

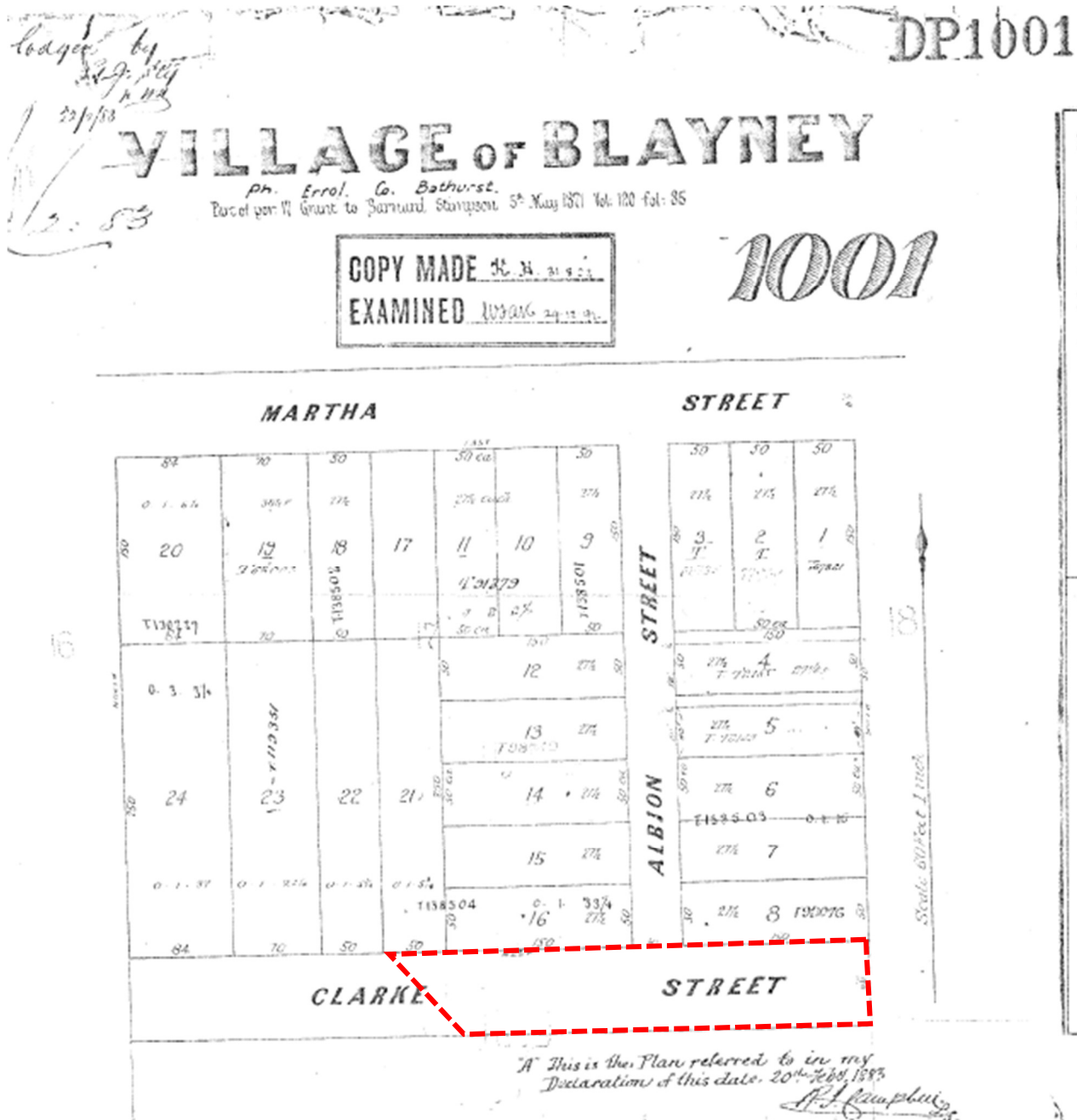
# Planning Proposal

to amend *Blayney Local Environmental Plan 2012*  
as follows:

## Reclassification – Community to Operational Land

### Clarke St, BLAYNEY

Figure 1: Excerpt of DP1001 showing Clarke St was intended to be a public road (red dotted area for reclassification).



Prepared on behalf Blayney Shire Council  
For Approval by Council to seek Gateway Determination

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## Document Control

| Version / Date    | Document                  | Provided To                              |
|-------------------|---------------------------|--|
| A – 15 March 2023 | Draft for Internal Review | Blayney Shire Council – Claire Johnstone |
| B – 18 April 2023 | Draft Final               | Blayney Shire Council – Claire Johnstone |
| C – 28 April 2023 | Final for Portal Upload   | Blayney Shire Council – Claire Johnstone |

## Acknowledgment

Blayney Shire Council acknowledges the Traditional Custodians of the lands and waters of the Shire, the people of the Wiradjuri nations, and show our respect to elders past, present and emerging.

## Disclaimer

This Planning Proposal has been prepared based on information provided by Council & desktop assessment only. The dedication of the road under the *Roads Act 1993* and associated detailed road design is not part of this process.

# 1 INTRODUCTION

*This section should provide a simple introduction to the proposal, including:*

- the proponent's details
- site location and address, legal description, including plan and aerial photograph
- a simple description of the scope of the proposal amendments, including which LEP is proposed to be amended
- background and context (if relevant)
- outcomes of previous consultation (if relevant)

## 1.1 Proponent

The Proponent is Blayney Shire Council ('Council') as the relevant local roads authority for Blayney Shire.

## 1.2 Overview of Key Amendments

This Proposal seeks to amend *Blayney Local Environmental Plan 2012* ('LEP') for all of Clarke St (as shown in this Report) in the Town of Blayney to **reclassify the land from 'Community' use to 'Operational' use** in accordance with Part 2 of Chapter 6 of the *Local Government Act 1993* (LG Act). The proposed LEP amendment adds all of Clarke St (as shown) to Schedule 4 Part 1 (no interests changed) so that it reclassifies the land under Clause 5.2 of the LEP. This will enable the land to be dedicated as a public road under the *Roads Act 1993* and for Council to enter into agreements with land owners to resolve encroachments upon Clarke St.

## 1.3 Process Overview

### Guidelines & Process

This Planning Proposal ('Proposal') has been prepared in accordance with *Practice Note PN16-001 – Classification and reclassification of public land through a local environmental plan* (5 October 2016). It is not possible to reclassify the land by Council resolution so it must be classified through an amendment to the LEP.

As such, this Proposal has been prepared in accordance with *Divisions 3.4 – Environmental Planning Instruments (LEPs)* of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') and the NSW Government (September 2022) '*Local Environmental Plan Making Guideline*' ('Guideline').

It is suggested that under the Guideline – this Proposal is likely to be seen as a '**Standard Planning Proposal**' as opposed to a 'Complex Planning Proposal' as it facilitates reclassification of land that is already utilised as road infrastructure but requires reclassification in order to be dedicated formally as a public road.

### Level of Detail

This Proposal should provide enough information to determine whether there is merit in the proposed amendment proceeding to the next stage of the plan making process including identifying relevant environmental, social, economic and other site-specific considerations. It does not require detailed design of any future assets in the road corridor.

Subject to the Gateway Determination, Council is likely to be the Planning Proposal Authority as this is unlikely to be of state or regional planning significance. However, the Department may direct that the Planning Secretary or relevant Regional Planning Panel to be the authority if it is necessary for transparency as Council is the land owner/proponent.

### Way Forward

A Gateway Determination under the EP&A Act is requested from the *NSW Department of Planning & Environment* ('DPE') to allow this Planning Proposal to be placed on public exhibition. The regional office of DPE has delegation to make Gateway Determinations unless the proposal is not supported or is contentious because it is not consistent with strategic planning for the area (in which case the Executive may consider the application). Planning Circular PS 21-004 (8 June 2021) updates delegation of plan making decisions under the EP&A Act and replaces PS18-013, PS16-005 & PS12-006.

The Gateway Determination may provide details of further studies/consultation required by Council to enable the public exhibition and finalisation of the LEP amendments but we believe that this Planning Proposal should be sufficient. We also seek approval for Council to be delegated the powers to make the LEP amendment as a local issue. We don't believe it requires the Governor's approval as it does not remove any 'public reserve status' or discharge any interests affecting public land.

## 2 PROPOSAL - BACKGROUND

*This section should provide an overview of the proposal using supporting maps, plans, figures and tables. This overview must provide further detail on key aspects of the proposal, including (if relevant):*

- *the proposed concept layout of the site and / or proposal at a conceptual level, including (as relevant)*
  - *broad land use breakdown (GFA or other)*
  - *key proposal metrics including yield range or job creation*
  - *comparison of current and proposed zoning and key controls*
- *proposed land uses and activities that would be carried out on site and distribution*
- *the likely timing of the delivery of the proposal*
- *envisaged services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed funding arrangements for infrastructure provision (high level)*
- *provide details on the principles or amendment to an existing contribution plan or new contribution plan*

### 2.1 Site Location & Address

The Site is known as Clarke St and, as such, it does not have a title description (Lot/Deposited Plan number). It is located at the end of Albion St, south of the Blayney Central Business District (CBD) – see Figure below. It is a short area, oriented roughly east-west parcel (~20m wide north-south/ ~100-150m east-west) with a connecting reserve to Somers Place at the west end and south-east corner to Mitchell St (but no road connection to either street) so the road terminates.

