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**PSR22/030 RECLASSIFICATION AND REZONING OF COUNCIL LAND - PLANNING  
PROPOSAL**

**S017-  
T00008**

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services

Attachments: 1. Under Separate Cover - Reclassification of Council Lands - Draft  
2. Under Separate Cover - Appendix 1 - Draft LEP Maps  
3. Under Separate Cover - Appendix 2 - Title Searches  
4. Under Separate Cover - Appendix 3 - PN16-001

Outcome: 3 Our region of vibrant places and spaces

Focus Area: 3.1 Balance development between the needs of people, place and productivity

Delivery Program Link: 3.1.1 Review, prepare and deliver planning instruments that support sustainable social, environmental and economic outcomes as guided by our Local Strategic Planning Statements

Operational Plan Link: 3.1.1.4 Conduct ongoing reviews and update planning controls

**EXECUTIVE SUMMARY**

Reclassification of community land to operational land requires a planning proposal to amend the *Eurobodalla Local Environmental Plan 2012* (LEP 2012). A planning proposal is attached under a separate cover that explains the effect of, and justification for proposed amendments to *Eurobodalla Local Environmental Plan 2012* (LEP 2012) involving:

- reclassification of community land to operational land
- changes to land use zone where appropriate
- introducing a maximum building height where appropriate
- introducing a minimum lot size where appropriate.

There are 11 sites proposed to be reclassified in the planning proposal as follows:

- seven relatively small sites that adjacent property owners would like to purchase e.g. for private open space
- three lots identified in the Recreation and Open Space Strategy 2018 as surplus to community needs
- one site relating to land with existing Council infrastructure (ie, a water reservoir and telecommunications infrastructure).

The items have been considered having regard to relevant local and regional strategies, State Environmental Planning Policies, Ministerial Directions, environmental values, coastal hazards, flooding and impacts on Council infrastructure. Justification for reclassification of ten of the items is to facilitate the sale of the land, and one is to align it with the current operation use of the land for a water reservoir and telecommunications.

The planning proposal is ready for Council to consider and decide whether to submit it to the NSW Department of Planning and Environment for Gateway Determination.

The planning proposal process must be undertaken in accordance with the *Environmental Planning and Assessment Act 1979* and NSW Government guidelines. This includes a 28-day

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public exhibition period and a public hearing, and any other requirements described in the Gateway Determination.

All submissions would be reported to Council for consideration before considering a final planning proposal to be sent back to the NSW Department of Planning and Environment to consider and make the amendment. Council can therefore consider the submissions to the planning proposal before deciding whether to proceed with the planning proposal, with or without changes to the items it includes.

A resolution about whether to sell relevant sites would also be considered by Council after exhibition of the planning proposal. Council would decide whether to sell all, some or none of the sites in accordance with Council's [Land Acquisition and Disposal Policy](#).

**RECOMMENDATION**

THAT Council:

1. Submit the attached Planning Proposal – Reclassification of Community land to Operational land to the Department of Planning and Environment for a Gateway Determination pursuant to Section 3.4 of the *Environmental Planning and Assessment Act 1979*.
2. Following the receipt of a Gateway Determination, consult with the community and relevant government agencies as required by the Gateway Determination.
3. Receive a report back on the planning proposal about consultation with the community.

**BACKGROUND**

A planning proposal is required to reclassify community land to operational land so that can be sold, where appropriate. In some circumstances, changes to the Local Environmental Plan are also required to align with the intended use (e.g. rezoning).

Council's Recreation and Open Space Strategy (ROSS) was adopted in 2018 (Minute 18/28). The recommendations included to '*Investigate reclassification, subdivision and sale for residential purposes*' for the following sites:

1. Part of Lot 1110 DP236653 (35-37 Illabunda Drive, Malua Bay)
2. Lot 84 in DP 259212 (Village Road and Banyandah Street, South Durras)
3. Part of Lot 74 DP 776541 (9 Moir Place, Broulee)

At the Council meeting on 27 February 2018, Council resolved to commence a planning proposal for the purpose of selling these sites, and funds raised from the sale of the three sites would be devoted to funding actions in the ROSS. These sites have been included as items 1,2 and 11 in the attached planning proposal.

