



Item No: 2.8
Title: Outcome of exhibition and public hearing for 73-75 Mann Street Gosford Planning Proposal for reclassification of Council owned land
Department: Environment and Planning

23 May 2023 Ordinary Council Meeting

Reference: RZ/114/2021 - D15626104
Author: Chelle Leith, Strategic Planner Local Planning and Policy
Lynda Hirst, Principal Strategic Planner Local Planning and Policy
Manager: Shannon Turkington, Unit Manager Strategic Planning
Executive: Alice Howe, Director Environment and Planning

Recommendation

- 1 That Council finalise the Planning Proposal (RZ/114/2021) as exhibited to amend State Environmental Policy (Precincts-Regional) 2021 to enable the reclassification of Lot B DP 321076 and Lot 2 DP 543135 (73-75 Mann Street, Gosford) from community land to operational land.**
- 2 That Council request the Minister for Planning and Public Spaces to proceed with steps for drafting and making the amendment to Central Coast Local Environmental Plan 2022.**
- 3 That all those who made submissions or attended the public hearing during public exhibition be notified of Council's decision.**

Report purpose

The purpose of this report is to recommend the finalisation of the reclassification of Lot B DP 321076 and Lot 2 DP 543135 (73-75 Mann Street Gosford) from community land to operational land under Section 30 of the *Local Government Act 1993*.

Executive Summary

The subject land was originally acquired in 2019 for the purpose of the [then] proposed Gosford Cultural Precinct (consisting of a Regional Library and Regional Performing Arts Centre). Upon acquisition, the parcels of land were classified as community land.

On 25 September 2019, Council resolved to withdraw from any further work on the Gosford Cultural Precinct and proceed with a stand-alone Regional Library.

In 2020 as part of a review of assets, Council determined the properties were surplus to its needs and determined the site would need to be reclassified from community to operational land to facilitate non-Council uses. The reclassification process will facilitate

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the sale of the land to another party as it is not possible to sell the site while it is classified as community land. By disposing of land that is surplus to its needs, Council will make it available to be repurposed or redeveloped by others.

On 22 March 2022 Council resolved to prepare a Planning Proposal to amend *State Environmental Planning Policy (Gosford City Centre) 2018* (now *State Environmental Planning Policy (Precincts – Regional) 2021*) to reclassify the site from community land to operational land. Gateway Determination was received from the Department of Planning and Environment (DPE) on 13 September 2022 to enable the reclassification to progress in line with relevant conditions.

The Planning Proposal was publicly exhibited from 2 February to 2 March 2023. In accordance with Section 29 of the *Local Government Act 1993*, a public hearing was held in Gosford on 30 March 2023.

During the public exhibition period five submissions were received objecting to the proposed reclassification, and one group submission was received supporting the proposal. Additional concerns were raised at the public hearing. All submissions and concerns have been considered with staff comments outlined within this report and in Attachments 1, 2 and 3. No amendments are proposed to the Planning Proposal.

The intention is to sell the property to the Minister administering the *Technical and Further Education Commission Act 1990* for the purpose of including the land in the development of a major new TAFE campus on the subject land and adjoining land. The proposed redevelopment of the site will contribute to the revitalisation of the Gosford CBD and the activation of the Gosford waterfront.

If the sale to the Minister does not for any reason proceed, an alternative purchaser will be sought such as a government agency, a public institution or a developer committed to creating a landmark development that contributes to the revitalisation of the Gosford CBD and the activation of the Gosford waterfront.

Background

Lot B DP 321076 and Lot 2 DP 543135 (73-75 Mann Street Gosford) are owned by Central Coast Council; the site is located within the commercial core of Gosford City Centre (see Figure 1). Situated at the front of the site are vacant single storey commercial buildings with ground floor access to Mann Street, with car parking located to the rear. Henry Parry Drive, to the rear, is elevated and separated from the site by a steep embankment.

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Figure 1: Aerial photograph of the subject site

The land was originally acquired in 2019 by private treaty for the purpose of building a Gosford Cultural Precinct. The parcel was acquired by agreement under the framework of the *Land Acquisition (Just Terms Compensation) Act 1991*. The land is not currently used for a community purpose and has been previously used for commercial purposes.

On 25 September 2019, Council resolved to withdraw from any further work on the Gosford Cultural Precinct and proceed with a stand-alone Regional Library. The Regional Library will now be developed on the site of the Parkside Building in Gosford at 123A Donnison Street (Lot 100 DP 711850). A major public facility (potentially incorporating a performing arts centre) was identified as part of Council's concept plan for the Gosford waterfront, exhibited from 18 October 2022 to 1 December 2022.

At its ordinary meeting on 22 March 2022 Council resolved:

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1. That Council prepare a Planning Proposal to amend SEPP Gosford City Centre to enable the reclassification of Lot B DP 321076 and Lot 2 DP 543135 (73-75 Mann Street, Gosford) from community land to operational land.
2. That Council submit the Planning Proposal to the Minister for Planning in accordance with Section 3.35(2) of the *Environmental Planning and Assessment Act 1979*, requesting a Gateway Determination, pursuant to Section 3.34 of the *Environmental Planning and Assessment Act 1979*.