Clarke St provides access to Nos.1, 2 & 4 Clarke St. All other lots fronting Clarke St appear to have an alternative road frontage that provides the primary vehicular access point (including Albion St). Albion St is a relatively narrow lane with insufficient turning space for vehicles so Clarke St informally provides vehicle turning (though there is no existing sealed cul-de-sac). There is only a partial sealed road area with the informal turning area in gravel (see photos below).

**Figure 2: Google Earth (Feb 2021) aerial photo of Clarke St & adjacent context (boundary indicative only).**

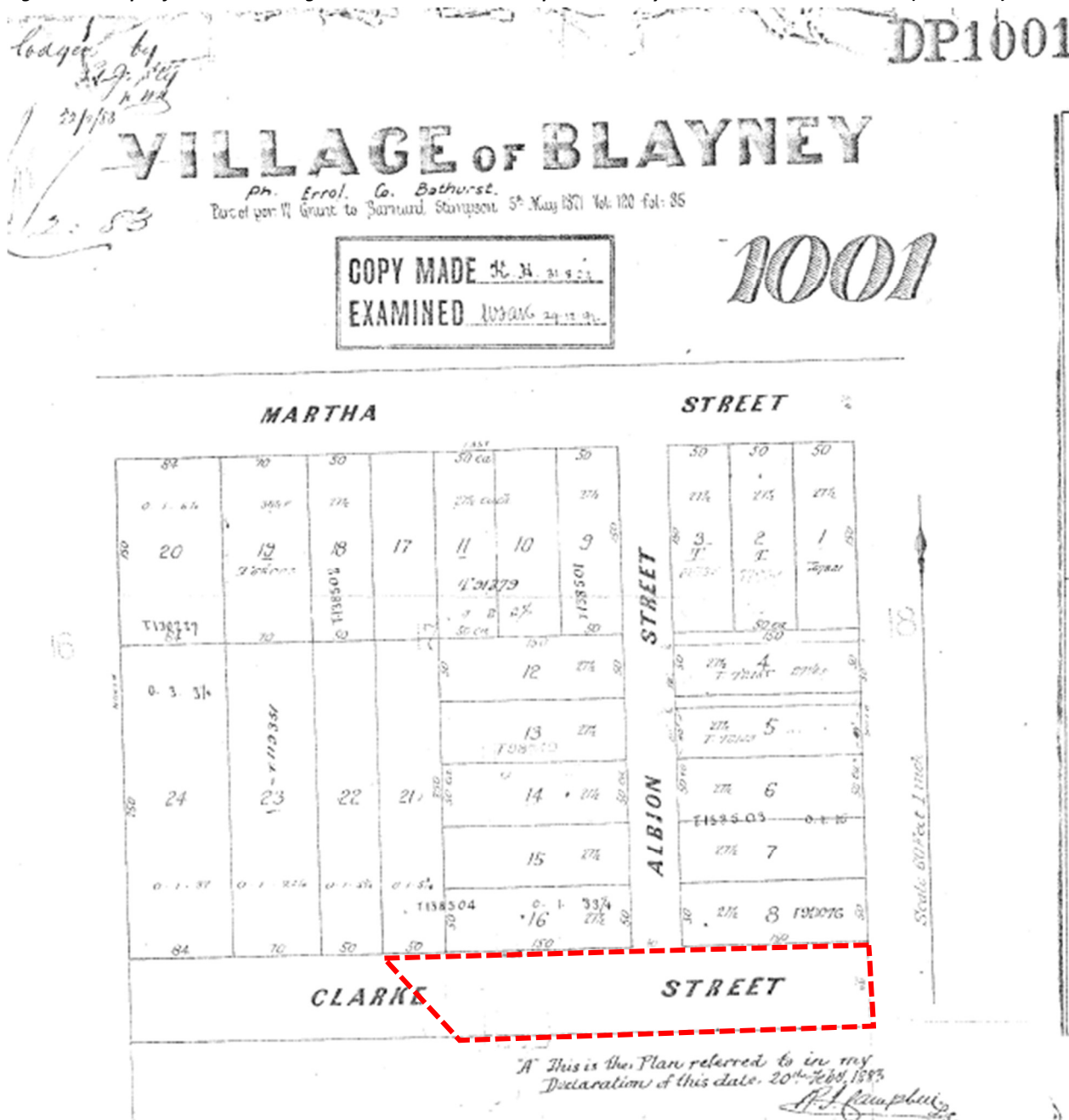




## 2.2 Summary of Reasoning for Reclassification

Clarke St was created as part of a historical subdivision (see DP1001 below).

**Figure 3: Excerpt of DP1001 showing Clarke St intended to be a public road by subdivision in the late 1880s (Site in red).**



Council gained ownership of the land (eastern end of Clarke St) in 1978 (in consideration of unpaid rates). However, for a variety of reasons the eastern end of Clarke St was never formally dedicated as a public road. It was likely Council believed that it was already a public road under common law. Council has recently sought legal advice that it is unlikely to have satisfied the common law requirements for dedication as a public road through creation by subdivision and later public use of that land – as the land was gained by Council in consideration for unpaid rates.

Following commencement of the *Local Government Act 1993* (LG Act) - Clause 6(3) of Schedule 7 to the LG Act gave councils one year after commencement to resolve to classify land as community or operational land or by default it would become community land. Unfortunately, Clarke St was not identified at that time so by default it became community land.

It now needs to be reclassified to operational land, in accordance with Section 30 of the LG Act, before it can be dedicated as a public road under the *Roads Act 1993*. The key reason is that as 'community land' there are restrictions as to its use including the presence of private assets and possibly public works for road or utility upgrades.

This reclassification will therefore enable Council to look at upgrading road infrastructure, pedestrian pathways, and easements for utilities.

**Figure 4: Aerial photo of Clarke St (red boundary) & adjacent context (NSW Planning Portal).**



## 2.3 NSW Planning Portal/LEP Mapping Overview

The table below is a summary of where the Site is or may be affected by mapping in the NSW Planning Portal/LEP. These are addressed in more detail in the section below:

| LEP Map                | Overlay   |
|------------------------|---|
| Land Application (LAP) | The Site is NOT a Deferred Matter & LEP2012 applies to the Site |
| Land Zoning (LZN)      | Zone R1 General Residential (not relevant to this Proposal).    |
| Lot Size (LSZ)         | 450m <sup>2</sup> (not relevant to this Proposal).              |

The table below is a summary of where the Site is NOT affected by mapping in the Portal/LEP:

| LEP Map                            | Comment  |
|------------------------------------|--|
| Land Reservation Acquisition (LRA) | NOT mapped for Site.   |
| Crown Land                         | NOT mapped as Crown Land or affected by Crown lease/license/reserve.   |
| Height of Building (HOB)           | NOT mapped for Blayney.  |
| Floor Space Ratio (FSR)            | NOT mapped for Blayney.  |
| Heritage (HER)                     | Site & surrounds NOT identified as listed heritage. Nearest are items along Adelaide St (unlikely to be affected by reclassification). |
| Biodiversity Values Map            | NOT mapped on Site or surrounds.   |
| Terrestrial Biodiversity (BIO)     | NOT mapped on Site or surrounds.   |
| Riparian Lands & Watercourses      | NOT mapped on Site or surrounds.   |
| Bush Fire Prone Land Map           | Site & surrounds NOT mapped as bushfire prone land.  |
| Flood Planning Maps (Council).     | Site is NOT mapped as within Flood Planning Area.  |



## 2.4 Site Photos

The following site photos were provided by Council in late March 2023. The top photo shows No.4 Clarke St that encroaches out into Clarke St. The middle photo shows the informal turning circle to the west of the sealed road. The bottom photo shows the lack of road infrastructure to the east end of Clarke St.





## 2.5 Existing Infrastructure

The Photos above show that there is a road seal as an extension of Albion Street but the cul-de-sac/turning area is unsealed gravel. There is no road seal extending to the east of the Albion Street extension. There is a roll-back kerb on at least one side of the seal (eastern side) with metal drain on the other (western) side.

