
(ITEM ENV45/13) LAND USE AND PLANNING: PLANNING PROPOSAL - LAND CLASSIFICATION

REPORT BY: David Stewart, Acting Director Environmental Services

SUMMARY

The purpose of this report is to seek Council resolution with respect to a Planning Proposal to amend the Tenterfield Local Environmental Plan 2013, by the reclassification of land as either operational or community land.

BACKGROUND

At the ordinary meeting of Council on 19 December 2007, Council by Resolution 766/07 – *"Resolved that Council resolve to adopt 'In Principle' the land classification and publicly display this classification and conduct a Public Hearing for reclassification from Community Land to Operational Land, in accordance with Section 29, 30, 34 and 47G of the Local Government Act 1993"*.

Changes in legislation since 2007, i.e. the introduction on the Standard Tenterfield Local Environmental Plan Instrument and the gazettal of the Tenterfield Local Environmental Plan 2013 now require Council to classify or reclassify Council public land.

It is now proposed to amend the *Tenterfield Local Environmental Plan 2013* (LEP) by the reclassification of Council owned land to either "operational" or "community" land. The planning proposal has been prepared in accordance with the Department of Planning document "A guide to preparing planning proposals". Copy at Attachment 12.

Pursuant to Section 25 of the *Local Government Act 1993*, all public land must be classified – there are 2 classifications for public land – "community" and "operational" (Section 26).

The classification or reclassification of public land may be made by a local environmental plan (Section 27).

Pursuant to Section 29 of the *Local Government Act 1993*, Council must arrange a public hearing under section 57 of the *Environmental Planning and Assessment Act 1979* in respect of a planning proposal under Part 3 of that Act to reclassify community land as operational land.

The following definitions apply to this Planning Proposal:

'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.

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'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.

RELEVANCE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK

Council's Draft Community Strategic Plan 2013-2023 sets out under Direction 3.4 "Land use planning and management enhances and protects biodiversity and natural heritage." The administration and ongoing maintenance of the provisions of the Tenterfield LEP 2013 enforces this strategy.

CURRENT POSITION

Council does not currently have all land owned by Council correctly classified. Council is required under the *Local Government Act 1993*, to have all land classified as either Operational or Community Land.

It is therefore recommended that land currently not classified either Operational or Community Land be classified according to the recommendation in this report.

The following proposed classification and reclassification of land under Schedule 4, as required by the Standard LEP Instrument, will form part of the Planning Proposal to enable the classifications to be gazetted.

Schedule 4 - Classification and reclassification of public land

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

Note: Land is identified in Part 1 of Schedule 4 is 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.

Column 1	Column 2
Locality	Description
268 Douglas Street, Tenterfield	Lot K DP 36761 Council Residence
268 Douglas Street, Tenterfield	Lot L DP 36761 Council Residence
53 Wellburn Lane, Tenterfield	Lot 1 Section 70 DP 833191 Council Residence
Council Depot, Riley Street, Tenterfield	Lot 2 DP 515708 Council Depot, Tenterfield
Council Depot, Riley Street, Tenterfield	Lot 9 DP 868480 Council Depot, Tenterfield
Bilurimba Road, Tenterfield	Lot 531 DP 751540 Vacant Land near Tenterfield water supply dam
Bilurimba Road, Tenterfield	Lot 531 DP 751540 Vacant Land near Tenterfield water supply dam
649 Sugarbag Road, Drake	Lot 26 DP 735029 Vacant Land
Martin Street, Tenterfield	Lot 4 Section 19 DP 758959 Memorial Hall vacant land
Martin Street, Tenterfield	Lot 5 Section 19 DP 758959 Memorial Hall vacant land
Council Depot (Drainage Reserve)	Lot 7 DP 868480
8933 New England Highway, Tenterfield	Lot 2 DP 1037068 'Bendalls' Vacant