Council resolved by way of CCS19-030 to reclassify and sell part Lot 2 DP 570760 and Part Lot 4 DP 5272585 in Batehaven (adjacent to Clyde View Caravan Park and Taldumande Caravan Park at Corrigan's Beach) on 25 June 2019. The purpose was to enable the parks to replace their existing cabins in their current positions and comply with the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021*

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which requires a 3 metre setback from the boundary. This has been included as item 4 in the planning proposal.

In recent years, individual property owners approached Council to acquire portions of Council-owned Community land adjacent to their own properties. Those reasons include for private open space or to accommodate an existing encroachment onto Council land e.g. driveway access.

The following items in the planning proposal have been included in the attached planning proposal to reclassify the land from community to operational land:

- Item 3 - Part of Lot 32 DP 618340, 4 Bimbular Street, Dalmeny
- Item 5 - Part of Lot 2 DP1014254, George Bass Drive, Batehaven
- Item 6 - Lot 170 DP 569136, Fauna Ave, Long Beach
- Item 7 - Part of Lot 109 DP 244150, Catalina Drive, Catalina
- Item 8 - Part of Lot 2 DP 1260850, Ridge Street, Catalina
- Item 9 - Lot 5 DP520413 and Part of Lot C DP 327917, Beach Road, Batehaven

A resolution about whether to sell each site would also be considered by Council after exhibition of the planning proposal. Council would consider whether to sell all, some or none of the sites in accordance with Council's [Land Acquisition and Disposal Policy](#).

Proceeds from the sale of reclassified land (other than items 1, 2 and 11) goes into Council's Real Estate Development Fund. This benefits the wider community by contributing to future Council projects, not day to day operations, as decided by Councillors.

Part of Lot 56 DP 84895, Blairs Road, Long Beach has an existing water reservoir. Reclassification to operational land and rezoning to SP2 Infrastructure would recognise the existing operational use as a water reservoir. This has not been previously considered by Council and would need a resolution to reclassify the land. This has been included as item 10 in the planning proposal.

The planning proposal process must be in accordance with the *Environmental Planning and Assessment Act 1979* and NSW Government guidelines. The steps include:

1. The planning proposal is submitted to the Department for Planning & Environment (DPE) for a Gateway Determination (permission to commence the process).
2. Council implements the requirements of the Gateway Determination e.g. additional studies, stakeholder engagement.
3. Public exhibition of the proposal for a minimum of 28 days.
4. A Public Hearing conducted by an independent and suitable qualified person (after the close of public exhibition period) and a report submitted to Council.
5. Council consideration of all submissions received during the exhibition period and the report from the Public Hearing.
6. Submission of the outcomes of public exhibition and public hearing (and any changes to the planning proposal) to DPE to finalise the amendments to the LEP.

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The planning proposal process is an extensive and thorough process and provides the opportunity for adjacent land holders and the broader community to comment on the planning proposal. Council can therefore consider the submissions to the planning proposal before deciding whether to proceed with the planning proposal, with or without changes to the items it includes.

## CONSIDERATIONS

A summary the planning proposal items, and their intended provisions and justification is provided in Table 1.

