



Nambucca Shire Council

**Planning Proposal Nambucca
LEP Amendment no. 17
Reclassification of Bowraville Folk Museum
Lot 1 and Lot 2 DP1088352 86 High Street
Bowraville NSW**

Prepared by:
*Department of Environment and Planning
Nambucca Shire Council*

Dated: August 2012

File: SF1904

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1.0 Preliminary

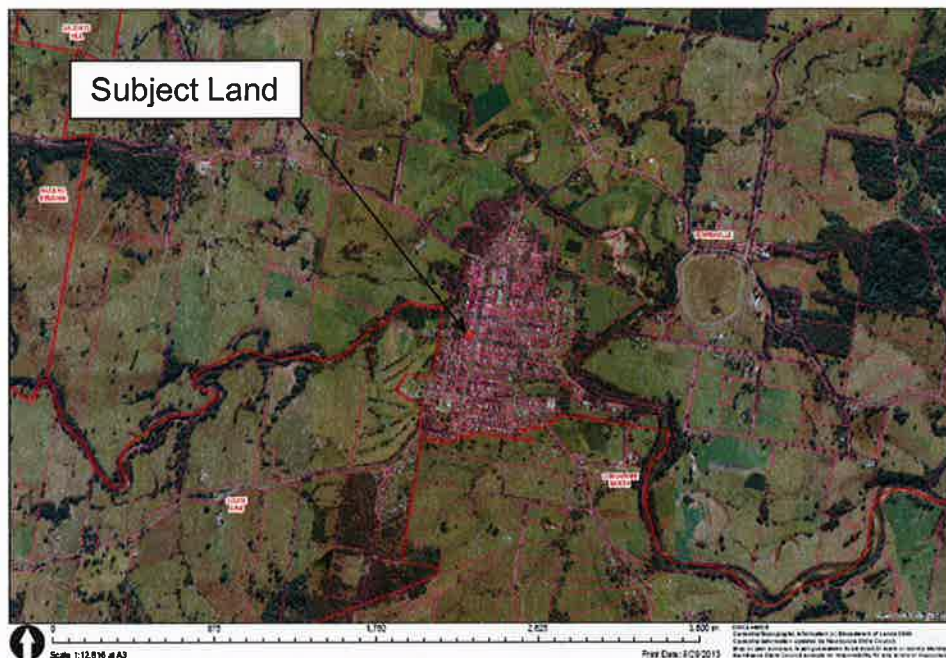
1.1 Context

This planning proposal has been drafted in accordance with section 55 of the *Environmental Planning and Assessment Act 1979*, and 'A guide to preparing planning proposals' (DoP, 2012). A gateway determination under Section 56 of the Act is requested.

1.2 Subject Land

This Planning Proposal applies to Lot 1 and Lot 2 DP1088352 86 High Street Bowraville NSW. As Shown in the below Figures.