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3. *That Council undertake public authority and community consultation in accordance with the Gateway Determination requirements.*
4. *That Council conduct a public hearing consistent with the requirements of Section 29 of the Local Government Act 1993.*

Under Part 2, Division 1 of the *Local Government Act 1993* (LG Act), all public land must be classified as either 'community' or 'operational'. The LG Act imposes restrictions on the use, management, reclassification and disposal of community land.

Following its acquisition by Council, the subject land was classified as community land. As per Clause 45(1) of the LG Act, community land cannot be sold, exchanged or dispensed of in any way. If Council proposes to lease the land, Clause 45 of the LG Act significantly restricts the range of uses for which a lease over community land might be granted, and the time period of such a lease. If the site remains as community land, most of the uses for which the existing buildings might be leased are not permissible under the provisions of Clause 45.

As Council has resolved to progress negotiations with TAFE for the development of a vocational education campus on the site, it is recommended that Council reclassify the land to operational land to facilitate that process.

Current Status

The Planning Proposal is currently at the stage in the Local Environmental Plan Amendment Process shown in Figure 2.

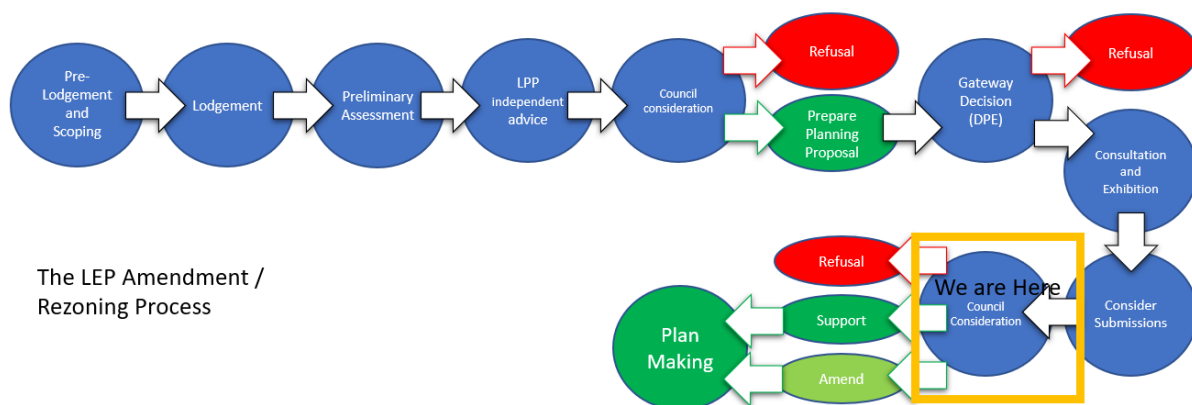


Figure 2 - LEP Amendment/ Rezoning Process

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The reclassification process has been undertaken in accordance with Part 6 Section 2 of the LG Act, and DPE's *LEP Practice Note 16-001 - Classification and reclassification of public land through a local environmental plan*.

The proposed reclassification will amend the *SEPP (Precincts- Regional) 2021*. The wording and effect of the relevant part of the of the SEPP (Clause 5.30 and Schedule 8) is the same as Clause 5.2 and Schedule 4 of the *Central Coast Local Environmental Plan (CCLEP) 2022*. DPE has advised that the proposed reclassification will follow the same process as any other land reclassification under the CCLEP 2022.

Consultation

The Planning Proposal was publicly exhibited from 2 February to 2 March 2023 in accordance with DPE's *Guide to Preparing Local Environmental Plans* and the Gateway Determination.

During the public exhibition period one group submission was received in support of the proposal, on the basis it would resolve the current nuisance of unoccupied 'derelict' buildings on the site.

Five submissions were received in objection to the proposal. The main concerns are summarised below (with a more detailed summary provided in Attachment 1):

Land should be retained for community benefit

The site was acquired on behalf of the community, and it should continue to be utilised for community benefit.

Staff Response:

The site has been identified as being surplus to Council needs and is currently not utilised for a community purpose. Council is reclassifying the land to enable its sale and redevelopment to assist in the revitalisation of the Gosford CBD. The site has been identified as an essential component of the relocation and expansion of the Gosford City TAFE campus. The relocated campus will make an important contribution to the activation of the CBD as well as providing an updated learning facility to support further technical and educational studies. The proposed use is supported by the NSW Government and is considered the best and highest use of the site.

No financial reason for reclassification

The proposed reclassification is in response to Council's recent financial crisis and given Council's improved financial position there is no longer a financial reason to sell Council owned land. The redevelopment of the site will impact the neighbouring lots.

