

Shire of

# Gunnedah

Land of Opportunity

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## Planning Proposal

- Reclassify certain land in Gunnedah Shire from *Community Land* to *Operational Land* under the *Local Government Act 1993*,
- Amend the Gunnedah *Local Environmental Plan 2012* land zoning mapping to rezone certain land in Gunnedah Shire from *RE1 Public Recreation* to *R3 Medium Density Residential*, and
- Amend the Gunnedah *Local Environmental Plan 2012* minimum lot size mapping to apply a minimum lot size of 450m<sup>2</sup> to certain land in Gunnedah Shire.

Prepared by

Gunnedah Shire Council

May 2016

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## **PRELIMINARY**

The planning proposal has been prepared in accordance with section 55 of the *Environmental Planning and Assessment Act 1979*, 'a guide to preparing planning proposals' (DoPE 2013), and 'practice note 09-003 – Classification and reclassification of public land through a local environmental plan (DoPE 2009). The planning proposal applies to a portion of Council owned *Community Land* in Gunnedah.

## **PART 1 – OBJECTIVES OR INTENDED OUTCOMES OF THE PROPOSED LEP**

The proposed amendment to the Gunnedah *LEP* 2012 aims to;

- Reclassify certain land in Gunnedah Shire from *Community Land* to *Operational Land* under the *Local Government Act 1993*,
- Rezone the land proposed to be reclassified from RE1 *Public Recreation* to R3 *Medium Density Residential* under the Gunnedah *LEP* 2012, and
- Apply a minimum lot size of 450m<sup>2</sup> the Gunnedah *LEP* 2012 to the land proposed to be reclassified and rezoned.

The planning proposal has been prepared to enable a future boundary adjustment between privately owned and Council owned land due to the natural realignment of Ashford's Watercourse.

## **PART 2 – EXPLANATION OF PROVISIONS TO BE INCLUDED IN THE PROPOSED LEP**

The objectives or intended outcomes of the planning proposal are to be achieved by the following:

- a) Reclassify part of Lot 23 DP1140182 from *Community Land* to *Operational Land* under the *Local Government Act 1993* (appendix 3c, 3d);
- b) Amend the Gunnedah *LEP* 2012 land zoning map (LZN\_005AA) to rezone part of Lot 23 DP1140182 from RE1 *Public Recreation* to R3 *Medium Density Residential* for the land proposed to be reclassified (appendix 3e, 3f), and
- c) Amend the Gunnedah *LEP* 2012 minimum lot size map (LZN\_005AA) for part of Lot 23 DP1140182 from no minimum lot size to 450m<sup>2</sup> minimum lot size for the land proposed to be reclassified and rezoned (appendix 3g, 3h).

## **PART 3 – JUSTIFICATION**

### **Section A – The need for the Planning Proposal**

#### **1. Is the Planning Proposal a result of any strategic study or report?**

The planning proposal is not the result of a strategic study or report.

Ashford's Watercourse is a local watercourse transecting the Gunnedah Township. Detailed analysis of various survey plans, from the last 100 years, suggest that at some time through the 1940s and 1950s the watercourse cut a new path (the current watercourse alignment) across Council land. This land is classified as *Community Land* under the *Local Government Act 1993* and contains a zoning of *RE1 Public Recreation* under the Gunnedah *LEP 2012*. Land title legislation makes allowance for the movement of waterways where boundaries are adjacent, with the adjoining boundaries having adjusted accordingly. However in this instance a small section of Council land (304m<sup>2</sup>) of Lot 23 DP 1140182 has become located on the southern side of the watercourse. The watercourse at all time, notwithstanding its movement or location remains classified as Crown Land.

Recently solicitors for the owner of an adjoining property approached Council regarding the location of the northern boundary of their client's property which was located on the original alignment of the watercourse as established under a 1910 subdivision. A proposal to undertake development at the rear of the property highlighted that the current property boundary fencing does not align with the actual property boundary and the development site was not owned by the property owner.

Given the natural realignment of Ashford's Watercourse and subsequent dissection of Lot 23 DP 1140182 it is deemed this portion of land no longer meets the objectives of the *RE1 Public Recreation* zone. It is therefore proposed to rezone this portion of land from *RE1 Public Recreation* to *R3 Medium Density Residential* and apply a minimum lot size of 450m<sup>2</sup> in accordance with the Gunnedah *LEP 2012*. An examination of Council's Land Classification register indicates that Lot 23 DP 1140182 is classified as *Community Land*. Consequently Council cannot dispose of this land unless it is reclassified to *Operational Land*. The planning proposal therefore intends to reclassify the subject portion of Lot 3 DP 1140182, located to the south of Ashford's Watercourse, from *Community Land* to *Operational Land* under the *Local Government Act 1993*. The subject land is then proposed to be gifted to the adjoining land owners and a formal boundary adjustment undertaken.

Appendix 3 outlines the proposed land reclassification and future boundary adjustment.

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

It is believed reclassifying the subject land from *Community Land* to *Operational Land* under the *Local Government Act 1939* and amending the *Gunnedah LEP 2012* land zoning map (LZN\_005AA) and minimum lot size map (LSZ\_005AA) is the best method available to lawfully achieve the intended outcomes of the Planning Proposal.

**Section B – Relationship to strategic planning framework.**

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

The Planning Proposal does not directly relate to the Namoi 2030 Regional Resource. Notwithstanding, the planning proposal is not inconsistent with the Namoi 2030 Regional Resource Strategy.

**4. Is the planning proposal consistent with Council's local strategy or other local strategic plans?**

The planning proposal is not inconsistent with Council's Community Strategic Plan (CSP). Council's CSP identifies the need to implement a fully integrated planning framework that aligns to Council's plans and guides development of the Gunnedah area. It is considered the planning proposal will assist in guiding development of the Gunnedah by allowing for land that no longer meets the objectives if its zoning to be rezoned to a zone better suited to its use and utilised for a better purpose, void Gunnedah Shire Council of any ongoing costs associated with the site, and allow for the imposition of rates on the subject land enabling the collection of additional funds to allocate toward further community facilities.

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

The planning proposal is considered to be consistent with all applicable State Environmental Planning Policies (SEPP) as identified in appendix 1.

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

The planning proposal is considered to be consistent with all applicable s.117 Ministerial Directions, with the exception of *2.1 – Environmental Protection Zones*, *2.3 – Heritage Conservation*, *3.1 – Residential Zones*, *3.2 – Caravan Parks and Manufactured Home Estates*, *3.3 Home Occupations*, *3.4 – Integrating Land Use and Transport*, and *6.2 Reserving Land for Public Purposes*. It is considered the inconsistency with these directions is of minor significance, as identified in appendix 2.

