utilised and not suited to future community needs. This land, along with the adjoining commercial property (classified as Operational Land), are proposed to be redeveloped as a medical centre. It is proposed to commit proceeds from the sale towards establishment of a modern double court indoor sporting complex at Colley Park.</p> |



**Figure 2.** Casino Sports Stadium, 155-157 Canterbury Street Casino (RVC 2013)



# Part 1 – Objectives or Intended Outcomes

The intended outcome from this Planning Proposal is to reclassify the Casino Indoor Sports Stadium, 155-157 Canterbury Street Casino, from Community Land to Operational Land pursuant to section 30 of the *Local Government Act 1993*.

Under the *Local Government Act 1993* all Public Land owned and/or controlled by Council is classified as either Community Land or Operational Land. Excluded from classification are roads, Crown Lands, Commons, and School of Arts.

The purpose of classification is to identify clearly land which should be kept for use by the general public (community) and land which need not (operational). The major consequence of classification is that it determines the ease or difficulty with which land may be alienated by sale, leasing or some other means.

## What is Operational Land?

Operational Land is normally identified as that land not generally accessible by the public; that are held as a temporary asset or as an investment (where it can be sold); and that which facilitates the carrying out by a council of its functions, such as a works depot or administration centre.

## What is Community Land?

Community Land must be kept for use by the general public and can not be sold, or leased/licensed for more than 21 years. A Plan of Management is required for community land.

## How is Reclassification of Community Land undertaken?

The process of reclassifying Community Land to Operational Land can only be undertaken by a local environmental plan (LEP). This involves preparing a Planning Proposal (this document) for submission to the Department of Planning and Infrastructure's Gateway Process. From this a Determination is made as to whether the Planning Proposal should proceed and any conditions that must be followed. Consequently, the Planning Proposal would be exhibited for at least 28 days with submission being accepted. Furthermore, no sooner than 21 days from the end of the exhibition period a Public Hearing must be conducted.

If this process is successful an LEP is made that effects the reclassification through adding details of the Casino Sports Stadium into Part 1 of *Schedule 4 - Classification and reclassification of public land* under the *Richmond Valley Local Environmental Plan 2012* (the RVLEP).

## What will be the outcome of Reclassifying the Casino Sport Stadium?

It is intended that this reclassification will enable the Casino Sports Stadium, along with the adjoining commercial property at 153 Canterbury Street Casino that is also owned by Council (but classified as Operational Land), to be redeveloped for an Aboriginal Medical Centre. Proceeds from the sale will be reinvested in a modern Indoor Sporting complex at Colley Park Casino, valued at around \$1.2M.

## Part 2 – Explanation of Provisions

Clause 5.2 and Schedule 4 of the *Richmond Valley Local Environmental Plan 2012* provide for the classification and reclassification of public lands. It is intended to identify the Casino Sports Stadium complex in Part 1 of Schedule 4 to effectively reclassify Lots 1 & 2 DP380479. Following is how the Schedule should appear after the amendment commences:

### Schedule 4 Classification and reclassification of public land

(Clause 5.2)

#### Part 1 Land classified, or reclassified, as operational land—no interests changed

| Column 1 | Column 2                                       |
|----------|------------------------------------------------|
| Locality | Description                                    |
| Casino   | Lots 1 & 2 DP380479, 155-157 Canterbury Street |

#### Part 2 Land classified, or reclassified, as operational land—interests changed

| Column 1 | Column 2    | Column 3                      |
|----------|-------------|-------------------------------|
| Locality | Description | Any trusts etc not discharged |
| Nil      |             |                               |

#### Part 3 Land classified, or reclassified, as community land

| Column 1 | Column 2    |
|----------|-------------|
| Locality | Description |
| Nil      |             |

# Part 3 – Justification

## Section A – Need for the planning proposal

### 1. Is the planning proposal a result of any strategic study or report?

Yes.

Richmond Valley Council undertook the preparation of a *Facilities Needs Review* in 2009. This review evaluated all of Council's public assets to determine if such lands/facilities were delivering the best and most efficient outcomes for the community. The study evaluated each facility and scored it against a number of criteria that included:

- the financial costs and benefits of a property -
  - cost of maintenance
  - market value
  - replacement value
  - rates, water and sewer charges
  - cost of insurance
  - income to Council
  - income to other organisations, businesses and individuals
- the potential and real community use of a property –
  - membership of clubs and associations using the facility
  - implied usage
  - occasional use bookings
  - booking capacity
  - population surveys to estimate usage
  - population estimates in proximity to the facility
- The intrinsic values of a property.

Findings from the review found a number of assets were under-utilised, were dated, had excessive maintenance costs, were poorly designed for their function, or that the service could be better provided elsewhere. The Casino Sports Stadium's final score actually ranked it 16 of 123 facilities reviewed, see extract at figure 3. This is a remarkable high ranking considering its poor financial and intrinsic scores. It can only be concluded that the level of usage at the time of the study was sufficiently high to elevate its ranking, but unfortunately this usage has significantly declined in recent years to the point where casual bookings were insufficient to make the complex viable and resulting in termination of contracted management for the complex. The reasons for this shift in usage can be attributed to many things but ultimately the dimensions of the single court complex not allowing for full usage by sporting bodies. Thus if re-evaluated today there is no doubt this ranking would dramatically decrease.