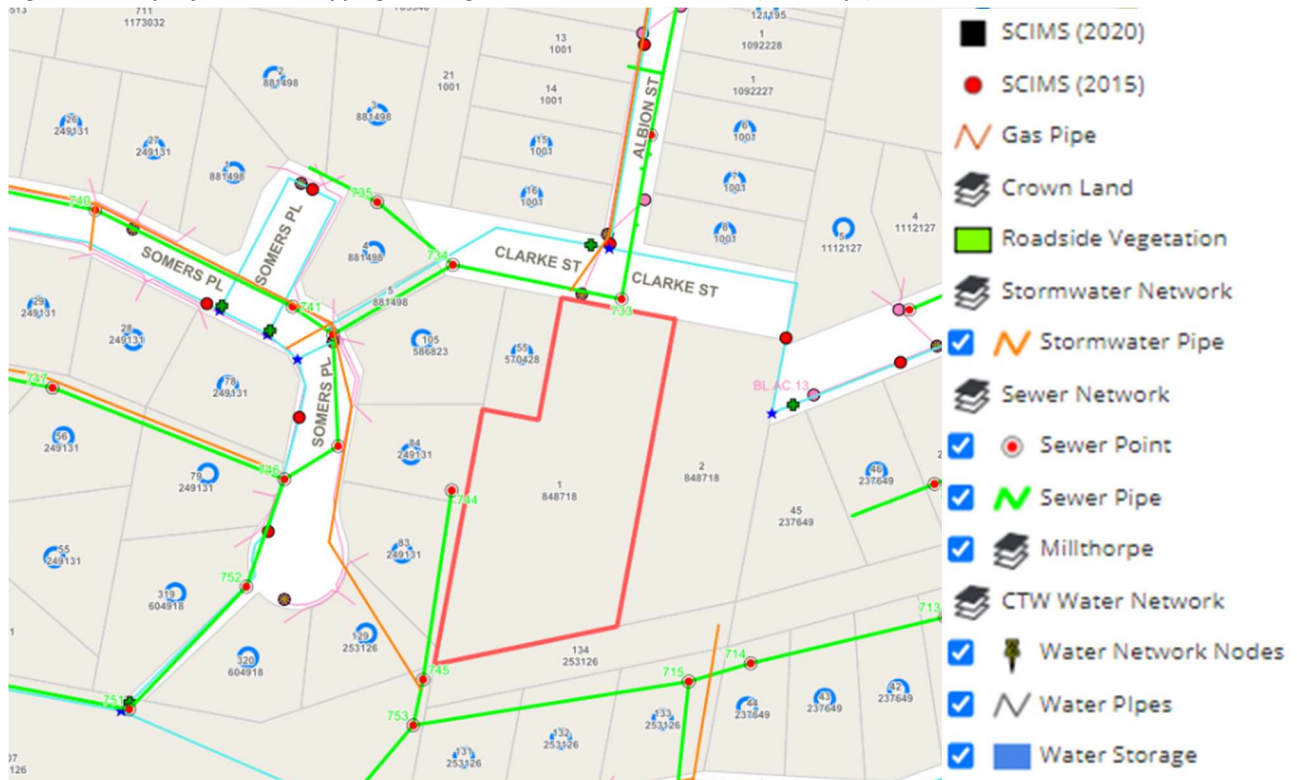
## 2.6 Existing Utilities

The Figure below shows that there are a range of existing utilities/pipes that run through Clarke St including, but not limited to:

- Sewer (Council) – western end of Clarke St (southern side) connecting to No.4 Clarke St then up Albion St;
- Water (CTW) – along northern edge of Clarke St connecting at both ends;
- Gas (Jemena) – possibly along Albion St and crossing Clarke St;
- Stormwater (Council) – along Albion St and crossing Clarke St; and
- Electricity (Essential Energy) – low voltage overhead lines (locations/voltage to be confirmed).

To the best of our awareness, these utilities are not protected by easements and, as such, there are no interests that need to be discharged. Once this land is dedicated as public road then it will protect these utilities.

**Figure 5: Excerpt of Council's mapping showing utilities in or near Clarke St (Intramaps).**



## 2.7 Adjacent Land Uses

Clarke St is surrounded by residential land uses. Clarke St and surrounds are in Zone R1 General Residential. Generally, most houses are detached single dwellings on each lot. Therefore, the primary function of Clarke St is as access for any lots with a frontage only to Clarke St and to support utility services to these lots. Some dwellings with frontage to Clarke St have alternative/primary access/servicing from adjacent roads.

## 2.8 Encroachments on Public Road

The aerial photo above shows that there are encroachments into Clarke St by adjacent land owners – particularly building encroachment from No.4 Clarke St and property/fence encroachments from No.21 Mitchell St & No.2 Albion St. As community land these encroachments have not been previously approved and may not be permissible – so they are not defined 'interests' that need to be discharged. However, it is the intent of Council to resolve/formalise these encroachments if parts of Clarke St are no longer required. The reclassification of the land would enable it to enter agreements with those land owners to resolve those encroachments.



## 2.9 Summary

|   |   |
|---|---|
| Ownership   | Blayney Shire Council.  |
| Current & Proposed Classification   | Current: Community land (default); Proposed: Operational land.                  |
| Is the land a 'public reserve' (LG Act)   | No.   |
| Strategic & site specific merits of reclassification                              | See above.  |
| Is the Proposal the result of a strategic study or report                         | No – by Council resolution only.  |
| Is the Proposal consistent with Council's community plan or other strategic plan. | Yes – but high-level reports do not specifically address this Site.             |
| Land first acquired   | 1978 in lieu of payment of rates.   |
| Current use of the land   | Use similar to 'public road' functions / some encroachments as discussed above. |
| Leases/agreements   | None known.   |
| Trust/dedications/business dealings   | None known.   |
| Interests to be discharged  | None known.   |
| Any rezoning associated with reclassification                                     | No. Not required.   |

### 3 PLANNING PROPOSAL

The Guidelines require Council (as the Proponent) to address the following components:

- **Part 1 – Objectives and intended outcomes** – a statement of the objectives of the proposed LEP.
- **Part 2 – Explanation of provisions** – an explanation of the provisions that are to be included in the proposed LEP.
- **Part 3 – Justification of strategic and site-specific merit** – justification of strategic and potential site-specific merit, outcomes, and the process for implementation.
- **Part 4 – Maps** – maps, where relevant, to identify the effect of the planning proposal and the area to which it applies.
- **Part 5 – Community consultation** – details of the community consultation that is to be undertaken on the planning proposal.
- **Part 6 – Project timeline** – project timeline to detail the anticipated timeframe for the LEP making process in accordance with the benchmarks in this guideline.

These have largely been addressed above – but for completeness the specific questions are addressed below and reference background information above.

#### 3.1 Part 1 – Objectives & Intended Outcomes

This section must provide a clear and concise description of the planning proposal and be written in plain English, so it is easily understood by the community. The objectives or intended outcomes, when read with Part 2 - Explanation of provisions, constitute the core of the planning proposal and will be the basis for drafting the LEP. They must be specific enough to reflect the objective of the proposal yet flexible enough to allow for alternatives. This section in a planning proposal is a statement of what is planned, not how it is to be achieved.

##### **Objective(s) & Intended Outcome(s)**

The Objective of the Proposal is to amend the relevant planning controls in *Blayney Local Environmental Plan 2012* ('LEP') to change the classification of Clarke St to 'operational land' so it can be dedicated as a public road under the *Road Act 1993*. This will enable Council to formalise its use as a public road and resolve public assets and private encroachments.

#### 3.2 Part 2 – Explanation of Provisions

This section must provide a detailed statement of how the objectives or intended outcomes will be achieved by amending an existing LEP. The explanation of provisions should be clearly stated and contain enough information on the proposal to assist legal drafting of the LEP. Proposed zones and/or development standards may be stated if known at this stage in the planning proposal.

The Proposal seeks to reclassify Clarke St from community to operational land under the *Local Government Act 1993*. This will be achieved by adding Clarke St to *Blayney Local Environmental Plan 2012* ('LEP') Schedule 4 (Part 1 – no interest). As a result, under Clause 5.2 of the LEP – Clarke St would automatically be reclassified as operational land. This would enable Council to dedicate it as a public road by proclamation/gazettal under the *Roads Act 1993*. Operational land has no special restrictions (compared to Community Land).

**Note:** Council already has ownership of Clarke St so it does not need to acquire it through compulsory acquisition and no need to identify it on the Land Reservation Acquisition Map or modify Clause 5.1 of the LEP.

### 3.3 Part 3 – Justification of Strategic & Site-Specific Merit

This section must provide a detailed assessment of the proposal's strategic and site-specific merit to determine whether the planning proposal should be supported. This is the most important section of the planning proposal and should integrate findings from supporting studies and investigations and provide justification for the proposed amendments to the LEP. It must also consider the interaction between these findings and whether the proposal will align with the strategic planning framework and have any environmental, social, or economic impacts.

#### **Strategic Merit – Assessment Criteria**

Does the proposal:

- Give effect to the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, and/or corridor/precinct plans applying to the site. This includes any draft regional, district or corridor/precinct plans released for public comment or a place strategy for a strategic precinct including any draft place strategy; or
- Demonstrate consistency with the relevant LSPS or strategy that has been endorsed by the Department or required as part of a regional or district plan; or
- Respond to a change in circumstances that has not been recognised by the existing planning framework

#### **Site-Specific Merit – Assessment Criteria**

Does the proposal give regard and assess impacts to:

- the natural environment on the site to which the proposal relates and other affected land (including known significant environmental areas, resources or hazards)
- existing uses, approved uses, and likely future uses of land in the vicinity of the land to which the proposal relates
- services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision

Table 3 of the Guidelines has 'Matters for Consideration' to address in this Section. They are addressed as follows:

#### 3.3.1 SECTION A – Need for the Planning Proposal

##### 1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?

The Proposal is the result of a Report to the May 2022 Council Meeting (Item/Minute 2205/18 – set out below) to address proposed encroachments on Clarke St transfers in Clarke St (dealt with in closed committee).

