

# Planning Proposal

**To reclassify four (4) allotments at 17-29 Darling Street Bourke from Community to Operation land and discharge Councils interests to transfer ownership of the land to The Frank Whiddon Masonic Homes Group for continued use as an Aged Care Facility.**

Amendment to Bourke Local Environmental Plan 2012

## Proposal

The planning proposal involves the reclassification of four (4) lots owned by Bourke Shire Council from Community to Operational land, to facilitate the transfer of ownership of the land to The Frank Whiddon Masonic Homes Group for the continued use as an Aged Care Facility. The land will retain the existing R1 General Residential zone and minimum lot size (800m<sup>2</sup>) provisions which currently apply under the Bourke Local Environmental Plan 2012.

The land is owned by Bourke Shire Council and is classified as Community land under the Local Government Act 1993. It is Council's intention to transfer ownership of the allotments to The Frank Whiddon Masonic Homes Group to continue the use as an Aged Care Facility. Council has no interests to discharge.

The area consists of developed and vacant land. The current use is for the Rivergum Lodge aged care facility.

## Site location and context

The subject land is described as Lot 1 DP 1145233, Lot 2 Section 11 DP 758144, Lot 3 Section 11 DP 758114 and Lot 2 DP 227656, 17-29 Darling Street Bourke. The total area of the land is approximately 5,915m<sup>2</sup>. Refer to Locality Maps below.

The Certificate of Title of each parcel is provided as **Attachment A**. Details of each parcel are provided in **Attachment B**.

The site is located to the north of the town centre of Bourke. Surrounding land is zoned R1 General Residential.