As part of this reclassification and sale of land it is intended to redirect proceeds towards a larger modern indoor complex at Colley Park that is proposed to

consist of 2 courts able to cater the needs of netball, basketball, indoor soccer, and other sports. Such a facility is estimated to cost \$1.2M and would be reliant on external funding from State and/or Federal governments to complete the project.

### ***FINAL PROPERTY score card***

| Valuers Reference | Land Description                                              | Financial Final Ranking | Usage Final Ranking | Intrinsic Final Ranking | TOTAL Ranking |
|-------------------|---------------------------------------------------------------|-------------------------|---------------------|-------------------------|---------------|
| 62                | Queen Elizabeth Park                                          | 6                       | 1                   | 1                       | 1             |
| 50                | Colley Park (inc Casino Playgroup Hall)                       | 10                      | 4                   | 4                       | 2             |
| 52                | Crawford Square                                               | 12                      | 2                   | 7                       | 3             |
| 184               | Stan Payne Recreation Oval                                    | 7                       | 11                  | 3                       | 4             |
| 95                | Casino Swimming Pool                                          | 18                      | 3                   | 8                       | 5             |
| 49                | Casino Showground Land                                        | 15                      | 5                   | 12                      | 6             |
| 226               | Woodburn Riverside Park inc CWA Hall etc                      | 19                      | 7                   | 6                       | 7             |
| 93                | Richmond Park                                                 | 2                       | 19                  | 14                      | 8             |
| 161               | Evans Head Surf Club Land                                     | 3                       | 34                  | 5                       | 9             |
| 230               | Woodburn Recreation Oval                                      | 16                      | 10                  | 19                      | 10            |
| 140               | Windsor Park                                                  | 8                       | 24                  | 18                      | 11            |
| 85                | Albert Park                                                   | 13                      | 30                  | 10                      | 12            |
| 24                | Casino Band Hall                                              | 14                      | 21                  | 24                      | 13            |
| 163               | Silver Sands Caravan Park Land                                | 35                      | 29                  | 2                       | 14            |
| 86                | Coronation Park                                               | 40                      | 13                  | 15                      | 15            |
| 21                | Casino Indoor Sports Complex Land (add: Carpark Lot 1/380479) | 51                      | 9                   | 20                      | 16            |
| 157               | Evans Head Senior Citizen Hall Land                           | 24                      | 27                  | 29                      | 17            |
| 231               | Woodburn Swimming Pool Land                                   | 53                      | 6                   | 26                      | 18            |
| 25                | Richmond Upper Clarence Regional Library Land                 | 1                       | 15                  | 70                      | 19            |
| 164               | Shark Bay/Banzerack Lookout Land                              | 66                      | 66                  | 16                      | 20            |

**Figure 3.** Extract from Richmond Valley Council's Facilities Needs Review (2009) showing final rankings.

**2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

Yes.

The land must be reclassified before it can be sold. Reclassification of Community Land can only be undertaken via a local environmental plan.

**Section B – Relationship to Strategic Planning Framework**

**3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

NA.

**4. Is the planning proposal consistent with the local council's Community Strategic Plan or other local strategic plan?**

Yes.

The Community Strategic Plan contains the following strategies and goals:

- 4.1 Improve Sporting Facilities
  - 4.1.2 Develop multi-use sporting facilities for the Richmond Valley community
- 4.3 Manage public lands and resources for the community benefit
  - 4.3.1 Management planning – including *Identify public lands surplus to community needs for reclassification and potential disposal*

**5. Is the planning proposal consistent with applicable State Environmental Planning Policies?**

Table 1 outlines all State Environmental Planning Policies (SEPPs) and whether they are applicable and consistent. Where there is an inconsistency it will be further explained, including justification for the inconsistency, immediately following Table 1.

**Table 1.** Consideration of State Environmental Planning Policies

|                                                | Applicable | Consistent |
|------------------------------------------------|------------|------------|
| SEPP No 1-Development Standards                | No         |            |
| SEPP No 6-Number of Storeys in a Building      | No         |            |
| SEPP No 14-Coastal Wetlands                    | No         |            |
| SEPP No 15-Rural Landsharing Communities       | No         |            |
| SEPP No 21-Caravan Parks                       | No         |            |
| SEPP No 22-Shops and Commercial Premises       | No         |            |
| SEPP No 30-Intensive Agriculture               | No         |            |
| SEPP No 33-Hazardous and Offensive Development | No         |            |
| SEPP No 36-Manufactured Home Estates           | No         |            |
| SEPP No 44-Koala Habitat Protection            | No         |            |

|                                                                     | Applicable | Consistent |
|---------------------------------------------------------------------|------------|------------|
| SEPP No 60-Canal Estate Development                                 | No         |            |
| SEPP No 55-Remediation of Land                                      | No         |            |
| SEPP No 62-Sustainable Aquaculture                                  | No         |            |
| SEPP No 64-Advertising and Signage                                  | No         |            |
| SEPP No 65-Design Quality of Residential Flat Development           | No         |            |
| SEPP No 71-Coastal Protection                                       | No         |            |
| SEPP (Affordable Rental Housing) 2009                               | No         |            |
| SEPP (Building Sustainability Index: BASIX) 2004                    | No         |            |
| SEPP (Exempt and Complying Development Codes) 2008                  | No         |            |
| SEPP (Housing for Seniors or People with a Disability) 2004         | No         |            |
| SEPP (Infrastructure) 2007                                          | No         |            |
| SEPP (Major Development) 2005                                       | No         |            |
| SEPP (Mining, Petroleum Production and Extractive Industries) 2007  | No         |            |
| SEPP (Rural Lands) 2008                                             | No         |            |
| SEPP (Temporary Structures and Places of Public Entertainment) 2007 | No         |            |
| SEPP (State and Regional Development) 2011                          | No         |            |

There are no inconsistencies between this Planning Proposal and any SEPP.

