



13.2 Planning Proposal to Rezone and Reclassify Community Land - Lot 2 DP775152 being Public Reserve Innes Road, Moss Vale

Reference: PN1704923
Report Author: Acting Coordinator Strategic Planning
Authoriser: Group Manager Planning, Development & Regulatory Services
Applicant: LEP Planning
Owner: Wingecarribee Shire Council
Link to Corporate Plan: Encourage creativity in utilisation of our community assets

PURPOSE

The purpose of this report is to discuss the potential for preparing a Planning Proposal for Gateway Determination with the purpose of disposing of Public Reserve known as Lot 2 DP 775152 Innes Road, Moss Vale (Lot 2). Lot 2 is approximately 3 metres wide and located between St Paul's International College and B4 Mixed Use zone that fronts Lackey Road.

This report recommends that a Planning Proposal be prepared and forwarded to the Department of Planning and Environmental for Gateway Determination.

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

RECOMMENDATION

THAT a Planning Proposal be prepared and submitted to the Department of Planning and Environment to amend Wingecarribee Local Environmental Plan 2010 by:

- (a) Rezoning Lot 2 DP 775152 Innes Road, Moss Vale from RE1 Public Recreation to B4 Mixed Use;
- (b) Applying a Minimum Lot Size of 700sqm, depicted as 'Q' on the minimum lot size maps to Lot 2 DP 775152 Innes Road, Moss Vale; and
- (c) Reclassifying Lot 2 DP 775152 Innes Road, Moss Vale from Community to Operational.

REPORT

BACKGROUND

On 24 November 2014 Council received a request from Lee Environmental Planning, representing the owners of Lot 8 Sec 1 DP 975386, 173 Lackey Road, Moss Vale to

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potentially purchase part of a Council reserve approximately 3 metres wide to the rear of their property (**Attachment 1**). By purchasing part of the Council reserve, the owners of Lot 8 would be able to gain access to Innes Road from the rear of their property.

However, the 'part' of the Council reserve they wished to acquire is 'part' of a long and narrow 3 metre wide strip of land known as Lot 2 DP 775152 Innes Road, Moss Vale (Lot 2) (**Attachment 2**). Further, the part they wished to acquire is the only access to Lot 2 from Innes Road and if closed off would land lock the remainder of Lot 2.

Another consideration is that part of the frontage of Lot 8 Sec 1 DP 975386, 173 Lackey Road, Moss Vale is marked as land acquisition for road widening under Wingecarribee Local Environmental Plan 2010. Hence there is potential for a land swap.

Lot 2 also adjoins the boundaries of 4 other lots, which have frontage identified to be acquired for road widening purposes along Lackey Road (**Attachment 3**). Thus, since the initial request investigations have been undertaken to determine if it would be beneficial to the Council to reclassify the entirety of Lot 2 from community to operational. The reclassification would then allow Council to negotiate land swap arrangements with the 4 land owners where their properties front Lackey Road and have part of that frontage identified for acquisition for road widening.

This report discusses the proposal required to rezone Lot 2 to B4 Mixed Use with a minimum lot size of 700sqm and reclassify it from Community to Operational.