**Table 1: Summary of items addressed in the planning proposal**

Item	Area to be reclassified	Intended Provisions and Justification Summary
1	 <p>Part of Lot 1110 DP236653, 35-37 Illabunda Drive, Malua Bay</p>	<p><b>Objective</b></p> <ul style="list-style-type: none"> <li>• Enable Council to sell part of the subject land as the ROSS (2018) identified it as surplus. The current use is grassed open space.</li> </ul> <p><b>Intended Provisions</b></p> <ul style="list-style-type: none"> <li>• Reclassify from community to operational land</li> <li>• Rezone from C2 Environmental Conservation to R2 Low Density Residential</li> <li>• Apply a minimum lot size of 550sqm (K)</li> <li>• Apply a maximum building height of 8.5m (I)</li> </ul> <p><b>Justification Summary</b></p> <ul style="list-style-type: none"> <li>• The proposal is consistent with the recommendations of the Eurobodalla Recreation and Open Space Strategy 2018.</li> <li>• The land directly adjoins the public open space at Pretty Bay which provides a similar recreation opportunity for local residents.</li> <li>• The loss of the land as public will not reduce residents' access to local open space.</li> <li>• Funds from the sale of the land would be reinvested to fund projects in the ROSS 2018.</li> <li>• Development of the lot in the future would be subject to planning approval and considered appropriate in this residential area.</li> <li>• The vegetated waterway is and would remain zoned C2 Environmental Conservation and community land.</li> </ul>

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Item	Area to be reclassified	Intended Provisions and Justification Summary
2	 <p data-bbox="240 925 735 994">Lot 84 in DP 259212, Village Road and Banyandah Street, South Durras</p>	<p data-bbox="815 517 943 546"><b>Objective</b></p> <ul data-bbox="815 555 1406 741" style="list-style-type: none"> <li>• Enable Council to sell the subject land as the ROSS (2018) identified it as surplus. The current use is an informal pedestrian route between Village Road and Banyandah Street.</li> </ul> <p data-bbox="815 768 1082 797"><b>Intended Provisions</b></p> <ul data-bbox="815 806 1342 1025" style="list-style-type: none"> <li>• Reclassify from community to operational land</li> <li>• Apply a minimum lot size of 550sqm</li> <li>• Apply a maximum building height of 8.5m</li> </ul> <p data-bbox="815 1052 1114 1081"><b>Justification Summary</b></p> <ul data-bbox="815 1090 1406 1948" style="list-style-type: none"> <li>• The proposal is consistent with the recommendations of the Eurobodalla Recreation and Open Space Strategy 2018.</li> <li>• The land is approximately 200m from the public open space on Corilla Street which provides a better recreation space for local residents.</li> <li>• The loss of the land as public reserve will not reduce residents' access to local open space.</li> <li>• While the land currently provides an informal pedestrian link between Banyandah Street and Village Road, the local road network provides suitable pedestrian access to local destinations.</li> <li>• Funds from the sale of the land would be reinvested to fund projects in the ROSS 2018.</li> <li>• Future development is limited but may include a secondary dwelling, subject to planning approval.</li> </ul>

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**Item Area to be reclassified**

**Intended Provisions and Justification  
Summary**

3



Part of Lot 32 DP 618340, 4 Bimbular Street, Dalmeny

**Objective**

- Enable Council to sell part of the subject land. Adjoining landholder requested to purchase the land for use as private open space. The current use is grassed open space.

**Intended Provisions**

- Reclassify from community to operational land
- Rezone from RE1 Public Recreation to R3 Low Density Residential
- Apply a minimum lot size of 550sqm
- Apply a maximum building height of 8.5m

**Justification Summary**

- The subject land is a small portion of the open space provided by Dalmeny Oval, at 0.9% of the total area of the lot.
- Reclassification and sale will not impact on the operation of Dalmeny Oval, which will remain as community land and recreation space.
- The loss of part of the open space will not reduce residents' access to local open space or Dalmeny Oval.
- The proposal does not restrict the use of the land as an informal pedestrian link between Mort Avenue and Binalong Street.
- Future development is limited but may include a secondary dwelling, subject to planning approval.
- Funds from the sale of the land would be allocated to future Council projects.