**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?**

The planning proposal notes no known threatened vegetation or ecological communities. The subject land is located within the heart of the Gunnedah Township, has been previously highly modified and is located within a residential property boundary.

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

It is unlikely the planning proposal will result in an increased exposure of persons to environmental effects such as natural hazards including landslip, flooding or bushfire. The subject land is relatively flat and not identified on Council's flood planning or bushfire prone land maps. Should the planning proposal proceed, any likely environmental effects would be assessed at the Development Application stage.

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

The planning proposal is unlikely to result in adverse social or economic impacts. The subject site is not identified as being of, or containing any items of European or Aboriginal cultural heritage, with provisions for the conservation and management of European or Aboriginal heritage items already existing within the current instrument; hence having not been provided within the planning proposal. Should the planning proposal proceed, an assessment of any likely impacts on items of European or Aboriginal cultural heritage would be undertaken at the Development Application stage.

## **Section D – State and Commonwealth Interest**

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

The planning proposal is expected to have nil impact on infrastructure provision. The planning proposal is not likely to result in the need for augmentation of current infrastructure in the locality. If the planning proposal is to proceed, an assessment of any likely infrastructure augmentation would be undertaken at the development application stage.

### **11. What are the views of state and commonwealth public authorities consulted in accordance with the gateway determination?**

Gateway Determination is yet to be issued. If successful in receiving a Gateway Determination it is proposed that no consultation be undertaken with any State or Commonwealth public authorities.

## **PART 4 – MAPPING**

The planning proposal involves an amendment to following Gunnedah *LEP* 2012 map sheets;

- Land Zoning Map (LZN\_005AA), and
- Minimum Lot Size Map (LSZ\_005AA)

Preliminary maps are included in appendix 3.

## **PART 5 – COMMUNITY CONSULTATION**

It is proposed to exhibit the planning proposal on Council's website and Administration Centre for a period of not less than twenty eight (28) days, with notice of the public exhibition being given:

- In a newspaper that circulates in the area affected by the Planning Proposal – the Namoi Valley Independent, and
- On Council's website, [www.infogunnedah.com.au](http://www.infogunnedah.com.au)

It is also proposed that a public hearing be held in accordance with Section 57 of the *Environmental Planning and Assessment Act 1979* in relation to the proposed land reclassification.

## **PART 6 – PROJECT TIMELINE**

The table below provides an indication of the timeline for the planning proposal.

<b>Anticipated commencement date (date of Gateway determination)</b>	June 2016 upon receipt of Gateway Determination.
<b>Anticipated timeframe for the completion of technical information</b>	Technical studies have not been identified as a component of the Planning Proposal. The DoPE may make prescriptions relating to technical information.
<b>Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)</b>	It is anticipated this will not be required. However subject to the requirements of a Gateway Determination, agency consultation is proposed to occur in conjunction with the public exhibition phase in June - July 2016.
<b>Commencement and completion dates for public exhibition period</b>	Twenty eight (28) days after successful receipt of Gateway Determination. June – July 2016.
<b>Dates for public hearing (if required)</b>	It is proposed to be held twenty eight (28) after the public exhibition period expires in approximately September 2016 to allow adequate time for required twenty one (21) day notification of hearing.
<b>Timeframe for consideration of submissions</b>	Four (4) weeks
<b>Timeframe for the consideration of a proposal post exhibition</b>	Four weeks (partially in conjunction with considerations of submissions)
<b>Date of submission to the Department of Parliamentary Counsel to finalise LEP</b>	October – November 2016
<b>Anticipated date RPA will make the plan (if delegated)</b>	November – December 2016
<b>Anticipated date RPA will forward to department for notification</b>	December 2016

## **APPENDICES**

### **Appendix 1 – Consideration of applicable SEPPs relative to Planning Proposal**

<b>SEPP</b>	<b>Applicable</b>	<b>Consistent</b>	<b>Comments</b>
No. 1 - Development Standards	No	N/A	Not applicable to Gunnedah Local Government Area.
No. 14 - Coastal Wetlands	No	N/A	Not applicable to Gunnedah Local Government Area.
No. 15 - Rural Land-sharing Communities	No	N/A	Not applicable to Gunnedah Local Government Area.
No. 19 - Bushland in Urban Areas	No	N/A	Not applicable to Gunnedah Local Government Area.
No. 21 - Caravan Parks	No	N/a	Not applicable to planning proposal.
No. 26 - Littoral Rainforests	No	N/A	Not applicable to Gunnedah Local Government Area.
No. 29 - Western Sydney Recreation Area	No	N/A	Not applicable to Gunnedah Local Government Area.
No. 30 - Intensive Agriculture	No	N/A	Not applicable to planning proposal.
No. 32 - Urban Consolidation (Redevelopment of Urban Land)	No	N/A	Not applicable to planning proposal.
No. 33 - Hazardous and Offensive Development	No	N/A	Not applicable to planning proposal.
No. 36 - Manufactured Home Estates	No	N/A	Not applicable to planning proposal.
No. 39 - Spit Island Bird Habitat	No	N/A	Not applicable to Gunnedah Local Government Area.
No. 44 - Koala Habitat Protection	No	N/A	Not applicable to planning proposal.
No. 47 - Moore Park Showground	No	N/A	Not applicable to Gunnedah Local Government Area.
No. 50 - Canal Estate Development	No	N/A	Not applicable to planning proposal.
No. 55 - Remediation of Land	Yes	Yes	The planning proposal involves rezoning a portion of land from <i>RE1 – Public Recreation</i> to <i>R2 - General Residential</i> under the Gunnedah LEP 2012. It is noted the subject land is a public waterway of which its zoning does not allow a use identified in table one of the contaminated land planning guidelines to be undertaken. The subject land is free of development and has not contained any development in the past. It is considered highly unlikely the subject land to be rezoned is contaminated.
No. 59 - Central Western Sydney Regional Open Space and Residential	No	N/A	Not applicable to Gunnedah Local Government Area.
No. 62 - Sustainable Aquaculture	No	N/A	Not applicable to Gunnedah Local Government Area.