DETAILS OF PROPOSAL

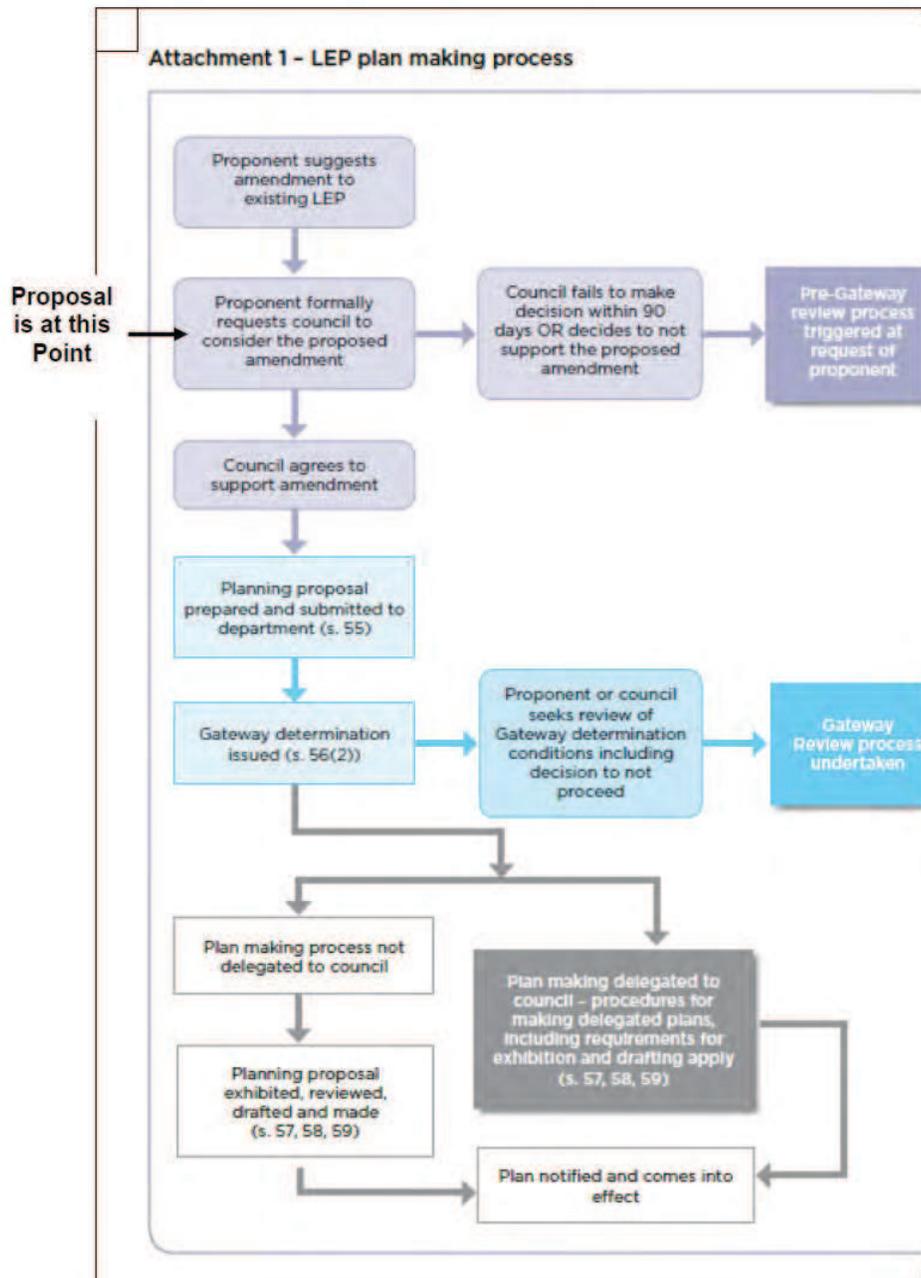
Subject Site and Locality

Lot 2 has a total area of 1,937.7 square metres and is approximately 3 metres wide, forming a strip of Council land zoned RE1 Public Recreation between St Paul's College and B4 Mixed Use zoned Land to Lackey Road. Whilst zoned RE1 Public Recreation the land does not contain any improvements or public facilities. (**Attachment 2**).

STATUTORY PROVISIONS

PLANNING PROPOSAL PROCESS

A flowchart of the Planning Proposal Process is provided below:



This Planning Proposal is at the very initial stage of the process (Step 2 in flowchart), where Council considers the Planning Proposal lodged by the applicant and whether or not to proceed. If Council decides to proceed then the process will follow through to Step 5, where a Gateway Determination is issued either in favour or not in favour of the Planning Proposal, which will either end it or continue the process.

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Should Council or the Gateway Determination end the process, the applicant does not have appeal rights in this case, as the land the subject of the Planning Proposal is Council's Land. Hence, ultimately if Council does not wish sell/swap the land it cannot be forced to do so by a third party.

Wingecarribee LEP2010

As Lot 2 is zoned RE1 Public Recreation and is classified as Community Land under the Local Government Act 1993, a Planning Proposal is required to rezone the land (likely B4 Mixed Use) and to reclassify it to Operational to enable Council to negotiate and affect any sale or exchange of land between Council and property owners of land identified in **Attachment 3**. Further, as the land is community land, it currently has no minimum lot size. All surrounding land, zoned other than RE1, has a minimum lot size of 700sqm. Hence the Planning Proposal would also seek to make the minimum lot size 700sqm so it is consistent with surrounding properties.

As such it is recommended that Council prepare a Planning Proposal for a Gateway Determination to enable Council to undertake such negotiations.

Development Control Plans

The Planning Proposal, if proceeded with, would not require any amendments to the Moss Vale Town Plan DCP.