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Column 1	Column 2
Locality	Description
	Land
Bilurimba Road, Tenterfield	Lot 563 DP 1077892 Vacant Land near Tenterfield Water Supply Dam
Scrub Road, Tenterfield	Lot 1 DP 250571, Old part of Scrub Road now under water - Tenterfield Water Supply Dam
Boundary Street, Tenterfield	Lot 2 DP 250571, Old part of Boundary Street now under water - Tenterfield Water Supply Dam
Scrub Road, Tenterfield	Lot 565 DP 1078300 Vacant Land near Tenterfield Water Supply Dam
Scrub Road, Tenterfield	Lot 566 DP 1078300 Vacant Land near Tenterfield Water Supply Dam
Scrub Road, Tenterfield	Lot 567 DP 1078300 Vacant Land near Tenterfield Water Supply Dam
Corner of Beaury and Cullendore Streets, Legume	Lot 8 Section 6 DP 758607 Council Depot
Council Chambers, Tenterfield	Lot 7 DP 867805 Car Park - North
Whereat Lane, Tenterfield	Lot 8 DP 1063730 Car Park - West
8950 Mt Lindesay Road, Legume	Lot 1 DP 850003, Legume Landfill
615 Silent Grove Road, Torrington	Lot 2 DP 751535, Torrington Landfill
8320 New England Highway, Bungulla	Lot 861 DP 1085917, Bungulla Quarry
Timbarra Road, Barney Downs	Lot 2 DP 879444, Barney Downs Rural Fire Service
407 Plain Station Road, Frasers Cutting	Lot 73 DP 1004932, Frasers Cutting Rural Fire Service
403 Plain Station Road, Frasers Cutting	Lot 74 DP 1004932, Frasers Cutting Vacant Land
Off Urben Street, Urbenville	Lot 3 DP 631629, Sewerage Treatment
7042 New England Highway, Sandy Flat	Lot 169 DP 1152033, Sandy Flat, Rural Fire Service
208 Mt Mackenzie Lookout Road, Mt Mackenzie	Lot 5 DP 1007389, Mt Mackenzie, Digital Communications Tower
208 Mt Mackenzie Lookout Road, Mt Mackenzie	Lot 4 DP 1007605, Mt Mackenzie, Right of Carriageway to Digital Communications Tower

Part 2 - Land classified, or reclassified, as 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. Council will be seeking the Ministers approval section 117 of the Environmental Planning and Assessment Act - Direction 6.2— Reserving Land for Public Purposes applies. The Direction sets out requirements when a reservation of public land for such purposes is no longer required. In the land identified in Column 1 below, Council will be seeking to remove the gazettal reservation for 'public hall purposes and public recreation' and any other reservations that may apply.

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Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
White Swamp Road, Old Koreelah	Lot 11 DP 751041 – Public Hall site	
White Swamp Road, Old Koreelah	Lot 55 DP 751041 – Public Hall site	
White Swamp Road, Old Koreelah	Lot 41 DP 751041 – Tennis Court	
9597 Bruxner Highway, Sandy Hill	Lot 221 DP 729072 – Public School purposes	
Tooloom Street, Urbenville	Lot 7 Section 13 DP 7688, Urbenville, Playground and Basketball Court – Public Reserve vested in Council	
Tooloom Street, Urbenville	Lot 8 Section 13 DP 7688, Urbenville, Playground and Basketball Court Public Reserve vested in Council	
Kiely Street, Tenterfield	Lot 11 DP 235792, Tenterfield, Kiely Park	

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

Column 1	Column 2
Locality	Description
96 Molesworth Street, Tenterfield	Lot 8 Section 19, DP 758959, Memorial Hall, Tenterfield
Molesworth Street, Tenterfield	Lot 9 Section 19, DP 758959, Memorial Hall, Tenterfield
Hockey Fields, Landers Street, Tenterfield	Lot 14 Section 18 DP 758959 Reserve for Public Recreation or Conservation 19 Jan 1895 owner is the State of NSW and devolved to Council.
Whereat Lane, Tenterfield	Lot 595 DP 629193, Recreational Park, Tenterfield
Mingoola School Road, Mingoola	Lot 36 DP 751529, Community Hall, Mingoola vested in Council 25 March 1977
Near Simpson Street, Tenterfield	Lot 5 DP 261581, Rugby League Park, Tenterfield
Near Simpson Street, Tenterfield	Lot 6 DP 261581, Rugby League Park, Tenterfield
Near Simpson Street, Tenterfield	Lot 19 Section 78 DP 758959, Rugby League Park, Tenterfield
Near Simpson Street, Tenterfield	Lot 20 Section 78 DP 758959, Rugby League Park, Tenterfield
Corner Petre and Rouse Streets, Tenterfield	Lot 1 DP 1151757, Swimming Pool and Rotary Park
7042 New England Highway, Sandy Flat	Lot 168 DP 1152033, Sandy Flat, Old Sandy Flat Hall Site