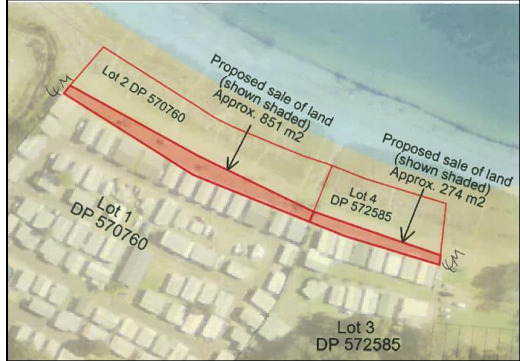
**Interests**

- No interests have been identified or would be discharged.



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Item	Area to be reclassified	Intended Provisions and Justification Summary
4	 <p>Part of Lot 2 DP 570760 and Part of Lot 4 DP 572585, Beach Road, Batehaven</p>	<p><b>Objective</b></p> <ul style="list-style-type: none"> <li>• Enable Council to sell part of the subject land. Adjoining landholder requested to purchase the land to allow existing cabins to meet legislative requirements. The current use is grassed open space.</li> </ul> <p><b>Intended Provisions</b></p> <ul style="list-style-type: none"> <li>• Reclassify from community to operational land</li> <li>• Rezone from C2 Environmental Conservation to RE2 Private Recreation</li> <li>• Apply a maximum building height of 8.5m</li> </ul> <p><b>Justification Summary</b></p> <ul style="list-style-type: none"> <li>• The subject land is a relatively small portion of the public reserves, at 22.7% of the total area of the two lots that are also adjacent to Corrigan's Beach foreshore. The rest of the public reserve will remain community land and open space.</li> <li>• The loss of part of the public reserve will not reduce public access along the foreshore.</li> <li>• The loss of part of the public reserve will not reduce residents' access to local open space.</li> <li>• The sale of the land and inclusion into the adjoining caravan park land will allow existing cabins to be upgraded to accessible cabins in compliance with the relevant legislation.</li> <li>• The proposal will not result in any development being located closer to the foreshore.</li> <li>• Funds from the sale of the land would be allocated to future Council projects.</li> </ul>

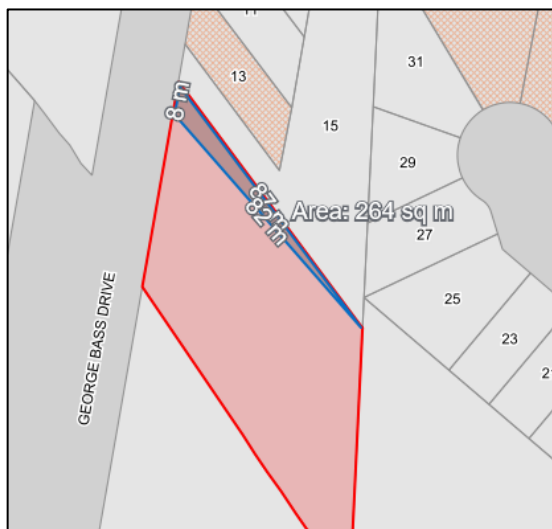
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**Item Map of area to be reclassified**

**Intended Provisions and Justification  
Summary**

5



Part of Lot 2 DP1014254, George Bass Drive, Batehaven

**Objective**

- Enable Council to sell part of the subject land. Adjoining landholder requested to purchase the land to improve access to the adjoining lot and improve fencing and drainage options. The current use is bushland open space.

**Intended Provisions**

- Reclassify from community to operational land
- Rezone from C2 Environmental Conservation to R3 Medium Density Residential
- Apply a minimum lot size of 550sqm
- Apply a maximum building height of 11.5m


**Justification Summary**

- The subject land is a small portion of the public reserve, at 6.14% of the total area of the lot.
- The public reserve is and will remain a bushland reserve.
- The loss of part of the public reserve will not reduce residents' access to local open space.
- Funds from the sale of the land would be allocated to future Council projects.
- Future development potential would not change. While the minimum lot size suggests the additional land would facilitate an additional lot, the shape of the lot would not support it.