State Environmental Planning Policies

In accordance with the Section 117 of the Environmental Planning and Assessment Act 1979, any Directions requiring the Planning Proposal to address relevant SEPPs will be undertaken as part of the Gateway application.

Section 117 Directions

The Minister for Planning, under section 117(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) issues Directions that Council must follow when preparing Planning Proposals. The Directions cover the following broad categories:

1. employment and resources
2. environment and heritage
3. housing, infrastructure and urban development
4. hazard and risk
5. regional planning
6. local plan making.

The Department of Planning and Environment will review the Planning Proposal report by Council, which will address consistencies and inconsistencies with the S117 Directions.

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CONSULTATION

COMMUNITY ENGAGEMENT

External Referrals

Referrals/Notice	Advice/Response/Conditions
Water NSW	To be requested prior to Gateway Application should Council resolve to prepare a Planning Proposal

Internal Referrals

Specialist description:

Property Officer

Comments:

The request to consider the disposal of part of the Public Reserve that adjoins 173 Lackey Road has triggered a review of the RE1 and SP2 zoned land in the vicinity. As outlined above, the Public Reserve adjoining 173 Lackey Road is a narrow 3 metre strip of land which runs between St Paul's International College and 4 lots of privately owned property (including 173 Lackey Road, Moss Vale).

If Council resolves to reclassify and rezone the land currently zoned RE1, this will potentially enable a future 'land swap' to occur in respect of the 4 properties, enabling Council to acquire the SP2 land for road widening in exchange for the RE1 land. This will save Council considerable costs otherwise payable in compensation to the affected land owners.

Recommendations:

To enable consideration of a future land swap, it is recommended that Council proceed with the Planning Proposal for Gateway Determination with the purpose of disposing of Public Reserve known as Lot 2 DP 775152 Innes Road, Moss Vale.

Neighbour Notification (or Advertising)/Public Participation

Should Council resolve to prepare a Planning Proposal; and should a Positive Gateway Determination be received, the Gateway will outline the minimum requirements for public exhibition and community consultation. Nevertheless, as the land is Community Land, a Public Hearing will be required following the community consultation period. The timing of the Public Hearing is legislated to enable Council to contact all submission makers and invite them to the Public Hearing. Council would also contact all adjoining property owners in writing during the exhibition period.

SUSTAINABILITY ASSESSMENT

- **Environment**

An environmental assessment of the Community Land (Lot 2) has not been undertaken by Council. It would be prudent of Council to undertake an environmental assessment prior to applying for a Gateway Determination to establish if there are any environmental factors that may hinder any property valuation and subsequent swap or sale of the land.



- **Social**

There are no social issues in relation to this report, as the land, due to its narrow width and location, has little public recreation value and is unlikely to disadvantage any members of the community in respect to the loss of recreation space.

- **Broader Economic Implications**

There are no broader economic implications in relation to this report, as any potential land sale/swap is limited to 4 adjoining properties, excluding St Paul's College. Hence, there are minimal external economic implications. Nevertheless, there is certainly potential for Council to save costs to the community, via reducing acquisition costs for the land fronting Lackey Road via possible land swaps.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

Should Council resolve to prepare a Planning Proposal, the Planning Proposal will be prepared in accordance with the *Environmental Planning & Assessment Act, 1979*, *Environmental Planning Assessment Regulations* and current Guidelines published by the Department of Planning and Environment, for submission to the Gateway.

RELATIONSHIP TO CORPORATE PLANS

The Planning Proposal is generally in accordance with Council's Fit for the Future proposal and Corporate Plans to rationalise land owned by Council. In this case Council has the opportunity to dispose of community land that has limited community value and acquire land for road widening at a significantly reduced cost to the community.

COUNCIL BUDGET IMPLICATIONS

There is no cost to Council in preparing the Planning Proposal other than staff time.

RELATED COUNCIL POLICY

There are no other Council Policies related to this matter other than those already discussed in this report.

OPTIONS

The options available to Council are:

Option 1

Prepare a Planning Proposal for Gateway determination to rezone Lot 2 DP 775152 Innes Road, Moss Vale from RE1 Public recreation to B4 Mixed Use, provide the land with a minimum lot size of 700sqm and Reclassify the land from Community to Operational.

Option 2

Not prepare a Planning Proposal and leave the land as community land.

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Option 1 is the recommended option to this report, as it will enable Council to dispose of land that is of little community benefit and negotiate land swaps for acquiring land identified for road widening on Lackey Road at a reduced cost to the community.