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Column 1	Column 2
Locality	Description
Sunnyside Hall Road, Sunnyside	Lot 192 DP 751517, Sunnyside, Community Hall vested in Council
136 Logan Street, Tenterfield	Lot 6 DP 1085406, Tenterfield, Museum, Centenary Cottage
Cullendore Street, Legume	Lot 91 DP 1083593, Legume, Cricket Oval and Tennis Courts
Naas Street, Tenterfield	Lot 1 DP 128769, Tenterfield, Millbrook Park
Naas Street, Tenterfield	Lot 1 DP 856174, Tenterfield, Millbrook Park
Naas Street, Tenterfield	Lot 2 Section 54 DP 758959, Tenterfield, Millbrook Park
39 Urben Street, Urbenville	Lot 5 DP 512404, Urbenville, Community Park
Gladstone Street, Jennings	Lot 61 DP 1083629, Jennings, Community Park

GOVERNANCE/POLICY IMPLICATIONS

The Planning Proposal will reclassify land as either operational land or community land by amending the Local Environmental Plan. Inclusion of classified land in Schedule 4 of the new LEP will rectify outstanding land issues. A policy on the purchase of land by Council should be adopted which would include a checklist identifying the requirements to classify and advertise the proposal or acquisition.

LEGAL IMPLICATIONS

The Planning Proposal will amend the Tenterfield Local Environmental Plan 2013. The Planning Proposal has been prepared in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

There are no environmental sustainability implications identified as a result of Planning Proposal.

SOCIAL SUSTAINABILITY IMPLICATIONS

There are no identified social sustainability implications as a result of the Planning Proposal.

FINANCIAL IMPLICATIONS

Without careful consideration and deliberation by Council the financial implications on future land transactions could involve severe costs and penalties to Council and the community. There is nil cost to Council as a result of the reclassification of land proposal.

POSSIBLE OPTIONS/ALTERNATIVE SOLUTIONS

There are no other options/alternative solutions identified.

CONCLUSION

The justification provided for the LEP amendment within the planning proposal is considered sound and meets legislative requirements.

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It is recommended that the planning proposal be prepared and then forwarded to the Department of Planning & Infrastructure to seek a "gateway" determination.

RECOMMENDATION

- (1) That the Acting Director Environmental Services Report "Land Use and Planning: Planning Proposal - Land Classification" be received and noted; and further
- (2) That the General Manager approve and submit the Planning Proposal - Land Classification for inclusion in Schedule 4 of the Tenterfield Local Environmental Plan 2013 for the land detailed below and in the report to the NSW Department of Planning & Infrastructure for review and Gateway determination:

Schedule 4

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

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Boundary Street, Tenterfield	Lot 2 DP 250571, Old part of

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	Boundary Street now under water - Tenterfield Water Supply Dam
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403 Plain Station Road, Frasers Cutting	Lot 74 DP 1004932, Frasers Cutting Vacant Land
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Koreelah		
9597 Bruxner Highway, Sandy Hill	Lot 221 DP 729072 – Public School purposes	
Tooloom Street, Urbenville	Lot 7 Section 13 DP 7688, Urbenville, Playground and Basketball Court – Public Reserve vested in Council	
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7042 New England Highway, Sandy Flat	Lot 168 DP 1152033, Sandy Flat, Old Sandy

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	Flat Hall Site
Sunnyside Hall Road, Sunnyside	Lot 192 DP 751517, Sunnyside, Community Hall vested in Council
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39 Urben Street, Urbenville	Lot 5 DP 512404, Urbenville, Community Park
Gladstone Street, Jennings	Lot 61 DP 1083629, Jennings, Community Park

- (3) That upon an affirmative Gateway determination being received from the Department of Planning & Infrastructure, Council staff will carry out the procedural steps associated with the progress of the planning proposal, including public exhibition and a public hearing; and
- (4) That a further report be submitted to Council in relation to this matter following mandatory public exhibition and a public hearing.

ATTACHMENTS

- 1** Attachment 12 - Department of Planning - A Guide to Preparing Planning Proposals 4 Pages