Figure 1 – Local Context



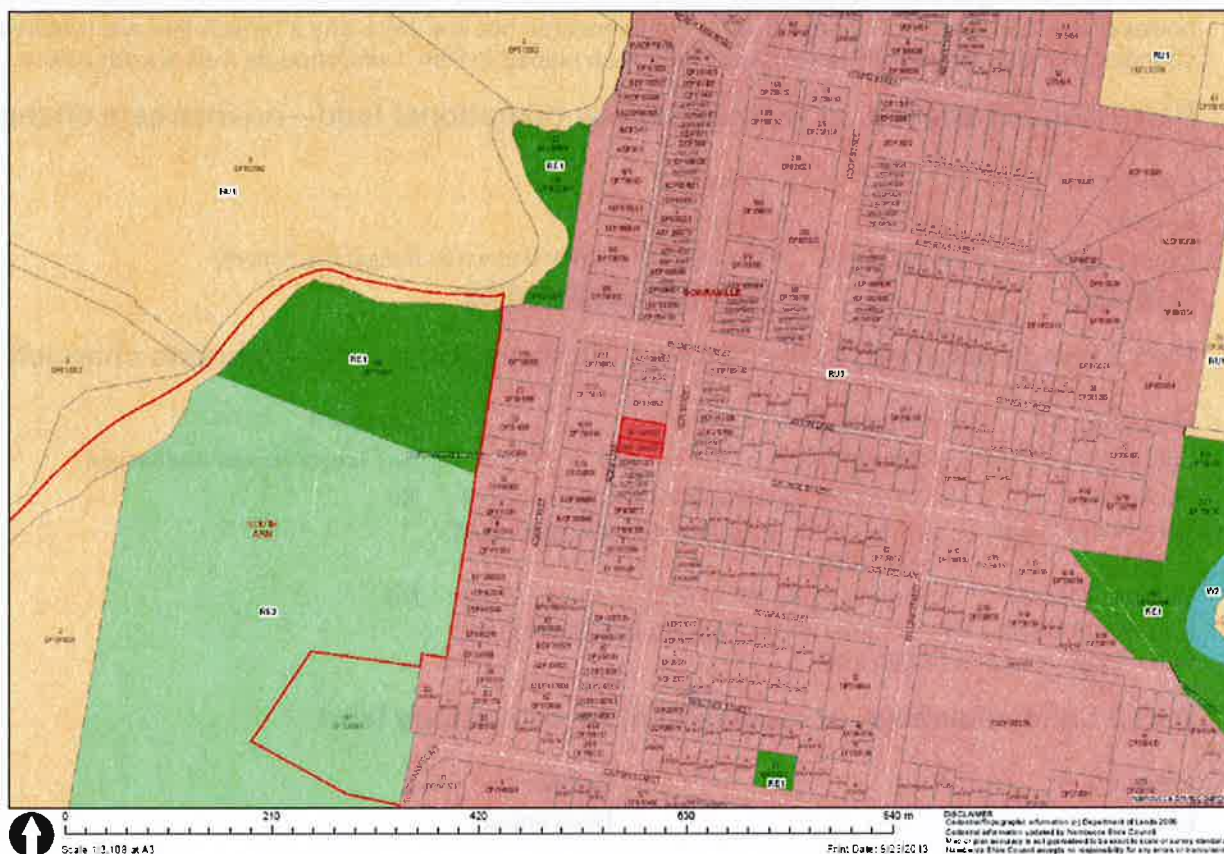


Street View of the Subject Land (86 High Street Bowraville)

1.3 *Current Zoning and Use*

The land is presently zoned RU5 Village and is operated as the Bowraville Folk Museum by the Bowraville Folk Museum Inc. The museum displays a range of historical memorabilia from the shire. It land also contains residential unit which provides rental income to the Bowraville Folk Museum Inc.

Figure 2 Below shows the existing zone of the subject land.



1.4 Background

The Bowraville Folk Museum is presently owned by Council but managed/operated by the Bowraville Folk Museum Inc. The Bowraville Folk Museum is seeking a transfer of ownership from Council.

The matter was considered by Council on two (2) occasions on the 10 July 2013 and 14 August 2013 on both occasions Council reviewed the issues and resolved to proceed with the reclassification subject to a number of conditions. These reports are provided as attachment 1 to this planning proposal.

The transfer of the building to the incorporated association would remove the asset from Council's balance sheet and with it the unfunded depreciation as well as maintenance expenditure. It is stated in the reporting that the disposal of the land will be a forward step to improving Council's financial sustainability.

The land is located in a Heritage Conservation zone and the buildings within the land are identified as heritage items. However the planning proposal does not propose any changes to the use of the building or the structures themselves. Any such matters would be subject to assessment under clause 5.10 of the Nambucca LEP 2010.

Part 1 Objectives or Intended outcomes

The primary objective of this LEP Amendment is to:

- 1) Reclassify the land from Community to operational land in order to permit the subsequent transfer of the land to the Bowraville Folk Museum Inc.

Part 2 Explanation of Provisions

The objectives of the LEP amendment will be achieved by amending Schedule 4 to include the premises known as Lot 1 and 2 DP 1088352 86 High Street Bowraville. Council records of the property are limited, however the land does not appear to be a public reserve nor are there any interests that are required to be changed. For this reason the amendment has been placed in Part 1 of Schedule 4 as shown below.