**Locality Map – subject land (not to scale)**



Source: SIX Maps

Cadastral Information



Source: SIX Maps

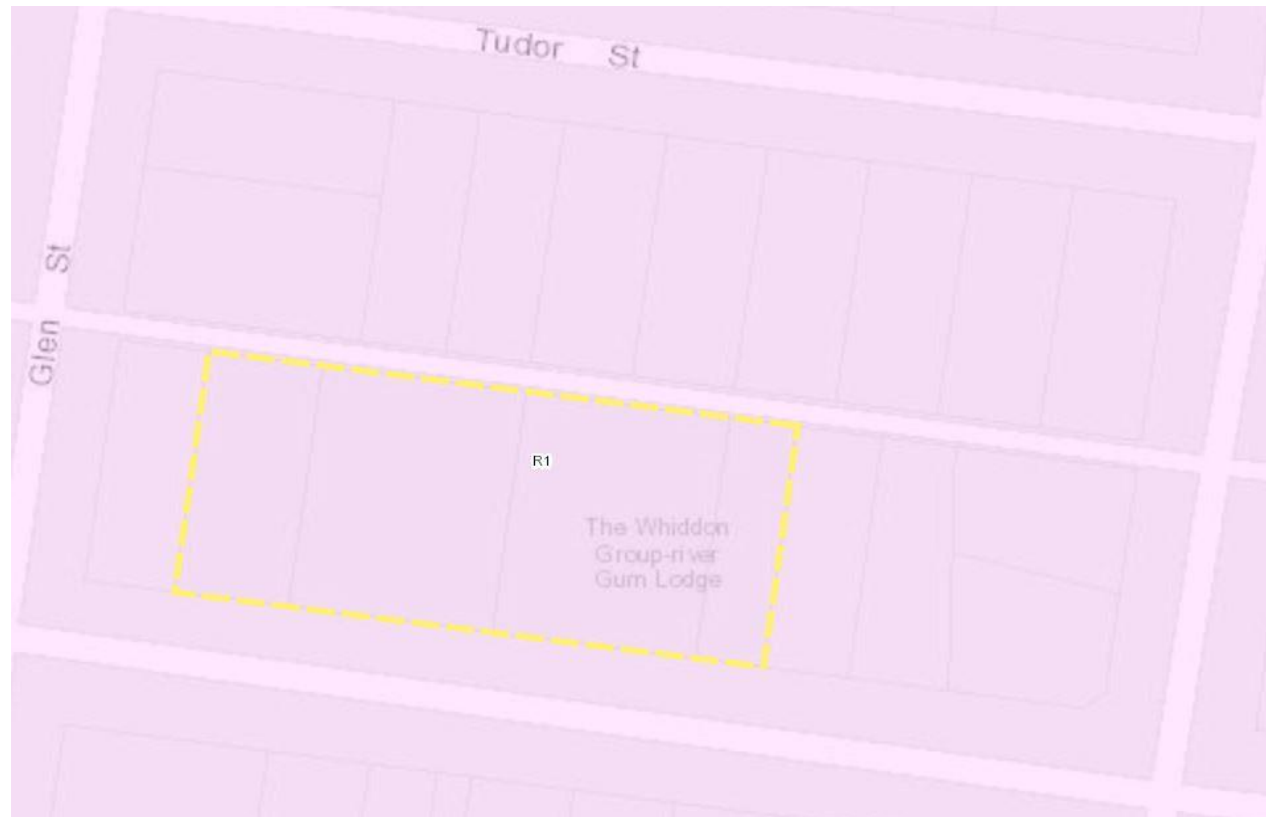
## Aerial Photo



Source: SIX Maps



## Current Zoning



Source: NSW Planning Portal

All lots are owned by Council and are currently used as an existing aged care facility and vacant land, as shown on the imagery above. The planning proposal seeks to reclassify the land from Community to Operational land, to allow the transfer of the land.

## Objectives and intended outcomes

The objective of this planning proposal is to reclassify the subject land from Community to Operational Land. Council has no interests to discharge. Council is not proposing to change the zoning or minimum lot size provisions of subject lots.

## Explanation of provisions

The reclassification of the lots from Community to Operational land will enable the ownership of lots to be transferred by Council.

The proposed provisions in the planning proposal will achieve the intended outcomes by listing the subject land in Schedule 4 Classification and reclassification of public land Part 1 Land classified, or reclassified, as operational land – no interests changed of Bourke LEP 2012.

No mapping changes are required.

## Justification

### Need for the planning proposal

*Is the planning proposal a result of any strategic study or report?*

The planning proposal has been prepared having regard to the Department's *Practice Note PN 16-001- Classification and reclassification of public land through a LEP*. The planning proposal is not the result of any strategic study or report.

The proposal is a result of The Frank Whiddon Masonic Homes Group approaching Council to transfer 17-29 Darling Street Bourke 'Rivergum Lodge' that it currently operates as an existing aged care facility. To be able to transfer the land a reclassification is required.

Due to the land historically not been viewed as being owned by Council, but rather owned by the Bourke Care of the Aged Committee, the land was not listed on Council's Land Register as either operational or community land. Council, however are listed as the owner of the allotments in the First Schedule of each of the respective Certificates of Title, and as such require the land to be reclassified at operational to allow the transfer of ownership to The Frank Whiddon Masonic Homes Group.

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

Council's intention is to reclassify the subject land from Community to Operational, with the objective to transfer the land to the Frank Whiddon Masonic Homes Group. The planning proposal process is the best mechanism to allow Council to transfer the land. The objective of the proposal to transfer the land can only be achieved through an amendment to the Bourke Local Environmental Plan 2012 via a planning proposal and approval of the Governor.

## Relationship to strategic planning framework

*Far West Regional Plan 2036*

The proposal is consistent with the Far West Regional Plan. Direction 23 *Improve Access to local health services, aged care and seniors housing* is directly applicable to the proposal. The proposal is directly consistent with Action 23.7 as the proposal will result in the continued use of the aged care facility. The Frank Whiddon Masonic Homes Group are proposing to expend funds and undertake capital works at the facility in the near future.

The proposal is generally consistent with the Regional Plan as it will continue to provide essential aged care services to the town of Bourke and the Far West Region. The subject land can be better utilised by disposal by Council to facilitate the further development of the aged care facility.

There is no current strategic land use plan applicable to the reclassification of land.

*Consistency with relevant SEPPs*  
Refer to **Attachment C**.

*Consistency with Section 9.1 Directions*  
Refer to **Attachment C**.

## Local Land use Strategy

The Department endorsed Bourke Shire Strategy dated November 2012 applies to the land. The proposal is consistent with this strategy.

The site is not identified in the strategy for an aged care home, however its ongoing use will continue.

Section 8.5 of the Bourke Shire Strategy deals with Social and Economic Factors and provides an objective at section 8.5.3 to ensure that residents have adequate access to and equity for the provision of services and facilities. These objectives would be met by the continued provision of aged care services and facilities to the residents of the shire.

## Environmental Social and economic impact

*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?*

No. The planning proposal is not likely to adversely impact on critical habitats or threatened species, populations or ecological communities, or their habitats. Part of the land is developed with an existing aged care facility. The two (2) vacant allotments to the west are cleared and vacant. The proposal will result in the reclassification of the land from community to operational land, and be

transferred by Council. It will not permit development in any areas with critical habitats or threatened species, populations or ecological communities, or their habitats.