No. 64 - Advertising and Signage	No	N/A	Not applicable to planning proposal.
No. 65 - Design Quality of Residential Apartment Development	No	N/A	Not applicable to planning proposal.
No. 70 - Affordable Housing (Revised Schemes)	No	N/A	Not applicable to planning proposal.
No. 71 - Coastal Protection	No	N/A	Not applicable to Gunnedah Local Government Area.
Affordable Rental Housing – 2009	No	N/A	Not applicable to planning proposal.
Building Sustainability Index: BASIX – 2004	No	N/A	Not applicable to planning proposal.
Exempt and Complying Development Codes – 2008	No	N/A	Not applicable to planning proposal.
Housing for Seniors or People with a Disability – 2004	No	N/A	Not applicable to planning proposal.
Infrastructure – 2007	No	N/A	Not applicable to planning proposal.
Kosciuszko National Park—Alpine Resorts – 2007	No	N/A	Not applicable to Gunnedah Local Government Area.
Kurnell Peninsula – 1989	No	N/A	Not applicable to Gunnedah Local Government Area.
Major Development –2005	No	N/A	Not applicable to planning proposal.
Mining, Petroleum Production and Extractive Industries – 2007	No	N/A	Not applicable to planning proposal.
Miscellaneous Consent Provisions – 2007	No	N/A	Not applicable to planning proposal.
Penrith Lakes Scheme – 1989	No	N/A	Not applicable to Gunnedah Local Government Area.
Rural Lands – 2008	No	N/A	Not applicable to planning proposal.
SEPP 53 Transitional Provisions – 2011	No	N/A	Not applicable to planning proposal.
State and Regional Development – 2011	No	N/A	Not applicable to planning proposal.
Sydney Drinking Water Catchment – 2011	No	N/A	Not applicable to Gunnedah Local Government Area.
Sydney Region Growth Centres – 2006	No	N/A	Not applicable to Gunnedah Local Government Area.
Three Ports – 2013	No	N/A	Not applicable to Gunnedah Local Government Area.
Urban Renewal – 2010	No	N/A	
Western Sydney Employment Area – 2009	No	N/A	Not applicable to Gunnedah Local Government Area.
Western Sydney Parklands – 2009	No	N/A	Not applicable to Gunnedah Local Government Area.

## Appendix 2 – Consideration of applicable Section 117 Ministerial Directions relative to Planning Proposal

Direction	Applicable	Consistent	Comments
<b>1. Employment and Resources</b>			
1.1 Business and Industrial Zones	No	N/A	The planning proposal does not affect land located within a business or industrial zone. Therefore in accordance with Clause (3) of the Direction, the Direction is not applicable.
1.2 Rural Zones	No	N/A	The planning proposal does not affect land located within a rural zone. Therefore in accordance with Clause (3) of the Direction, the Direction is not applicable.
1.3 Mining, Petroleum Production and Extractive Industries	No	N/A	The planning proposal does not involve the prohibition or restriction, or restriction of development potential of the resources identified in clause 3(a, b) of the Direction. Therefore in accordance with Clause (3) of the Direction, the Direction is not applicable.
1.4 Oyster Aquaculture	No	N/A	In accordance with Clause 2 of the Direction, the Direction is not applicable to the Gunnedah Shire Council Local Government Area.
1.5 Rural Lands	No	N/A	The planning proposal does not affect land located within a rural or environmental protection zone. Therefore in accordance with Clause (3) of the Direction, the Direction is not applicable.
<b>2. Environment and Heritage</b>			
2.1 Environment Protection Zones	Yes	No	The planning proposal does not contain provisions for the protection of environmentally sensitive areas as these provisions exist within the current instrument. The planning proposal does not affect land within an environmental protection zone. The planning proposal will not reduce environmental protection standards that currently apply to the subject land. In this regard; it is considered this inconsistency is of minor significance.
2.2 Coastal Protection	No	N/A	In accordance with Clause 2 of the Direction, this Direction does not apply to the Gunnedah Shire Council Local Government Area.
2.3 Heritage Conservation	Yes	No	The planning proposal does not contain provisions for the conservation of heritage items as these provisions exist within the current instrument. The planning proposal does not affect land identified as being heritage listed. In this regard, it is considered this inconsistency is of minor significance.
2.4 Recreation Vehicle Areas	Yes	Yes	The planning proposal does not enable the use of land identified in the Direction for the use of a recreational vehicle area. The Planning Proposal is considered consistent with this Direction.
<b>3. Housing, Infrastructure and Urban Development</b>			
3.1 Residential Zones	Yes	No	The planning proposal does not contain provisions identified in the Direction. The planning proposal involves a minor amendment to a residential zone boundary. Said amendment involves the increasing of a residential zone in