## 6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Table 2 outlines all Section 117 Directions (s117) and whether they are applicable and consistent. Where there is an inconsistency it will be further explained, including justification for the inconsistency, immediately following Table 2.

**Table 2.** Consideration of S117 Directions

|                                                            | Applicable | Consistent |
|------------------------------------------------------------|------------|------------|
| <b>1. Employment and Resources</b>                         |            |            |
| 1.1 Business and Industrial Zones                          | Yes        | Yes        |
| 1.2 Rural Zones                                            | No         |            |
| 1.3 Mining, Petroleum Production and Extractive Industries | No         |            |
| 1.4 Oyster Aquaculture                                     | No         |            |
| 1.5 Rural Lands                                            | No         |            |
| <b>2. Environment and Heritage</b>                         |            |            |
| 2.1 Environment Protection Zones                           | No         |            |
| 2.2 Coastal Protection                                     | No         |            |
| 2.3 Heritage Conservation                                  | No         |            |



|                                                                                  | Applicable | Consistent |
|----------------------------------------------------------------------------------|------------|------------|
| 2.4 Recreation Vehicle Areas                                                     | No         |            |
| <b>3. Housing, Infrastructure and Urban Development</b>                          |            |            |
| 3.1 Residential Zones                                                            | No         |            |
| 3.2 Caravan Parks and Manufactured Home Estates                                  | No         |            |
| 3.3 Home Occupations                                                             | No         |            |
| 3.4 Integrating Land Use and Transport                                           | No         |            |
| 3.5 Development Near Licensed Aerodromes                                         | No         |            |
| 3.6 Shooting Ranges                                                              | No         |            |
| <b>4. Hazard and Risk</b>                                                        |            |            |
| 4.1 Acid Sulfate Soils                                                           | No         |            |
| 4.2 Mine Subsidence and Unstable Land                                            | No         |            |
| 4.3 Flood Prone Land                                                             | Yes        | Yes        |
| 4.4 Planning for Bushfire Protection                                             | No         |            |
| <b>5. Regional Planning</b>                                                      |            |            |
| 5.1 Implementation of Regional Strategies                                        | Yes        | Yes        |
| 5.2 Sydney Drinking Water Catchments                                             | No         |            |
| 5.3 Farmland of State and Regional Significance on the NSW Far North Coast       | No         |            |
| 5.4 Commercial and Retail Development along the Pacific Highway, North Coast     | No         |            |
| 5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) | NA         |            |
| 5.6 Sydney to Canberra Corridor                                                  | NA         |            |
| 5.7 Central Coast 2008                                                           | NA         |            |
| 5.8 Second Sydney Airport: Badgerys Creek                                        | NA         |            |
| <b>6. Local Plan Making</b>                                                      |            |            |
| 6.1 Approval and Referral Requirements                                           | No         |            |
| 6.2 Reserving Land for Public Purposes                                           | No         |            |
| 6.3 Site Specific Provisions                                                     | No         |            |
| <b>7. Metropolitan Planning</b>                                                  |            |            |
| 7.1 Implementation of the Metropolitan Plan for Sydney 2036                      | NA         |            |

## **Discussion of Applicable s117s and Reasons for Consistency/Inconsistency**

### ***1.1 Business and Industrial Zones***

*Objectives are to: retain areas and locations of existing business and industrial zones; not reduce potential floor area for employment uses and related public services in business zones; ensure that proposed employment areas are in accord with a strategy.*

**Consistent** - The Casino Sports Complex is located within Zone B3 Commercial Core under the *Richmond Valley LEP 2012*. This Planning Proposal does not propose to alter the zone or the potential for business related development on the land. Potentially this reclassification will enable the redevelopment of this land for commercial purposes. This in turn may result in creating employment.

#### **4.3 Flood Prone Land**

*Objectives are to: ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy; and ensure that provisions of an LEP on flood prone land are commensurate with flood hazard.*

**Consistent** - The Casino Sports Complex is located on low hazard flood prone land. In a 1 in 100 year ARI Flood Event, which is the adopted flood planning event, the land would have flood water over it up to 380 mm depth. The flood level is 23.1 metres AHD, the land's lowest ground level is 22.72 metres AHD, and the current sports stadium floor level is 23.15 metres AHD.

This Planning Proposal will not rezone land. The low hazard category applying to the land means that it is able to be redeveloped, with consideration of potential flood levels. Any inconsistency with this Planning Proposal and the Direction will be of minor significance.

#### **5.1 Implementation of Regional Strategies**

*Objective is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.*

**Consistent** - The *Far North Coast Regional Strategy* does not contain any references to classification or reclassification of public land.

## **Section C - Environmental, social, and economic impact**

### **7. Is there any likelihood that critical habitat or threatened species populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

No.

The land is completely developed within a business precinct. There is no habitat on the land.

### **8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

No.