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

No. There are no likely negative environmental effects associated with the planning proposal. The proposed amendments are administrative in nature and unlikely to result in any environmental effects.

The subject land is not identified as flood prone under the provisions of the Bourke LEP 2012.

*Has the planning proposal adequately addressed any social and economic impacts?*

The social cost of this development is that the reclassification will limit the availability of Council owned lands, public reserves and open space that will be utilised by the broader community. The land currently houses an existing aged care facility, with the adjacent vacant land to the west being restricted, via a positive covenant imposing a requirement that the land is used only for the provision of aged care facilities/services. Any proposed future aged care facilities/services would provide aged care and employment opportunities during construction and ongoing operations, ultimately being a positive social impact for the Bourke community.

## **Mapping**

No mapping changes are required for this proposal. The current zoning and minimum lot size will be retained.

## **Community Consultation**

As the proposal is a reclassification, a period of 28 days exhibition is proposed, in line with Council's Community Participation Plan. A public hearing will also be required as the land is proposed to be reclassified.

## **Agency Consultation**

Agency consultation will be undertaken with the Office of Local Government.

## **Project timeline**

The proposal is expected to be finalised within 12 months of receiving a Gateway determination.

A draft timeline is provided below:



Action	Anticipated date
Lodge Gateway determination request with the Department	December 2020
Gateway determination received	January 2021
Completion of technical information	February 2021
Public exhibition	February 2021
Consideration of submissions	March 2021
Public Hearing	April 2021
Council meeting	May 2021
Submission for finalisation	May 2021
Finalisation of proposal	June 2021

## Attachments

A – Certificates of Title for each parcel

B – Details of each parcel

C – SEPP and Section 9.1 Direction checklists.

## **A – Certificates of Title for each parcel**



LAND  
REGISTRY  
SERVICES

## Title Search



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 1/1145233

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SEARCH DATE	TIME	EDITION NO	DATE
13/2/2020	3:56 PM	-	-

VOL 636 FOL 59 IS THE CURRENT CERTIFICATE OF TITLE

LAND

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LOT 1 IN DEPOSITED PLAN 1145233  
AT BOURKE  
LOCAL GOVERNMENT AREA BOURKE  
PARISH OF BOURKE COUNTY OF COWPER  
TITLE DIAGRAM DP1145233

FIRST SCHEDULE

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THE COUNCIL OF THE SHIRE OF BOURKE

SECOND SCHEDULE (2 NOTIFICATIONS)

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- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- \* 2 U270634 CAVEAT BY THE REGISTRAR GENERAL FORBIDS THE  
REGISTRATION OF ANY DEALING NOT IN ACCORDANCE WITH THE  
TERMS OF DECLARATION OF TRUST DATED 23-3-1994 AND  
FILED WITH U270634

NOTATIONS

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UNREGISTERED DEALINGS: NIL

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



LAND  
REGISTRY  
SERVICES

## Title Search



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 2/11/758144

SEARCH DATE	TIME	EDITION NO	DATE
13/2/2020	3:56 PM	1	10/6/1994

### LAND

LOT 2 OF SECTION 11 IN DEPOSITED PLAN 758144  
AT BOURKE  
LOCAL GOVERNMENT AREA BOURKE  
PARISH OF BOURKE COUNTY OF COWPER  
(FORMERLY KNOWN AS ALLOTMENT 2 OF SECTION 11)  
TITLE DIAGRAM CROWN PLAN 1.1821

### FIRST SCHEDULE

THE COUNCIL OF THE SHIRE OF BOURKE

### SECOND SCHEDULE (1 NOTIFICATION)

1 U270633 CAVEAT BY THE REGISTRAR GENERAL FORBIDS THE  
REGISTRATION OF ANY DEALING NOT IN ACCORDANCE WITH THE  
TERMS OF DECLARATION OF TRUST DATED 23-3-1994 & FILED  
WITH U270633

### NOTATIONS

NOTE: THE CERTIFICATE OF TITLE FOR THIS FOLIO OF THE REGISTER DOES  
NOT INCLUDE SECURITY FEATURES INCLUDED ON COMPUTERISED  
CERTIFICATES OF TITLE ISSUED FROM 4TH JANUARY, 2004. IT IS  
RECOMMENDED THAT STRINGENT PROCESSES ARE ADOPTED IN VERIFYING THE  
IDENTITY OF THE PERSON(S) CLAIMING A RIGHT TO DEAL WITH THE LAND  
COMPRISED IN THIS FOLIO.