*Figure 6: Excerpt from Council Meeting 16 May 2022.*

#### **CONFIDENTIAL MEETING REPORTS**

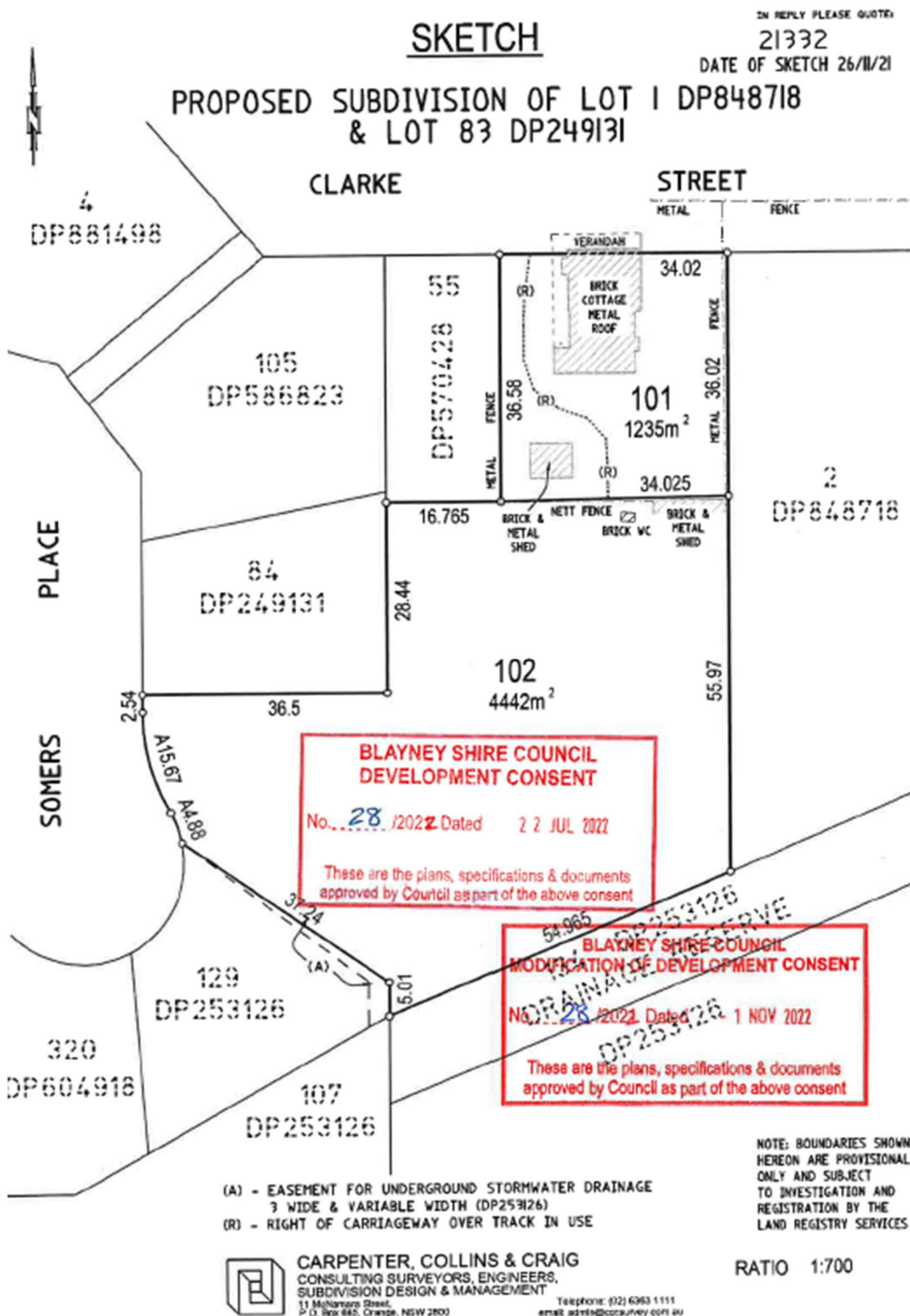
**2205/019**      **PROPOSED LAND TRANSFERS - CLARKE STREET**  
**RESOLVED:**  
That Council;  
1. Endorse the closure of the following parts of Clarke Street, Blayney, in accordance with s.38 Roads Act 1993, subject to the applicant funding all associated survey and legal costs:  
- ~189m<sup>2</sup> adjacent to 4 Clarke Street  
- ~205m<sup>2</sup> adjacent to 23 Mitchell Street  
2. That a further report be presented to Council to consider any submissions lodged during the notification period and decide on approval for the proposal.  
3. Approve commencement of negotiations with 8 Mitchell Street with the intention of Council acquiring ~50m<sup>2</sup> of land for the purposes of the Roads Act 1993.  
  
(Gosewisch/Ewin)  
**CARRIED**

Page 7 of the Minutes of the Ordinary Meeting of Council, held on 16 May 2022.

In addition, for 4 Clarke St, a development application (DA28/2022) determined by Council on 22 July 2022 (with subsequent modification on 1 November 2022) included a condition that the section of Clarke St adjacent must be closed and transferred to the owner of 4 Clarke St prior to the issue of a subdivision certificate. That owner is not in a position to reclassify the land so Council is assisting with this process through this Proposal.



Figure 7: Excerpt of Approved Subdivision Plan for No.4 Clarke St showing encroachment to Clarke St.



Council will provide a resolution by approving this Planning Proposal to seek a Gateway Determination. The Local Strategic Planning Statement (LSPS) and relevant land-use strategy is addressed in Question 4 below.

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

The proposed method(s) are consistent with the Objective(s) & Intended Outcomes (above) and are site-specific in that it creates a transparent connection (specific listing of Clarke St) as intended to be operational land. It is not possible to reclassify the land by Council resolution only. Clarke St has been used as a public road but due to inconsistency with common law cannot be dedicated as such without this process. Council has sought legal advice that confirms this as the only procedural way to resolve the outstanding issues.

### 3.3.2 SECTION B – Relationship to the Strategic Planning Framework

#### 3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)

This local/site-specific issue is not usually addressed in high-level strategic reports such as the *Central West & Orana Regional Plan* (Regional Plan) or *Draft Regional Plan* as it is relatively site-specific issue and not considered at the regional scale. Please see brief review of relevant documents in following Section(s) of this Report.

However, it is consistent with the relevant objectives of the relevant Regional Plan(s) as follows:

#### **Central West and Orana Regional Plan 2036 (CWORP June 2017)**

Regional plans have been prepared for all parts of NSW including the *Central West and Orana Regional Plan 2036* (June 2017 – *CWORP*) noting there is no District Plan in the Central West & Orana Region. The CWORP includes directions, planning priorities and specific actions for a range of different matters relevant to Blayney LGA (ONLY THE RELEVANT PRIORITIES, DIRECTIONS & ACTIONS ARE SHOWN), as follows:

| DIRECTION   | Actions   | RESPONSE   |
|---|---|--|
| <b>Goal 1: The most diverse regional economy in NSW</b>   |   |  |
| <b>Direction 12:</b><br>Plan for greater land use compatibility.  | 12.4 Amend planning controls to deliver greater certainty of land use.<br>12.5 Provide non-statutory guidance on appropriate and sympathetic land use in areas where land use conflict occurs.  | The aim of this Proposal is to provide greater certainty about the functions of Clarke St and to resolve current conflicts due to the classification of the land, its use as a public road, and encroachments from neighbouring residential land uses. Reclassifying the land as operational land allows Council to resolve these issues.  |
| <b>Goal 2: A stronger, healthier environment and diverse heritage</b>   |   |  |
| <b>Direction 13:</b><br>Protect & manage env. assets<br><b>Direction 14:</b><br>Manage & conserve water resources for the env.<br><b>Direction 15:</b><br>Increase resilience to natural hazards & climate change<br><b>Direction 16:</b><br>Respect & protect Aboriginal heritage assets | 13.1 Protect high environmental value assets through local environmental plans.<br>13.2 Minimise potential impacts arising from development in areas of high environmental value, and consider offsets or other mitigation mechanisms for unavoidable impacts.<br>14.2 Locate, design, construct & manage new developments to minimise impacts on water catchments, including downstream areas & groundwater resources.<br>15.1 Locate developments, including new urban release areas, away from areas of known high biodiversity value; areas with high risk of bushfire or flooding; contaminated land; & designated waterways.<br>16.1 Protect, manage and respect Aboriginal objects and places in accordance with legislative requirements. | The environmental impacts of this Proposal are covered broadly as Clarke St is already used as a 'public road' and this Proposal merely seeks to formalise its operational use and manage encroachments.<br>It is important to recognise that Clarke St (& most public roads) provide important access to lots fronting this street and corridors for stormwater & other infrastructure and are important to environmental outcomes.<br>Formalisation as a 'public road' will protect existing infrastructure & enable additional infrastructure (e.g., potential sealed cul-de-sac with kerb & gutter) to be added to continue to enable safe vehicle turning, waste management & manage stormwater.<br>Clarke St is not known to be affected by any Environmentally Sensitive Area (ESA) mapping.<br>Environmental hazards are addressed above but the land is not known to be significantly affected, and is outside bush fire and flood prone land mapping.<br>To the best of our awareness, Clarke St has a low likelihood of Aboriginal or other heritage significance. It is not in a heritage conservation area and has no listed heritage items in close proximity (closest are Adelaide St to the north). It has been used as a public road since the 1970s and disturbed. The Proposal does not seek to significantly increase development potential but formalise existing use with minor infrastructure upgrades. |
| <b>Goal 3: Quality freight, transport and infrastructure networks</b>   |   |  |
| Direction 19: Enhance road and rail freight links.  |   | Whilst Direction 19 is primarily focussed on facilitating freight networks it does recognise the need for local road projects that connect into key road networks. This Proposal seeks to reclassify Clarke St so it can be dedicated as a   |

| DIRECTION   | Actions | RESPONSE  |
|---|---------|---|
|   |         | public road under the <i>Roads Act</i> . Whilst it connects via Albion St to the Mid-Western Highway it is unlikely to impact the highway by formalising existing road connections. |
| Direction 21: Coordinate utility infrastructure investment. |         | The Proposal enables dedication of Clarke St as a public road so that road & utility infrastructure can be managed by Council to benefit the community.                             |