The Planning Proposal will reclassify the Casino Sports Stadium from Community Land to Operation Land. This will pave the way for the sale of the land, and the potential for it to be redeveloped for business related activities, including an Aboriginal Medical Centre.

The land is already fully developed as an indoor sports centre. Redevelopment of the land may impact upon the adjoining land owners during demolition and construction phases. However, it is unlikely that any additional impacts, such as noise or traffic generation, will result from the alternate use.

**9. How has the planning proposal adequately addressed any social and economic effects?**

Yes.

It is intended to reclassify this land as community land thus enabling the rationalisation of this sporting facility for employment based development. In turn proceeds from the sale will be used to develop a large modern indoor sporting complex at Colley Park.

## **Section D - State and Commonwealth interests**

**10. Is there adequate public infrastructure for the planning proposal?**

NA.

**11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

At the writing of this Planning Proposal there had been no consultation with State or Commonwealth authorities. Such consultation is not considered to be necessary to reclassify public land.

## **Part 4 – Mapping**

This Planning Proposal will not alter any mapped zones contained within the *Richmond Valley Local Environmental Plan 2013*.

A locality/site plan for the Casino Sport Stadium is contained at figure 1.

## Part 5 – Community Consultation

---

This Planning Proposal has been prepared in accordance with Division 4 of Part 3 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), and Division 1 of Part 2 of the *Local Government Act 1993* (LG Act).

The community consultation requirements for preparation of a local environmental plan and to reclassify Community Land to Operational Land involve:

- Public Notice to be given of reclassification by council resolution
  - Section 34 of the LG Act requires 28 days notice to be given of a proposed resolution to classify or reclassify public land.
  - A notice was published in the Express Examiner on 5 June 2013 indicating that a report would be submitted to the Ordinary Meeting of Council on 16 July 2013 to recommend reclassification of the Casino Sports Stadium.
  - Submissions were accepted until 5 July 2013.
- Community Consultation on the Planning Proposal
  - The Gateway Determination will specify the community consultation that must be undertaken.
  - Planning Proposals involving the reclassification of public land must be exhibited for a minimum 28 days.
  - Notice must be given as per the *Guideline to prepare local environmental plans*.
  - Exhibit a copy of LEP Practice Note *PN 09-003 Classification and reclassification of public land through a local environmental plan* (see Attachment 4).
- Conduct a Public Hearing
  - Section 29 of the LG Act requires a public hearing to be conducted in regards to a planning proposal to reclassify Community Land as Operational Land.
  - The *Guideline to prepare local environmental plans* requires 21 days notice must be given that a Public Hearing is to be held. This notice can not be given until the community consultation has concluded.

## Part 6 – Project Timeline

**Table 3.** Estimated timeline for preparing amending Local Environmental Plan

| Milestone                                                                                                   | Timeline   |             |
|-------------------------------------------------------------------------------------------------------------|------------|-------------|
|                                                                                                             | Start      | Finish      |
| Notice of pending resolution to reclassify Community Land as Operational Land                               | 5 Jun 2013 | 5 Jul 2013  |
| Resolution to Reclassify Land                                                                               |            | 16 Jul 2013 |
| Anticipated commencement date (date of Gateway determination)                                               | Jul 2013   | Aug 2013    |
| Anticipated timeframe for the completion of required technical information                                  | NA         |             |
| Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination) | NA         |             |
| Commencement and completion dates for public exhibition period*                                             | Aug 2013   | Sept 2013   |
| Notice of Public Hearing                                                                                    | Oct 2013   | Oct 2013    |
| Public Hearing*                                                                                             |            | Oct 2013    |
| Timeframe for consideration of submissions & prepare Report on Public Hearing                               | Aug 2012   | Nov 2013    |
| Report to Council post Exhibition                                                                           |            | Nov 2013    |
| Date of submission to the Department to finalise the LEP                                                    | NA         |             |
| Timeframe for Parliamentary Counsel's Opinion and drafting of LEP                                           | Nov 2013   | Dec 2013    |
| Anticipated date RPA will make the plan (under delegation)**                                                |            | Jan 2013    |
| Anticipated date RPA will forward to the department for notification.                                       |            | Jan 2013    |

\* Subject to receiving Gateway Determination by Aug 2013

\*\* Subject to obtaining PC Opinion by 31 Dec 2013

## Contact Details

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Phone: 02 66600276





## Attachment 1 – Gateway Determination

A copy of the Gateway Determination for this Planning Proposal will be included in this Attachment.

At the time of preparation of this version of the Planning Proposal there had been no Gateway Determination.



# Attachment 2 – Information Checklist

## STEP 1. Required for all Proposals

|                                                     |                                                                                                                           |
|-----------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|
| • Objectives and intended outcome                   | • Explanation of provisions                                                                                               |
| • Mapping (including current and proposed zones)    | • Justification and process for implementation (including compliance assessment against relevant section 117 direction/s) |
| • Community consultation (agencies to be consulted) |                                                                                                                           |