UNREGISTERED DEALINGS: NIL

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



LAND  
REGISTRY  
SERVICES

## Title Search



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 3/11/758144

SEARCH DATE	TIME	EDITION NO	DATE
13/2/2020	3:56 PM	1	10/6/1994

### LAND

LOT 3 OF SECTION 11 IN DEPOSITED PLAN 758144  
AT BOURKE  
LOCAL GOVERNMENT AREA BOURKE  
PARISH OF BOURKE COUNTY OF COWPER  
(FORMERLY KNOWN AS ALLOTMENT 3 OF SECTION 11)  
TITLE DIAGRAM CROWN PLAN 1.1821

### FIRST SCHEDULE

THE COUNCIL OF THE SHIRE OF BOURKE (T W757343)

### SECOND SCHEDULE (1 NOTIFICATION)

1 U270633 CAVEAT BY THE REGISTRAR GENERAL FORBIDS THE  
REGISTRATION OF ANY DEALING NOT IN ACCORDANCE WITH THE  
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IDENTITY OF THE PERSON(S) CLAIMING A RIGHT TO DEAL WITH THE LAND  
COMPRISED IN THIS FOLIO.

UNREGISTERED DEALINGS: NIL

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



LAND  
REGISTRY  
SERVICES

## Title Search



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 2/227656

SEARCH DATE	TIME	EDITION NO	DATE
13/2/2020	3:56 PM	1	10/6/1994

### LAND

LOT 2 IN DEPOSITED PLAN 227656  
AT BOURKE  
LOCAL GOVERNMENT AREA BOURKE  
PARISH OF BOURKE COUNTY OF COWPER  
TITLE DIAGRAM DP227656

### FIRST SCHEDULE

THE COUNCIL OF THE SHIRE OF BOURKE

### SECOND SCHEDULE (1 NOTIFICATION)

- 1 U270633 CAVEAT BY THE REGISTRAR GENERAL FORBIDS THE  
REGISTRATION OF ANY DEALING NOT IN ACCORDANCE WITH THE  
TERMS OF DECLARATION OF TRUST DATED 23-3-1994 & FILED  
WITH U270633

### NOTATIONS

NOTE: THE CERTIFICATE OF TITLE FOR THIS FOLIO OF THE REGISTER DOES  
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CERTIFICATES OF TITLE ISSUED FROM 4TH JANUARY, 2004. IT IS  
RECOMMENDED THAT STRINGENT PROCESSES ARE ADOPTED IN VERIFYING THE  
IDENTITY OF THE PERSON(S) CLAIMING A RIGHT TO DEAL WITH THE LAND  
COMPRISED IN THIS FOLIO.

UNREGISTERED DEALINGS: NIL

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



## B – Details of each parcel

<b>Lot 1 DP 1145233</b>	
Property Owner	Bourke Shire Council
Current classification	Community Land
Proposed classification	Operational Land
Title	Freehold
Public reserve	No
Zoning	R1 General Residential
Minimum Lot Size	800m <sup>2</sup>
Area	1131m <sup>2</sup>
Planning/Environmental constraints	Nil
Background information and how acquired	VOL 636 FOL 59
Certificate of title provisions, restrictions on the land	Caveat by the Registrar General forbids the registration of any dealing not in accordance with the terms of declaration of Trust dated 23/03/1994 and filed with U270633
Council interests	No
Is it proposed to discharge the land?	No
Current uses (authorised and unauthorised)	Vacant and undeveloped public open space
Strategic and Site Specific Merit issues	Not utilised as public open space

<b>Lot 2 Section 11 DP 758144</b>	
Property Owner	Bourke Shire Council
Current classification	Community Land
Proposed classification	Operational Land
Title	Freehold
Public reserve	No
Zoning	R1 General Residential
Minimum Lot Size	800m <sup>2</sup>
Area	2057m2
Planning/Environmental constraints	Nil
Background information and how acquired	VOL FOL 2/11/758144
Certificate of title provisions, restrictions on the land	Caveat by the Registrar General forbids the registration of any dealing not in accordance with the terms of declaration of Trust dated 23/03/1994 and filed with U270633
Council interests	No
Is it proposed to discharge the land?	No
Current uses (authorised and unauthorised)	Vacant and undeveloped public open space
Strategic and Site Specific Merit issues	Not utilised as public open space

