

Appendix 5 – Council Resolution

ITEM 5	Ashford's Watercourse Realignment – Boundary Adjustment
MEETING	Ordinary Meeting – 20 April 2016
DIRECTORATE	Planning and Environmental Services
AUTHOR	Project Town Planner
POLICY	Nil
LEGAL	Local Government Act 1993, Environmental Planning & Assessment Act 1979, Crown Lands Act 1993
FINANCIAL	Nil
STRATEGIC LINK	Community Strategic Plan 2.2.1 Provide and maintain safe and serviceable public facilities and infrastructure including roads, footpaths and storm water drains. Operational Plan 2.2.1.32 Ongoing maintenance and cleaning of streets across the Shire.
ATTACHMENTS	Nil

OFFICER'S RECOMMENDATIONS:

That Council:

1. Prepare a draft planning proposal, pursuant to Section 55 of the Environmental Planning and Assessment Act 1979 for the amendment of the Gunnedah Local Environmental Plan 2012 to:
 - a) Reclassify part of Lot 23 DP 1140182 from Community Land to Operational Land under the Local Government Act 1993,
 - b) Amend the land zoning map (LZN_005AA) for part of proposed lots 3 and 4 from RE1 Public Recreation to R3 Medium Density Residential, and
 - c) Amend the minimum lot size map (LZN_005AA) for part of proposed lots 3 and 4 from no minimum lot size to 450m² minimum lot size;
2. Forward the draft planning proposal to the Department of Planning and Environment for a Gateway Determination, and exhibit the proposal in accordance with that determination, pursuant to Sections 56-58 of the Act;
3. Request that the Director General of the Department of Planning and Environment issue a Written Authorisation to Council to Exercise Delegation of the plan making functions under Section 59 of the Act in respect of the planning proposal;
4. Hold a public hearing in accordance with Section 57 of the Environmental Planning and Assessment Act 1979 in relation to the partial land reclassification of Lot 23 DP 1140182; and
5. Support that the fee for a Planning Proposal for an amending Local Environmental Plan not be applied in this instance.

PURPOSE

The purpose of this report is to seek Council endorsement for the preparation of a planning proposal to amend the Gunnedah *Local Environmental Plan* (2012).

BACKGROUND

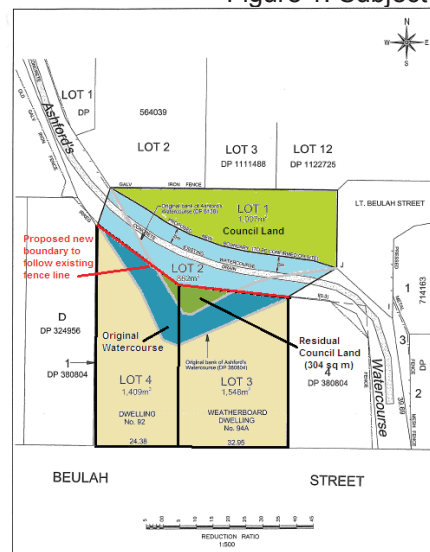
In March 2016 Council resolved to support the preparation of a planning proposal to reclassify certain land in Gunnedah Shire from Community Land to Operational Land under the *Local Government Act* 1993, in order to allow a proposed boundary adjustment of 92 and 94A Beulah Street, Gunnedah, to satisfy the current alignment of Ashford's Watercourse (resolution number 14.03/16). Following consultation with the Department of Planning it has been identified that the planning proposal should also include an amendment to the land zoning and minimum lot size for the proposed reclassified land under the Gunnedah *Local Environmental Plan* 2012.

COMMENTARY

As illustrated in Figure 1 below, the bank of Ashford's Watercourse (as identified in 1910) has moved north. Consequently, it is proposed to realign the rear boundaries of 92 and 94A Beulah Street to ensure consistency with the existing location. It is proposed that Lot 1 will remain as Council land, Lot 2 will be Crown land and proposed Lots 3 and 4 being 92 and 94A Beulah Street.

It is proposed that the land zoning and minimum lot amendment be undertaken concurrently with the reclassification of community land.

Figure 1: Subject Land



Council it has been advised, following discussions with the solicitor acting on behalf of the owner of 94A Beulah Street that the owner of 92 Beulah Street, also wishes to resolve the property boundary issue.