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

Column 1	Column 2
Locality	Description
Eungai Creek, Little Tambar Road	Lot 163, DP 822649 (known as Eungai Pre School)
<u>Bowraville</u>	<u>Lot 1 and Lot 2 DP1088352</u>

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

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
Macksville, Yarrowonga Street	Part of Lot 31, DP 248561, as shown edged heavy red on the Land Reclassification (Part Lots) Map	Nil
Nambucca Heads, Kingsworth Estate, Old Coast Road	Part of Lot 40, DP 711098, as shown edged heavy red on the Land Reclassification (Part Lots) Map	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 the Result of any Strategic study or Report?

No the proposal is a site specific reclassification.

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

Yes. The local Government Act requires Council to undertake the reclassification via an LEP amendment as proposed. To proceed with a reclassification pursuant to the Local Government Act Council will also be required to hold a public hearing during the exhibition period.

3 Is the planning proposal consistent with the objects and actions of the applicable regional or subregional strategy?

The Mid North Coast Regional Strategy does not address public land reclassifications in a strategic context.

4 Is the planning proposal consistent with the local Council's Community Strategic Plan, or other strategic plan?

Yes, Council's Delivery Plan 2012-2016 states:

Cost shifting from the State Government such as through reduced regional road funding and increased contributions to the Rural Fire Service adds to the problem. Council has to determine how it will reduce its services to a level which is financially sustainable. In the latter part of 2012, Council will explore a number of measures that in may help reduce its expenditure on infrastructure, including:

- Reduce the service level of bridges, with bridges going from two-lane to single lane where possible.
- Reduce the number of public amenities managed by Council, and reduce the size of new amenities.
- Transfer Council halls to incorporated committees, which would have ownership or trusteeship for their halls.
- Transfer Senior Citizens Centres to incorporated committees.

Although not directly referred to in the above extract the transfer of the ownership of the Bowraville Folk Museum would reduce Council's expenditure on depreciation and maintenance related to the subject site, and improve the long term financial sustainability of the shire.

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

The planning proposal is not required to extinguish interests in the land.

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

N/A

7 Is the planning proposal consistent with applicable state environmental polices?

Yes. Applicable SEPP's are addressed in following parts of this proposal.

8 Is the planning proposal consistent with relevant ministerial directions (117 directions)?

Yes. Applicable 117 directions are addressed in following parts of this proposal.

9 Is there any likelihood that critical habitat or threatened species population or ecological communities or their habitats will be adversely affected as a result of this proposal?

No the land is as an urban block located in the Village of Bowraville.

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

Nil. The proposal will allow for the disposal of the land. The land is identified as part of the heritage conservation area and the buildings are identified as heritage items. However the proposal is not affecting any physical attributes of the site.

11 Has the planning proposal adequately addressed any social and economic effects?

Yes. The Council decision to progress the transfer of the land to the Bowraville Folk Museum Inc. was made with in full consideration of the economic and social effects. The Council reports discuss the issues in full and are attached to this proposal as Appendix 1.

12 Is there adequate public infrastructure for the planning proposal?

yes

13 What are the views of the relevant state and commonwealth authorities consulted in accordance with the gateway determination?

N/A. No consultation has been undertaken.

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

No interests are required to be extinguished.

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

Council is the owner of the land.

Part 4 Community Consultation

The proposal is not considered to be a low impact proposal in accordance with Section 4.5 of '*A guide to preparing local environmental plans*'. As such it is intended that exhibition period for the planning proposal will be a minimum of 28 days and the exhibition will be undertaken in accordance with Section 4.5 of '*A guide to preparing local environmental plans*'.

Pursuant with the requirements of the *Local Government Act* and clause 56E of the *Environmental Planning and Assessment Act 1979* a public hearing is required to be held in relation to the reclassification of this land.

Appendix 1 - State Environmental Planning Policies

All State Environmental Planning Policies (SEPP) have been considered in the preparation of the planning proposal, however none are directly applicable to this planning proposal.

Appendix 2 - Section 117 Directions

All of the ministers section 117 directions under *Environmental Planning and Assessment Act 1979* have been considered during the preparation of this planning proposal however the following are considered applicable in this instance.

1 Employment and Resources

Direction 1.1 Business and Industrial Zones

The objectives of this direction are to:

- a encourage employment growth in suitable locations,
- b protect employment land in business and industrial zones, and
- c support the viability of identified strategic centres.

This direction applies when a council prepares a draft LEP that affects land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).

A draft LEP shall:

- a give effect to the objectives of this direction,
- b retain the areas and locations of existing business and industrial zones,
- c not reduce the total potential floor space area for employment uses and related public services in business zones,
- d not reduce the total potential floor space area for industrial uses in industrial zones, and
- e ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.

The subject land is located in a RU5 Village, which is not a direct commercial zone but contains similar characteristics. This proposal does not propose to amend the zoning in this area it is proposing a reclassification of the land from community to operational land.

Direction 1.2 Rural Zones

The objective of this direction is to protect the agricultural production value of rural land.

This direction applies when a council prepares a draft LEP that affects land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).

A draft LEP shall:

- a not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.
- b not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:

- a justified by a strategy which:
 - i gives consideration to the objectives of this direction,
 - ii identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
 - iii is approved by the Director-General of the Department of Planning, or
- b justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objectives of this direction, or
- c in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or

d is of minor significance.

The land is Zoned RU5 Village but as stated previously the proposal is not rezoning the land it will be reclassifying the land from community to operational.

Direction 1.5 Rural Lands

The objectives of this direction are to:

- a protect the agricultural production value of rural land,
- b facilitate the orderly and economic development of rural lands for rural and related purposes.

This direction applies when:

- a a council prepares a draft LEP that affects land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or
- b a council prepares a draft LEP that changes the existing minimum lot size on land within a rural or environment protection zone.

What a council must do if this direction applies

- a A draft LEP to which clauses 3(a) or 3(b) apply must be consistent with the Rural Planning Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.
- b A draft LEP to which clause 3(b) applies must be consistent with the Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

The Planning proposal is consistent with this direction.

Direction 2.3 Heritage Conservation

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

This direction applies when a council prepares a draft LEP.

A draft LEP shall contain provisions that facilitate the conservation of:

- a items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,
- b Aboriginal objects or Aboriginal places that are protected under the *National Parks and Wildlife Act 1974*, and
- c Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the council, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

Multiple Heritage items are identified within the subject land under the Nambucca LEP 2010 Schedule 5 and the subject land is also contained with a Heritage Conservation Area (C1). An extract from schedule 5 as it relates to the subject land is provided below.

Bowraville	Museum and Former Presbyterian Church	86-88B High Street	Lot 2, DP 921273, Lot 2, DP 1088352	Local	I33
Bowraville	Dwelling	86C High Street	Lot 1, DP 1088352	Local	I34
Bowraville	Eliza and Joseph Newman Folk Museum	86D High Street	Lot 1, DP 1088352	Local	I35

Clause 5.10 of the Nambucca LEP 2010 provides for protection and conservation of heritage items and conservation areas identified within the shire. Not change to the character of building or place is proposed as part of this proposal. The proposal is simply reclassifying the land from Community to Operational. Any future works on the existing buildings would be required to address clause 5.10 of the Nambucca LEP 2010.

3 Housing, Infrastructure and Urban Development

4 Hazard and Risk

5 Regional Planning

6 Local Plan Making

Direction 6.2 Reserving Land for Public Purposes

The objectives of this direction are:

- a to facilitate the provision of public services and facilities by reserving land for public purposes, and
- b to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

A draft LEP shall not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).

When a Minister or public authority requests a council to reserve land for a public purpose in a draft LEP and the land would be required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991*, the council shall:

- a reserve the land in accordance with the request, and
- b include the land in a zone appropriate to its intended future use or a zone advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), and
- c identify the relevant acquiring authority for the land.

When a Minister or public authority requests a council to include provisions in a draft LEP relating to the use of any land reserved for a public purpose before that land is acquired, the council shall:

- a include the requested provisions, or
- b take such other action as advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) with respect to the use of the land before it is acquired.

When a Minister or public authority requests a council to include provisions in a draft LEP to rezone and/or remove a reservation of any land that is reserved for public purposes because the land is no longer designated by that public authority for acquisition, the council shall rezone and/or remove the relevant reservation in accordance with the request.

A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that:

- a with respect to a request referred to in paragraph (7), that further information is required before appropriate planning controls for the land can be determined, or
- b the provisions of the draft LEP that are inconsistent with the terms of this direction are of minor significance.

No land reserved for acquisition is being considered as part of this proposal. The planning proposal is consistent with this direction.

Appendix 1 – Council Reports

1	Planning Committee Report
2	Planning Committee Report
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