#### Goal 4: Dynamic, vibrant and healthy communities.

|   |   |
|---|---|
| Direction 23: Build the resilience of towns and villages.                 | This Proposal seeks to formalise Clarke St as a public road so it can provide access to adjacent lots (where required), formalise & protect existing/proposed utilities, provide pedestrian, bicycle & vehicle connections in Blayney, resolve encroachments to protect existing housing stock, and enable a way forward for development along Clarke St. This will resolve issues that improves the sustainability and resilience of the Town of Blayney with the potential for improved urban design. |
| Direction 25: Increase housing diversity & choice.                        |   |
| Direction 29: Deliver healthy built environments and better urban design. |   |

#### Local Government Narratives – Blayney

|  |   |
|--|---|
| <p>Blayney Local Government Area directly benefits from its proximity to Orange and Bathurst. Residential land releases at Millthorpe and Blayney will meet the needs of a growing population who want to work locally, or in Bathurst or Orange.</p> <ul style="list-style-type: none"> <li>• Leverage Blayney's strategic advantages including its proximity to Bathurst, Orange, Cowra, Canberra and Sydney; the existence of major utility services; and access to transport, warehousing and freight facilities.</li> <li>• Leverage opportunities from the Local Government Area's rural character to support diverse industries such as tourism.</li> </ul> | The Proposal seeks to formalise the use of Clarke St as a public road to resolve development issues and improve road & utility infrastructure in the Town of Blayney. This will allow Blayney to cater for growth and leverage its existing infrastructure whilst minimising impacts on the natural environment and heritage. |
|--|---|

#### Draft CWORP-2041

| OBJECTIVE  | CWORP2036 Reference                         | RESPONSE         |
|--|---|------------------|
| <b>Part 1 – A sustainable &amp; resilient place</b>  |   |                  |
| 1. Identify, protect & connect important environmental assets  | Goal 2 Direction 13                         | Addressed above. |
| 2. Support connected & healthy communities   | Goal 4 Direction 29                         | Addressed above. |
| 3. Plan for resilient places & communities   | Goal 2 Direction 15<br>Goal 4 Direction 23  | Addressed above. |
| 4. Secure & resilient regional water resources   | Goal 2 Direction 14                         | Addressed above. |
| 5. Ensure site selection & design embraces & respects the region's landscapes, character & cultural heritage | Goal 2 Directions 16<br>Goal 4 Direction 29 | Addressed above. |
| <b>Part 2 – People, housing &amp; communities</b>  |   |                  |
| 6. A network of healthy & prosperous centres   | Goal 4 Direction 23                         | Addressed above. |
| 7. Provide well located housing options to meet demand   | Goal 4 Directions 25                        | Addressed above. |
| 8. Plan for diverse, affordable, resilient & inclusive housing   | Goal 4 Directions 23/25/29                  | Addressed above. |
| 9. Manage rural residential development  | Goal 4 Direction 28                         | N/A              |
| 10. Provide accommodation options for temporary workers  | Goal 4 Direction 27                         | N/A              |
| 11. Coordinate smart & resilient utility infrastructure  | Goal 3 Direction 21                         | Addressed above. |



| OBJECTIVE   | CWORP2036 Reference      | RESPONSE         |
|---|--------------------------|------------------|
| <b>Part 3 – Prosperity, productivity &amp; innovation</b>   |                          |                  |
| 12. Leverage existing industries & employment areas & support new & innovative economic enterprises                   | Goal 1                   | N/A              |
| 13. Protect agricultural production values & promote agriculture innovation, sustainability & value-add opportunities | Goal 1 Directions 1/2    | N/A              |
| 14. Protect & leverage the existing & future road, rail & air transport networks & infrastructure                     | Goal 3 Directions 19/20  | Addressed above. |
| 15. Implement a precinct-based approach to planning for higher education & health facilities                          | Goal 1 Directions 5/6    | N/A              |
| 16. Sustainably maximise the productivity of resource lands   | Goal 1 Directions 1/8/11 | N/A              |
| 17. Support a diverse visitor economy   | Goal 1 Direction 4       | N/A              |
| 18. Strengthen the economic self-determination of Aboriginal communities  | Goal 1 Direction 7       | No impact.       |
| <b>Part 4 – Location specific responses</b>   |                          |                  |
| 19. Strengthen Bathurst, Dubbo & Orange as innovative & progressive regional cities                                   | Goal 4 Direction 4       | N/A              |
| 20. Leverage the Central West Orana Renewable Energy Zone to provide economic benefit to communities                  | Goal 1 Direction 9       | N/A              |
| 21. Leverage the Parkes Special Activation Precinct & plan for associated growth                                      | Goal 4 Direction 4       | N/A              |
| 22. Protect Australia's first Dark Sky Park   | Goal 1 Direction 12      | N/A              |

#### 4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

As stated above, this local/site-specific issue is not usually specifically addressed in high-level strategic reports such as a *Local Strategic Planning Statement* (LSPS) or land-use strategy as it is relatively site-specific issue and not considered as part of a town or shire-wide review of classification of land. However, it is consistent with the relevant objectives of those strategies as follows:

#### **Local Strategic Planning Statement (LSPS)**

Council have prepared a *Local Strategic Planning Statement* (July 2020) (LSPS) to guide future land use decisions in the area. The LSPS does not specifically refer to the Subject Sites OR suggest the outcomes in this Planning Proposal but this Proposal is consistent with the key relevant Planning Priorities identified in that Statement (ONLY THE RELEVANT PRIORITIES, DIRECTIONS & ACTIONS ARE SHOWN), as follows:

| DIRECTION   | ACTIONS   | RESPONSE  |
|---|---|---|
| <b>1: Leverage the central &amp; strategic location of the Blayney Shire to encourage growth &amp; economic opportunities</b>   |   |   |
| Reinforce the town of Blayney as the primary retail / business & commercial centre of the Shire.  | Guide local and strategic planning to encourage new industries and businesses, and manage the interface with other land uses. | The Proposal seeks to reclassify Clarke St to align its use as a public road and manage encroachments and conflicts that cannot be resolved while it is community land. |
| <b>2: Support sustainable growth in the mining &amp; agribusiness Sectors within Blayney Shire.</b>   |   |   |
| Protect agricultural land use resources whenever possible, by discouraging land uses unrelated to agriculture from locating on agricultural land and minimising the ad hoc fragmentation of rural land. |   | N/A. There is no conflict with agriculture or mining resulting from this Proposal as it is urban land in the Town of Blayney with no agricultural interface.            |
| <b>3: Support sustainable growth in the transport, manufacturing &amp; logistics sectors within Blayney Shire.</b>  |   |   |
| Maximise freight and logistics access to the Main Western Line and where possible promote lower residential densities and increased setbacks to the rail line.  |   | N/A. There is no conflict with key road & rail freight routes as it is setback from the rail line and Adelaide St.  |

| DIRECTION  | ACTIONS  | RESPONSE   |
|--|--|--|
| <b>4: Provide diverse housing choices &amp; opportunities to meet changing demographic &amp; population needs.</b>   |  |  |
| Focus large-scale urban residential development in the town of Blayney and Millthorpe where there are higher levels of service, infrastructure and facilities to support growth.   | Implement the recommendations within the review of the Draft Blayney Settlement Strategy 2019.<br>Guide local and strategic planning to create diverse housing choices and opportunities within Blayney Shire. | The Proposal allows Council to resolve encroachment from housing on Clarke St, protect existing road & utility infrastructure, and retain housing & promote new development that leverages existing utilities. |
| <b>6: Protect &amp; conserve the natural environment &amp; heritage qualities while adapting to the impacts of hazards &amp; climate change.</b>   |  |  |
| Protect key heritage assets, heritage streetscapes and town and village entrances by identifying the desired character and ensuring development is sensitive to character in Blayney, Millthorpe, Carcoar and Newbridge. | Continue to work with Government agencies and other stakeholders to give the community skills and knowledge to deal with climate change and hazards and cultural heritage.                                     | See response to CWORP 2017 Goal 2 above demonstrating a low risk of any impact on Aboriginal or cultural heritage and low risk of environmental impact by formalising Clarke St as a public road.              |

### **Blayney Settlement Strategy (2020)**

The Settlement Strategy provides broad growth recommendations for the Town of Blayney but does not specifically review the issue of Clarke St or suggest particularly outcomes in proximity to Clarke St. Formalising Clarke St as a public road is consistent with protecting and enhancing road & utility infrastructure to enable Blayney to grow- particularly with infill housing development and additional subdivision that cannot proceed without public road access. This implements a number of the Local Housing Strategy Objectives (Section 4.1). It does not impact on growth areas or increase land use conflicts. Therefore, the Proposal is likely to be consistent.