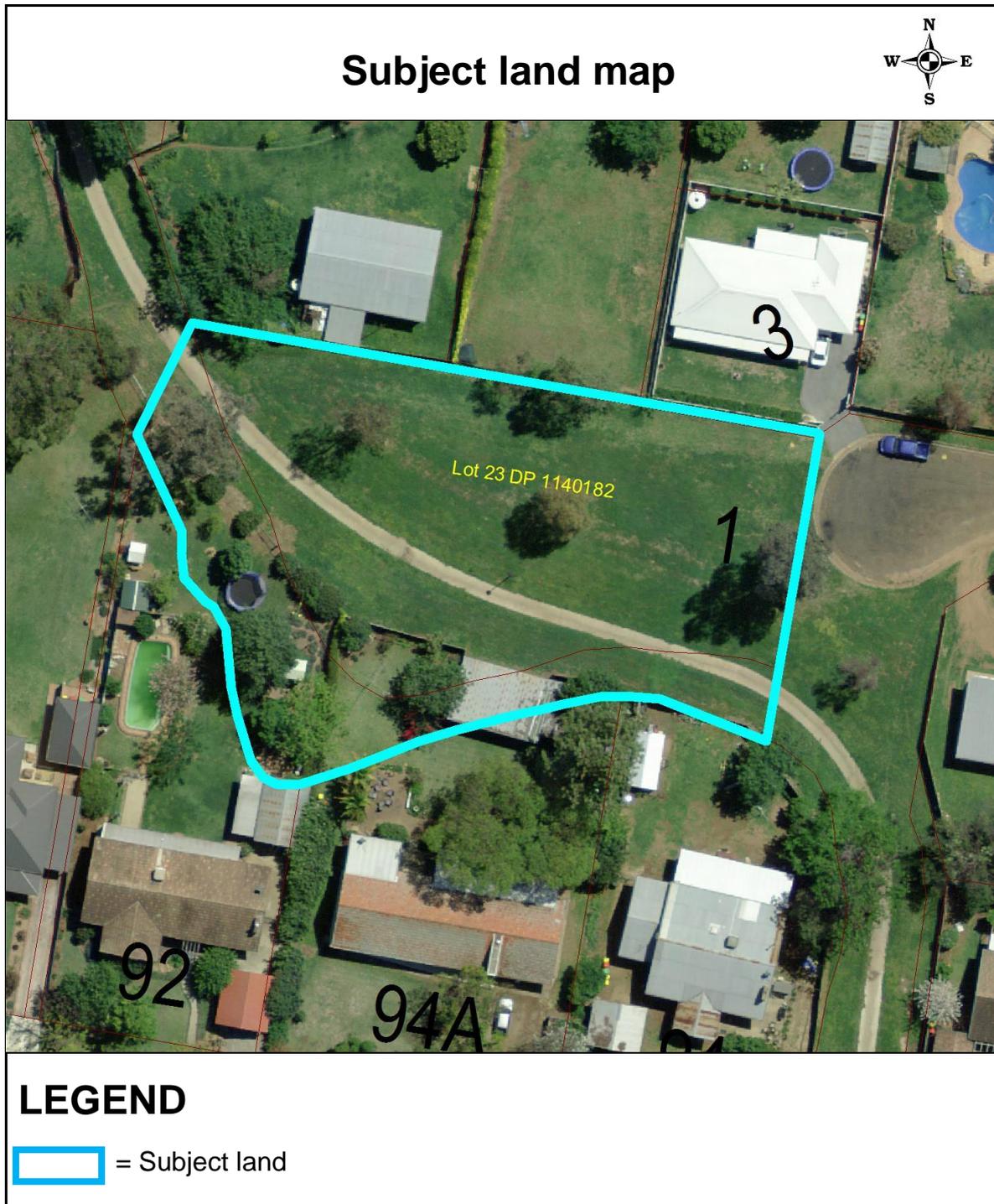
			order to enable a future boundary adjustment of privately owned and residential zoned land parcels. Said parcels contain existing connection to essential utility services. In this regard, it is considered this inconsistency is of minor significance
3.2 Caravan Parks and Manufactured Home Estates	Yes	No	The planning proposal does not contain provisions for the location and operation of Caravan Parks and Manufactured Home Estates as these provisions exist within the current instrument. The Planning Proposal also does not aim to alter provisions that permit development for the purpose of a caravan park to be carried out on land. In this regard, it is considered this inconsistency is of minor significance.
3.3 Home Occupations	Yes	No	The planning proposal does not contain provisions for Home Occupations as these provisions exist within the current instrument and State Environmental Planning Policy (Exempt and Complying Development) 2008. The planning proposal will not impact existing provisions. In this regard, it is considered this inconsistency is of minor significance.
3.4 Integrating Land Use and Transport	Yes	No	The planning proposal involves a minor amendment to a residential zone. Said amendment is expected to have negligible impact on landuse and transport. In this regard, it is considered this inconsistency is of minor significance.
3.5 Development Near Licensed Aerodromes	No	N/A	In accordance with Clause 3 of the Direction, this Direction only applies when a relevant planning authority prepares a planning proposal that would create, alter or remove a zone or provision relating to land in the vicinity of a licenced aerodrome. The subject land is not located near a licensed aerodrome; therefore this Direction is not applicable.
3.6 Shooting Range	No	N/A	The planning proposal does not involve land adjoining or adjacent to an existing shooting range. In accordance with Clause 3 of the direction; the direction is not applicable.
<b>4. Hazard and Risk</b>			
4.1 Acid Sulfate Soils	No	N/A	In accordance with Clause 3 of the Direction, this Direction only applies when a relevant planning authority prepares a Planning Proposal affecting land having a probability of containing acid sulphate soils as shown on the on Acid Sulphate Soils Planning Maps held by the DoPI. The Gunnedah Shire Local Government Area is not identified on these maps; therefore this Direction is not applicable.
4.2 Mine Subsidence and Unstable Land	No	N/A	The subject land is not located in a Mine Subsidence District proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961, and has not been identified as unstable land. Therefore in accordance with Clause 2 of the Direction, the Direction is not applicable.
4.3 Flood Prone Land	No	N/A	The Planning Proposal does not affect land identified on Councils Flood Planning Map. In accordance with Clause 3 of the direction; the direction is not applicable.
4.4 Planning for Bushfire Protection	No	N/A	The Planning Proposal does not affect land identified on Councils Bushfire Prone Land Map. In accordance with Clause 3 of the direction; the direction is not applicable.

<b>5. Regional Planning</b>			
5.1 Implementation of Regional Strategies	No	N/A	The Gunnedah Shire Local Government Area is not identified in Clause 2 of the Direction. The Direction is therefore not applicable.
5.2 Sydney Drinking Water Catchments	No	N/A	The Gunnedah Shire Local Government Area is not identified in Clause 2 of the Direction. The Direction is therefore not applicable.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	N/A	The Gunnedah Shire Local Government Area is not identified in Clause 2 of the Direction. The Direction is therefore not applicable.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A	The Gunnedah Shire Local Government Area is not an area identified in Clause 2 of the Direction. The Direction is therefore not applicable.
5.5 Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)			(Revoked 18 June 2010)
5.6 Sydney to Canberra Corridor			(Revoked 10 July 2008. See amended Direction 5.1)
5.7 Central Coast			(Revoked 10 July 2008. See amended Direction 5.1)
5.8 Second Sydney Airport: Badgerys Creek	No	N/A	The Gunnedah Shire Local Government Area is not located within the land identified in Clause 2 of the Direction. The Direction is therefore not applicable.
5.9 North West Rail Link Corridor Strategy	No	N/A	The Gunnedah Shire Local Government Area is not identified in Clause 2 of the Direction. The Direction is therefore not applicable.
<b>6. Local Plan Making</b>			
6.1 Approval and Referral Requirements	Yes	Yes	The planning proposal does not include provisions that involve the concurrence, consultation or referral of development applications to the Minister, or identifies development as designated development. The Planning Proposal is considered consistent with the Direction.
6.2 Reserving Land for Public Purposes	Yes	No	The planning proposal does intend to alter or reduce existing zonings or reservations of land for public purposes. The planning proposal involves a reclassification of Community Land to Operational Land under the <i>Local Government Act 1993</i> and rezoning the subject land from <i>RE1 Public Recreation</i> to <i>R3 Medium Density Residential</i> under the <i>Gunnedah Local Environmental Plan 2012</i> . A public hearing in accordance with Section 57(6) of the <i>Environmental Planning and Assessment Act 1979</i> is to be held in relation to the proposed land reclassification. The subject land is located on the opposite side of Ashford's Watercourse to which public access to the <i>RE2 Public Recreation zoned land</i> is located. The subject portion of land has previously been enclosed in by adjoining land