Consequently, it has been proposed that:

- f The alignment of Ashford's Watercourse located through Lot 23 DP1140182 be realigned to follow the natural creek bank and drain with the boundaries between Part Lot*

23 DP 1140182 and Lots 2 and 3 DP 380804 respectively be adjusted to the existing fence lines.

- f No compensation be paid to Council for the annexing of the land being Part of Lot 23 DP1140182 (304m²) by the registered proprietors of Lot 2 and Lot 3 DP 380804 but the registered proprietors be responsible for all legal fees, survey and registration fees associated with the realignment and boundary adjustment.

The position outlined above is supported in principle by Council staff given the history of the matter and the forces of nature that have resulted in this situation occurring. The residual land (304m²) of Lot 23 DP 1140182 has limited community use or material benefit to Council. Accordingly, its consolidation with the adjoining residential lots would be the most favourable outcome.

However, before the transfer of any land, the subject land must be re-classified from Community Land to Operational Land under the *Local Government Act* 1993 through an amendment to the Gunnedah LEP 2012. As part of this process, a public hearing will also need to be convened by Council.

As part of this planning proposal, it is suggested that the portion of land currently zoned RE1 *Public Recreation* that will be consolidated with the existing residential land, be rezoned to R3 *Medium Density Residential* and a minimum allotment size of 450m² be applied. By amending the minimum lot size and zoning for this land, future use of this land will be consistent with the existing surrounding residential development.

Figures 2 and 3 identify respectively the subject Gunnedah LEP 2012 map as it is currently and the proposed mapping changes required, respectively.

Figure 2: Current land zone and minimum lot size map

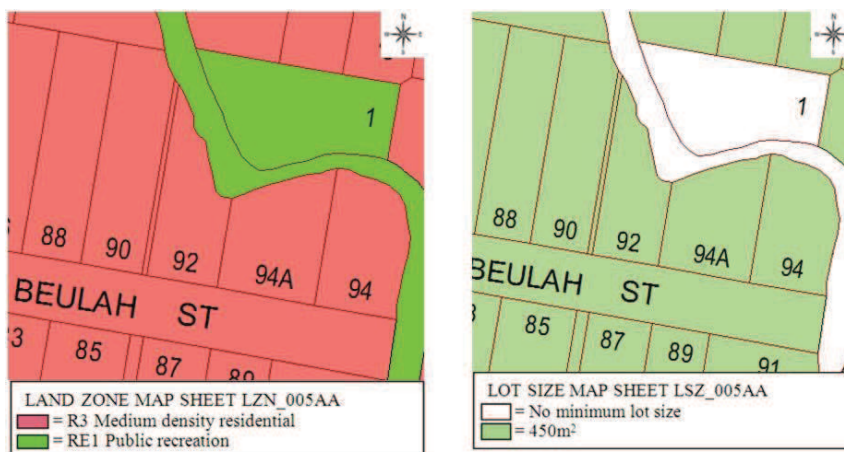
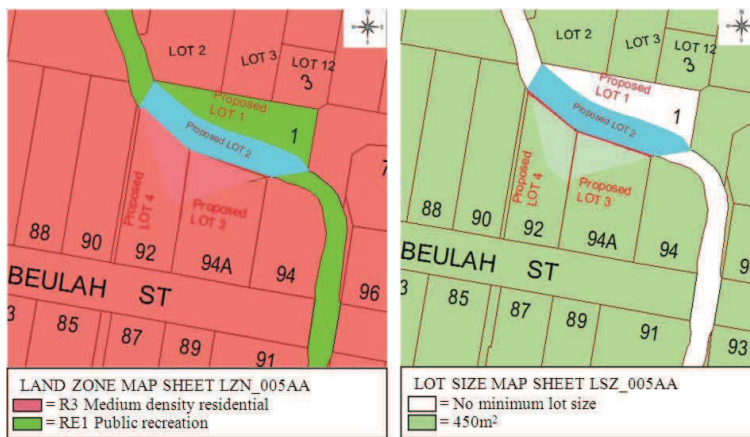


Figure 3: Proposed land zone and minimum lot size maps post amendments



CONCLUSION

It is recommended that Council reclassify part of Lot 23 DP 1140182 from Community Land to Operational Land and amend the Gunnedah LEP 2012 land zoning map (LZN_005AA) and lot size map (LSZ_005AA).

Following the amendment to the Gunnedah LEP 2012, the subdivision and boundary adjustment can be undertaken.

Michael J Silver
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