### **Subregional Rural and Industrial Lands Strategy (2019 to 2036)**

This Strategy predominantly provides recommendations for rural and industrial lands across the LGA (not including Zone R5 Large Lot Residential). Agricultural and industrial land is not affected by this Proposal so it is either not applicable or consistent with this Strategy.

### **Community Strategic Plan 2018-2028**

The Proposal is also consistent with the Blayney Community Strategic Plan and the Integrated Planning and Reporting documentation including the Future Directions set out below (and addressed in the CWORP review above) though it does not have any specific directions/actions relevant to the specific outcomes in this Proposal:

- *Direction 1: Maintain and Improve Public Infrastructure & Services;*
- *Direction 2: Build the Capacity & Capability of Local Governance & Finance;*
- *Direction 3: Promote Blayney Shire to grow the Local & Visitor Economy;*
- *Direction 4: Enhance facilities & network that supports Community, Sport, Heritage & Culture;*
- *Direction 5: Protect our Natural Environment.*

### **5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?**

This type of issue is not usually addressed in high-level strategic reports such as the State & Regional studies or strategies as it is relatively site-specific issue and not considered at the state or regional scale. However, it is consistent with State strategies seeking to correctly align the classification of land to its intended purpose under the *Local Government & Roads Acts* and protection of existing and future infrastructure.

## 6. Is the planning proposal consistent with the applicable SEPPs?

It is noted that the proposal is broadly consistent with any applicable SEPP's as set out in the table below:

| SEPP / Objective(s)  |  | Response/Compliance  |
|--|--|--|
| <b>Biodiversity Conservation Act 2016, Biodiversity Regulation 2017 &amp; SEPP (Biodiversity &amp; Conservation) 2021</b>                      |  |  |
| The legislation and SEPP seek to protect significant vegetation & biodiversity across the State, including for koala habitat & urban bushland. |  | The Proposal seeks to formalise largely existing use of Clarke St as a public road with associated existing road & utility infrastructure. Enabling it as a public road may allow for upgrades to that infrastructure but environmental issues can be addressed at that time. Clarke St is largely devoid of trees (except in gardens or at boundaries that are unlikely to be affected by the Proposal). It is a significantly disturbed urban area with no mapped environmental sensitivities or biodiversity significance. There is no koala habitat present. There is no vegetation removal proposed at this time. We suggest that there is a low risk and no need for any additional biodiversity or flora/fauna reporting for an urban road in an urban centre of Blayney.   |
| <b>SEPP (Resilience &amp; Hazards) 2021</b>  |  |  |
| Part of this SEPP requires review of contamination & possibly remediation of land to ensure the land is suitable for the proposed land use.    |  | This SEPP seeks to ensure that land is suitable for the intended use and promote remediation of contaminated land to reduce the risk of harm to human health. It must be considered when consenting to development on land (Clause 7) – but former Clause 6 requiring consideration at the rezoning stage has been repealed and is now addressed under the Ministerial Directions (see below). The Site has historically always been part of a residential area with no known potentially contaminating uses. It was always intended as and functioned as a public road, particularly since the late 1970s when Council took ownership. The Proposal merely allows Council to formalise its public road status. Whilst infrastructure may have some potential for contamination a public road would not be inconsistent. As such, no further investigation is likely to be required. |
| <b>SEPP (Resources &amp; Energy) 2021</b>  |  |  |
| This SEPP seeks to protect & enable resources & energy development.  |  | There are no known existing mineral or extractive resources that would be affected by the Proposal. All of the Town of Blayney is covered by Exploration Licence (EL5922 – LFB Resources) but there is a low probability of extractive industry within the urban area of Blayney and this Proposal would not affect any such opportunity. We suggest that the Proposal is consistent with the SEPP requirements and a public road would not be a sensitive use to future extractive industry.  |
| <b>SEPP (Transport &amp; Infrastructure) 2021</b>  |  |  |
| This SEPP seeks to protect & enable infrastructure development.  |  | This SEPP is concerned with appropriate opportunities for infrastructure development throughout the State and protecting that infrastructure from incompatible development. This Proposal is highly compatible with this SEPP as it seeks to recognise Clarke St as a public road for protection of existing road & utility infrastructure & enabling of required future infrastructure. It leverages this infrastructure for future growth of Blayney. Whilst Clarke St connects to Albion St and then Adelaide St (Mid Western Highway) it is more than 90m from the Mid Western Highway. Formation of Clarke St is unlikely to significantly increase traffic generation to the highway.  |
| <b>SEPP (Housing) 2021</b>   |  |  |
| This SEPP seeks to promote diverse, affordable & adaptable housing.  |  | This SEPP is technically not applicable to the Proposal. However, the reclassification will enable Council to resolve housing encroachments on Clarke St to protect or adjust land holdings and enable future housing development consistent with its function as a public road.   |

The following SEPPs may apply to the Site but are unlikely to have any significant relevance to the Proposal:

- SEPP (Planning Systems) 2021;
- SEPP (Industry & Employment) 2021;
- SEPP (Building Sustainability Index: BASIX) 2004;
- SEPP (Exempt & Complying Development Codes) 2008;
- SEPP (Primary Production) 2021;
- SEPP No.65 – Design Quality of Residential Apartment Development.



## 7. Is the planning proposal consistent with the applicable Ministerial Directions (section 9.1 Directions)?

The relevant Section 9.1 Directions are addressed below and we suggest the Proposal is consistent with the latest Ministerial Directions (dated February 2023) as follows:

| Section 9.1 Directions   |   | Application to Proposal/Response   |
|--|---|--|
| Focus Area 1: Planning Systems   |   |  |
| 1.1  | <b>Implementation of Regional Plans</b><br><b>Objective:</b><br>The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.<br><b>Direction:</b> Planning proposals must be consistent with a Regional Plan released by the Minister for Planning. | <b>Applicable.</b> We have demonstrated consistency with the Goals/Actions of the <i>Central West &amp; Orana Regional Plan 2036</i> (and Draft Regional Plan) in this Section above. These higher level plans do not generally look as site-specific planning control changes (particularly outside major centres) or the balance of community versus operational land. The formalisation of Clarke St as a public road is consistent with the infrastructure, environmental & growth objectives. |
| 1.2  | <b>Development of Aboriginal Land Council Land</b>  | Not Applicable. Applies to Central Coast only at this time.  |
| 1.3  | <b>Approval &amp; Referral Requirements</b>   | Not Applicable. No change in concurrence, consultation or referral of applications proposed.   |
| 1.4  | <b>Site Specific Provisions</b>   | <b>Applicable.</b> No change to existing land use zoning proposed. No restrictive site-specific planning controls proposed. The Proposal includes change from community to operational land that enables dedication as public road.  |
| Focus Area 1: Planning Systems - Place Based – The following are NOT APPLICABLE TO THIS SITE |   |  |
| 1.5  | Parramatta Road Corridor Urban Transformation Strategy  |  |
| 1.6  | Implementation of NW Priority Growth Area LUIIP   |  |
| 1.7  | Implementation of Greater Parramatta Priority Growth Area LUIIP   |  |
| 1.8  | Implementation of Wilton Priority Growth Area ILUIIP  |  |
| 1.9  | Implementation of Glenfield to Macarthur Urban Renewal Corridor   |  |
| 1.10   | Implementation of the Western Sydney Aerotropolis Plan  |  |
| 1.11   | Implementation of Bayside West Precinct 2036 Plan   |  |
| 1.12   | Implementation of Planning Principles for the Cooks Cove Precinct   |  |
| 1.13   | Implementation of St Leonards & Crows Nest 2036 Plan  |  |
| 1.14   | Implementation of Greater Macarthur 2040  |  |
| 1.15   | Implementation of the Pyrmont Peninsula Place Strategy  |  |
| 1.16   | North West Rail Link Corridor Strategy  |  |
| 1.17   | Implementation of the Bays West Place Strategy  |  |
| 1.18   | Implementation of the Macquarie Park Innovation Strategy  |  |
| 1.19   | Implementation of the Westmead Place Strategy   |  |
| 1.20   | Implementation of the Camellia-Rosehill Place Strategy  |  |
| 1.21   | Implementation of the South West Growth Area Structure Plan   |  |
| 1.22   | Implementation of the Cherrybrook Station Place Strategy  |  |
| Focus Area 2: Design & Place – This is BLANK at this time.                                   |   |  |
| Focus Area 3: Biodiversity & Conservation  |   |  |
| 3.1  | <b>Conservation Zones</b><br><b>Objective:</b> The objective of this direction is to protect and conserve environmentally sensitive areas.<br><b>Direction(s):</b><br>(1) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.                                   | Not Applicable. Clarke St is in Zone R1 General Residential which is not a conservation or environmental zone. There are no mapped Environmentally Sensitive Areas (ESAs) across the street and it has not been identified for environmental protection purposes though the LEP or DCP. A change to operational land only reinforces the streets existing use.   |