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Item	Map of area to be reclassified	Intended Provisions and Justification Summary
6	 <p data-bbox="240 1115 799 1144">Lot 170 DP 569136, Fauna Ave, Long Beach</p>	<p data-bbox="834 510 963 544"><b>Objective</b></p> <ul data-bbox="834 555 1422 779" style="list-style-type: none"> <li>• Enable Council to sell the subject land. Adjoining landholder requested to purchase the land for private open space. The current use is open space, with one large tree and lawn maintained by adjacent landowner.</li> </ul> <p data-bbox="834 801 1102 835"><b>Intended Provisions</b></p> <ul data-bbox="834 846 1422 1205" style="list-style-type: none"> <li>• Reclassify from community to operational land</li> <li>• Rezone from C2 Environmental Conservation to R2 Low Density Residential</li> <li>• Apply a minimum lot size of 550sqm</li> <li>• Apply a maximum building height of 8.5m</li> </ul> <p data-bbox="834 1227 1134 1261"><b>Justification Summary</b></p> <ul data-bbox="834 1272 1422 2042" style="list-style-type: none"> <li>• The subject land is a small portion of the larger public reserve, at 3.7% of the total area of the reserve.</li> <li>• The loss of the land as public reserve will not impact on the use of the larger area of public reserve, which will public reserve is and will remain a bushland reserve.</li> <li>• The loss of the land as public reserve will not reduce residents' access to local open space.</li> <li>• The proposal does not restrict the use of the larger public reserve as an informal pedestrian link between Fauna Avenue and Karana Close.</li> <li>• Funds from the sale of the land would be allocated to future Council projects.</li> <li>• Future development is limited but may include a secondary dwelling, subject to planning approval.</li> </ul>

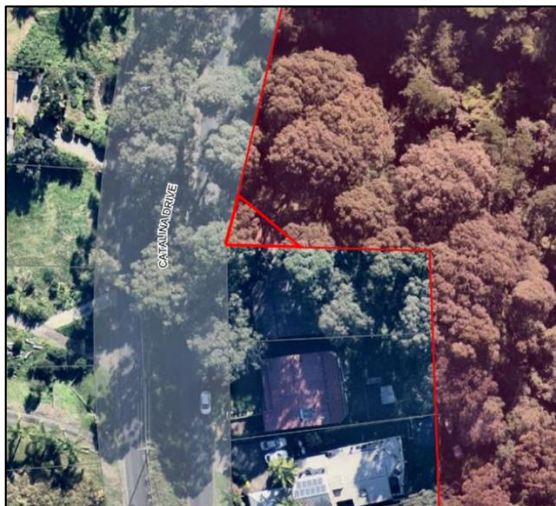
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**Item Map of area to be reclassified**

**Intended Provisions and Justification  
Summary**

7



Part of Lot 109 DP 244150, Catalina Drive,  
Catalina

**Objective**

- Enable Council to sell the subject land. Adjoining landholder requested to purchase the land to allow access via an existing driveway. It is and would continue to be used for driveway access.

**Intended Provisions**


- Reclassify from community to operational land
- Rezone from C2 Environmental Conservation to R2 Low Density Residential
- Apply a minimum lot size of 550sqm
- Apply a maximum building height of 8.5m

**Justification Summary**

- The subject land is a small portion of the public reserve, at 0.27% of the total area of the lot.
- The public reserve is and will remain a bushland reserve.
- The loss of part of the public reserve will not reduce residents' access to local open space.
- Funds from the sale of the land would be allocated to future Council projects.
- Future development is limited to potential for future boundary fencing.