			owner boundary fencing and development undertaken. The subject land cannot be accessed by the community and is therefore considered to have negligible value to the community. The subject land is considered to not meet the objectives of its current zoning. In this regard, it is considered this inconsistency is of minor significance.
6.3 Site Specific Provisions	Yes	Yes	The planning proposal aims to reclassify Community Land adjoining Ashford's Creek to Operational Land under the <i>Local Government Act 1993</i> due to the natural realignment of the watercourse. Council intends to undertake a boundary adjustment and gift the reclassified land to private land owners adjoining the watercourse. The reclassification and proposed boundary adjustment will result in a dual land zoning for the privately owned land. The planning proposal aims to rezone the portion of land proposed to be acquired by private land owners to enable them to lodge future residential development proposals on their land. The planning proposal will rezone the subject land to a zone already existing within the current instrument without imposing any further standards. The planning proposal is considered consistent with this Direction.
<b>7. Metropolitan Planning</b>			
7.1 Implementation of the Metropolitan Plan for Sydney 2036	No	N/A	The Gunnedah Shire Local Government Area is not an area identified in Clause 2 of the Direction. The Direction is therefore not applicable.

Appendix 3 – Maps

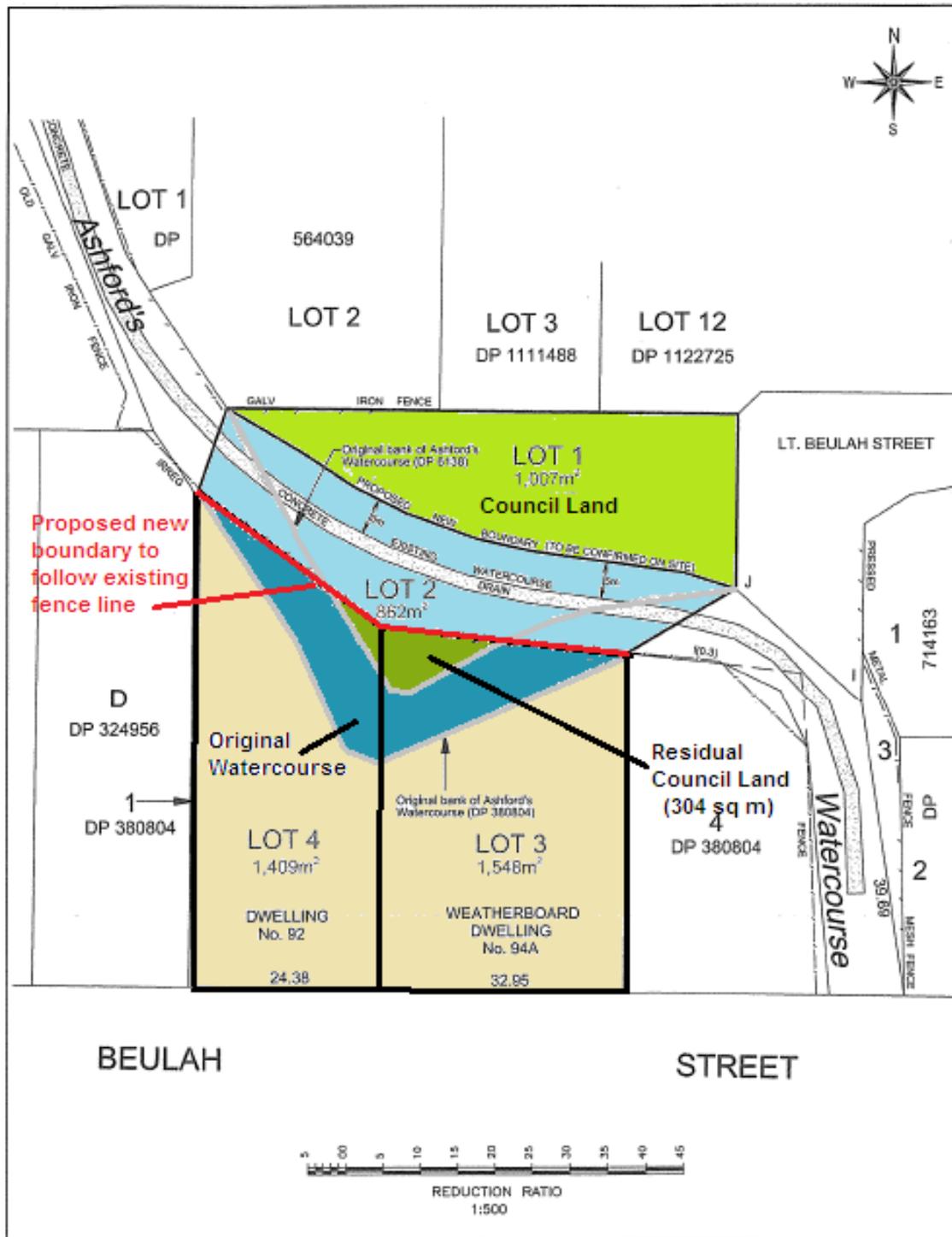
Appendix 3A – Subject land map



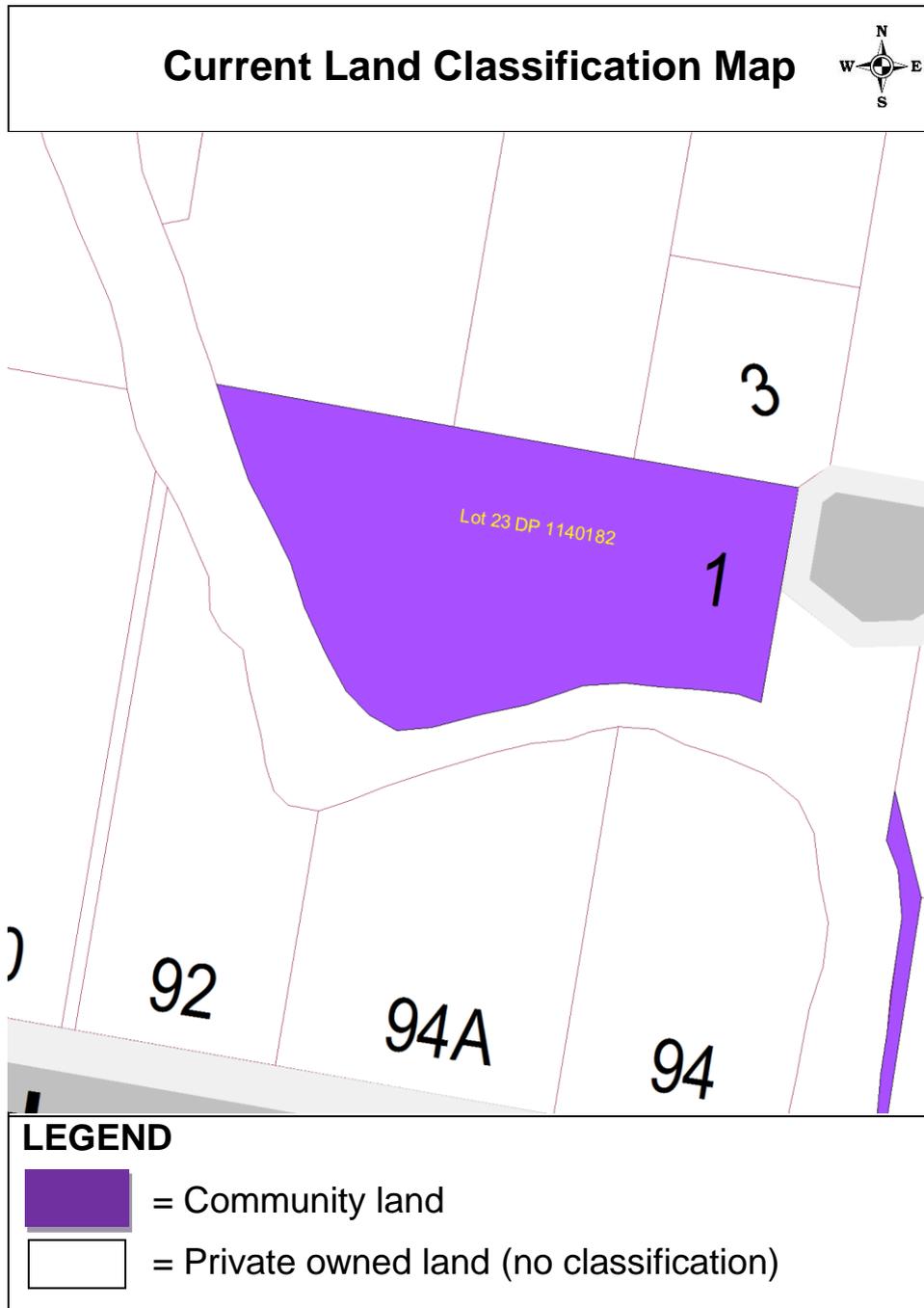
**Appendix 3B – Subject land site photos**



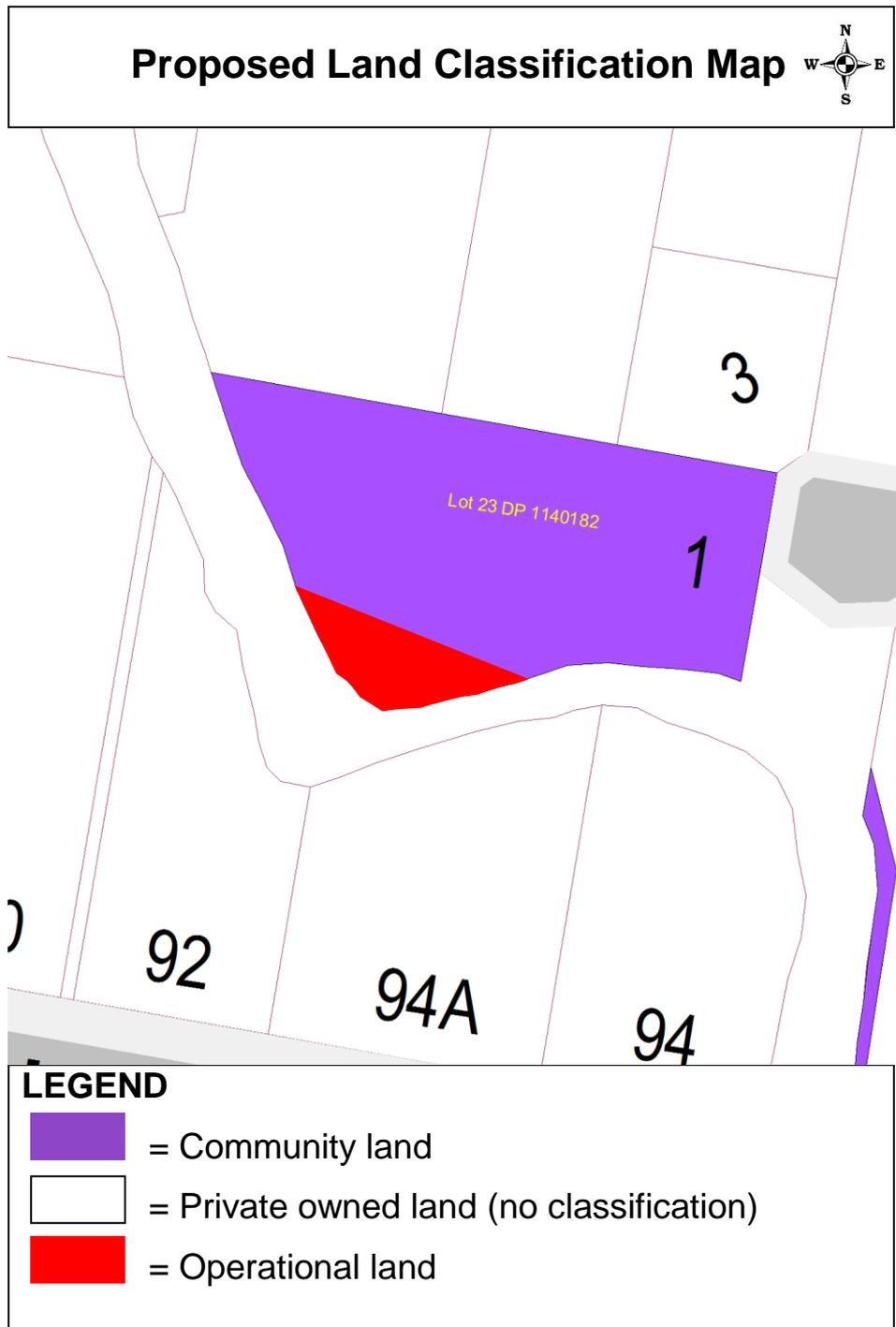
Appendix 3C - Outline of proposed land reclassification and future boundary adjustment