| Section 9.1 Directions                        |   | Application to Proposal/Response   |
|---|---|--|
|   | <p>(2) A planning proposal that applies to land within a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP must not reduce the conservation standards that apply to the land (including by modifying development standards that apply to the land).</p> <p>This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with Direction 9.2 (2) of "Rural Lands".</p>  |  |
| 3.2   | <b>Heritage Conservation</b>  | <b>May be Applicable</b> but no known indigenous or non-indigenous heritage on or near the Site. No works proposed as part of reclassification. No change to requirements for heritage protection applicable to works in public roads.   |
| 3.3   | <b>Sydney Drinking Water Catchments</b>   | Not Applicable.  |
| 3.4   | <b>Application of C2 &amp; C3 Zones &amp; Environmental Overlays in Far North Coast LEPs</b>  | Not Applicable.  |
| 3.5   | <b>Recreation Vehicle Areas</b>   | Not Applicable.  |
| 3.6   | <b>Strategic Conservation Planning</b>  | Not Applicable. To the best of our awareness, the Site is NOT identified as 'avoided land' or a 'strategic conservation area' under <i>SEPP (Biodiversity &amp; Conservation) 2021</i> .   |
| 3.7   | <b>Public Bushland</b>  | Not Applicable as the Site is not in a relevant LGA (Sydney Metro Area) and does not contain any significant bushland.   |
| 3.8   | <b>Willandra Lakes Region</b>   | Not Applicable.  |
| 3.9   | <b>Sydney Harbour Foreshores &amp; Waterways Area</b>   | Not Applicable.  |
| 3.10  | <b>Water Catchment Protection</b>   | Not Applicable. Site is not within a 'regulated catchment' under <i>SEPP (Biodiversity &amp; Conservation) 2021</i> .  |
| <b>Focus Area 4: Resilience &amp; Hazards</b> |   |  |
| 4.1   | <p><b>Flooding</b></p> <p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> <li>a) (a) ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and</li> <li>b) (b) ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood behaviour and includes consideration of the potential flood impacts both on and off the subject land.</li> </ul> | Not Applicable. There is NO change in land use zoning proposed. The Site is NOT mapped as being flood prone land (1% AEP or PMF) in Council's Adopted Floodplain Risk Management Study & Plan (Jacobs December 2016). The Site is not in sufficient proximity or level to a watercourse to be affected by mainstream flooding. The topographical maps on the Planning Portal show there are NO mapped watercourses on the Site. However, there are 1 <sup>st</sup> order watercourses mapped on the land to the south of the Site along key drainage corridors that have a low likelihood of affecting the Site. The Proposal does not permit development in a floodway, or result in significant flood impacts to other properties. Street stormwater can be addressed during detailed design (if required.). |
| 4.2   | <b>Coastal Management</b>   | Not Applicable. The Site is not located near the coastal region.   |
| 4.3   | <b>Planning for Bushfire Protection</b>   | Not Applicable. The Site is not mapped as bush fire prone land and is in an urban/built up area where risk of bush fire is likely to be low.   |
| 4.4   | <b>Remediation of Contaminated Land</b>   | <b>May be Applicable</b> but there is no change in the use of the land and the site history has been addressed above in relation to <i>SEPP (Resilience &amp; Hazards) 2021</i> suggesting that the Site is suitable for its intended purposes.  |

| Section 9.1 Directions                   |  | Application to Proposal/Response   |
|--|--|--|
| 4.5                                      | Acid Sulfate Soils   | Not Applicable. Land NOT mapped as acid sulfate prone land.  |
| 4.6                                      | Mine Subsidence and Unstable Land                                    | Not Applicable. Land NOT within a mine subsidence district or unstable land.   |
| Focus Area 5: Transport & Infrastructure |  |  |
| 5.1                                      | Integrating Land Use and Transport                                   | <b>Applicable.</b> The existing land use zone is urban land including land zoned for residential, business, village or tourist purposes. This Proposal does NOT create, alter or remove a zone unless reclassification is a ‘provision’ relating to urban land. However, it is consistent with improving transport connectivity by facilitating the dedication of Clarke St as public road.  |
| 5.2                                      | Reserving Land for Public Purposes                                   | Not Applicable as the Proposal does NOT create, alter or reduce existing zonings or reservations of land (the land is not reserved for public purposes)  |
| 5.3                                      | Development Near Regulated Airports & Defence Airfields              | Not Applicable. There are no known regulated airports or defence airfields near the Site.  |
| 5.4                                      | Shooting Ranges  | Not Applicable. There are NO known rifle ranges in or near any the Site.   |
| Focus Area 6: Housing                    |  |  |
| 6.1                                      | Residential Zones  | <b>Applicable</b> as the Site is in an existing residential zone. The Proposal seeks to formalise public road access to properties along Clarke St to the private land can produce diverse housing and make more efficient use of the existing infrastructure in Clarke St as infill development. It does NOT remove/change the residential zone or affect the permitted residential density or affect the permissibility of Caravan Parks/MHEs. |
| 6.2                                      | Caravan Parks & MHEs   |  |
| Focus Area 7: Industry & Employment      |  |  |
| 7.1                                      | Business and Industrial Zones  | Not Applicable. The existing/proposed land use zones are NOT a business or industrial (employment) zone.   |
| 7.2                                      | Reduction in Non-Hosted Short-Term Rental Accom. Period              | Not Applicable. Only applies to Byron Shire Council at this time.  |
| 7.3                                      | Commercial & Retail Dev. along the Pacific Hwy, North Coast          | Not Applicable.  |
| Focus Area 8: Resources & Energy         |  |  |
| 8.1                                      | Mining, Petroleum Production & Extractive Industries                 | <b>May be Applicable</b> but Proposal does not have the effect of prohibiting or restricting any extractive industries as it merely formalises the use of Clarke St as a public road. The development of the road is not a sensitive use. See response to SEPP (Resources & Energy) 2021 above for more details.   |
| Focus Area 9: Primary Production         |  |  |
| 9.1                                      | Rural Zones  | Not Applicable as Site is NOT in a rural zone.   |
| 9.2                                      | Rural Lands  | Not Applicable as Site is NOT in a rural or conservation zones and does NOT affect the minimum lot size of such land.  |
| 9.3                                      | Oyster Aquaculture   | Not Applicable.  |
| 9.4                                      | Farmland of State & Regional Significance on the NSW Far North Coast | Not Applicable.  |



### **3.3.3 SECTION C – Environmental, Social & Economic Impact**

#### **8. Is there any likelihood that critical or threatened species, populations or ecological communities or their habitats, will be adversely affected because of the proposal?**

There is a low likelihood of impact on the threatened species noted above. As stated above, the Site is in an urban area in Clarke St which is utilised as a public road with some encroachment by private gardens but these are generally non-native species with limited trees and managed grass areas. The Site is heavily disturbed and impacted by the road & utility functions of Clarke St. The reclassification of land (and its future dedication as public road) may permit upgrades to the road & utility infrastructure but this would be done in accordance with the relevant environmental legislation. We suggest it does not require a detailed study.

#### **9. Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?**

There are no other significant likely environmental effects of the Proposal. Formalising its existing use as a road is unlikely to increase traffic generation and associated noise/dust etc. However, it would enable Council to potentially upgrade that infrastructure to minimise impacts on neighbours (this cannot be achieved under community land). There is no impact on public open space as, other than road functions, it is not used as such.

#### **10. Has the planning proposal adequately addressed any social & economic effects?**

As stated above, formalising an existing road as operational land/public road has overall beneficial social & economic effects as it enables upgrades to the infrastructure to improve connectivity, future development of land fronting Clarke St, and management of infrastructure issues to enable Blayney to grow sustainably. This is a procedural amendment.

### **3.3.4 SECTION D – Infrastructure (Local, State & Commonwealth)**

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

Yes. There is existing road & utility infrastructure in Clarke St. No additional infrastructure is required for the Proposal but it does enable future upgrades (as required).

### **3.3.5 SECTION E – State & Commonwealth Interests**

#### **12. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?**

Clarke St is a local road where Council is the relevant road authority. There are no state or federal issues or agencies that are likely to have an interest in formalising Clarke St as a public road so, other than the Department of Planning & Environment (DPE), none have been consulted at this time. Council staff and iPLAN PROJECTS met with representatives of DPE on Tuesday, 28 March 2023 by online meeting to confirm the approach in this Proposal and any key issues. The Gateway Determination can require additional consultation (if required).