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Item	Map of area to be reclassified	Intended Provisions and Justification Summary
8	 <p data-bbox="240 958 751 1025">Part of Lot 2 DP 1260850, Ridge Street, Catalina</p>	<p data-bbox="863 510 991 544"><b>Objective</b></p> <ul data-bbox="863 555 1394 824" style="list-style-type: none"> <li>• Enable Council to sell the subject land. Adjoining landholder requested to purchase the land for private open space. The current use is grassed open space with gardens maintained by the adjacent landholder.</li> </ul> <p data-bbox="863 846 1129 880"><b>Intended Provisions</b></p> <ul data-bbox="863 891 1394 1283" style="list-style-type: none"> <li>• Reclassify from community to operational land</li> <li>• Rezone from C2 Environmental Conservation to R2 Low Density Residential</li> <li>• Apply a minimum lot size of 550sqm</li> <li>• Apply a maximum building height of 8.5m</li> </ul> <p data-bbox="863 1305 1161 1339"><b>Justification Summary</b></p> <ul data-bbox="863 1350 1394 1886" style="list-style-type: none"> <li>• The subject land is a small portion of the public open space, at 3.7% of the total area of the lot.</li> <li>• The remainder of the lot is and will remain a bushland reserve.</li> <li>• Reclassification and sale will not reduce residents' access to local open space.</li> <li>• Funds from the sale of the land would be allocated to future Council projects.</li> <li>• Future development is limited but may include a secondary dwelling, subject to planning approval.</li> </ul>

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**Item Map of area to be reclassified**

**Intended Provisions and Justification  
Summary**

9



Lot 5 DP520413 and Part of Lot C DP  
327917, Beach Road, Batehaven

**Objective**

- Enable Council to sell the subject land. Adjoining landholder requested to purchase the land to facilitate private slope stabilisation works. The current use is open space but is not accessible due to the slope.

**Intended Provisions**


- Reclassify from community to operational land
- Rezone from C2 Environmental Conservation to R2 Low Density Residential
- Apply a minimum lot size of 550sqm
- Apply a maximum building height of 8.5m

**Justification Summary**

- The subject land is a relatively small portion of the larger public reserve network from Corrigans Beach to Observation Point. The rest of the public reserve will remain community land and open space.
- The loss of part of the larger public reserve will not reduce public access along the foreshore.
- The loss of part of the public reserve will not reduce residents' access to local open space.
- Funds from the sale of the land would be allocated to future Council projects.
- Future development is limited to landscaping and slope stabilisation.

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Item	Area to be reclassified	Intended Provisions and Justification Summary
10	 <p>Part of Lot 56 DP 84895, Blairs Road, Long Beach</p>	<p><b>Objective</b></p> <ul style="list-style-type: none"><li>• To recognise the existing operational use for water reservoir and telecommunications infrastructure. The current use is also bushland open space.</li></ul> <p><b>Intended Provisions</b></p> <ul style="list-style-type: none"><li>• Reclassify from community to operational land</li><li>• Rezone from RE1 Public Recreation to SP2 Infrastructure</li></ul> <p><b>Justification Summary</b></p> <ul style="list-style-type: none"><li>• The subject land will remain in public ownership and will continue to be used for a mix of operational and community land purposes.</li><li>• The loss of part of the public reserve by recognising the existing infrastructure use will not reduce residents' access to local open space.</li></ul>



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**Item Area to be reclassified**

**Intended Provisions and Justification  
Summary**

11



**Objective**

- Enable Council to sell the subject land to adjoining landholders if requested in the future. The current use is an informal pedestrian route and gardens maintained by adjacent landholders.

**Intended Provisions**

- Reclassify from community to operational land
- Apply a maximum building height of 8.5m

**Justification Summary**

- The loss of part of the public reserve will not reduce residents' access to local open space.
- The exiting uses of the site as an informal pedestrian route would not change.
- The proposal is consistent with the recommendations of the Eurobodalla Recreation and Open Space Strategy 2018.
- Funds from the sale of the land would be reinvested to fund projects in the ROSS 2018.
- Future development is subject to planning approval and residential uses are appropriate in this R2-Low Density Residential zoned area.
- Any development would need to consider the zone of influence and not impact on the sewer.



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### **Legal**

A planning proposal has been prepared in accordance with Section 3.33(2) of the *Environmental Planning and Assessment Act 1979*. The purpose of the planning proposal is to explain the effect of, and justification for the proposed amendments to *Eurobodalla Local Environmental Plan 2012* (ELEP 2012) involving the reclassification of community land to operational land.