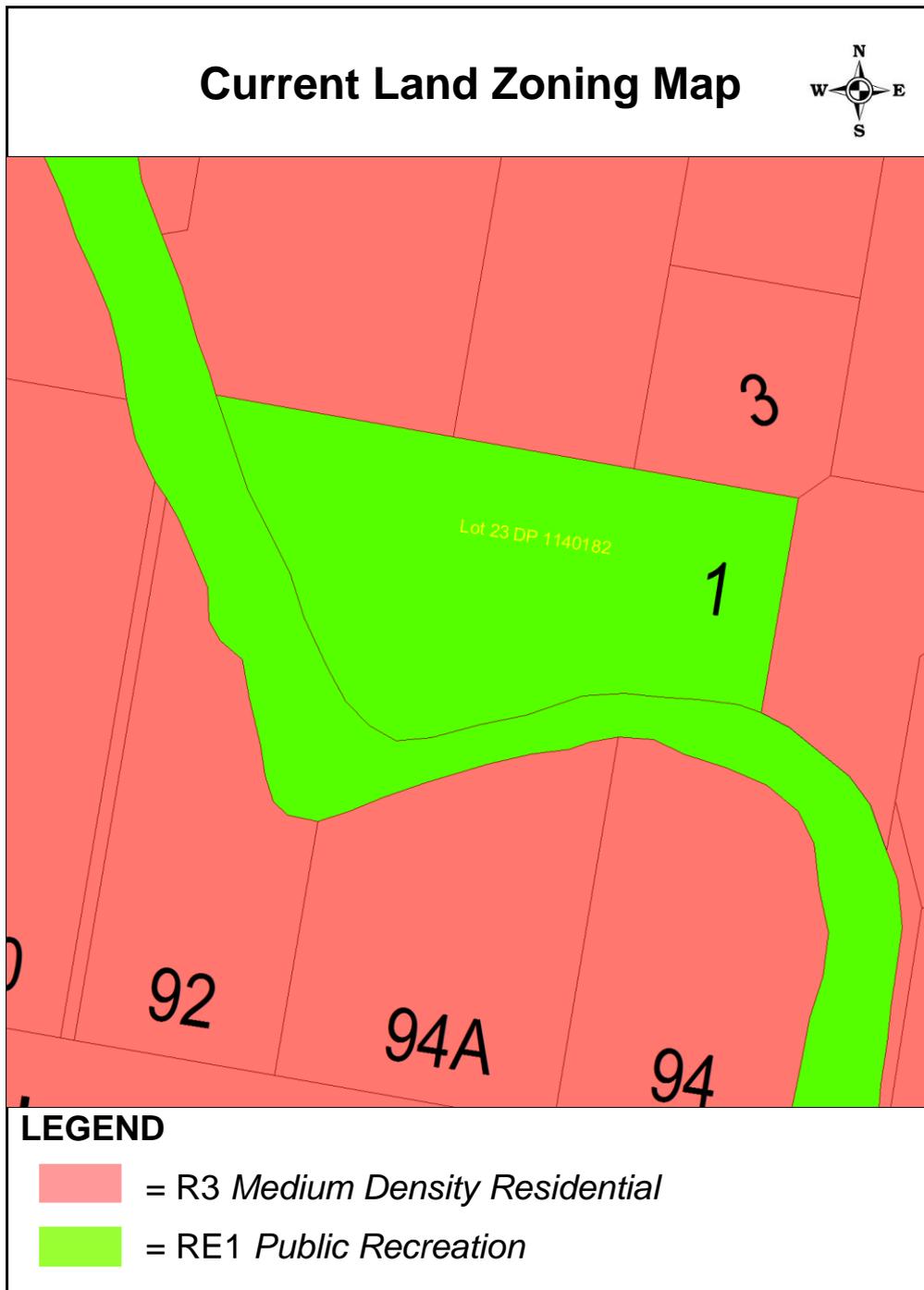
Appendix 3D – Current land classification map