### 3.4 Part 4 – Maps

Mapping may include:

- the subject site and immediate surrounds
- current zoning
- current development standards
- any alternative zone(s), if a change is proposed

Other relevant maps or figures may include:

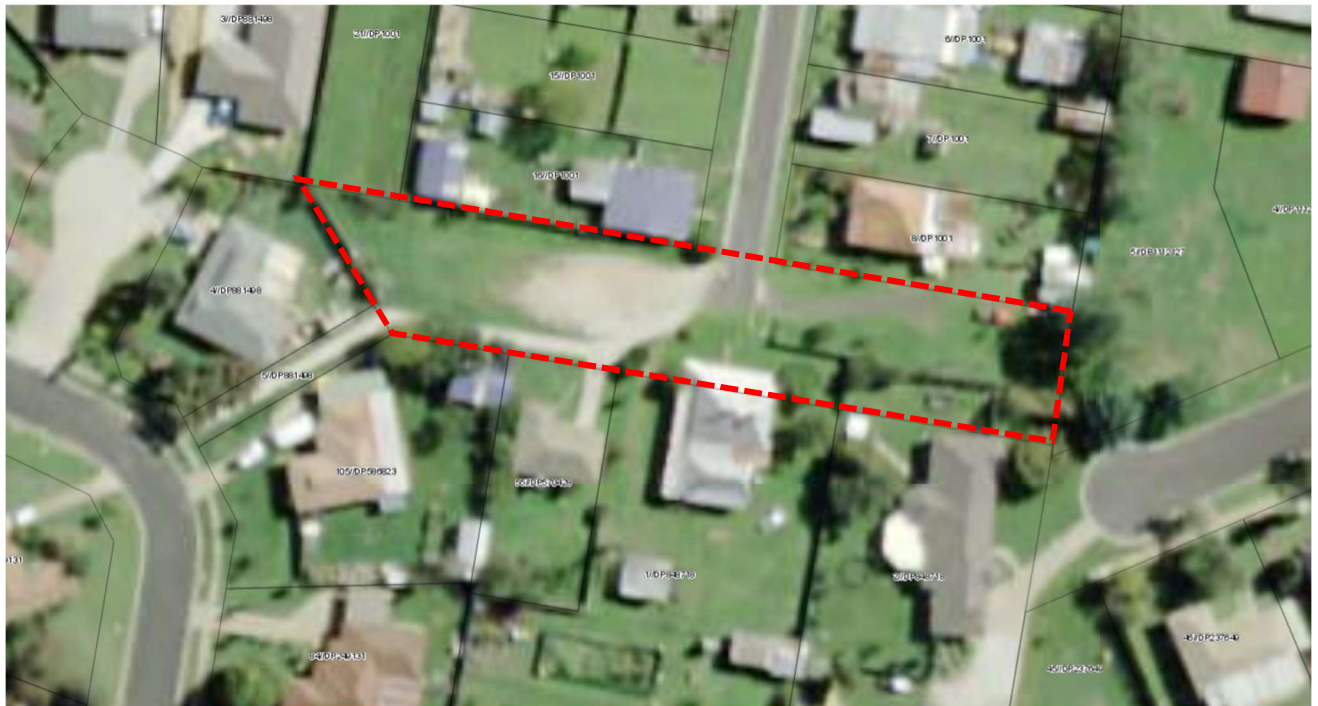
- maps illustrating changes of development standards if a change is proposed
- extent of a proposed heritage conservation area
- location of a specific heritage item
- extent of native vegetation and validated regionally important environmental values
- proposed extent of an environmental conservation area
- area to which a local provision will apply

Additional material such as aerial photographs clearly identifying the subject site should also be included where appropriate.

If these requirements cannot be met at planning proposal stage, the Gateway determination may require technically compliant mapping to ensure consistency with any current LEP maps

To the best of our awareness, no mapping needs to be prepared to form part of the amendment to the LEP or to define the area. In this case, it is the entirety of Clarke St that needs to be reclassified. Maps are generally only required where it does not apply to the whole lot/land so there is a low-risk of confusion in these circumstances. However, an illustrative diagram has been provided below.

**Figure 8: Aerial photo of Clarke St defining the area for reclassification (red boundary) to cadastre boundaries.**



### 3.5 Part 5 – Community Consultation

This section of the planning proposal must describe:

- Consultation and outcomes undertaken with council, state agencies or authorities during the pre-lodgement stage
- Any community consultation undertaken, or consultation with other key stakeholders

It should set out the extent of consultation having regard for the public exhibition requirements in Section 1 of this guideline. The Gateway determination will also outline the required public exhibition period based on the different planning proposal categories.

Community consultation will be considered at the Gateway stage, with the Gateway determination confirming the requirements.

The Gateway determination may also specify additional information or studies to be finalised before any consultation commences, often to make sure that everyone can make an informed opinion. In some cases, the Gateway determination may require the PPA to submit studies to the Department for review prior to public exhibition.

#### 3.5.1 Outcomes of Pre-Lodgement Consultation

This Proposal stems from issues arising from the development of land along Clarke St (namely a recent development application for No.4 Clarke St) and encroachments on Clarke St that highlighted it was not dedicated as a public road. Reports have gone to Council (albeit in confidential session) and there has been some engagement with affected land owners. Council staff and iPLAN PROJECTS met with representatives of DPE on Tuesday, 28 March 2023 by online meeting to confirm the approach in this Proposal and any key issues. No other agencies are significantly affected. Utility authorities are expected to support formalisation of the public road status over their infrastructure. All other consultation can occur during the Public Exhibition.

#### 3.5.2 Consultation after Gateway Determination

A quick review of the Guidelines (& Appendix B) suggests the following agencies could be FURTHER consulted after the Gateway Determination is issued (during the public exhibition process):

- Department of Planning & Environment (DPE);
- DPE Environment & Heritage (particularly Biodiversity & Conservation - BCD) if any other issues;
- Water Authority / Central Tablelands Water (CTW) – as water infrastructure likely in Clarke St;
- Electricity Authority/Essential Energy – transmission line adjacent + new substation (Essential energy have been consulted throughout the project);
- Gas Authority / Jemena – gas pipelines (if relevant); and
- LALC (for any other Aboriginal heritage issues).

The following agencies may be consulted but there is no specific trigger for this:

- Transport for NSW (TfNSW) – even though it is a local road >90m to classified road assuming and is unlikely to trigger Traffic Generating Development); and
- Natural Resource Access Regulator (as works are likely to be greater than 40m from any watercourse and/or Council is likely to have exemption for public works).

#### 3.5.3 Public Exhibition

The Planning Proposal will be publicly exhibited in accordance with the Gateway Determination requirements and Guidelines. As a 'Standard Planning Proposal' the public exhibition period will be a minimum of 28 calendar days consistent with Council's *Community Participation Plan*. This must include a copy of Practice Note PN16-001.

Council's must hold a public hearing when reclassifying public land from community to operational (LG Act s.29 & 47G/EP&A Act Sch.1 Cl.4). This gives the community an opportunity to expand on written submissions and discuss issues with an independent person in a public forum.

After the exhibition period has ended, at least 21 days public notice is to be given before the hearing. This allows the person chairing the hearing sufficient time to consider written submissions and all issues raised.

There are specific requirements for the independence of the person chairing the hearing, their preparation of a public hearing report and council making the report publicly available (LG Act s.47G). The report must be available within 4 days of receiving it.

### 3.6 Part 6 – Project Timeline

This section must outline the project timeline as a tool for the PPA, the Department and PCO to monitor the progress of the planning proposal through the LEP making process and manage resources accordingly.

| STAGE   | ESTIMATED TIMEFRAME AND/OR DATE                                 |
|---|---|
| Consideration by Council  | April 2023  |
| Council Decision  | May Council Meeting   |
| <b>Stage 3 - Gateway Determination</b>  | <b>June/July</b>  |
| Pre-Exhibition  | July (20 working days minimum)                                  |
| Stage 4 - Commencement and Completion of Public Exhibition Period                               | August/September  |
| Consideration of Submissions  | September/October   |
| Stage 6 - Post-Exhibition Review & Additional Studies   | October/November  |
| Council meeting to approve the LEP Amendment  | November/December 2023  |
| Submission to the Department for Finalisation (or Parliamentary Counsel if Council is the LPMA) | December 2023/January 2024                                      |
| Gazettal of LEP Amendment / Commencement  | Early to Mid-2024<br>(within 9-months of Gateway Determination) |

### 3.7 Part 7 – Reclassification of Public Land

The LEP Guidelines require some additional questions are answered for reclassification of public land, as follows:

|   |   |
|---|---|
| If the provisions of the planning proposal include the extinguishment of any interests in the land, an explanation of the reasons why the interests are proposed to be extinguished should be provided. | The land is owned by Council.   |
| The concurrence of the landowner must be obtained, where the land is not owned by the PPA.  | There are no registered interests known over the land. Whilst there are public utilities in Clarke St there are no formal easements. No interests need to be discharged. Creating a public road is the best way to protect & enhance assets/infrastructure. |
| The effect of the reclassification, including loss of open space, any discharge of interests, and/or removal of public reserve status.  | There is no public reserve status over the land. There is no dedicated public open space that forms part of Clarke St. It merely supports existing road functions which include access and connections.   |
| The strategic and site-specific merits of the reclassification and evidence to support this.  | Encroachments into the under-utilised land need to be formalised. Therefore, we suggest there is no need for an open space review across Blayney.   |
| Does the planning proposal deliver a public benefit?  | There is a clear public benefit from formalising Clarke St as a public road so that road & other infrastructure/assets can be upgraded as required (may not be permissible as community land), assets protected, and encroachments resolved.                |
| Have the implications for open space in the LGA in relation to current and future open space needs been considered and will there be a net gain to open space?  | Council has not specified if any land will be sold for consideration to resolve encroachments. No financial benefit for Council is expected.  |
| How funds obtained from any future sale of the land will be used.   | Reclassification to operational is not expected to generate funds for Council.  |
| How council will ensure funds remain available to fund proposed open space sites or improvement referred to in justifying the reclassification, if relevant.  | This Proposal addresses the preliminary feedback from DPE provided by email dated 28/03/23 after meeting of the same date. No other agencies are applicable at this time.   |
| Preliminary comments by relevant government agency.   |   |