### **Policy**

The purpose of reclassification for 10 out of the 11 items in the attached planning proposal is to sell the land. Council will consider whether to sell the land after public exhibition of the planning proposal.

Council disposes of Council land in accordance with Council's [Land Acquisition and Disposal Policy](#).

### **Asset**

Financial benefit obtained from the sale of items 1, 2 and 11 will be allocated to actions recommended in the [Recreation and Open Space Strategy](#) (ROSS). Item 10 is not proposed to be sold, but reclassification would align with the operational use of this site for water reservoir and telecommunications infrastructure.

### **Social Impact**

Financial support for the recommendations of the ROSS will have a social benefit through the provision of recreational facilities services to the community.

### **Financial**

Proceeds from the sale of reclassified land goes into Council's Real Estate Development Fund. This benefits the wider community by contributing to future Council projects, not day to day operations, as decided by Councillors. Financial benefit obtained from the sale of items 1, 2 and 11 will be allocated to actions recommended in the [Recreation and Open Space Strategy](#) (ROSS).

### **Community and Stakeholder Engagement**

Should Council receive a Gateway Determination, we will consult with the community by seeking feedback through public exhibition of the planning proposal for at least 28 days. The planning proposal will be placed on Council's website and advertised on the Council's noticeboard page in local newspapers. Residents and landholders immediately adjacent to the subject land in the planning proposal will also be advised in writing.

In accordance with the *Local Government Act 1993*, a public hearing conducted by an independent professional will be held into the reclassification of Council land from community to operational following the exhibition period.

A report on the Public Hearing findings and submissions received during the exhibition period will be presented to Council.

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## **CONCLUSION**

A planning proposal (attached) has been prepared in accordance with Section 3.33(2) of the *Environmental Planning and Assessment Act 1979* to reclassify certain community land to operational land. It is ready to be submitted to the NSW Department of Planning and Environment for Gateway Determination.

**PSR22/030 RECLASSIFICATION AND REZONING OF COUNCIL LAND - PLANNING PROPOSAL**

File Ref: S017-T00008

**MOTION**

THAT Council:

1. Submit the attached Planning Proposal – Reclassification of Community land to Operational land to the Department of Planning and Environment for a Gateway Determination pursuant to Section 3.4 of the *Environmental Planning and Assessment Act 1979*.
2. Following the receipt of a Gateway Determination, consult with the community and relevant government agencies as required by the Gateway Determination.
3. Receive a report back on the planning proposal about consultation with the community.

**22/212 AMENDMENT** Councillor Worthington/Councillor Schutz

THAT Council

1. Amend the following items in the attached Planning Proposal – Reclassification of Community land to Operational land as follows:
  - a. Item 1 amended to clarify the developable area of the site and nature of permitted development.
  - b. Item 3 regarding Lot 32 DP 618340, Bimbular St Dalmeny amended to reclassify a further triangular shaped area of about 121.33 square metres, adjacent to the rear boundary of 6 Binnalong Street (SP84212).
  - c. Item 10 amended to reclassify the whole of lot 56 DP 84895, Blairs Road Long Beach (rather than part of the lot) from community land to operational land and for the lot to remain zoned RE1 Public recreation (rather than rezone it to SP2 Infrastructure).
2. Submit the amended Planning Proposal – Reclassification of Community land to Operational land to the Department of Planning and Environment for a Gateway Determination pursuant to Section 3.4 of the *Environmental Planning and Assessment Act 1979*.
3. Following the receipt of a Gateway Determination, consult with the community and relevant government agencies as required by the Gateway Determination.
4. Receive a report back on the planning proposal about consultation with the community.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Crs T Dannock, P Diskon, D Grace, T Harrison, M Hatcher, A Mayne, R Pollock OAM, A Schutz and A Worthington.

Against the Motion: Nil.