CONCLUSION

Lot 2 DP 775152 Innes Road, Moss Vale is a narrow strip of community land, with limited community value. There is significant potential, once the land is rezoned and made operational, to negotiate land swaps/sales with adjoining property owners, who's properties have frontage to Lackey Road that are identified for acquisition and road widening by Council.

Essentially there are significant savings to be made for the community if Council is able to swap the Lot 2 for frontages to be acquired for road widening.

ATTACHMENTS

1. No 173 Lackey Road and Proposed Community Land to be Acquired from Council
2. Lot 2 - Extract of Zone Map
3. Property Adjoining Lot 2 with frontage on Lackey Road to be acquired by Council

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Land to be Acquired from Council

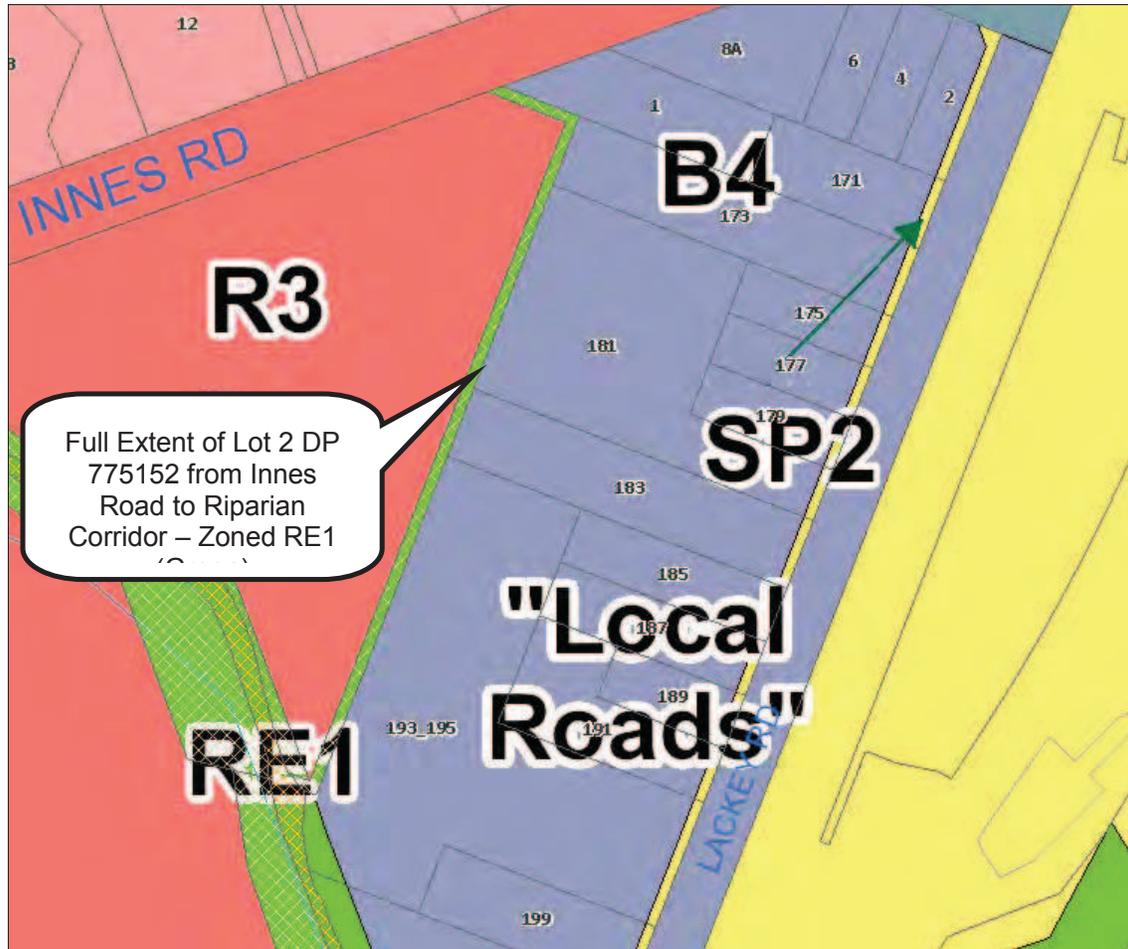


ATTACHMENT ONE





ATTACHMENT TWO



13.2 Planning Proposal to Rezone and Reclassify Community Land -
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ATTACHMENT 3 Property Adjoining Lot 2 with frontage on
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ATTACHMENT THREE