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Staff Response:

The primary reason for reclassification and proposed sale of the site is to facilitate its future redevelopment as an educational facility to contribute to the revitalisation of the Gosford CBD. Council also continues to require additional revenue to repay emergency loans that were secured to address Council's financial position in 2020. Revenue from this sale will support repayment of loans and free up loan repayment funds for reinvestment in Council services.

Any impact from the proposed redevelopment of the site will be considered when the concept plan for the site is designed and assessed.

Loss of Regional Performing Arts Centre

The reclassification will result in the loss of the Regional Performing Arts Centre originally proposed to be located on the subject site. The site should be developed for the purpose it was acquired, or the reclassification be delayed until an alternative site has been confirmed for the Regional Performing Arts Centre.

Staff Response:

A major public facility (potentially incorporating a performing arts centre) was identified as part of Council's concept plan for the Gosford waterfront, which was exhibited from 18 October 2022 to 1 December 2022. The concept plan will be used to inform the development of a draft Gosford Waterfront Masterplan. It is envisioned the masterplan will be implemented in partnership with the NSW Government.

Public Hearing

In accordance with Section 29 of the LG Act, a public hearing was held in Gosford on 30 March 2023. Twenty-three people attended the public hearing. An informal show of hands indicated one person in favour of the proposal, one person who abstained from voting, and 21 attendees who opposed the reclassification.

The main concerns raised at the public hearing, in addition to those outlined above, are summarised below (with a more detailed summary provided in Attachments 2 and 3):

Importance of community owned land

Council should retain community assets and develop them for community benefit. The subject site has high redevelopment potential and is relatively constraint free.

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Staff Response:

The intention is to sell the property to the Minister administering the *Technical and Further Education Commission Act 1990* for the purpose of including the land in the development of a major new TAFE campus on the subject land and adjoining land. This facility will provide significant community benefit. If the sale to the Minister does not for any reason proceed, an alternative purchaser will be sought such as a government agency, a public institution or a developer committed to creating a landmark development that contributes to the revitalisation of the Gosford CBD and the activation of the Gosford waterfront.

Consultation process:

Council's community consultation process needs to be improved. Community assets are required to host community consultation sessions.

Staff Response:

The reclassification of the subject site, including the public consultation period and public hearing, were conducted in accordance with the procedure outlined in the *DPE LEP Practice Note 16-001: Classification and reclassification of public land through a local environmental plan* and the requirements under Section 30 of the LG Act.

Council's intention to reclassify and sell these parcels was publicly broadcast via the Council meetings of 30 November 2020, 22 March 2022 and 13 December 2022 and associated reports to Council, which are published on Council's website.

Delay reclassification until the return of an elected Council

The proposed reclassification should be postponed until there are elected Councillors in place to represent the best interests of the community.

Staff Response:

The Planning Proposal has followed the same process with Council under administration as it would have with an elected Council in place. The proposal was publicly exhibited with a public hearing also conducted to consider community views on the proposal.

Reclassification should be completed before offering land for sale.

Concerns were raised that the site will be sold before being reclassified.

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Staff Response:

The site is unable to be sold until the reclassification to operational land has been finalised in accordance with the LG Act.

Financial Considerations

Adoption of the staff recommendation has no budget implications for Council.

The costs to complete the reclassification and the proposed future sale transaction will be undertaken through existing allocations within the adopted budget. Funds from the eventual sale of the land will enable Council to continue to deliver a range of services and infrastructure to benefit the community.

Link to Community Strategic Plan

Theme 5: Liveable

Goal C: A growing and competitive region

S-C2: Revitalise Gosford City Centre, Gosford Waterfront and town centres as key destinations and attractors for business, local residents, visitors and tourists.

Risk Management

Council has undertaken a comprehensive review of the potential uses of this land and identified development of a vocational education facility as a high value use, compared to potential uses constrained by community classification.

Council is complying with the provisions of the LG Act and with the DPE *LEP Practice Note 16-001 - Classification and reclassification of public land through a local environmental plan*.

Options

- 1 Proceed with the reclassification.

This approach enables greater flexibility in the use of the land including its potential sale, consistent with Council's previous resolutions.

This is the recommended option.

- 2 Do not proceed with the proposed reclassification of the site.

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There is a Council resolution to reclassify and sell the site. If the reclassification does not proceed, Council's resolution of March 2022 cannot be implemented, and the land will remain as community land, with inherent limitations in its future use, leasing, and an inability to dispose of the property. This option is not recommended.

Critical Dates or Timeframes

The Gateway Determination issued 13 September 2022 requires the proposal to be completed before 8 December 2023. This timeframe can be met, and it is expected that the Planning Proposal will be notified within six weeks of Council's decision.

Attachments

1	Community Submission Summary	Provided Under Separate	D15628638
		Cover	
2	Public Hearing Summary	Provided Under Separate	D15654746
		Cover	
3	Public Hearing Report Mann St	Provided Under Separate	D15654620
	Reclassification	Cover	