Appendix 3E – Proposed land classification map



Appendix 3F – Current land zoning map



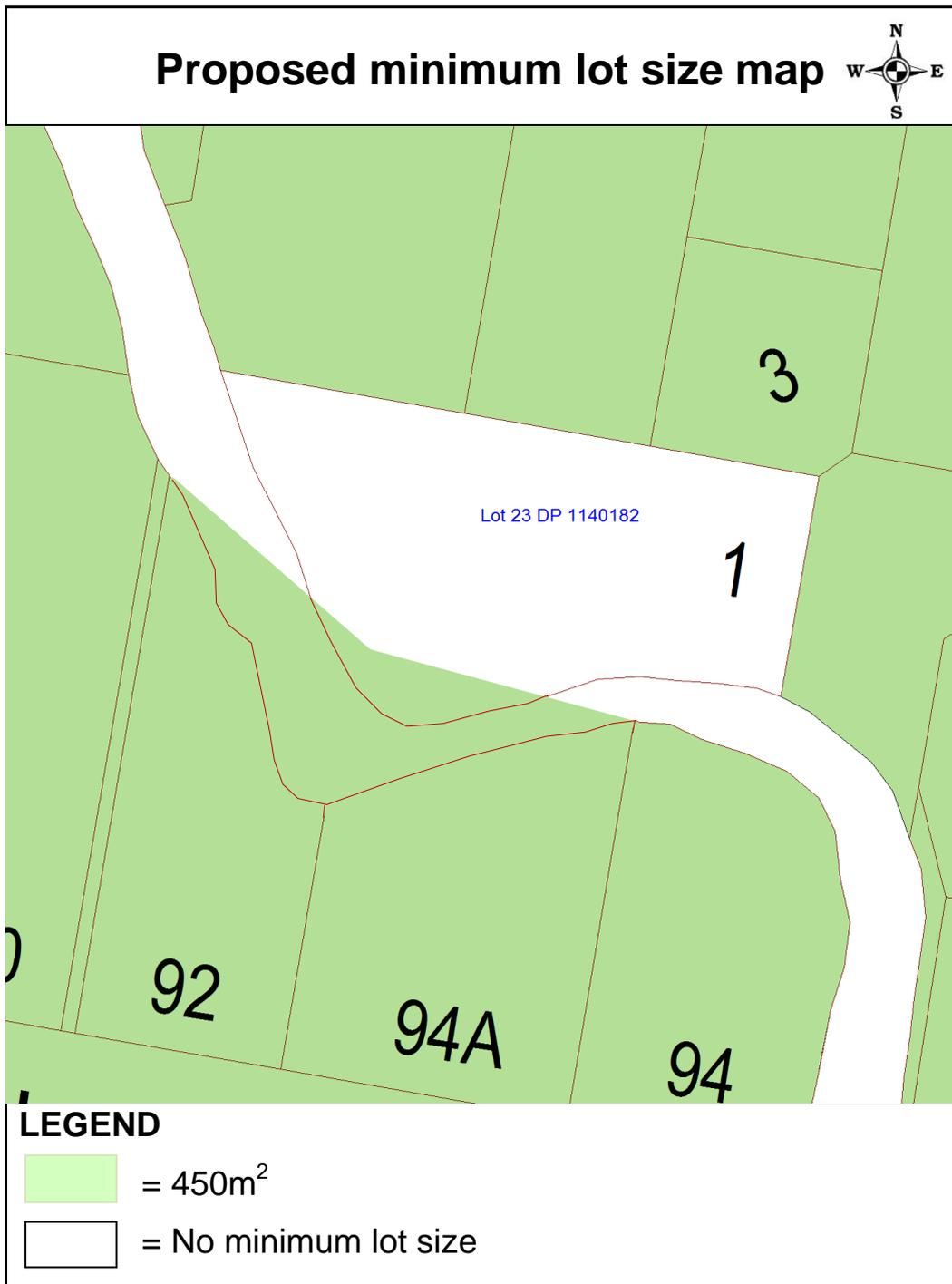
Appendix 3G – Proposed land zoning map



Appendix 3H – Current Minimum lot size map



Appendix 3I – Proposed minimum lot size map



**Appendix 4 – Certificate of Title for Lot 23 DP 1140182**



Land & Property  
Information

A division of the Department of Finance & Services

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH  
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FOLIO: 23/1140182  
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SEARCH DATE	TIME	EDITION NO	DATE
9/5/2016	2:11 PM	-	-

VOL 7062 FOL 22 IS THE CURRENT CERTIFICATE OF TITLE

LAND  
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LOT 23 IN DEPOSITED PLAN 1140182  
AT GUNNEDAH  
LOCAL GOVERNMENT AREA GUNNEDAH  
PARISH OF GUNNEDAH COUNTY OF POTTINGER  
TITLE DIAGRAM DP1140182

FIRST SCHEDULE  
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THE COUNCIL OF THE MUNICIPALITY OF GUNNEDAH

SECOND SCHEDULE (1 NOTIFICATION)  
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1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)

NOTATIONS  
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UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

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## **Appendix 5 – Council Resolution**

<b>ITEM 5</b>	<b>Ashford's Watercourse Realignment – Boundary Adjustment</b>
<b>MEETING</b>	Ordinary Meeting – 20 April 2016
<b>DIRECTORATE</b>	Planning and Environmental Services
<b>AUTHOR</b>	Project Town Planner
<b>POLICY</b>	Nil
<b>LEGAL</b>	Local Government Act 1993, Environmental Planning & Assessment Act 1979, Crown Lands Act 1993
<b>FINANCIAL</b>	Nil
<b>STRATEGIC LINK</b>	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.
<b>ATTACHMENTS</b>	Nil

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### **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 450m<sup>2</sup> 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.

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## 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

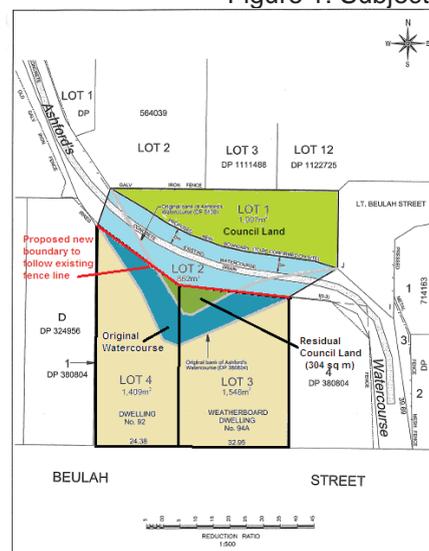
In March 2016 Council resolved to support the preparation of a planning proposal to reclassify certain land in Gunnedah Shire from Community Land to Operational Land under the *Local Government Act 1993*, in order to allow a proposed boundary adjustment of 92 and 94A Beulah Street, Gunnedah, to satisfy 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 (304m<sup>2</sup>) 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 (304m<sup>2</sup>) 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 450m<sup>2</sup> 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

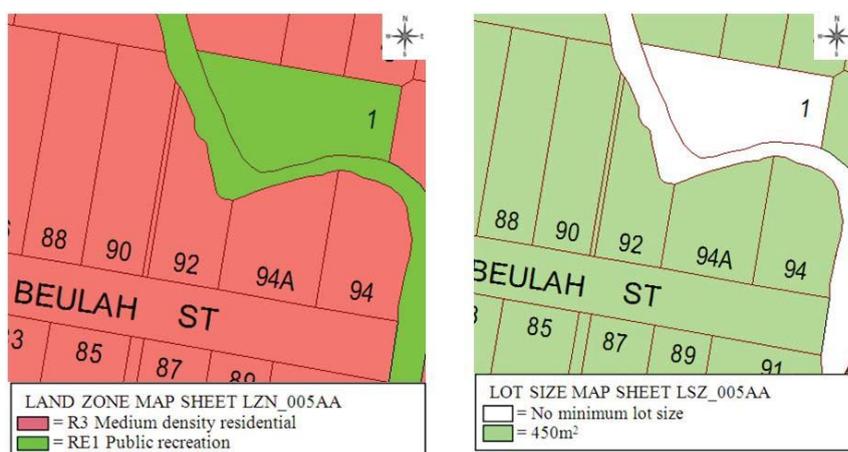
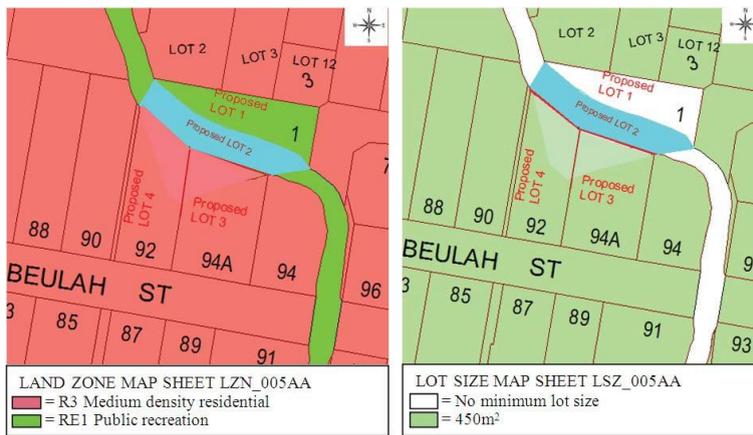


Figure 3: Proposed land zone and minimum lot size maps post amendments



## 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**  
**DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES**