

D15/40360
F1623

Ashley Albury
Western Region
Department of Planning and Infrastructure
PO Box 58
DUBBO NSW 2830



Dear Ashley

DRAFT AMENDMENT 7 TO ORANGE LOCAL ENVIRONMENTAL PLAN 2011

Council writes to request a Gateway Determination for the enclosed Planning Proposal. The proposal is intended to become Amendment 7 to the Orange Local Environmental Plan 2011.

The Planning Proposal arises in part from the original Orange LEP 2011 Amendment 3 process which reclassified 230 Phillip Street to Operational Land. This was intended to facilitate the expansion of an adjoining industrial development, whose owner had approached Council with a view to purchase some or all of the site.

That process, however, resulted in 230 Phillip Street being reclassified under Part 1 of Schedule 4 - meaning there was no change to the interests on the title. While there was no intention to change any easements affecting the land, it was not fully appreciated that this would leave the site affected by a Public Reserve designation.

At its Planning and Development Committee meeting of 20 October 2015, Council resolved:

- 1 That Council re-classify 230 Phillip Street (Lot 24 DP 1035913) from Operational Land to Community Land, in accordance with section 33 of the *Local Government Act 1993*.
- 2 That Council prepare an amendment to Orange Local Environmental Plan 2011 to re-classify 230 Phillip Street (Lot 24 DP 1035913) from Community Land to Operational Land, to include the specific provision that on commencement of the Plan the land ceases to be a Public Reserve in accordance with Section 30 of the *Local Government Act 1993*.

The land is therefore currently Community Land under the *Local Government Act* and it is proposed to re-reclassify Lot 24 DP 1035913 (230 Phillip Street) to Operational Land under Part 2 of Schedule 4 to remove the Public Reserve status as per the intent of Council's original resolution for Amendment 3.

In summary, the Planning Proposal involves reclassification to change the interests of a parcel of land under the *Local Government Act 1993*. Attached to this letter is a revised Part 5 time frame for the planning proposal, which should be used to substitute the previous version.

Council awaits the Gateways Determination at your earliest convenience.

Yours faithfully


David Waddell
Director Development Services
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Part 5 Project Timeline

The following table provides an overview of the intended project timeline for this Planning Proposal.

Project stage	Commencement	Completion
Gateway Determination	Late October 2015	Late October 2015
Government Agency consultation	Start of November 2015	End of November 2015
Public Exhibition Period	Early November 2015	Early December 2015
Public Hearing	21 days after the close of public exhibition	
Consideration of Submissions	January 2016	January 2016
Consideration of post exhibition proposals (Report to Council)	Late January 2016	
Seeking and obtaining legal opinion from Parliamentary Counsels Office	Late January 2016	Early February 2016
Submission to the Department of Planning and Infrastructure to finalise	Dependent on PCO	
Anticipated date the plan will be forwarded to the Department for notification	Dependent on PCO	

5.7 CLASSIFICATION OF LAND - 230 PHILLIP STREET

TRIM REFERENCE: 2015/2628

AUTHOR: Garry Styles, General Manager

EXECUTIVE SUMMARY

This report seeks Council's consent to correct a staff error in the classification of Council-owned land at 230 Phillip Street. Council resolved in mid-2014 after thorough consideration to zone the land General Industrial however an administrative oversight has failed to achieve Council's resolution. An unfortunately complicated process is now required to be undertaken, to remove the dedication of this parcel as a Public Reserve to allow the land to be sold.

LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan strategy "11.1 Our Economy – Encourage the growth of local business, support emerging industry sectors and attract new investment to Orange".

FINANCIAL IMPLICATIONS

Nil

POLICY AND GOVERNANCE IMPLICATIONS

An amendment to the Orange Local Environmental Plan (LEP) 2011 will be required to resolve this matter.

RECOMMENDATION

- 1 That Council re-classify 230 Phillip Street (Lot 24 DP 1035913) from Operational Land to Community land, in accordance with Section 33 of the Local Government Act 1993**
- 2 That Council prepare an amendment to Orange Local Environmental Plan 2011 to re-classify 230 Phillip Street (Lot 24 DP 1035913) from Community Land to Operational Land, to include the specific provision that on commencement of the Plan the land ceases to be a Public Reserve in accordance with Section 30 the Local Government Act 1993.**

FURTHER CONSIDERATIONS

Consideration has been given to the recommendation's impact on Council's service delivery; image and reputation; political; environmental; health and safety; employees; stakeholders and project management; and no further implications or risks have been identified.

SUPPORTING INFORMATION

The parcel of land known as 230 Phillip Street (Lot 24 DP 1035913) came into Council's ownership by dedication as a Public Reserve in July 2002. At that time, the land was public land classified as community land. The making of the Orange LEP on 24 February 2012 zoned the land RE1 Public Recreation. The land is shown on the plan below (shaded red).

This land is located within the Narrambla Industrial Estate and it became apparent that the land is unable to be reasonably used as a Public Reserve and that it would be better put to use as industrial land. As part of Amendment No 1 of the LEP which came into force on 14 March 2014, the land was rezoned IN1 General Industrial Zone.

The land was reclassified from community to operational land in Amendment No 3 of the LEP (which came into force on 25 July 2014).

At the time of these amendments, the process to remove the Public Reserve restriction on the title of the land should have been undertaken however as an oversight in Amendment No 3 of the LEP this did not occur. This oversight became apparent as part of Council's negotiations with a purchaser for this land.

Only as part of the re-classification of land from Community land to Operational land can the title restriction "public reserve" be removed from land. This process occurs through the preparation of a Local Environmental Plan as an amendment to the principal LEP (Orange LEP 2011).

The following process is now required to resolve the matter and allow Council to complete the sale of this land.

- 1 A resolution of Council is required to re-classify the land from Operational to Community land.
- 2 A further resolution of Council is required to prepare an amendment to Orange LEP 2011 in accordance with Section 30 of the Local Government Act 1993 so as to reclassify the Community Land to Operational Land, and remove the Public Reserve status.
- 3 Once the above resolutions are made, staff will prepare a planning proposal to reclassify the community land to operational land, and removing the title restriction and dedication of the land as a Public Reserve.
- 4 The planning proposal is then sent to the Department of Planning and Environment for the Gateway process.
- 5 Following Gateway Determination, a 28 day public exhibition process would apply, followed by a post exhibition public hearing.
- 6 Report back to Council
- 7 Upon adoption by Council, submit to Department of Planning and Environment to seek Governors sign off (required due to the removal of the Public Reserve status).
- 8 Once the amendment is published, the process is complete and Council can conclude the sale of the land.

Given the lengthy process described above, and the significant inconvenience and difficulty of this matter, particularly for the intended purchaser, staff have thoroughly investigated alternatives however no alternative has been identified.

5.7 Classification of Land - 230 Phillip Street