<b>Lot 3 Section 11 DP 758144</b>	
Property Owner	Bourke Shire Council
Current classification	Community Land
Proposed classification	Operational Land
Title	Freehold
Public reserve	No
Zoning	R1 General Residential
Minimum Lot Size	800m <sup>2</sup>
Area	2057m2
Planning/Environmental constraints	Nil
Background information and how acquired	VOL FOL 3/11/758144
Certificate of title provisions, restrictions on the land	Caveat by the Registrar General forbids the registration of any dealing not in accordance with the terms of declaration of Trust dated 23/03/1994 and filed with U270633
Council interests	No
Is it proposed to discharge the land?	No
Current uses (authorised and unauthorised)	Aged Care Facility
Strategic and Site Specific Merit issues	Not utilised as public open space

<b>Lot 2 DP 227656</b>	
Property Owner	Bourke Shire Council
Current classification	Community Land
Proposed classification	Operational Land
Title	Freehold
Public reserve	No
Zoning	R1 General Residential
Minimum Lot Size	800m <sup>2</sup>
Area	670.3m <sup>2</sup>
Planning/Environmental constraints	NIL
Background information and how acquired	VOL FOL 2/227656
Certificate of title provisions, restrictions on the land	Caveat by the Registrar General forbids the registration of any dealing not in accordance with the terms of declaration of Trust dated 23/03/1994 and filed with U270633
Council interests	No
Is it proposed to discharge the land?	No
Current uses (authorised and unauthorised)	Aged Care Facility
Strategic and Site Specific Merit issues	Not utilised as public open space

## C – SEPP and Section 9.1 Direction checklists

Section 9.1 Direction	Applicable (Y/N)	Consistent (Y/N)	Comments/Justification
<b>1. Employment and Resources</b>			
<b>1.1 Business &amp; Industrial Zones</b>	N	N	
<b>1.2 Rural Zones</b>	N	N	
<b>1.3 Mining, Petroleum Production and Extractive Industries</b>	N	N	
<b>1.4 Oyster Aquaculture</b>	N	N	
<b>1.5 Rural Lands</b>	N	N	
<b>2. Environment and Heritage</b>			
<b>2.1 Environmental Protection Zones</b>	N	N	
<b>2.2 Coastal Protection</b>	N	N	
<b>2.3 Heritage Conservation</b>	N	N	
<b>2.4 Recreational Vehicle Area</b>	N	N	
<b>2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEP's</b>	N	N	

<b>2.6 Remediation of Contaminated Land</b>	N	N	
<b>3. Housing, Infrastructure and Urban Development</b>			
<b>3.1 Residential Zone</b>	Y	Y	This Direction applies to the subject lots currently zones for residential use (zone R1 General Residential). The proposal is to reclassify the land will not increase the development potential of the subject lots as they were all created for development purposes
<b>3.2 Caravan Parks and Manufactured Home estates</b>	N	N	
<b>3.3 Home Occupations</b>	N	N	
<b>3.4 Integrating Land Use and Transport</b>	N	N	
<b>3.5 Development Near Regulated Airports and Defence Airfields</b>	N	N	
<b>3.6 Shooting Ranges</b>	N	N	
<b>3.7 Reduction in non-hosted short term rental accommodation periods</b>	N	N	
<b>4. Hazard and Risk</b>			
<b>4.1 Acid Sulfate Soils</b>	N	N	
<b>4.2 Mine Subsidence and Unstable Land</b>	N	N	



<b>4.3 Flood Prone Land</b>	N	N	
<b>4.4 Planning for Bushfire Protection</b>	N	N	
<b>5. Regional Planning</b>			
<b>5.1 Implementation of Regional Strategies</b>	N	N	
<b>5.2 Sydney Drinking Water Catchments</b>	N	N	
<b>5.3 Farmland of State and Regional Significance on the NSW Far North Coast</b>	N	N	
<b>5.4 Commercial and Retail Development along the Pacific Highway, North Coast</b>	N	N	
<b>5.5 Development in the vicinity of Ellalong, Paxton, and Millfield (Cessnock LGA) (Revoked 18 June 2010)</b>	N	N	
<b>5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)</b>	N	N	
<b>5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)</b>	N	N	