## STEP 2. Matters – Considered on a Case by Case Basis

| PLANNING MATTERS OR ISSUES                                                                                     | To be considered                    | N/A                                 |
|----------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------|
| <b>Strategic Planning Context</b>                                                                              |                                     |                                     |
| • Demonstrated consistency with relevant Regional Strategy                                                     | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Demonstrated consistency with relevant Sub-Regional strategy                                                 | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Demonstrated consistency with or support for the outcomes and actions of relevant DG endorsed local strategy | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Demonstrated consistency with Threshold Sustainability Criteria                                              | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| <b>Site Description/Context</b>                                                                                |                                     |                                     |
| • Aerial photographs                                                                                           | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| • Site photos/photomontage                                                                                     | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| <b>Traffic and Transport Considerations</b>                                                                    |                                     |                                     |
| • Local traffic and transport                                                                                  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • TMAP                                                                                                         | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Public transport                                                                                             | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Cycle and pedestrian movement                                                                                | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| <b>Environmental Considerations</b>                                                                            |                                     |                                     |
| • Bushfire hazard                                                                                              | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Acid Sulfate Soil                                                                                            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Noise impact                                                                                                 | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Flora and/or fauna                                                                                           | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Soil stability, erosion, sediment, landslip assessment, and subsidence                                       | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Water quality                                                                                                | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Stormwater management                                                                                        | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Flooding                                                                                                     | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Land/site contamination (SEPP55)                                                                             | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

| PLANNING MATTERS OR ISSUES                                                                       | To be considered                    | N/A                                 |
|--------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------|
| • Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining) | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Sea level rise                                                                                 | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| <b>Urban Design Considerations</b>                                                               |                                     |                                     |
| • Existing site plan (buildings vegetation, roads, etc)                                          | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| • Building mass/block diagram study (changes in building height and FSR)                         | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Lighting impact                                                                                | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Development yield analysis (potential yield of lots, houses, employment generation)            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| <b>Economic Considerations</b>                                                                   |                                     |                                     |
| • Economic impact assessment                                                                     | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Retail centres hierarchy                                                                       | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Employment land                                                                                | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| <b>Social and Cultural Considerations</b>                                                        |                                     |                                     |
| • Heritage impact                                                                                | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Aboriginal archaeology                                                                         | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Open space management                                                                          | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| • European archaeology                                                                           | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| • Social & cultural impacts                                                                      | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| • Stakeholder engagement                                                                         | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| <b>Infrastructure Considerations</b>                                                             |                                     |                                     |
| • Infrastructure servicing and potential funding arrangements                                    | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| <b>Miscellaneous/Additional Considerations</b>                                                   |                                     |                                     |
| • Facilities Needs Review (2009), and                                                            |                                     |                                     |
| • Community Strategic Plan                                                                       |                                     |                                     |



## Attachment 3 – Evaluation Criteria for the Delegation of plan making functions

Checklist for the review of a request for delegation of plan making functions to councils.

|                                                                                                                           |
|---------------------------------------------------------------------------------------------------------------------------|
| <b>Local Government Area:</b>                                                                                             |
| Richmond Valley Council                                                                                                   |
| <b>Name of draft LEP:</b>                                                                                                 |
| <i>Richmond Valley Local Environmental Plan 2012 (Amendment No.?)</i>                                                     |
| <b>Address of Land (if applicable):</b>                                                                                   |
| 155-157 Canterbury Street Casino – Lots 1 & 2 DP380479 – the Casino Sports Stadium                                        |
| <b>Intent of draft LEP:</b>                                                                                               |
| Reclassify the Casino Sports Stadium from Community Land to Operational Land under the <i>Local Government Act 1993</i> . |
| <b>Additional Supporting Points/Information:</b>                                                                          |
| The reclassification is to permit the sale of the land.                                                                   |

### Evaluation Criteria for the issuing of an Authorisation

| (Note. where the matter is identified as relevant and the requirement has not been met, council is to attach information to explain why the matter has not been addressed) | Council response |              | Department assessment |           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|--------------|-----------------------|-----------|
|                                                                                                                                                                            | Y/N              | Not relevant | Agree                 | Not agree |
| Is the planning proposal consistent with the Standard Instrument Order, 2006?                                                                                              | Y                |              |                       |           |
| Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?                                      | Y                |              |                       |           |
| Are appropriate maps included to identify the location of the site and the intent of the amendment?                                                                        | Y                |              |                       |           |
| Does the planning proposal contain details related to proposed consultation?                                                                                               | Y                |              |                       |           |
| Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?                      |                  | NA           |                       |           |
| Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?                                                                  | Y                |              |                       |           |
| Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?                                                                       | Y                |              |                       |           |

| (Note. where the matter is identified as relevant and the requirement has not been met, council is to attach information to explain why the matter has not been addressed)                                                                                                       | Council response |              | Department assessment |           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|--------------|-----------------------|-----------|
|                                                                                                                                                                                                                                                                                  | Y/N              | Not relevant | Agree                 | Not agree |
| <b>Minor Mapping Error Amendments</b>                                                                                                                                                                                                                                            | Y/N              |              |                       |           |
| Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?                                                                                           | N                |              |                       |           |
| <b>Heritage LEPs</b>                                                                                                                                                                                                                                                             | Y/N              |              |                       |           |
| Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?                                                                                                                                  |                  | NA           |                       |           |
| Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?                                                                                                                                     |                  | NA           |                       |           |
| Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?                                                                                                                          |                  | NA           |                       |           |
| <b>Reclassifications</b>                                                                                                                                                                                                                                                         | Y/N              |              |                       |           |
| Is there an associated spot rezoning with the reclassification?                                                                                                                                                                                                                  | N                |              |                       |           |
| If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?                                                                                                                                                                           |                  | NA           |                       |           |
| Is the planning proposal proposed to rectify an anomaly in a classification?                                                                                                                                                                                                     | N                |              |                       |           |
| Will the planning proposal be consistent with an adopted POM or other strategy related to the site?                                                                                                                                                                              | N                |              |                       |           |
| Will the draft LEP discharge any interests in public land under section 30 of the <i>Local Government Act 1993</i> ?                                                                                                                                                             | N                |              |                       |           |
| If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?                                                                  |                  | NA           |                       |           |
| Has the council identified that it will exhibit the planning proposal in accordance with the Department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land? | Y                |              |                       |           |
| Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?                                                                                                                                    | Y                |              |                       |           |
| <b>Spot Rezonings</b>                                                                                                                                                                                                                                                            | Y/N              |              |                       |           |
| Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?                                                                                                                      | N                |              |                       |           |
| Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?                                                                                                                       |                  | NA           |                       |           |