<b>5.8 Second Sydney Airport: Badgerys Creek (Revoked 20 August 2018)</b>	N	N	
<b>5.9 North West Rail Link Corridor Strategy</b>	N	N	
<b>5.10 Implementation of Regional Plans</b>	Y	Y	This Direction applies to the planning proposal as it relates to directions of the Far West Regional Plan. As previously described, the planning proposal is consistent with the directions of the Regional Plan. Therefore, the proposal is consistent with this Direction.
<b>5.11 Development of Aboriginal Land Council Land</b>	N	N	
<b>6. Local Plan Making</b>			
<b>6.1 Approval and Referral Requirements</b>	N	N	
<b>6.2 Reserving Land for Public Purposes</b>	N	N	
<b>6.3 Site Specific Provisions</b>	N	N	
<b>7. Metropolitan Planning</b>			
<b>7.1 Implementation of A Plan for Growing Sydney</b>	N	N	
<b>7.2 Implementation of Greater Macarthur Land Release Investigation</b>	N	N	

<b>7.3 Parramatta Road Corridor Urban Transformation Strategy</b>	N	N	
<b>7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan</b>	N	N	
<b>7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan</b>	N	N	
<b>7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan</b>	N	N	
<b>7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor</b>	N	N	
<b>7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan</b>	N	N	
<b>7.9 Implementation of Bayside West Precincts 2036 Plan</b>	N	N	

<b>7.10 Implementation of Planning Principles for the Cooks Cove Precinct</b>	N	N	
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<b>State Environmental Planning Policy (SEPP)</b>	<b>Applicable (Y/N)</b>	<b>Consistent (Y/N)</b>	<b>Comments/Justification</b>
<b>State Environmental Planning Policy No.19 – Bushland in Urban Areas</b>	N	N	
<b>State Environmental Planning Policy No.21 – Caravan Parks</b>	N	N	
<b>State Environmental Planning Policy No.33 – Hazardous and Offensive Development</b>	N	N	
<b>State Environmental Planning Policy No.36 – Manufactured Home Estates</b>	N	N	
<b>State Environmental Planning Policy No.47 – Moore Park Showground</b>	N	N	
<b>State Environmental Planning Policy No.50 – Canal Estate Development</b>	N	N	
<b>State Environmental Planning Policy No.55 – Remediation of Land</b>	N	N	

<b>State Environmental Planning Policy No.64 – Advertising Signage</b>	N	N	
<b>State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development</b>	N	N	
<b>State Environmental Planning Policy No.70 – Affordable Housing (Revised Schemes)</b>	N	N	
<b>State Environmental Planning Policy (Aboriginal Land) 2019</b>	N	N	
<b>State Environmental Planning Policy (Activation Precincts) 2020</b>	N	N	
<b>State Environmental Planning Policy (Affordable Rental Housing) 2009</b>	N	N	
<b>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</b>	N	N	
<b>State Environmental Planning Policy (Coastal Management) 2018</b>	N	N	
<b>State Environmental Planning Policy (Concurrences and Consents) 2018</b>	N	N	
<b>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</b>	N	N	
<b>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</b>	N	N	
<b>State Environmental Planning Policy (Gosford City Centre) 2018</b>	N	N	

<b>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</b>	N	N	
<b>State Environmental Planning Policy (Infrastructure) 2007</b>	N	N	
<b>State Environmental Planning Policy (Koala Habitat Protection) 2019</b>	N	N	
<b>State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007</b>	N	N	
<b>State Environmental Planning Policy (Kurnell Peninsula) 1989</b>	N	N	
<b>State Environmental Planning Policy (Major Infrastructure Corridors) 2020</b>	N	N	
<b>State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007</b>	N	N	
<b>State Environmental Planning Policy (Penrith Lakes Scheme) 1989</b>	N	N	
<b>State Environmental Planning Policy (Primary Production and Rural Development) 2019</b>	N	N	
<b>State Environmental Planning Policy (State and Regional Development) 2011</b>	N	N	
<b>State Environmental Planning Policy (State Significant Precincts) 2005</b>	N	N	
<b>State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011</b>	N	N	
<b>State Environmental Planning Policy (Sydney Regional Growth Centres) 2006</b>	N	N	



<b>State Environmental Planning Policy (Three Ports) 2013</b>	N	N	
<b>State Environmental Planning Policy (Urban Renewal) 2010</b>	N	N	
<b>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</b>	N	N	
<b>State Environmental Planning Policy (Western Sydney Aerotropolis) 2020</b>	N	N	
<b>State Environmental Planning Policy (Western Sydney Employment Area) 2009</b>	N	N	
<b>State Environmental Planning Policy (Western Sydney Parklands) 2009</b>	N	N	