| (Note. where the matter is identified as relevant and the requirement has not been met, council is to attach information to explain why the matter has not been addressed)                                                                                                                                       | Council response |              | Department assessment |           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|--------------|-----------------------|-----------|
|                                                                                                                                                                                                                                                                                                                  | Y/N              | Not relevant | Agree                 | Not agree |
| Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?                                                                                                        | N                |              |                       |           |
| If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?                                                                                                                                                                                                  |                  | NA           |                       |           |
| Does the planning proposal create an exception to a mapped development standard?                                                                                                                                                                                                                                 | N                |              |                       |           |
| <b>Section 73A matters</b>                                                                                                                                                                                                                                                                                       | Y/N              |              |                       |           |
| Does the proposed instrument                                                                                                                                                                                                                                                                                     |                  |              |                       |           |
| a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; | N                |              |                       |           |
| b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or                                                                                                                                                                                   | N                |              |                       |           |
| c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?                                                                                               | N                |              |                       |           |
| (Note. the Minister (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).                                                                                                                                                          |                  |              |                       |           |

### Notes.

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.





# Attachment 4 – Practice Note PN 09-003



NSW GOVERNMENT  
Department of Planning

## LEP practice note

### STANDARD INSTRUMENT FOR LEPS

|         |                                                                        |
|---------|------------------------------------------------------------------------|
| Note    | PN 09-003                                                              |
| Date    | 12 June 2009                                                           |
| Related | Supersedes (re)classification advice in Best Practice Guideline (1997) |

## Classification and reclassification of public land through a local environmental plan

The purpose of this practice note is to update (and supersede) previous guidance on the process to classify or reclassify public land through a local environmental plan including a principal plan in accordance with the Standard Instrument.

### Introduction

'Public land' is any land (including a public reserve) vested in, or under the control of, council. Exceptions include roads, land to which the *Crown Lands Act 1989* applies, a common, or land to which the *Trustees of Schools of Arts Enabling Act 1902* applies.

'Community' land is generally open to the public, for example, parks, reserves or sports grounds. 'Operational' land may be used for other purposes, for example, as works depots or garages, or held by council as a temporary asset.

'Classification' of public land refers to the process when this land is first acquired and first classified as either 'operational' land or 'community' land. 'Reclassification' of public land refers to the process of changing the classification of 'operational' land to 'community' land or from 'community' land to 'operational' land.

### How is public land classified or reclassified?

Depending on circumstances, this is undertaken by either:

- resolution of council under section 31, 32 or 33 of the *Local Government Act 1993* (LG Act) [through section 27(2)], or
- a local environmental plan (LEP) under the *Environmental Planning and Assessment Act 1979* (EP&A Act) [through section 27(1) of the LG Act].

In both cases, it is not possible for councils to delegate their decision to classify or reclassify public land [section 377(1) of the LG Act]. Councils are encouraged to classify or reclassify land through the LG Act wherever circumstances conform to sections 31, 32 or 33 of the LG Act.

The remaining parts of this practice note identify the key areas councils must consider when proposing to classify or reclassify public land by means of a local environmental plan (LEP) under the second option.

This practice note supersedes the sections relating to classification and reclassification in *LEPs and council land*, Best Practice Guideline (Department of Urban Affairs and Planning 1997).

### Procedure under the EP&A Act

Where classification or reclassification is proposed through an LEP, council is advised to include the proposal as early as possible in the draft LEP or planning proposal. If the public land to be classified or reclassified is not owned by council, landowner's consent is required prior to either section 54 or section 56 of the EP&A Act (when the Part 3 amendment to the EP&A Act applies).<sup>1</sup>

The proposal would then form part of the material presented through either section 54 or section 56 of the EP&A Act (when the Part 3 amendment to the EP&A Act applies).

<sup>1</sup> In relation to the Part 3 amendment, council should also check the changes to the EP&A Act and Regulation once these commence.

To assist councils, the steps in preparing material either as a draft LEP or planning proposal are summarised in Attachment 1. Column 1 of Attachment 1 sets out the requirements in accordance with the EP&A Act **prior to the Part 3 amendment commencing**. Column 2 of the attachment sets out the requirements **after the Part 3 amendment commences**. In relation to the Part 3 amendment, council should also check the savings and transitional arrangements under the EP&A Act, once these commence.

Where land is proposed to be reserved for a public purpose such as provision of public services and facilities, section 117 Direction 6.2—Reserving Land for Public Purposes applies. The Direction also sets out requirements when a reservation of public land for such purposes is no longer required.

A summary of relevant matters that need to be available at the time the planning proposal is first forwarded are listed in Attachment 2 under 'Exhibition'. Other matters for exhibition and later stages are listed separately in that attachment.

### Provisions in the Standard Instrument

The following Standard Instrument provisions are relevant to the classification and reclassification of public land.

#### Clause 5.2—Classification and reclassification of public land

The purpose of this clause is to enable councils to classify or reclassify public land identified in Schedule 4 of the Standard Instrument. Only public land to be classified or reclassified by publication on the NSW legislation website of that principal LEP is to be identified in the schedule. Schedule 4 must not contain a reference to any land already classified or reclassified.

##### Part 1 Schedule 4—change to 'operational' land, no interest changes

Land is identified in Part 1 of Schedule 4 where the trusts, estates, interests, dedications, conditions, restrictions or covenants over the land are to remain after reclassification to 'operational land', i.e. where **no** interests will change.

##### Part 2 Schedule 4—change to 'operational' land and an interest will change

Land is identified in Part 2 of Schedule 4 where the land is to be classified or reclassified as 'operational land' and some of the trusts, estates, interests, dedications, conditions, restrictions, or covenants over the land remain. The interests to remain are identified in column 3 of this part of the schedule.

##### Part 3 Schedule 4—change to 'community' land

Land proposed to be classified or reclassified as 'community land' through the LEP is identified in Part 3 of the schedule.

Where there is no land to be classified or reclassified through the LEP, the clause remains with the schedule empty.

### General requirements for exhibition

Public exhibition of the LEP occurs after certification of the LEP (in accordance with section 66 of the EP&A Act). Public exhibition of a planning proposal may occur in accordance with section 57(2) (when the Part 3 amendment to the EP&A Act commences). To assist the public in understanding an exhibited draft LEP or planning proposal to classify or reclassify land, requirements are summarised in Attachment 2.

A copy of council's response to these requirements together with a copy of this practice note is to be part of material displayed during public exhibition of an LEP or planning proposal to reclassify or classify public land.

### Public hearing

A public hearing must be held when 'community land' is proposed to be reclassified as 'operational land'.

To ensure council and the community have sufficient time to consider relevant matters associated with the proposed change, the public hearing is held **after** the close of the exhibition period under section 68 of the EP&A Act (section 29 of the LG Act) for an LEP and in accordance with section 57(6) (when the Part 3 amendment to the EP&A Act commences).

Public hearing provisions are set out in the EP&A Regulation (clause 14) and public notice of a hearing must be sent or published **at least 21 days** before the start of the public hearing.

The independence of the person chairing the public hearing and requirements relating to the preparation and inspection of reports from the hearing are specified in section 47G of the LG Act.

### Further information

A copy of this practice note, Standard Instrument, and other specific practice notes and planning circulars on using the Standard Instrument, can be accessed on the Department's website <http://www.planning.nsw.gov.au/lep/index.asp>

#### Authorised by:

Sam Haddad, Director-General

#### List of attachments:

1. Main steps (in sequence) for classifying and reclassifying public land under the *Environmental Planning and Assessment Act 1979*
2. General requirements for classification or reclassification of land through local environmental plans and planning proposals

## Attachment 1. Main steps (in sequence) for classifying and reclassifying public land under the *Environmental Planning and Assessment Act 1979*

| Requirements prior to commencement of the 2008 Part 3 amendment to the EP&A Act                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Requirements after commencement of the 2008 Part 3 amendment to the EP&A Act when it applies to a proposal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Council notifies the Department of a decision to prepare a draft LEP including a proposal to classify or reclassify public land (section 54 of the EP&amp;A Act).</p> <p>This notification is accompanied by an appropriate level of information including for the following:</p> <ul style="list-style-type: none"> <li>- a justification for the proposal</li> <li>- reasons why council acquired an interest</li> <li>- details that would also accompany a plan at exhibition stage (see <b>Attachment 2</b>)</li> <li>- any proposal to extinguish or retain other interests in the land through the reclassification</li> <li>- a justification /explanation as to why such interests are being extinguished</li> <li>- any rezoning associated with the classification/ reclassification</li> <li>- any preliminary comments by a relevant government agency, including agency's consent where land is vested or held by an agency other than council</li> <li>- consideration of any relevant directions e.g. section 117 Direction 6.2—Reserving Land for Public Purposes, where appropriate.</li> </ul> | <p>A planning proposal is forwarded by council to the Minister (new section 56 of the EP&amp;A Act), including a proposal to classify or reclassify public land.</p> <p>This proposal contains an appropriate level of information including for the following:</p> <ul style="list-style-type: none"> <li>- a justification for the planning proposal</li> <li>- reasons why council acquired an interest</li> <li>- details that would also accompany a plan at exhibition stage (see <b>Attachment 2</b>)</li> <li>- any proposal to extinguish or retain other interests in the land through the reclassification</li> <li>- a justification /explanation as to why such interests are being extinguished</li> <li>- any rezoning associated with the classification/ reclassification</li> <li>- any preliminary comments by a relevant government agency, including an agency in which the land is vested or held</li> <li>- consideration of any relevant directions, e.g. section 117 Direction 6.2—Reserving Land for Public Purposes, where appropriate.</li> </ul> |
| Consultation with relevant public agencies and other stakeholders (section 62 of the EP&A Act).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | See below.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| After consultation, council submits a draft LEP to the Department and, subject to the issue of a section 65 certificate, the draft LEP is exhibited for a minimum of 28 days and the public invited to provide written submissions to the exhibited LEP within the exhibition period.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Following review, at the gateway, if the planning proposal is to proceed, requirements for the various stages of the proposal, including consultation requirements, will be provided to council (new section 56(1), 56(2) of the EP&A Act).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Where a draft LEP includes reclassification of 'community' land to 'operational' land, council holds a public hearing into the proposal in accordance with section 68 of the EP&A Act (section 29 of the Local Government Act). *                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Where a planning proposal includes reclassification of 'community' land to 'operational' land, council holds a public hearing into the proposal in accordance with new section 57(6) of the EP&A Act. *                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Such a hearing follows the requirements of clause 14 of the EP&A Regulation including that a notice of the details for the hearing must be published in a local newspaper and sent to any person requesting a hearing a minimum of 21 days prior to the hearing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Such a hearing follows the requirements of clause 14 of the EP&A Regulation including that a notice of the details for the hearing must be published in a local newspaper and sent to any person requesting a hearing a minimum of 21 days prior to the hearing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Where it is considered appropriate, the draft LEP is submitted to the Director-General together with details of all submissions and the report of the public hearing, together with a statement of other matters set out in section 68 of the EP&A Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <p>Consultation for a planning proposal under new section 57 of the EP&amp;A Act is completed when council has considered any submissions made concerning the proposed instrument and the report of any public hearing.</p> <p>Where the planning proposal is to proceed, the Director-General makes arrangements for the drafting of the LEP to give effect to the final proposal (new section 59 of the EP&amp;A Act).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| The Director-General furnishes a report to the Minister if the Director-General is satisfied that the draft LEP has been prepared in accordance with any applicable standard instrument under section 33A (section 69 of the EP&A Act).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| The Minister determines whether to make the LEP under section 70 of the EP&A Act. **                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | The Minister (or Minister's delegate) determines whether to make the LEP under new section 59 of the EP&A Act. **                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

### Notes:

\* Where a proposal includes a classification of 'operational' land to 'community' land, a public hearing is not generally required.

\*\* Where a reclassification proposes to extinguish other interests in the land, the approval of the Governor is required in accordance with section 30 of the LG Act.



## Attachment 2. General requirements for classification or reclassification of land through local environmental plans and planning proposals

### Exhibition

When exhibiting a planning proposal or draft LEP to classify or reclassify public land, council must provide a written statement including the following:

- the reasons why the draft LEP or planning proposal is being prepared including the planning merits of the proposal, e.g. the findings of a centres' strategy, council's intention to dispose of the land, provision of open space in a town centre
- the current and proposed classification of the land
- the reasons for the reclassification including how this relates to council's strategic framework, council's proposed future use of the land, proposed zones, site specific requirements, e.g. heritage controls, anticipated physical or operational changes resulting from the reclassification
- council's ownership of the land, if this applies
- the nature of council's interest in the land, e.g. council has a 50 year lease over the site
- how and when the interest was first acquired, e.g. the land was purchased in 20XX through section 94
- the reasons council acquired an interest in the land, e.g. for the extension of an existing park; council was given responsibility for the land by a State agency
- any agreements over the land together with their duration, terms, controls, agreement to dispose of the land, e.g. whether any aspect of the draft LEP or planning proposal formed part of the agreement to dispose of the land and any terms of any such agreement
- an indication, as a minimum, of the magnitude of any financial gain or loss from the reclassification and of the type(s) of benefit that could arise e.g. council could indicate the magnitude of value added to the land based on comparable sites such as the land is currently valued at \$1500 per square metre, nearby land zoned for business development is valued at between \$2000 and \$5000 per square metre
- the asset management objectives being pursued, the manner in which they will be achieved and the type of benefits the council wants, i.e. without necessarily providing details of any possible financial arrangements, how the council may or will benefit financially
- whether there has been an agreement for the sale or lease of the land; the basic details of any such agreement and, if relevant, when council intends to realise its asset, either

immediately after rezoning/reclassification or at a later time

- Relevant matters required in plan making under the EP&A Act
- A copy of this practice note must be included in the exhibition material to assist the community in identifying information requirements. Council staff may wish to identify the column in Attachment 1 that applies.

### Post-exhibition

Once a decision has been made regarding whether the draft LEP or planning proposal proceeds, everyone who made a written submission must be notified in writing of the decision.

Written notification must occur within 14 days of the decision and needs to clearly identify the reasons for council's decision. An explanation must be included of how issues raised in submissions were addressed including the reasons for council's decision.

The final report after exhibition to either the Director-General or the Minister should include:

- a brief summary of council's interest in the land
- issues raised in any relevant submissions
- the dates of the exhibition and the hearing
- an explanation of how issues raised were addressed or resolved.

### Additional matters to be addressed when the Governor's approval is required

The Governor's approval is required for the extinguishment of public reserve status and other interests in land which a council proposes to reclassify from 'community' to 'operational' status under the LG Act.

Council must provide sufficient information in accordance with this practice note to inform the Minister of any public reserve and/or other third party property interests (e.g. trust, covenant, easement) that are proposed to be extinguished upon the making of such a draft LEP or planning proposal.

#### Important note

This note does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this note.

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